

# HOUSE BILL 1473

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By: Delegates Pena–Melnyk, Angel, B. Barnes, Barron, Bromwell, Cullison, Frush, Hayes, Kelly, Kipke, McDonough, Morgan, Saab, Sample–Hughes, Szeliga, Tarlau, Valentino–Smith, West, and K. Young K. Young, Pendergrass, Hill, Krebs, Metzgar, Miele, Morales, Platt, and Rosenberg

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Emergency Use Auto–Injectable Epinephrine Program for Food**  
3 **Service Facilities at Institutions of Higher Education**

4 FOR the purpose of establishing the Emergency Use Auto–Injectable Epinephrine Program  
5 ~~for food service facilities at eligible institutions of higher education~~ at Institutions of  
6 Higher Education; providing for the purpose of the Program; requiring the Maryland  
7 Department of Health to adopt certain regulations, collect certain fees, issue and  
8 renew certain certificates, approve certain training programs relating to the  
9 Program, develop a method by which certain reports may be made, and publish a  
10 certain report on or before a certain date each year; authorizing the Department to  
11 set certain fees and to establish procedures to apply to the Program; establishing  
12 qualifications for applicants for a certain certificate; authorizing an eligible  
13 institution to pay the application fee on behalf of the applicant; authorizing certain  
14 certificate holders and agents to take certain actions; requiring the Department to  
15 issue certain certificates to certain applicants; providing for the contents,  
16 replacement, term, and renewal of certain certificates; authorizing certain  
17 physicians to prescribe and certain pharmacists and physicians to dispense auto–  
18 injectable epinephrine to certain certificate holders; authorizing a certificate holder  
19 or an agent to administer auto–injectable epinephrine to a certain individual in  
20 certain circumstances; providing that a cause of action may not arise against certain  
21 certificate holders or certain agents for certain acts or omissions under certain  
22 circumstances; providing that a cause of action may not arise against certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 physicians who prescribe or dispense auto-injectable epinephrine and certain  
 2 paraphernalia to certain certificate holders under certain circumstances; providing  
 3 that a cause of action may not arise against certain pharmacists who dispense auto-  
 4 injectable epinephrine and certain paraphernalia to certain certificate holders under  
 5 certain circumstances; providing that certain individuals may not be liable for not  
 6 taking certain actions; providing immunity from civil liability for certain individuals  
 7 under certain circumstances; requiring certain certificate holders to submit to the  
 8 Department certain reports; providing for the construction of this Act; requiring the  
 9 Department to publish a certain report on or before a certain date each year; defining  
 10 certain terms; and generally relating to the Emergency Use Auto-Injectable  
 11 Epinephrine Program at Institutions of Higher Education.

12 BY adding to

13 Article – Health – General

14 Section 13-7A-01 through 13-7A-09 to be under the new subtitle “Subtitle 7A.  
 15 Emergency Use Auto-Injectable Epinephrine Program ~~for Food Service~~  
 16 ~~Facilities~~ at Institutions of Higher Education”

17 Annotated Code of Maryland

18 (2015 Replacement Volume and 2017 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 20 That the Laws of Maryland read as follows:

21 **Article – Health – General**

22 **SUBTITLE 7A. EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE PROGRAM ~~FOR~~**  
 23 **~~FOOD SERVICE FACILITIES~~ AT INSTITUTIONS OF HIGHER EDUCATION.**

24 **13-7A-01.**

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
 26 INDICATED.

27 (B) “AGENT” MEANS AN INDIVIDUAL WHO:

28 (1) IS AT LEAST 18 YEARS OF AGE;

29 (2) HAS SUCCESSFULLY COMPLETED, AT THE EXPENSE OF THE  
 30 ~~APPLICANT~~ ELIGIBLE INSTITUTION, AN EDUCATIONAL TRAINING PROGRAM  
 31 APPROVED BY THE DEPARTMENT UNDER § 13-7A-03 OF THIS SUBTITLE; AND

32 (3) IS DESIGNATED BY A CERTIFICATE HOLDER TO ADMINISTER  
 33 AUTO-INJECTABLE EPINEPHRINE IN ACCORDANCE WITH THE PROVISIONS OF THIS  
 34 SUBTITLE.

