

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 658

(Delegate Pena-Melnyk, *et al.*)

Health and Government Operations

Finance and Judicial Proceedings

Public Health - Emergency and Allergy Treatment Program

This bill modifies the Insect Sting Emergency Treatment Program (which exists in statute but has not been implemented) to establish instead the Emergency and Allergy Treatment Program and limit the scope of the program to youth camps and auto-injectable epinephrine (versus subcutaneous injection of epinephrine). The bill authorizes certificate holders or their agents to administer auto-injectable epinephrine to an individual determined to be, or believed to be, experiencing anaphylaxis. The bill establishes legal immunities for participating certificate holders and their agents, physicians, and pharmacists. Certificate holders must report on incidents that required administration to the Department of Health and Mental Hygiene (DHMH), and DHMH has to annually summarize the reported incidents in a report. DHMH also has to report to specified Senate and House committees on the implementation of the bill by January 1, 2017.

Fiscal Summary

State Effect: The Prevention and Health Promotion Administration (PHPA) within DHMH can likely approve educational training programs, issue certificates (or endorsements), and publish the required reports within existing budgeted resources as part of current youth camp oversight and certification activities. Although DHMH is authorized to collect fees for the administration of the program, DHMH advises that the department does not intend to charge a fee. Thus, revenues are likely not affected.

Local Effect: Local health department operations and finances are not materially affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A certificate authorizes the holder to obtain, store, and administer auto-injectable epinephrine. To qualify for a certificate, an individual must meet certain requirements. The applicant must operate a youth camp, be at least 18 years old, and complete an educational training program, at the applicant's expense, that is approved by DHMH. A certificate is valid for up to one year. DHMH is authorized to promulgate regulations and collect fees necessary to administer the program and to issue and renew certificates to qualified persons.

An "agent" is an individual who is appointed by a certificate holder to administer auto-injectable epinephrine in accordance with statutory provisions. An agent must be at least 18 years old and must complete an educational training program, at the applicant's expense, that is approved by DHMH.

An applicant also has to have a written policy that includes (1) authorization for the certificate holder or his/her agent to administer auto-injectable epinephrine (if available) to an individual determined, or believed, to be experiencing anaphylaxis, regardless of whether the individual has been previously known to experience anaphylaxis or has a prescription for epinephrine; (2) a requirement that youth camp personnel complete training on recognizing the symptoms of anaphylaxis; (3) procedures for administering auto-injectable epinephrine in an emergency; (4) proper emergency follow-up procedures; (5) authorization for a certificate holder to obtain and store auto-injectable epinephrine for emergency use; and (6) a requirement that each certificate holder implement a notification system to alert campers' parents or guardians of the youth camp's auto-injectable epinephrine policy before the campers attend the camp. The bill does not specify that an applicant must follow the required policy.

A certificate holder must submit a report to DHMH of each incident that occurs while the youth camp is in session that required the administration of auto-injectable epinephrine. The bill does not specify a time period within which the incident report must be submitted. DHMH must publish a report that summarizes the information obtained from these required reports by January 31 annually.

A licensed physician is authorized to prescribe and dispense, and a licensed pharmacist may dispense, auto-injectable epinephrine to a certificate holder. A certificate holder may receive, possess, and store auto-injectable epinephrine. Additionally, in emergency situations when physician or emergency medical services are not immediately available, a certificate holder or agent may administer auto-injectable epinephrine to an individual. However, that individual must either be experiencing anaphylaxis, or the certificate holder or agent must believe in good faith that the individual is experiencing anaphylaxis.

A cause of action may not arise against a certificate holder or agent if the certificate holder or agent acts in good faith to administer auto-injectable epinephrine to an individual experiencing or believed by the certificate holder or agent to be experiencing anaphylaxis, unless the certificate holder or agent's conduct amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct. A cause of action may not arise against any physician for any act or omission if the physician prescribes or dispenses auto-injectable epinephrine and the necessary paraphernalia for administration of auto-injectable epinephrine, in good faith, to a person certified by DHMH under statute. Likewise, a cause of action may not arise against any pharmacist for any act or omission when the pharmacist in good faith dispenses auto-injectable epinephrine and the necessary paraphernalia for the administration of auto-injectable epinephrine to a person certified by DHMH under statute.

