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Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

February 24, 2016

**S. 853**

Introduced by Senators Cleary, Fair, Campbell, Cromer, Johnson, Bryant, Nicholson and Hutto

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Read the first time June 2, 2015.

**A** **BILL**

TO AMEND CHAPTER 99, TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EMERGENCY TREATMENT FOR MEDICAL HAZARDS CAUSED BY INSECT STINGS, SO AS TO RENAME THE CHAPTER THE “EMERGENCY ANAPHYLAXIS TREATMENT ACT”, TO ADD A DEFINITION FOR “EPINEPHRINE AUTO‑INJECTOR”, TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO DEVELOP A TRAINING AND CERTIFICATION PROGRAM FOR INDIVIDUALS WHO ADMINISTER EPINEPHRINE AUTO‑INJECTORS, TO ALLOW CERTAIN ENTITIES TO OBTAIN A PRESCRIPTION FOR AN EPINEPHRINE AUTO‑INJECTOR FROM PHYSICIANS, PHARMACISTS, AND OTHER AUTHORIZED INDIVIDUALS, TO ALLOW PHYSICIANS, PHARMACISTS, AND OTHER AUTHORIZED INDIVIDUALS TO PRESCRIBE OR SELL A PRESCRIPTION FOR AN EPINEPHRINE AUTO‑INJECTOR TO CERTAIN ENTITIES, TO ALLOW APPROPRIATELY CERTIFIED EMPLOYEES OF CERTAIN ENTITIES TO USE AN EPINEPHRINE AUTO‑INJECTOR, TO PROVIDE LIABILITY LIMITATIONS FOR CERTAIN INDIVIDUALS AND ENTITIES WHEN ADMINISTERING AN EPINEPHRINE AUTO‑INJECTOR, AND FOR OTHER PURPOSES.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Emergency Anaphylaxis Treatment Act”.

SECTION 2. Chapter 99, Title 44 of the 1976 Code is amended to read:

“CHAPTER 99

~~Insect Sting~~ Emergency Anaphylaxis Treatment Act

~~Section 44‑99‑10.~~ ~~This chapter may be cited as the ‘Insect Sting Emergency Treatment Act’.~~

~~Section 44‑99‑20.~~ ~~As used in this chapter:~~

~~(1)~~ ~~‘Certificate’ means official acknowledgment by the department that an individual has completed the required training program pursuant to this chapter.~~

~~(2)~~ ~~‘Department’ means the Department of Health and Environmental Control.~~

~~(3)~~ ~~‘Program’ means the program established by the department for training and certifying individuals to administer treatment to persons suffering a severe adverse reaction to an insect sting which involves the administration of epinephrine.~~

~~Section 44‑99‑30.~~ ~~(A)~~ ~~The department is authorized to establish a program to provide for the training and certification of individuals to administer certain forms of emergency treatment for medical hazards caused by insect stings. The department shall develop standards, guidelines, and prescribe regulations for the implementation of the program. All administrative responsibility of the program is vested in the department.~~

~~(B)~~ ~~In the development of the curriculum for training and certification under the program, the department shall include the following subjects:~~

~~(1)~~ ~~techniques on how to recognize symptoms of systemic reactions to insect stings;~~

~~(2)~~ ~~standards and procedures for administering a subcutaneous injection of epinephrine.~~

~~Section 44‑99‑40.~~ ~~(A)~~ ~~A person desiring certification for the administration of emergency treatment insect sting, pursuant to this chapter, shall apply to the department and complete the program established by the department for training and certification.~~

~~(B)~~ ~~The department shall determine and establish the validation and expiration periods for certificates issued pursuant to this chapter and requirements and procedures for renewals if the department considers it necessary.~~

~~(C)~~ ~~The department may suspend or revoke a certificate at any time it determines that the holder no longer meets the prescribed qualifications established by the department or has failed to provide services or treatment of a quality acceptable to the department pursuant to this chapter.~~

~~Section 44‑99‑50.~~ ~~(A)~~ ~~An applicant for certification shall meet the following requirements:~~

~~(1)~~ ~~be eighteen years of age or older;~~

~~(2)~~ ~~have, or reasonably expect to have, responsibility for at least one other person as a result of one’s occupational or volunteer status, such as camp counselors, scout leaders, school teachers, forest rangers, tour guides, or chaperones;~~

~~(3)~~ ~~successfully complete the training program established by the department.~~

~~(B)~~ ~~A person, who meets the qualifications of this section and is certified by the department pursuant to this chapter, is authorized to administer in an emergency situation prescribed epinephrine to persons suffering adverse reaction to an insect sting.~~

