

Stricken language would be deleted from and underlined language would be added to present law.
Act 1108 of the Regular Session

State of Arkansas
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As Engrossed: S3/11/15
A Bill

SENATE BILL 394

By: Senator L. Chesterfield

For An Act To Be Entitled

AN ACT TO EXPAND PUBLIC ACCESS TO AUTO-INJECTABLE EPINEPHRINE; TO EXPAND IMMUNITY TO INCLUDE AN AUTHORIZED ENTITY THAT PROVIDES PRESCRIBED AUTO-INJECTABLE EPINEPHRINE; AND FOR OTHER PURPOSES.

Subtitle

TO EXPAND PUBLIC ACCESS TO AUTO-INJECTABLE EPINEPHRINE; AND TO EXPAND IMMUNITY TO INCLUDE AN AUTHORIZED ENTITY THAT PROVIDES PRESCRIBED AUTO-INJECTABLE EPINEPHRINE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code §§ 20-13-403 and 20-13-404 are amended to read as follows:

20-13-403. ~~Definition.~~ Definitions.

As used in this subchapter, ~~“physician” means a natural person licensed to practice medicine in the State of Arkansas pursuant to the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.;~~

(1) "Authorized entity" means an entity or organization at which or in connection with which allergens capable of causing an anaphylactic reaction may be present, including without limitation:

- (A) A restaurant;
- (B) An amusement park; and
- (C) A sports arena;



(2) "Auto-injectable epinephrine" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body;

(3) "Certificate" means a certificate issued under this subchapter to authorize the receipt, possession, and administration of prescribed auto-injectable epinephrine;

(4) "Expected user" means an authorized entity's employee or agent who is responsible for the storage, maintenance, and general supervision of auto-injectable epinephrine acquired by the authorized entity;

(5) "Healthcare professional" means a licensed physician, chiropractor, dentist, optometrist, podiatrist, or other licensed healthcare professional;

(6) "Physician" means an individual licensed to practice medicine in the State of Arkansas under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.; and

(7) "Self-administration" means a person's discretionary use of auto-injectable epinephrine pursuant to a prescription or written direction from a healthcare professional.

20-13-404. Eligibility for certificate.

~~Persons eligible to~~ A person may receive a certificate under this subchapter ~~shall meet the following requirements only if the person:~~

(1) ~~Be~~ Is eighteen (18) years of age or older;

(2) ~~Have~~ Has, or reasonably ~~expect~~ expects to have, ~~responsibility for regular contact with~~ at least one (1) other person as a result of ~~one's~~ the person's relationship or occupational or volunteer status, including without limitation ~~parents, camp counselors, scout leaders, school nurses, school teachers, other school employees, forest rangers, tour guides, or chaperones; and:~~

(A) A parent;

(B) A camp counselor;

(C) A scout leader;

(D) A school nurse, school teacher, or other school employee;

(E) A forest ranger;

(F) A tour guide;

(G) A chaperone; or

(H) An authorized entity; and

(3)(A) ~~Have~~ Has been properly instructed by a physician ~~licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq~~ or has completed an anaphylaxis training program conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or other person approved by the Department of Health.

(B) The ~~curriculum~~ instruction shall ~~minimally~~ include recognition of the symptoms of systemic reactions to insect stings and other allergic reactions and the proper administration of ~~a subcutaneous~~ an injection of epinephrine.

SECTION 2. Arkansas Code § 20-13-405(b) and (c), concerning authority of a certificate holder, is amended to read as follows:

(b) The certificate ~~shall~~ also shall authorize the certificate holder to possess, provide, and administer, in an emergency situation when a physician is not immediately available, the prescribed epinephrine to ~~persons suffering a severe adverse reaction to an insect sting or other allergic reaction.~~ a person who:

(1) Has contact with the certificate holder as a result of the certificate holder's relationship or occupational or volunteer status under § 20-13-404(2); and

(2) Appears to be suffering a severe adverse reaction to an insect sting or other allergic reaction.

