

Regular Session, 2014

HOUSE BILL NO. 99

BY REPRESENTATIVE HENRY BURNS

HEALTH: Authorizes certain entities to supply and administer epinephrine auto-injectors

1 AN ACT

2 To enact Part LXXIII of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 40:1300.361 through 1300.369, relative to emergency access
4 to epinephrine; to provide for a title; to provide for definitions; to authorize certain
5 entities to obtain and fill a prescription for epinephrine auto-injectors; to provide for
6 storage and oversight of stock supplies; to provide for use by an authorized person;
7 to require training prior to use; to provide for limited liability; to require incident
8 reporting; to authorize use by a person other than trained employee or agent; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part LXXIII of Chapter 5 of Title 40 of the Louisiana Revised Statutes
12 of 1950, comprised of R.S. 40:1300.361 through 1300.369, is hereby enacted to read as
13 follows:

14 PART LXXIII. SAFE ACCESS TO VITAL EPINEPHRINE ACT

15 §1300.361. Short title

16 This Part may be cited as the "Safe Access to Vital Epinephrine Act".

17 §1300.362. Definitions

18 In this Part, unless the context otherwise requires, the following definitions
19 shall be applicable:

1 (1) "Administer" means the direct application of an epinephrine auto-injector
2 to the body of an individual.

3 (2) "Authorized entity" means any entity or organization at or in connection
4 with which allergens capable of causing anaphylaxis may be present, including but
5 not limited to restaurants, recreation camps, youth sports leagues, amusement parks,
6 and sports arenas.

7 (3) "Authorized health care provider" means an individual allowed by law
8 to prescribe and administer prescription drugs in the course of professional practice.

9 (4) "Department" means the Department of Health and Hospitals.

10 (5) "Epinephrine auto-injector" means a single-use device used for the
11 automatic injection of a premeasured dose of epinephrine into the human body.

12 (6) "Provide" means the supply of one or more epinephrine auto-injectors to
13 an individual.

14 (7) "Self-administration" means a person's discretionary use of an
15 epinephrine auto-injector.

16 §1300.363. Prescription authorized; dispensing

17 A. An authorized health care provider may prescribe epinephrine
18 auto-injectors in the name of an authorized entity for use in accordance with this
19 Part.

20 B. Any person licensed under the laws of this state to dispense a prescription
21 drug order may dispense epinephrine auto-injectors pursuant to a prescription issued
22 in the name of an authorized entity.

23 §1300.364. Stock supply; storage; location; maintenance

24 A. An authorized entity may acquire and stock a supply of epinephrine
25 auto-injectors pursuant to a prescription issued in accordance with this Part.

26 B. The epinephrine auto-injectors shall be stored in a location readily
27 accessible in an emergency and in accordance with the epinephrine auto-injector's
28 instructions for use and any additional requirements that may be established by the
29 department.

1 C. An authorized entity shall designate employees or agents who have
2 completed the training required by this Part to be responsible for the storage,
3 maintenance, and general oversight of epinephrine auto-injectors acquired by the
4 authorized entity.

5 §1300.365. Use by authorized person

6 An employee or agent of an authorized entity, or other individual, who has
7 completed the training required by this Part may, on the premises of or in connection
8 with the authorized entity, use epinephrine auto-injectors prescribed pursuant to this
9 Part to do any of the following:

10 (1) Provide an epinephrine auto-injector to any person who the employee,
11 agent, or other individual believes in good faith is experiencing anaphylaxis for
12 immediate self-administration, regardless of whether the person has a prescription
13 for an epinephrine auto-injector or has previously been diagnosed with an allergy.

14 (2) Administer an epinephrine auto-injector to any person who the employee,
15 agent, or other individual believes in good faith is experiencing anaphylaxis,
16 regardless of whether the person has a prescription for an epinephrine auto-injector
17 or has previously been diagnosed with an allergy.

18 §1300.366. Training

19 A. An employee, agent, or other individual described in R.S. 40:1300.365
20 shall complete an anaphylaxis training program prior to providing or administering
21 an epinephrine auto-injector made available by an authorized entity and at least every
22 two years following completion of the initial anaphylaxis training program.

23 B. The training shall be conducted by a nationally recognized organization
24 experienced in training laypersons in emergency health treatment or other entity or
25 individual approved by the department.

26 C. Training may be conducted online or in person and, at a minimum, shall
27 cover all of the following:

28 (1) Techniques on how to recognize symptoms of severe allergic reactions,
29 including anaphylaxis.

1 (2) Standards and procedures for the storage and administration of an
2 epinephrine auto-injector.

3 (3) Emergency follow-up procedures.

4 D. The entity that conducts the training shall issue a certificate, on a form
5 developed or approved by the department, to each person who successfully
6 completes the anaphylaxis training program.

7 §1300.367. Limitation of liability

8 A. The following persons shall not be liable for any injuries or related
9 damages that result from the administration of, self-administration of, or failure to
10 administer an epinephrine auto-injector in accordance with this Part that may
11 constitute ordinary negligence:

12 (1) An authorized entity that possesses and makes available epinephrine
13 auto-injectors and its employees, agents, and other trained individuals.

14 (2) An individual who uses an epinephrine auto-injector made available
15 pursuant to R.S. 40:1300.369.

16 (3) An authorized health care provider that prescribes epinephrine
17 auto-injectors to an authorized entity.

18 (4) An individual or entity that conducts the training required by R.S.
19 40:1300.366.

20 B. This immunity shall not apply to acts or omissions constituting gross,
21 willful, or wanton negligence.

22 C. The administration of an epinephrine auto-injector in accordance with this
23 Part shall not be deemed the practice of medicine.