1 (C) "ANAPHYLAXIS" MEANS A SUDDEN, SEVERE, AND POTENTIALLY  
2 LIFE-THREATENING ALLERGIC REACTION THAT OCCURS WHEN AN INDIVIDUAL IS  
3 EXPOSED TO AN ALLERGEN.

4 (D) "AUTO-INJECTABLE EPINEPHRINE" MEANS A PORTABLE, DISPOSABLE  
5 DRUG DELIVERY DEVICE THAT CONTAINS A PREMEASURED SINGLE DOSE OF  
6 EPINEPHRINE THAT IS USED TO TREAT ANAPHYLAXIS IN AN EMERGENCY SITUATION.

7 (E) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE DEPARTMENT  
8 TO AN INDIVIDUAL TO OBTAIN, STORE, AND ADMINISTER AUTO-INJECTABLE  
9 EPINEPHRINE.

10 (F) "CERTIFICATE HOLDER" MEANS AN INDIVIDUAL WHO IS AUTHORIZED  
11 BY THE DEPARTMENT TO OBTAIN, STORE, AND ADMINISTER AUTO-INJECTABLE  
12 EPINEPHRINE TO BE USED IN AN EMERGENCY SITUATION.

13 (G) "ELIGIBLE INSTITUTION" MEANS AN INSTITUTION OF HIGHER  
14 EDUCATION THAT HAS A FOOD SERVICE FACILITY OR A RECREATION AND WELLNESS  
15 FACILITY ON THE PREMISES.

16 (H) "FOOD SERVICE FACILITY" HAS THE MEANING INDICATED IN § 21-301  
17 OF THIS ARTICLE.

18 (I) "PROGRAM" MEANS THE EMERGENCY USE AUTO-INJECTABLE  
19 EPINEPHRINE PROGRAM ~~FOR FOOD SERVICE FACILITIES AT INSTITUTIONS OF~~  
20 ~~HIGHER EDUCATION~~ AT INSTITUTIONS OF HIGHER EDUCATION ESTABLISHED  
21 UNDER § 13-7A-02 OF THIS SUBTITLE.

22 13-7A-02.

23 (A) THERE IS AN EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE  
24 PROGRAM ~~FOR FOOD SERVICE FACILITIES AT INSTITUTIONS OF HIGHER EDUCATION~~  
25 AT INSTITUTIONS OF HIGHER EDUCATION.

26 (B) THE PURPOSE OF THE PROGRAM IS TO AUTHORIZE INDIVIDUALS  
27 EMPLOYED BY A FOOD SERVICE FACILITY OR A RECREATION AND WELLNESS  
28 FACILITY AT AN ELIGIBLE INSTITUTION TO OBTAIN AND STORE AUTO-INJECTABLE  
29 EPINEPHRINE AND ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO INDIVIDUALS  
30 WHO ARE EXPERIENCING OR ARE BELIEVED TO BE EXPERIENCING ANAPHYLAXIS  
31 WHEN A PHYSICIAN OR EMERGENCY MEDICAL SERVICES ARE NOT IMMEDIATELY  
32 AVAILABLE.

33 13-7A-03.

1 (A) THE DEPARTMENT SHALL:

2 (1) ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE  
3 PROGRAM;

4 (2) COLLECT FEES NECESSARY FOR THE ADMINISTRATION OF THE  
5 PROGRAM;

6 (3) ISSUE A CERTIFICATE TO, OR RENEW THE CERTIFICATE OF, AN  
7 INDIVIDUAL MEETING THE REQUIREMENTS OF § 13-7A-04 OF THIS SUBTITLE;

8 (4) APPROVE EDUCATIONAL TRAINING PROGRAMS, INCLUDING  
9 PROGRAMS CONDUCTED BY OTHER STATE AGENCIES OR PRIVATE ENTITIES;

10 (5) DEVELOP A METHOD BY WHICH CERTIFICATE HOLDERS MAY  
11 SUBMIT A REPORT TO THE DEPARTMENT ABOUT EACH INCIDENT THAT OCCURRED  
12 ON THE PREMISES OF A FOOD SERVICE FACILITY OR A RECREATION AND WELLNESS  
13 FACILITY AT AN ELIGIBLE INSTITUTION THAT INVOLVED THE ADMINISTRATION OF  
14 AUTO-INJECTABLE EPINEPHRINE BY A CERTIFICATE HOLDER OR AN AGENT; AND

15 (6) ON OR BEFORE JANUARY 31 EACH YEAR, PUBLISH A REPORT  
16 SUMMARIZING THE INFORMATION OBTAINED FROM REPORTS SUBMITTED TO THE  
17 DEPARTMENT UNDER ITEM (5) OF THIS SUBSECTION.

