

SUBSTITUTE FOR
HOUSE BILL NO. 4438

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17744a (MCL 333.17744a), as added by 2013 PA
186, and by adding section 17744d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17744a. (1) Notwithstanding any provision of this act to
2 the contrary, a prescriber may issue a prescription for and a
3 dispensing prescriber or pharmacist may dispense auto-injectable
4 epinephrine to a ~~school board for the purpose of meeting the~~
5 ~~requirements of section 1179a of the revised school code, 1976 PA~~
6 ~~451, MCL 380.1179a.~~ **AN AUTHORIZED ENTITY.** When issuing a
7 prescription for or dispensing auto-injectable epinephrine to a
8 ~~school board~~ **AN AUTHORIZED ENTITY** as authorized under this section,

1 the prescriber, dispensing prescriber, or pharmacist, as
2 appropriate, shall insert the name of the ~~school board~~ **AUTHORIZED**
3 **ENTITY** as the name of the patient.

4 (2) A school employee who is a licensed registered
5 professional nurse or who is trained in the administration of an
6 epinephrine auto-injector under section 1179a of the revised school
7 code, 1976 PA 451, MCL 380.1179a, may possess and administer an
8 epinephrine auto-injector dispensed to a school board under this
9 section.

10 (3) **AN AUTHORIZED ENTITY THAT IS NOT A SCHOOL BOARD MAY**
11 **ACQUIRE AND STOCK A SUPPLY OF AUTO-INJECTABLE EPINEPHRINE UNDER A**
12 **PRESCRIPTION AS AUTHORIZED IN THIS SECTION. AN AUTHORIZED ENTITY**
13 **DESCRIBED IN THIS SUBSECTION THAT ACQUIRES AND STOCKS A SUPPLY OF**
14 **AUTO-INJECTABLE EPINEPHRINE IS SUBJECT TO SECTION 17744D.**

15 (4) ~~(2)~~—A prescriber who issues a prescription for or a
16 dispensing prescriber or pharmacist who dispenses auto-injectable
17 epinephrine to a ~~school board~~ **AN AUTHORIZED ENTITY** as authorized
18 under this section is not liable in a civil action for a properly
19 stored and dispensed epinephrine auto-injector that was a proximate
20 cause of injury or death to an individual due to the administration
21 of or failure to administer the epinephrine auto-injector.

22 (5) **AS USED IN THIS SECTION, "AUTHORIZED ENTITY" MEANS ANY OF**
23 **THE FOLLOWING:**

24 (A) **A SCHOOL BOARD FOR THE PURPOSE OF MEETING THE REQUIREMENTS**
25 **OF SECTION 1179A OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL**
26 **380.1179A.**

27 (B) **A PERSON OR GOVERNMENTAL ENTITY THAT OPERATES OR CONDUCTS**

1 A BUSINESS OR ACTIVITY AT WHICH ALLERGENS CAPABLE OF CAUSING
2 ANAPHYLAXIS MAY BE PRESENT, INCLUDING, BUT NOT LIMITED TO, A
3 RECREATION CAMP, YOUTH SPORTS LEAGUE, AMUSEMENT PARK, NONPUBLIC
4 SCHOOL, RELIGIOUS INSTITUTION, OR SPORTS ARENA.

5 SEC. 17744D. (1) THIS SECTION ONLY APPLIES TO AN AUTHORIZED
6 ENTITY AS DEFINED IN SECTION 17744A(5) (B) THAT ACQUIRES AND STOCKS
7 A SUPPLY OF AUTO-INJECTABLE EPINEPHRINE AS AUTHORIZED IN SECTION
8 17744A. AN AUTHORIZED ENTITY SHALL STORE AUTO-INJECTABLE
9 EPINEPHRINE IN A LOCATION READILY ACCESSIBLE IN AN EMERGENCY AND IN
10 ACCORDANCE WITH THE AUTO-INJECTABLE EPINEPHRINE'S INSTRUCTIONS FOR
11 USE AND ANY ADDITIONAL REQUIREMENTS THAT ARE ESTABLISHED BY THE
12 DEPARTMENT. AN AUTHORIZED ENTITY SHALL DESIGNATE AN EMPLOYEE OR
13 AGENT WHO HAS COMPLETED THE TRAINING REQUIRED UNDER THIS SECTION TO
14 BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, AND GENERAL OVERSIGHT
15 OF THE AUTO-INJECTABLE EPINEPHRINE ACQUIRED BY THE AUTHORIZED
16 ENTITY.