24 D. The immunity from liability provided pursuant to this Section is in
25 addition to and not in lieu of the protection provided pursuant to R.S. 37:1731.

26 E. An entity located in this state shall not be liable for any injuries or related
27 damages that result from the provision or administration of an epinephrine
28 auto-injector by its employees or agents outside of this state if the entity or its

1 employee or agent would not have been liable for such injuries or related damages
2 had the provision or administration occurred within this state.

3 §1300.368. Reporting requirements

4 A. An authorized entity that possesses and makes available epinephrine
5 auto-injectors shall submit to the department, on a form developed by the
6 department, a report of each incident on the authorized entity's premises that involves
7 the administration of an epinephrine auto-injector.

8 B. The department shall annually publish a report that summarizes and
9 analyzes all incident reports submitted to it pursuant to this Part. The department
10 shall make the report publicly available on the department's Internet website.

11 §1300.369. Use by person other than trained employee or agent

12 A. An authorized entity that acquires a stock supply of epinephrine
13 auto-injectors pursuant to a prescription issued in accordance with this Part may
14 make the epinephrine auto-injectors available to individuals other than those trained
15 individuals described in R.S. 40:1300.365 if the epinephrine auto-injectors are stored
16 in a locked, secure container and are made available only upon remote authorization
17 by an authorized health care provider after consultation with the authorized health
18 care provider by audio, televideo, or other similar means of electronic
19 communication.

20 B. Consultation with an authorized health care provider pursuant to this
21 Section shall not be considered the practice of telemedicine or otherwise be
22 construed as violating any law or rule regulating the authorized health care provider's
23 professional practice.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Henry Burns

HB No. 99

Abstract: Authorizes certain entities to supply and administer epinephrine auto-injectors to persons experiencing anaphylaxis.

Proposed law may be cited as the "Safe Access to Vital Epinephrine Act".

Proposed law defines the following terms: "administer"; "authorized entity"; "authorized health care provider"; "department"; "epinephrine auto-injector"; "provide"; and "self-administration".

Proposed law provides that an authorized health care provider may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with proposed law.

Proposed law authorizes any person licensed under the laws of this state to dispense a prescription drug order to dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

Proposed law provides that an authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with proposed law.

Proposed law requires the epinephrine auto-injectors to be stored in a location readily accessible in an emergency and in accordance with the epinephrine auto-injector's instructions for use and any additional requirements that may be established by the Dept. of Health and Hospitals (DHH).

Proposed law requires an authorized entity to designate employees or agents who have completed the training required by proposed law to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

Proposed law authorizes an employee or agent of an authorized entity, or other individual, who has completed the training required by proposed law to use, on the premises of or in connection with the authorized entity, epinephrine auto-injectors prescribed pursuant to proposed law to do any of the following:

- (1) Provide an epinephrine auto-injector to any person who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.
- (2) Administer an epinephrine auto-injector to any person who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

Proposed law requires an employee, agent, or other individual to complete an anaphylaxis training program prior to providing or administering an epinephrine auto-injector made available by an authorized entity and at least every two years following completion of the initial anaphylaxis training program.

Proposed law requires the training to be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or other entity or individual approved by DHH.

Proposed law authorizes training to be conducted online or in person and requires the training, at a minimum, to cover all of the following:

- (1) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis.
- (2) Standards and procedures for the storage and administration of an epinephrine auto-injector.

- (3) Emergency follow-up procedures.

Proposed law requires the entity that conducts the training to issue a certificate, on a form developed or approved by DHH, to each person who successfully completes the anaphylaxis training program.

Proposed law provides that the following persons shall not be liable for any injuries or related damages that result from the administration of, self-administration of, or failure to administer an epinephrine auto-injector in accordance with proposed law that may constitute ordinary negligence:

- (1) An authorized entity that possesses and makes available epinephrine auto-injectors and its employees, agents, and other trained individuals.
- (2) An individual who uses an epinephrine auto-injector made available upon remote authorization by an authorized health care provider pursuant to proposed law.
- (3) An authorized health care provider that prescribes epinephrine auto-injectors to an authorized entity.
- (4) An individual or entity that conducts the training required by proposed law.

The immunity provided by proposed law shall not apply to acts or omissions constituting gross, willful, or wanton negligence.

The administration of an epinephrine auto-injector in accordance with proposed law shall not be deemed the practice of medicine.

The immunity from liability provided by proposed law is in addition to and not in lieu of the protection provided by the Good Samaritan Law.

Proposed law provides that an entity located in La. shall not be liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of La. if the entity or its employee or agent would not have been liable for such injuries or related damages had the provision or administration occurred within La.

Proposed law requires an authorized entity that possesses and makes available epinephrine auto-injectors to submit to DHH, on a form developed by DHH, a report of each incident on the authorized entity's premises that involves the administration of an epinephrine auto-injector.

Proposed law requires DHH to annually publish a report that summarizes and analyzes all incident reports submitted to it pursuant to proposed law. Proposed law further requires DHH to make the report publicly available on the department's Internet website.

Proposed law provides that an authorized entity that acquires a stock supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with proposed law may make the epinephrine auto-injectors available to individuals other than those individuals trained pursuant to proposed law if the epinephrine auto-injectors are stored in a locked, secure container and are made available only upon remote authorization by an authorized health care provider after consultation with the authorized health care provider by audio, televideo, or other similar means of electronic communication.

Proposed law provides that consultation with an authorized health care provider pursuant to proposed law shall not be considered the practice of telemedicine or otherwise be construed as violating any law or rule regulating the authorized health care provider's professional practice.

(Adds R.S. 40:1300.361-1300.369)