

1 **ENROLLED**

2 **H. B. 2729**

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

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

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

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

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

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

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

9 **§18-5-22c. Providing for the maintenance and use of epinephrine**
10 **auto-injectors; administration of injections;**
11 **notice; indemnity from liability; rules.**

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

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

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

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

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

1 personnel authorized to self-administer that meet the requirements
2 of a prescription on file with the school.

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

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

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

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

1 of Schools shall prepare an annual report to be presented to the
2 Joint Committee on Government and Finance as set forth in article
3 three, chapter four of this code, by December 31 of each year.

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

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

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

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

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

21 (5) Comprehensive notice requirements to the parents of a
22 student who was administered a school maintained epinephrine
23 auto-injection including who administered the injection, the
24 rationale for administering the injection, the approximate time of

1 the injection and any other necessary elements to make the
2 students' parents fully aware of the circumstances surrounding the
3 administration of the injection;

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

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

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