17 (2) AN EMPLOYEE OR AGENT OF AN AUTHORIZED ENTITY OR OTHER
18 INDIVIDUAL, WHICH EMPLOYEE, AGENT, OR INDIVIDUAL HAS COMPLETED THE
19 TRAINING REQUIRED UNDER THIS SECTION, MAY, ON THE PREMISES OF OR IN
20 CONNECTION WITH THE CONDUCT OF THE BUSINESS OR ACTIVITY OF THE
21 AUTHORIZED ENTITY, USE AUTO-INJECTABLE EPINEPHRINE PRESCRIBED UNDER
22 SECTION 17744A TO DO ANY OF THE FOLLOWING:

23 (A) PROVIDE AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL WHO
24 THE EMPLOYEE, AGENT, OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH IS
25 EXPERIENCING ANAPHYLAXIS FOR IMMEDIATE SELF-ADMINISTRATION,
26 REGARDLESS OF WHETHER THE INDIVIDUAL HAS A PRESCRIPTION FOR AUTO-
27 INJECTABLE EPINEPHRINE OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN

1 ALLERGY.

2 (B) ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL
3 WHO THE EMPLOYEE, AGENT, OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH
4 IS EXPERIENCING ANAPHYLAXIS, REGARDLESS OF WHETHER THE INDIVIDUAL
5 HAS A PRESCRIPTION FOR AUTO-INJECTABLE EPINEPHRINE OR HAS
6 PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY.

7 (3) BEFORE PROVIDING OR ADMINISTERING AUTO-INJECTABLE
8 EPINEPHRINE MADE AVAILABLE BY AN AUTHORIZED ENTITY, AN EMPLOYEE,
9 AGENT, OR OTHER INDIVIDUAL DESCRIBED IN SUBSECTION (2) MUST
10 COMPLETE AN INITIAL ANAPHYLAXIS TRAINING PROGRAM AND A SUBSEQUENT
11 ANAPHYLAXIS TRAINING PROGRAM AT LEAST EVERY 2 YEARS FOLLOWING
12 COMPLETION OF THE MOST RECENTLY COMPLETED ANAPHYLAXIS TRAINING
13 PROGRAM THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

14 (A) IS CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION
15 EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR
16 BY A PERSON, ENTITY, OR CLASS OF INDIVIDUALS APPROVED BY THE
17 DEPARTMENT.

18 (B) IS CONDUCTED ONLINE OR IN PERSON.

19 (C) AT A MINIMUM, COVERS ALL OF THE FOLLOWING:

20 (i) TECHNIQUES ON HOW TO RECOGNIZE SYMPTOMS OF SEVERE ALLERGIC
21 REACTIONS, INCLUDING ANAPHYLAXIS.

22 (ii) STANDARDS AND PROCEDURES FOR THE STORAGE AND
23 ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE.

24 (iii) EMERGENCY FOLLOW-UP PROCEDURES.

25 (4) AN ORGANIZATION, PERSON, ENTITY, OR CLASS OF INDIVIDUALS
26 THAT CONDUCTS AN ANAPHYLAXIS TRAINING PROGRAM DESCRIBED IN
27 SUBSECTION (3) SHALL ISSUE A CERTIFICATE, ON A FORM DEVELOPED OR

