

Senate Bill No. 23

(By Senators Stollings, Jenkins, Laird, Kessler (Mr. President),
Miller and Beach)

[Introduced February 13, 2013; referred to the Committee on
Health and Human Resources.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §16-45-1, §16-45-2,
§16-45-3, §16-45-4 and §16-45-5, all relating generally to the
administration of epinephrine in emergency situations;
authorizing certain individuals to obtain a prescription for
epinephrine, purchase epinephrine and administer epinephrine
in emergency situations; development and approval of certain
training programs relating to the administration of
epinephrine in emergency situations; granting rule-making
authority; addressing applicability of article; and providing
for limitations on civil and criminal liability.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended

1 by adding thereto a new article, designated §16-45-1, §16-45-2,
2 §16-45-3, §16-45-4 and §16-45-5, all to read as follows:

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4 **ARTICLE 45. USE OF EPINEPHRINE IN EMERGENCY SITUATIONS.**

5 **§16-45-1. Definitions.**

6 As used in this section:

7 (a) "Department" means the Department of Health and Human
8 Resources.

9 (b) "Emergency situation" means a circumstance where an
10 individual experiences or appears to experience a severe asthmatic
11 or allergic reaction, including anaphylaxis, that requires the
12 administration of epinephrine to avoid severe injury or death and
13 where a certified or licensed health care provider authorized to
14 administer epinephrine is not reasonably available.

15 **§16-45-2. Prescription, purchase and administration of epinephrine**
16 **by a trained individual in an emergency situation.**

17 An individual who is eighteen years of age or older may obtain
18 a prescription for, purchase, and in an emergency situation,
19 administer epinephrine using an epinephrine auto-injector if the
20 individual has successfully completed a training program approved
21 by the department under section three of this article.

22 **§16-45-3. Approval of training programs.**

1 (a) The department shall promulgate emergency rules pursuant
2 to the provisions of section fifteen, article three, chapter
3 twenty-nine-a of this code or propose rules for legislative
4 approval in accordance with the provisions of article three,
5 chapter twenty-nine-a of this code, establishing the standards for
6 training programs for the use of epinephrine auto-injectors and the
7 process for approval of such training programs.

8 (b) The department shall approve an epinephrine auto-injector
9 training program that meets standards established by the
10 department. The standards shall require an epinephrine
11 auto-injector training program to provide training in:

12 (1) Techniques on how to recognize symptoms of severe
13 asthmatic or allergic reactions, including anaphylaxis;

14 (2) Standards and procedures for the storage of epinephrine
15 auto-injectors and administration of epinephrine using
16 auto-injectors; and

17 (3) Emergency follow-up procedures.

18 **§16-45-4. Applicability.**

19 This article does not apply to a person who is authorized
20 under another law to administer epinephrine or to a person who is
21 prescribed epinephrine for personal use.

22 **§16-45-5. Limitations on liability of trained individual.**

23 An individual, acting in good faith, who has successfully

1 completed a training program approved by the department is not
2 subject to civil liability or criminal prosecution for an act or
3 omission relating to the administration of epinephrine in an
4 emergency situation unless the act or omission was the result of
5 the gross negligence or willful misconduct.

NOTE: The purpose of this bill is to authorize certain individuals to obtain a prescription for epinephrine, purchase epinephrine, and administer epinephrine in emergency situations and to authorize the Department of Health and Human Services to promulgate rules for the development of training programs to insure the proper use of epinephrine in these emergency situations.

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