

E N R O L L E D

H. B. 2729

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ARMSTEAD, ELLINGTON AND PASDON)

[Passed April 9, 2013; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22c, relating to allowing schools to voluntarily maintain and use epinephrine auto-injectors; providing for the administration of an auto-injector by a school nurse or other trained and authorized nonmedical school personnel for emergency care or treatment of anaphylactic reactions; allowing the issuance of standing orders and protocols by physicians to schools to obtain epinephrine auto-injectors; setting forth notice requirements; allowing students who self-inject to use the school supply of epinephrine auto-injectors; setting forth immunity from liability for school nurses and trained and authorized nonmedical school personnel; allowing county school boards to participate in free or discounted manufacturer sponsored pharmaceutical programs to obtain epinephrine auto-injectors;

providing for data collection and reporting requirements; and setting forth rule-making authority to effectuate the provisions of the section.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22c. Providing for the maintenance and use of epinephrine auto-injectors; administration of injections; notice; indemnity from liability; rules.

1 (a) A public, private, parochial or denominational school
2 located within this state may possess and maintain at the school
3 a supply of epinephrine auto-injectors for use in emergency
4 medical care or treatment for an anaphylactic reaction. A prior
5 diagnosis for a student or school personnel requiring the use of
6 epinephrine auto-injectors is not necessary to permit the school
7 to stock epinephrine auto-injectors. Epinephrine auto-injectors
8 shall be maintained by the school in a secure location which is
9 only accessible by medical personnel and authorized nonmedical
10 personnel and not by students.

11 (b) An allopathic physician licensed to practice pursuant to
12 the provisions of article three, chapter thirty of this code or an
13 osteopathic physician licensed to practice pursuant to the
14 provisions of article fourteen, chapter thirty of this code may
15 prescribe within the course of his or her professional practice
16 standing orders and protocols for use when necessary by a school
17 which wishes to maintain epinephrine auto-injector pursuant to
18 the provisions of this section.

19 (c) A school nurse, as set forth in section twenty-two of this
20 article, is authorized to administer an epinephrine auto-injector
21 to a student or school personnel during regular school hours or

22 at a school function when the school nurse medically believes
23 the individual is experiencing an anaphylactic reaction. A school
24 nurse may use the school supply of epinephrine auto-injectors
25 for a student or school personnel authorized to self-administer
26 that meet the requirements of a prescription on file with the
27 school.

28 (d) Nonmedical school personnel who have been trained in
29 the administration of an epinephrine auto-injector and who have
30 been designated and authorized by the school to administer the
31 epinephrine auto-injector are authorized to administer an
32 epinephrine auto-injector to a student or school personnel during
33 regular school hours or at a school function when the authorized
34 and designated nonmedical school personnel reasonably be-
35 lieves, based upon their training, that the individual is experienc-
36 ing an anaphylactic reaction. Nonmedical school personnel may
37 use the school supply of epinephrine auto-injectors for a student
38 or school personnel authorized to self-administer that meet the
39 requirements of a prescription on file with the school.

40 (e) Prior notice to the parents of a student of the administra-
41 tion of the epinephrine auto-injector is not required. Immediately
42 following the administration of the epinephrine auto-injector, the
43 school shall provide notice to the parent of a student who
44 received an auto-injection.

45 (f) A school nurse or trained and authorized nonmedical
46 school personnel who administer an epinephrine auto-injection
47 to a student or to school personnel as provided in this section is
48 immune from liability for any civil action arising out of an act or
49 omission resulting from the administration of the epinephrine
50 auto-injection unless the act or omission was the result of the
51 school nurse or trained and authorized nonmedical school
52 personnel's gross negligence or willful misconduct.

53 (g) For the purposes of this section, all county boards of
54 education may participate in free or discounted drug programs

55 from pharmaceutical manufacturers to provide epinephrine
56 auto-injectors to schools in their counties who choose to stock
57 auto-injectors.

58 (h) All county boards of education are required to collect and
59 compile aggregate data on incidents of anaphylactic reactions
60 resulting in the administration of school maintained epinephrine
61 auto-injectors in their county during a school year and forward
62 the data to State Superintendent of Schools. The State Superin-
63 tendent of Schools shall prepare an annual report to be presented
64 to the Joint Committee on Government and Finance as set forth
65 in article three, chapter four of this code, by December 31 of
66 each year.

67 (i) The State Board of Education, as defined in article two of
68 this chapter, shall consult with the State Health Officer, as
69 defined in section four, article three, chapter thirty of this code,
70 and promulgate rules necessary to effectuate the provisions of
71 this section in accordance with the provisions of article three-b,
72 chapter twenty-nine-a of this code. The rules shall provide, at a
73 minimum, for:

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

77 (2) The training requirements necessary for nonmedical
78 school personnel to be authorized to administer an epinephrine
79 auto-injection;

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

82 (4) Storage requirements for maintaining the epinephrine
83 auto-injectors within the schools;

84 (5) Comprehensive notice requirements to the parents of a
85 student who was administered a school maintained epinephrine

86 auto-injection including who administered the injection, the
87 rational for administering the injection, the approximate time of
88 the injection and any other necessary elements to make the
89 students' parents fully aware of the circumstances surrounding
90 the administration of the injection;

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

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

97 (8) Any other requirements necessary to fully implement this
98 section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2013.

Governor