~~(c) The certificate holder may administer epinephrine as provided in this subchapter only to those persons for whom the holder is responsible as provided in § 20-13-404(2).~~

SECTION 3. Arkansas Code §§ 20-13-406 and 20-13-407 are amended to read as follows:

20-13-406. Immunity.

~~No cause of action shall arise against a certificate holder pursuant to this subchapter or against the issuing physician for any act or omission when acting in good faith pursuant to the authority granted by this subchapter, except when the conduct amounts to gross negligence.~~

(a) A person or entity that in good faith renders emergency care or treatment by the use of auto-injectable epinephrine is immune from civil liability resulting from:

- (1) The emergency care or treatment; and
- (2) Any good faith act or omission to provide or arrange for further medical treatment.

(b) A person or entity granted immunity under subsection (a) of this section includes without limitation:

- (1) A physician or medical facility that distributes auto-injectable epinephrine or issues a certificate under this subchapter;
- (2) A person or entity that provides auto-injectable epinephrine training to an expected user or authorized entity;
- (3) A person or entity responsible for the location where the auto-injectable epinephrine is located or used; and
- (4) A certificate holder.

(c) The immunity under subsection (a) of this section does not apply if the cause of action results from gross negligence or willful or wanton misconduct.

(d) Immunity under this section is in addition to the immunity provided to an individual acting as a "Good Samaritan" under the provisions of § 17-95-101.

20-13-407. Administration of act.

~~(a) The Division of Health of the Department of Health and Human Services~~ Department of Health shall prepare ~~the appropriate~~ a certificate form ~~to be available to physicians upon request to accomplish the purposes of~~ for use by a physician as authorized under this subchapter.

~~(b)(1) A copy of all certificates~~ a certificate issued pursuant to ~~under~~ this subchapter shall be forwarded by the issuing physician to the ~~division~~ department ~~to be maintained on file and subject to public inspection.~~

(2) The department shall maintain the copy on file and make it available for public inspection.

SECTION 4. Arkansas Code Title 20, Chapter 13, Subchapter 4, is amended to add an additional section to read as follows:

20-13-408. Auto-injectable epinephrine use by an authorized entity.

(a) In order to ensure the public health and safety, an authorized entity that acquires auto-injectable epinephrine shall ensure that:

(1) An expected user:

(A) Completes appropriate knowledge and skills courses at least one (1) time every two (2) years in anaphylaxis and auto-injectable epinephrine use; and

(B) Obtains a certificate under this subchapter;

(2) The auto-injectable epinephrine is maintained according to the manufacturer's operational guidelines and instructions in a locked, secure location; and

(3) A person who renders emergency care or treatment to a person having an anaphylactic reaction by using auto-injectable epinephrine activates the emergency medical services system as soon as possible and immediately reports the use of auto-injectable epinephrine to the medical provider responding to the emergency.

(b) An authorized entity and its expected users may:

(1) Obtain a prescription in the name of the authorized entity for epinephrine auto-injectors and acquire epinephrine auto-injectors under the prescription;

(2) Provide auto-injectable epinephrine for immediate self-administration to an individual who the authorized entity or expected user believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for auto-injectable epinephrine or has previously been diagnosed with an *allergy*; and

(3) Administer auto-injectable epinephrine directly to an individual who the authorized entity or expected user believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for auto-injectable epinephrine or has been previously diagnosed with an *allergy*.

(c) An authorized entity that possesses and makes available auto-injectable epinephrine shall:

(1)(A) Submit to the Department of Health a report of each incident on the authorized entity's premises in which the authorized entity provides or administers auto-injectable epinephrine.

(B) The department annually shall publish a report that

summarizes and analyzes the reports submitted under this subdivision (c)(1);
and

(2) Notify an agent of emergency communications, 911, or vehicle
dispatch center of the existence, location, and type of auto-injectable
epinephrine.

/s/L. Chesterfield

APPROVED: 04/06/2015