18 (B) THE DEPARTMENT MAY:

19 (1) SET AN APPLICATION FEE FOR A CERTIFICATE;

20 (2) ESTABLISH A FEE FOR THE RENEWAL OR REPLACEMENT OF A  
21 CERTIFICATE; AND

22 (3) REQUIRE APPLICANTS TO APPLY TO THE PROGRAM IN THE  
23 MANNER THE DEPARTMENT CHOOSES.

24 (C) AN EDUCATIONAL TRAINING PROGRAM APPROVED BY THE  
25 DEPARTMENT UNDER SUBSECTION (A)(4) OF THIS SECTION MAY BE AN ONLINE  
26 TRAINING PROGRAM.

27 13-7A-04.

28 (A) TO QUALIFY FOR A CERTIFICATE, AN APPLICANT SHALL:

29 (1) BE EMPLOYED BY A FOOD SERVICE FACILITY OR A RECREATION  
30 AND WELLNESS FACILITY AT AN ELIGIBLE INSTITUTION;

1           (2) SUCCESSFULLY COMPLETE, AT THE EXPENSE OF THE ~~APPLICANT~~  
2 ELIGIBLE INSTITUTION, AN EDUCATIONAL TRAINING PROGRAM APPROVED BY THE  
3 DEPARTMENT UNDER § 13-7A-03 OF THIS SUBTITLE;

4           (3) SUBMIT AN APPLICATION TO THE DEPARTMENT IN A MANNER  
5 REQUIRED BY THE DEPARTMENT UNDER § 13-7A-03 OF THIS SUBTITLE; AND

6           (4) ~~PAY~~ SUBJECT TO SUBSECTION (B) OF THIS SECTION, PAY TO THE  
7 DEPARTMENT AN APPLICATION FEE REQUIRED UNDER § 13-7A-03 OF THIS  
8 SUBTITLE.

9           (B) AN ELIGIBLE INSTITUTION MAY PAY THE APPLICATION FEE ON BEHALF  
10 OF THE APPLICANT.

11 13-7A-05.

12           (A) THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT  
13 WHO MEETS THE REQUIREMENTS OF § 13-7A-04 OF THIS SUBTITLE.

14           (B) EACH CERTIFICATE SHALL INCLUDE:

15               (1) THE FULL NAME OF THE CERTIFICATE HOLDER; AND

16               (2) A SERIAL NUMBER.

17           (C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST,  
18 DESTROYED, OR MUTILATED CERTIFICATE IF THE CERTIFICATE HOLDER PAYS A  
19 CERTIFICATE REPLACEMENT FEE SET BY THE DEPARTMENT.

20           (D) (1) A CERTIFICATE SHALL BE VALID FOR A TERM OF ~~2 YEARS~~ 1 YEAR.

21               (2) TO RENEW A CERTIFICATE FOR AN ADDITIONAL ~~2-YEAR~~ 1-YEAR  
22 TERM, THE RENEWAL APPLICANT SHALL SUCCESSFULLY COMPLETE A REFRESHER  
23 EDUCATIONAL TRAINING PROGRAM APPROVED BY THE DEPARTMENT UNDER §  
24 13-7A-03 OF THIS SUBTITLE.

25 13-7A-06.

26           (A) (1) A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE  
27 MAY PRESCRIBE AUTO-INJECTABLE EPINEPHRINE IN THE NAME OF A CERTIFICATE  
28 HOLDER.

