

Senate Bill No. 494

(By Senators Takubo, Carmichael, Ferns, M. Hall, Maynard, Mullins, Nohe, Plymale, Prezioso,
Stollings, Trump, Williams and Gaunch)

[Introduced February 16, 2015; referred to the Committee on Health and Human Resources; and
then to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
designated §16-1-20, relating to allowing a health care practitioner to prescribe epinephrine
auto-injectors in the name of an entity authorized by the Department of Health and Human
Resources; requiring training; and limiting liability.

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 §16-1-20, to read as follows:

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

**§16-1-20. Life-saving allergy medication: stock supply of epinephrine auto-injectors;
emergency administration.**

(a) A health care practitioner may prescribe epinephrine auto-injectors in the name of an
authorized entity for use in accordance with this section. Pharmacists and health care practitioners

1 may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an
2 authorized entity.

3 (b) An entity authorized by the Department of Health and Human Resources may acquire and
4 stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this
5 section. The epinephrine auto-injectors shall be stored in a location readily accessible in an
6 emergency and in accordance with the epinephrine auto-injector's instructions for use and any
7 additional requirements that may be established by the Department of Health and Human Resources.
8 An authorized entity shall designate employees or agents who have completed the training required
9 by subsection (d) of this section to be responsible for the storage, maintenance, control, and general
10 oversight of epinephrine auto-injectors acquired by the authorized entity.

11 (c) An employee or agent of an authorized entity, or other individual, who has completed the
12 training required by subsection (d) of this section may use epinephrine auto-injectors prescribed
13 pursuant to subsection (a) of this section to:

14 (1) Provide an epinephrine auto-injector to any individual who the employee, agent or other
15 individual believes in good faith is experiencing anaphylaxis, or the parent, guardian or caregiver
16 of the individual, for immediate administration, regardless of whether the individual has a
17 prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; and

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

22 (d) An employee, agent, or other individual described in subsection (b) or (c) of this section

1 must satisfactorily complete an anaphylaxis training program before being authorized to use an
2 epinephrine auto-injector. The training shall be conducted by a nationally recognized organization
3 experienced in training laypersons in emergency health treatment or an entity or individual approved
4 by the Department of Health and Human Resources. The Department of Health and Human
5 Resources may approve specific entities or individuals or may approve classes of entities or
6 individuals to conduct training. Training may be conducted online or in person and, at a minimum,
7 shall cover:

8 (1) How to recognize signs and symptoms of severe allergic reactions, including anaphylaxis;

9 (2) Standards and procedures for the storage and administration of an epinephrine
10 auto-injector; and

11 (3) Emergency follow-up procedures.

12 (e) For purposes of this section:

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

15 (2) "Provide" means the supplying of one or more epinephrine auto-injectors to an individual.

16 (3) "Health care practitioner" means an allopathic physician licensed to practice pursuant to
17 the provisions of article three, chapter thirty of this code or an osteopathic physician licensed to
18 practice pursuant to the provisions of article fourteen, chapter thirty of this code.

19 (f) The Department of Health and Human resources may adopt interpretive and procedural
20 rules and propose legislative rules for legislative approval in accordance with the provisions of
21 article three, chapter twenty-nine-a of this code, necessary to provide a way for lifesaving treatment
22 to be made available for persons who have severe allergic adverse reactions when a physician is not

1 immediately available by making epinephrine auto-injectors available.

2 (g) The administration of an epinephrine auto-injector in accordance with this section is not
3 the practice of medicine.

4 (h) An authorized health care practitioner who prescribes epinephrine auto-injectors to an
5 authorized entity; any authorized entity that possesses and makes available epinephrine
6 auto-injectors; any employee, agent or individual who received training in administration of
7 epinephrine auto-injectors; and any person that conducts the training under this section is not liable
8 for civil damages that result from the administration or self-administration of an epinephrine
9 auto-injector, the failure to administer an epinephrine auto-injector or any other act or omission
10 committed, in good faith, pursuant to this section, unless the act or omission was the result of the
11 individual's gross negligence or willful misconduct.

12 (i) This section does not eliminate, limit, or reduce any other immunity or defense that may
13 be available under state law, including the immunity provided under section fifteen, article seven
14 chapter fifty-five of this code.

15 (j) If the provisions of this section in regard to the prescriptive authority of health care
16 practitioner conflict with any provision of chapter thirty of this code, the provisions of this section
17 prevail.

NOTE: The purpose of this bill is to allow a health care practitioner to prescribe epinephrine auto-injectors in the name of an entity authorized by the Department of Health and Human Resources.

This section is new; therefore, strike-throughs and underscoring have been omitted.