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2 90th General Assembly
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4

A Bill

SENATE BILL 394

5 By: Senator L. Chesterfield
6

For An Act To Be Entitled

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

14 TO EXPAND PUBLIC ACCESS TO AUTO-
15 INJECTABLE EPINEPHRINE; AND TO EXPAND
16 IMMUNITY TO INCLUDE AN AUTHORIZED ENTITY
17 THAT PROVIDES PRESCRIBED AUTO-INJECTABLE
18 EPINEPHRINE.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code §§ 20-13-403 and 20-13-404 are amended to
25 read as follows:

26 20-13-403. ~~Definition.~~ Definitions.

27 As used in this subchapter, ~~“physician” means a natural person licensed~~
28 ~~to practice medicine in the State of Arkansas pursuant to the Arkansas~~
29 ~~Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-~~
30 ~~401 et seq.;~~

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

34 (A) A restaurant;

35 (B) An amusement park; and

36 (C) A sports arena;



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

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

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

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

13 (6) "Physician" means an individual licensed to practice
14 medicine in the State of Arkansas under the Arkansas Medical Practices Act, §
15 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.; and

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

19
20 20-13-404. Eligibility for certificate.

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

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

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

30 (A) A parent;

31 (B) A camp counselor;

32 (C) A scout leader;

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

35 (E) A forest ranger;

36 (F) A tour guide;

1 (G) A chaperone; or

2 (H) An authorized entity; and

3 (3)(A) ~~Have~~ Has been properly instructed by a physician ~~licensed~~
4 ~~under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et~~
5 ~~seq., and § 17-95-401 et seq.~~

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

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

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

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

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

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

26
27 SECTION 3. Arkansas Code §§ 20-13-406 and 20-13-407 are amended to
28 read as follows:

29 20-13-406. Immunity.

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

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

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

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

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

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

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

19
 20 20-13-407. Administration of act.

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

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

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

31
 32 SECTION 4. Arkansas Code Title 20, Chapter 13, Subchapter 4, is
 33 amended to add an additional section to read as follows:

34 20-13-408. Auto-injectable epinephrine use by an authorized entity.

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

1 (1) An expected user:

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

5 (B) Obtains a certificate under this subchapter;

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

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

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

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

20 (2) Administer auto-injectable epinephrine directly to an
21 individual who the authorized entity or expected user believes in good faith
22 is experiencing anaphylaxis, regardless of whether the individual has a
23 prescription for auto-injectable epinephrine or has been previously diagnosed
24 with an allergy; and

25 (3) Provide auto-injectable epinephrine to an untrained
26 individual for emergency use upon remote authorization by a healthcare
27 professional after a consultation by audio communication, video
28 communication, or other similar means of electronic communication.

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

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

34 (B) The department annually shall publish a report that
35 summarizes and analyzes the reports submitted under this subdivision (c)(1);
36 and

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

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