1 APPROVED BY THE DEPARTMENT, TO EACH INDIVIDUAL WHO SUCCESSFULLY
2 COMPLETES THE ANAPHYLAXIS TRAINING PROGRAM.

3 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
4 AUTHORIZED ENTITY AND ITS EMPLOYEES, AGENTS, AND OTHER TRAINED
5 INDIVIDUALS THAT HAVE ACTED IN ACCORDANCE WITH THE REQUIREMENTS OF
6 SUBSECTIONS (1) TO (4); AN INDIVIDUAL WHO USES AUTO-INJECTABLE
7 EPINEPHRINE OBTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF
8 SUBSECTIONS (1) TO (4) AND MADE AVAILABLE UNDER SUBSECTION (7); OR
9 AN ORGANIZATION, PERSON, ENTITY, OR CLASS OF INDIVIDUALS THAT
10 CONDUCTS AN ANAPHYLAXIS TRAINING PROGRAM DESCRIBED IN AND CONDUCTED
11 IN ACCORDANCE WITH SUBSECTION (3) IS NOT LIABLE FOR ANY INJURIES OR
12 RELATED DAMAGES THAT RESULT FROM THE ADMINISTRATION OR SELF-
13 ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE, THE FAILURE TO
14 ADMINISTER AUTO-INJECTABLE EPINEPHRINE, OR ANY OTHER ACT OR
15 OMISSION TAKEN PURSUANT TO THIS SECTION. THIS SUBSECTION DOES NOT
16 APPLY TO ACTS OR OMISSIONS THAT CONSTITUTE WILLFUL MISCONDUCT OR
17 WANTON MISCONDUCT. THE ADMINISTRATION OF AUTO-INJECTABLE
18 EPINEPHRINE AS AUTHORIZED IN THIS SECTION IS NOT THE PRACTICE OF
19 MEDICINE. THIS SECTION DOES NOT ELIMINATE, LIMIT, OR REDUCE ANY
20 OTHER IMMUNITY OR DEFENSE THAT MAY BE AVAILABLE UNDER THE LAWS OF
21 THIS STATE. AN AUTHORIZED ENTITY LOCATED IN THIS STATE IS NOT
22 LIABLE FOR ANY INJURIES OR RELATED DAMAGES THAT RESULT FROM
23 PROVIDING OR ADMINISTERING AUTO-INJECTABLE EPINEPHRINE BY ITS
24 EMPLOYEES OR AGENTS OUTSIDE OF THIS STATE IF EITHER OF THE
25 FOLLOWING REQUIREMENTS IS MET:

26 (A) THE AUTHORIZED ENTITY OR ITS EMPLOYEE OR AGENT WOULD NOT
27 HAVE BEEN LIABLE FOR THE INJURIES OR RELATED DAMAGES HAD THE

1 PROVISION OR ADMINISTRATION OCCURRED IN THIS STATE.

2 (B) THE AUTHORIZED ENTITY OR ITS EMPLOYEE OR AGENT IS NOT
3 LIABLE FOR THE INJURIES OR RELATED DAMAGES UNDER THE LAW OF THE
4 STATE IN WHICH THE PROVISION OR ADMINISTRATION OCCURRED.

5 (6) AN AUTHORIZED ENTITY SHALL SUBMIT TO THE DEPARTMENT, ON A
6 FORM PRESCRIBED BY THE DEPARTMENT, A REPORT OF EACH INCIDENT ON THE
7 PREMISES OF OR IN CONNECTION WITH THE CONDUCT OF THE BUSINESS OR
8 ACTIVITY OF THE AUTHORIZED ENTITY THAT INVOLVES THE ADMINISTRATION
9 OF AUTO-INJECTABLE EPINEPHRINE. THE DEPARTMENT SHALL ANNUALLY
10 PUBLISH A REPORT THAT SUMMARIZES AND ANALYZES ALL REPORTS SUBMITTED
11 TO IT UNDER THIS SUBSECTION.

12 (7) AN AUTHORIZED ENTITY MAY MAKE AUTO-INJECTABLE EPINEPHRINE
13 AVAILABLE TO AN INDIVIDUAL OTHER THAN AN EMPLOYEE, AGENT, OR
14 INDIVIDUAL DESCRIBED IN SUBSECTION (2), AND THE OTHER INDIVIDUAL
15 MAY ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO ANY INDIVIDUAL HE OR
16 SHE BELIEVES IN GOOD FAITH TO BE EXPERIENCING ANAPHYLAXIS, IF THE
17 AUTO-INJECTABLE EPINEPHRINE IS STORED IN A LOCKED, SECURE CONTAINER
18 AND IS MADE AVAILABLE ONLY UPON REMOTE AUTHORIZATION BY AN
19 AUTHORIZED HEALTH CARE PROVIDER AFTER CONSULTATION WITH THE
20 AUTHORIZED HEALTH CARE PROVIDER BY AUDIO, TELEVIDEO, OR OTHER
21 SIMILAR MEANS OF ELECTRONIC COMMUNICATION. CONSULTATION WITH AN
22 AUTHORIZED HEALTH CARE PROVIDER FOR THE PURPOSE OF THIS SUBSECTION
23 IS NOT THE PRACTICE OF TELEMEDICINE AND DOES NOT VIOLATE ANY LAW OR
24 RULE REGULATING THE AUTHORIZED HEALTH CARE PROVIDER'S SCOPE OF
25 PRACTICE. AS USED IN THIS SUBSECTION, "AUTHORIZED HEALTH CARE
26 PROVIDER" MEANS A PRESCRIBER AS THAT TERM IS DEFINED IN SECTION
27 17708 OTHER THAN A LICENSED DENTIST, LICENSED OPTOMETRIST, OR

1 **LICENSED VETERINARIAN.**

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.