1           **(2) A PHARMACIST LICENSED TO PRACTICE PHARMACY IN THE STATE**  
2 **OR A PHYSICIAN MAY DISPENSE AUTO-INJECTABLE EPINEPHRINE UNDER A**  
3 **PRESCRIPTION ISSUED TO A CERTIFICATE HOLDER.**

4           **(B) A CERTIFICATE HOLDER MAY:**

5           **(1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY**  
6 **PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE A PRESCRIPTION FOR**  
7 **AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE**  
8 **ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE; AND**

9           **(2) POSSESS AND STORE PRESCRIBED AUTO-INJECTABLE**  
10 **EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF**  
11 **AUTO-INJECTABLE EPINEPHRINE.**

12           **(C) IN AN EMERGENCY SITUATION WHEN A PHYSICIAN OR EMERGENCY**  
13 **MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE, A CERTIFICATE HOLDER OR**  
14 **AN AGENT MAY ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL**  
15 **WHO IS EXPERIENCING OR IS BELIEVED IN GOOD FAITH BY THE CERTIFICATE**  
16 **HOLDER OR AGENT TO BE EXPERIENCING ANAPHYLAXIS.**

17 **13-7A-07.**

18           **(A) A CAUSE OF ACTION MAY NOT ARISE AGAINST A CERTIFICATE HOLDER**  
19 **OR AN AGENT FOR ANY ACT OR OMISSION IF THE CERTIFICATE HOLDER OR AGENT**  
20 **IS ACTING IN GOOD FAITH WHILE ADMINISTERING AUTO-INJECTABLE EPINEPHRINE**  
21 **TO AN INDIVIDUAL WHO IS EXPERIENCING OR BELIEVED BY THE CERTIFICATE**  
22 **HOLDER OR AGENT TO BE EXPERIENCING ANAPHYLAXIS EXCEPT WHERE THE**  
23 **CONDUCT OF THE CERTIFICATE HOLDER OR AGENT AMOUNTS TO GROSS**  
24 **NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS**  
25 **CONDUCT.**

26           **(B) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHYSICIAN FOR**  
27 **ANY ACT OR OMISSION IF THE PHYSICIAN IN GOOD FAITH PRESCRIBES OR**  
28 **DISPENSES AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY**  
29 **PARAPHERNALIA FOR THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE**  
30 **TO AN INDIVIDUAL CERTIFIED BY THE DEPARTMENT UNDER § 13-7A-05 OF THIS**  
31 **SUBTITLE.**

32           **(2) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHARMACIST**  
33 **FOR ANY ACT OR OMISSION IF THE PHARMACIST IN GOOD FAITH DISPENSES**  
34 **AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE**  
35 **ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL**  
36 **CERTIFIED BY THE DEPARTMENT UNDER § 13-7A-05 OF THIS SUBTITLE.**

1 (C) THIS SECTION DOES NOT AFFECT AND MAY NOT BE CONSTRUED AS  
2 AFFECTING ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED BY  
3 ANY OTHER PROVISION OF LAW OR BY COMMON LAW TO WHICH A PHYSICIAN OR  
4 PHARMACIST MAY BE ENTITLED.

5 13-7A-08.

6 (A) THIS SUBTITLE MAY NOT BE CONSTRUED TO CREATE A DUTY ON ANY  
7 INDIVIDUAL TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE, AND AN INDIVIDUAL  
8 MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO OBTAIN A CERTIFICATE UNDER  
9 THIS SUBTITLE.

10 (B) AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE IN ANY ACTION  
11 ARISING FROM OR IN CONNECTION WITH THE ADMINISTRATION OF  
12 AUTO-INJECTABLE EPINEPHRINE BY THE INDIVIDUAL SOLELY BECAUSE THE  
13 INDIVIDUAL DID NOT POSSESS A CERTIFICATE ISSUED UNDER THIS SUBTITLE.

14 13-7A-09.

15 A CERTIFICATE HOLDER SHALL SUBMIT TO THE DEPARTMENT, IN THE  
16 MANNER REQUIRED UNDER § 13-7A-03 OF THIS SUBTITLE, A REPORT OF EACH  
17 INCIDENT THAT OCCURRED ON THE PREMISES OF A FOOD SERVICE FACILITY OR A  
18 RECREATION AND WELLNESS FACILITY AT AN ELIGIBLE INSTITUTION THAT  
19 INVOLVED THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE BY A  
20 CERTIFICATE HOLDER OR AN AGENT.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2018.

Approved:

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Governor.

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Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.