Current Law:

Insect Sting Emergency Treatment Program

Although DHMH is charged with administering the Insect Sting Emergency Treatment Program under Title 13, Subtitle 7 of the Health-General Article, the program (established by Chapter 551 of 1995) was never funded and, thus, has not been established. Even so, that program would provide certification to a qualified individual to possess epinephrine and administer, by subcutaneous injection, epinephrine to a person suffering or believed to be suffering a severe adverse reaction to an insect sting. A certificate holder would be immune from civil liability for any act or omission in the course of responding in good faith to the reaction, except where the conduct amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct.

An applicant must be of good moral character; be at least 18 years old; and have, or reasonably expect to have, responsibility for at least one person as a result of the individual's occupation or volunteer status. An applicant must complete a DHMH-approved educational training program. The educational training program must be conducted by either a licensed physician or certified nurse practitioner and include training in (1) the recognition of symptoms to systemic reactions to insect stings and (2) the proper administration of subcutaneous injection of epinephrine. DHMH or a private or public entity has to issue a certificate to any applicant who meets the requirements. A certificate is valid for one year; to renew, an applicant has to successfully complete refresher training approved by DHMH or demonstrate proficiency to DHMH or a private or public entity that issues certificates.

Youth Camps in Maryland

A “youth camp” is any day camp, residential camp, travel camp, or trip camp that:

- accommodates seven or more campers who are unrelated to the person operating the camp;
- provides primarily recreational activities or has a substantial outdoor recreational component;
- has permanent buildings, temporary buildings, or no buildings; and
- operates on owned private property, owned private facilities, leased private property, leased private facilities, public property, or public facilities.

A “day camp” is a youth camp that is operated for all or any part of the day but less than 24 hours a day, is conducted for at least seven days over a three-week period, and provides three or more recreational activities or any one specialized activity, including 15 specified activities.

A “residential camp” is a youth camp operating at a facility or campsite at which a camper either lives apart or intends to live apart from the camper’s relatives, parents, or legal guardians for at least five consecutive days.

A “travel camp” is a residential camp that operates for at least five consecutive days and provides for campers to use motorized transportation to move as a group to or among sites for experiences in different environments.

A “trip camp” is a residential camp that operates for at least five consecutive days and in which a group of individuals move from one site to another under their own power or by transportation which permits individual guidance of a vehicle or animal.

DHMH is required to monitor, inspect, and certify all youth camps. Typically, this is accomplished in conjunction with local health departments.

Background: Allergens such as insect stings or bites, foods, latex, and medications are common causes of anaphylaxis; however it may also be induced through exercise. According to the National Institutes of Health, the prevalence of food allergies is approximately 5% in children and 4% in adults. Kidshealth.org attributes most food allergies to eight common foods: milk, eggs, peanuts, soy, wheat, tree nuts, fish, and shellfish. Allergic reactions can range from mild skin rashes to gastrointestinal discomfort to severe anaphylaxis, which causes swelling of the airways and breathing difficulty. In severe cases, it can lead to loss of consciousness or death. The most common treatment

for anaphylaxis is epinephrine, which often comes in the form of a pre-dosed auto-injector that can be administered with minimal training.

State Fiscal Effect: The existing Insect Sting Emergency Treatment Program was never implemented due to lack of funding. However, under the bill, the program is amended and significantly reduced in scope because certification is only available to applicants who operate a youth camp. The program specifies administration of auto-injectable epinephrine (rather than the subcutaneous injection under the program established 20 years ago). Thus, PHPA advises that it can approve educational training programs, amend youth camp regulations, update youth camp inspection materials, and publish the reports required under the bill within existing budgeted resources as part of its current youth camp oversight and certification activities.

Additional Information

Prior Introductions: None.

Cross File: SB 344 (Senator Pugh, *et al.*) - Finance and Judicial Proceedings.

Information Source(s): Department of Health and Mental Hygiene, Maryland Association of County Health Officers, National Institute of Allergy and Infectious Diseases, National Institute of Health, Kidshealth.org, Department of Legislative Services

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