

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2373

BY DELEGATES STATLER, HILL, ESPINOSA, KESSINGER,

N. FOSTER, WAGNER, MCGEEHAN, HIGGINBOTHAM,

WARD, WILLIAMS AND ELLINGTON

[Passed April 6, 2017; in effect ninety days from passage.]

1 AN ACT to amend and reenact §18-5-22c of the Code of West Virginia, 1931, as amended,
2 relating to the administration of epinephrine auto-injectors by a school nurse, nonmedical
3 personnel or a school transportation employee to a student or school personnel;
4 authorizing school transportation employees trained in administration of epinephrine auto-
5 injectors and designated and authorized by the school or county board to administer auto-
6 injectors to a student or school personnel experiencing an anaphylactic reaction and
7 excluding such school transportation employees from section twenty-two, article five,
8 chapter eighteen of said code; adding the county board as an entity that can authorize
9 and designate nonmedical school personnel to administer the epinephrine auto-injector;
10 establishing that school transportation employees are immune from liability for
11 administration of an epinephrine auto-injector except in cases of gross negligence or willful
12 misconduct; and requiring the State Board of Education to promulgate rules necessary to
13 effectuate the provisions of this section.

Be it enacted by the Legislature of West Virginia:

1 That §18-5-22c of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted 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 located within this state may
2 possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency
3 medical care or treatment for an anaphylactic reaction. A prior diagnosis for a student or school
4 personnel requiring the use of epinephrine auto-injectors is not necessary to permit the school to
5 stock epinephrine auto-injectors. Epinephrine auto-injectors shall be maintained by the school in
6 a secure location which is only accessible by medical personnel and authorized nonmedical
7 personnel and not by students.

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

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

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

28 (e) School transportation employees, including bus drivers, who have been trained in the
29 administration of an epinephrine auto-injector and who have been designated and authorized by
30 the school or county board to administer an epinephrine auto-injector may administer an
31 epinephrine auto-injector to a student or school personnel during transportation to or from a
32 school function when the school transportation employee reasonably believes, based upon his or
33 her training, that the individual is experiencing an anaphylactic reaction. A school transportation

34 employee may use the individual's personal supply of epinephrine auto-injectors or the school's
35 supply of epinephrine auto-injectors for a student or school personnel authorized to self-
36 administer that meet the requirements of a prescription on file with the school: *Provided*, That a
37 school transportation employee shall defer to an individual possessing a higher degree of medical
38 training or the parent of the child experiencing an anaphylactic reaction, if either are present at
39 the time of the reaction; *Provided, however*, That the school transportation employee, trained and
40 authorized to administer epinephrine auto-injectors, is not subject to the terms of section twenty-
41 two of this article.

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

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

51 (h) For the purposes of this section, all county boards of education may participate in free
52 or discounted drug programs from pharmaceutical manufacturers to provide epinephrine auto-
53 injectors to schools in their counties which choose to stock auto-injectors.

54 (i) All county boards of education are required to collect and compile aggregate data on
55 incidents of anaphylactic reactions resulting in the administration of school maintained
56 epinephrine auto-injectors in their county during a school year and forward the data to the state
57 superintendent of schools. The state superintendent of schools shall prepare an annual report to
58 be presented to the Joint Committee on Government and Finance as set forth in article three,
59 chapter four of this code, by December 31 of each year.

60 (j) The State Board of Education, as defined in article two of this chapter, shall consult with
61 the state health officer, as defined in section four, article three, chapter thirty of this code, and
62 promulgate rules necessary to effectuate the provisions of this section in accordance with the
63 provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a
64 minimum, for:

65 (1) The criteria for selection and minimum requirements of nonmedical school personnel
66 and school transportation employees who may administer epinephrine auto-injectors following the
67 necessary training;

68 (2) The training requirements necessary for nonmedical school personnel and school
69 transportation employees to be authorized to administer an epinephrine auto-injection;

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

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

73 (5) Comprehensive notice requirements to the parents of a student who was administered
74 a school maintained epinephrine auto-injection including who administered the injection, the
75 rationale for administering the injection, the approximate time of the injection and any other
76 necessary elements to make the student's parents fully aware of the circumstances surrounding
77 the administration of the injection;

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

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

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

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2017.

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Governor