

1 **H. B. 2729**

2  
3 (By Delegates Perry, Perdue, Boggs, Miley,  
4 M. Poling, Poore, Fleischauer, Marshall,  
5 Armstead, Ellington and Pasdon)

6 [Introduced February 26, 2013; referred to the  
7 Committee on Health and Human Resources then the Judiciary.]

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9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §18-5-22c, relating  
12 to allowing schools to voluntarily maintain and use  
13 epinephrine auto-injectors; providing for the administration  
14 of an auto-injector by a school nurse or other trained and  
15 authorized nonmedical school personnel for emergency care or  
16 treatment of anaphylactic reactions; allowing the issuance of  
17 standing orders and protocols by physicians to schools to  
18 obtain epinephrine auto-injectors; setting forth notice  
19 requirements; allowing students who self-inject to use the  
20 school supply of epinephrine auto-injectors; setting forth  
21 immunity from liability for school nurses and trained and  
22 authorized nonmedical school personnel; allowing county school  
23 boards to participate in free or discounted manufacturer  
24 sponsored pharmaceutical programs to obtain epinephrine  
25 auto-injectors; providing for data collection and reporting

1 requirements; and setting forth rule-making authority to  
2 effectuate the provisions of the section.

3 *Be it enacted by the Legislature of West Virginia:*

4 That the Code of West Virginia, 1931, as amended, be amended  
5 by adding thereto a new section, designated §18-5-22c, to read as  
6 follows:

7 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

8 **§18-5-22c. Providing for the maintenance and use of epinephrine**

9 **auto-injectors; administration of injections;**

10 **notice; indemnity from liability; rules.**

11 (a) A public, private, parochial or denominational school  
12 located within this state may possess and maintain at the school a  
13 supply of epinephrine auto-injectors for use in emergency medical  
14 care or treatment for an anaphylactic reaction. A prior diagnosis  
15 for a student or school personnel requiring the use of epinephrine  
16 auto-injectors is not necessary to permit the school to stock  
17 epinephrine auto-injectors. Epinephrine auto-injectors shall be  
18 maintained by the school in a secure location which is only  
19 accessible by medical personnel and authorized nonmedical personnel  
20 and not by students.

21 (b) An allopathic physician licensed to practice pursuant to  
22 the provisions of article three, chapter thirty of this code or an  
23 osteopathic physician licensed to practice pursuant to the

1 provisions of article fourteen, chapter thirty of this code may  
2 prescribe within the course of his or her professional practice  
3 standing orders and protocols for use when necessary by a school  
4 which wishes to maintain epinephrine auto-injector pursuant to the  
5 provisions of this section.

6 (c) A school nurse, as set forth in section twenty-two of this  
7 article, is authorized to administer an epinephrine auto-injector  
8 to a student or school personnel during regular school hours or at  
9 a school function when the school nurse medically believes the  
10 individual is experiencing an anaphylactic reaction. A school  
11 nurse may use the school supply of epinephrine auto-injectors for  
12 a student or school personnel authorized to self-administer that  
13 meet the requirements of a prescription on file with the school.

14 (d) Nonmedical school personnel who have been trained in the  
15 administration of an epinephrine auto-injector and who have been  
16 designated and authorized by the school to administer the  
17 epinephrine auto-injector are authorized to administer an  
18 epinephrine auto-injector to a student or school personnel during  
19 regular school hours or at a school function when the authorized  
20 and designated nonmedical school personnel reasonably believes,  
21 based upon their training, that the individual is experiencing an  
22 anaphylactic reaction. Nonmedical school personnel may use the  
23 school supply of epinephrine auto-injectors for a student or school  
24 personnel authorized to self-administer that meet the requirements

1 of a prescription on file with the school.

2 (e) Prior notice to the parents of a student of the  
3 administration of the epinephrine auto-injector is not required.  
4 Immediately following the administration of the epinephrine  
5 auto-injector, the school shall provide notice to the parent of a  
6 student who received an auto-injection.

7 (f) A school nurse or trained and authorized nonmedical school  
8 personnel who administer an epinephrine auto-injection to a student  
9 or to school personnel as provided in this section is immune from  
10 liability for any civil action arising out of an act or omission  
11 resulting from the administration of the epinephrine auto-injection  
12 unless the act or omission was the result of the school nurse or  
13 trained and authorized nonmedical school personnel's gross  
14 negligence or willful misconduct.

15 (g) For the purposes of this section, all county boards of  
16 education may participate in free or discounted drug programs from  
17 pharmaceutical manufacturers to provide epinephrine auto-injectors  
18 to schools in their counties who choose to stock auto-injectors.

19 (h) All county boards of education are required to collect and  
20 compile aggregate data on incidents of anaphylactic reactions  
21 resulting in the administration of school maintained epinephrine  
22 auto-injectors in their county during a school year and forward the  
23 data to State Superintendent of Schools. The State Superintendent  
24 of Schools shall prepare an annual report to be presented to the

1 Joint Committee on Government and Finance as set forth in article  
2 three, chapter four of this code, by December 31 of each year.

3 (i) The State Board of Education, as defined in article two of  
4 this chapter, shall consult with the State Health Officer, as  
5 defined in section four, article three, chapter thirty of this  
6 code, and promulgate rules necessary to effectuate the provisions  
7 of this section in accordance with the provisions of article  
8 three-b, chapter twenty-nine-a of this code. The rules shall  
9 provide, at a minimum, for:

10 (1) The criteria for selection and minimum requirements of  
11 nonmedical school personnel who may administer epinephrine  
12 auto-injectors following the necessary training;

13 (2) The training requirements necessary for nonmedical school  
14 personnel to be authorized to administer an epinephrine  
15 auto-injection;

16 (3) Training on anaphylaxis and allergy awareness for food  
17 service workers in the school system, if easily available locally;

18 (4) Storage requirements for maintaining the epinephrine  
19 auto-injectors within the schools;

20 (5) Comprehensive notice requirements to the parents of a  
21 student who was administered a school maintained epinephrine  
22 auto-injection including who administered the injection, the  
23 rational for administering the injection, the approximate time of  
24 the injection and any other necessary elements to make the

1 students' parents fully aware of the circumstances surrounding the  
2 administration of the injection;

3 (6) Any and all necessary documentation to be kept and  
4 maintained regarding receipt, inventory, storage and usage of all  
5 epinephrine auto-injectors;

6 (7) Detailed reporting requirements for county boards of  
7 education on incidents of use of school maintained epinephrine  
8 auto-injectors during a school year; and

9 (8) Any other requirements necessary to fully implement this  
10 section.

NOTE: The purpose of this bill is to allow epinephrine auto-injectors to be maintained in school for emergency treatment administration during anaphylactic reactions.

This section is new; therefore, it has been completely underscored.