~~(C)~~ ~~A person, who is certified by the department to administer emergency services for insect stings as provided in this chapter, is authorized to obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or sell prescribed medicines or drugs, a prescription for premeasured doses of epinephrine and the necessary supplies for the administration of the drug.~~

~~Section 44‑99‑60.~~ ~~Licensed, registered, and certified physicians, nurses, and other such certified professionals are not required to obtain certification for the administration of emergency treatment to persons suffering a severe adverse reaction to an insect sting as prescribed in this chapter.~~

~~Section 44‑99‑70.~~ ~~The department may collect fees from applicants for the training program for administration of this chapter.~~

~~Section 44‑99‑80.~~ ~~No cause of action may be brought against a certificate holder authorized by the department pursuant to this chapter for an act or omission of the certificate holder when acting in good faith while rendering emergency treatment pursuant to the authority granted by this chapter, except in cases of gross negligence.~~

Section 44‑99‑10. As used in this chapter:

(1) ‘Administer’ means the direct application of an epinephrine auto‑injector to the body of an individual.

(2) ‘Authorized entity’ means any entity or organization, other than a school described in Section 59‑63‑95, in connection with or at which allergens capable of causing anaphylaxis may be present including, but not limited to, recreation camps, colleges and universities, daycare facilities, places of worship, youth sports leagues, amusement parks, restaurants, places of employment, and sports arenas.

(3) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(4) ‘Epinephrine auto‑injector’ means a single‑use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(5) ‘Health care practitioner’ means a physician, an advanced practice registered nurse authorized to prescribe medication pursuant to Section 40‑33‑34, or a physician assistant authorized to prescribe medication pursuant to Sections 40‑47‑955 through 40‑47‑965.

(6) ‘Physician’ means a person authorized to practice medicine pursuant to Article 1, Chapter 47, Title 40.

(7) ‘Provide’ means the supply of one or more epinephrine auto‑injectors to an individual.

Section 44‑99‑20. Notwithstanding any other provision of law, a health care practitioner may prescribe epinephrine auto‑injectors in the name of an authorized entity for use in accordance with this chapter. Notwithstanding any other provision of law, pharmacists and health care practitioners may dispense epinephrine auto‑injectors pursuant to a prescription issued in the name of an authorized entity. A prescription issued pursuant to this chapter is valid for two years. For the purposes of administering and storing epinephrine auto‑injectors, authorized entities are not subject to Chapter 43, Title 40 or Chapter 99 of the South Carolina Code of State Regulations.

Section 44‑99‑30. Notwithstanding any other provision of law, an authorized entity may acquire and stock a supply of epinephrine auto‑injectors pursuant to a prescription issued in accordance with this chapter. Epinephrine auto‑injectors acquired pursuant to this chapter must be stored in a location readily accessible in an emergency and in accordance with the epinephrine auto‑injector’s instructions for use, requirements that may be established by the South Carolina Department of Health and Environmental Control, and recommendations included as part of an approved training. An authorized entity shall designate employees or agents who have completed the training required by Section 44‑99‑50 to be responsible for the storage, maintenance, control, and general oversight of epinephrine auto‑injectors acquired by the authorized entity.

Section 44‑99‑40. Notwithstanding any other provision of law, an employee, agent, or other individual associated with an authorized entity, who has completed the training required by Section 44‑99‑50, may use epinephrine auto‑injectors prescribed pursuant to Section 44‑99‑20 to:

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

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

Section 44‑99‑50. (A) An employee, agent, or other individual described in Section 44‑99‑30 or 44‑99‑40 before undertaking an act authorized by this chapter shall complete an anaphylaxis training program and must complete an anaphylaxis training program at least every two years following completion of the initial anaphylaxis training program. The training must be conducted by the South Carolina Department of Health and Environmental Control, a licensed medical provider, a nationally recognized organization experienced in training laypersons in emergency health treatment, the manufacturer of an epinephrine auto‑injector, an organization with a training program that has been approved in at least three states, or an entity or individual approved by the department. The department also may approve specific entities or individuals or may approve classes of entities or individuals to conduct training.

(B) Training may be conducted online or in person and, at a minimum, must address:

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

(2) standards and procedures for the storage and administration of an epinephrine auto‑injector; and

(3) emergency follow‑up procedures.

(C) The entity that conducts the training shall issue a certificate to each person who successfully completes the anaphylaxis training program. The certificate, at a minimum, must include:

(1) the name of the organization or individual conducting the training;

(2) the name of the individual being trained; and

(3) the date the training occurred.

Section 44‑99‑60. (A) An authorized entity that possesses and makes available epinephrine auto‑injectors, and its employees, agents, and other individuals, a health care practitioner that prescribes or dispenses epinephrine auto‑injectors to an authorized entity, a pharmacist or health care practitioner that dispenses epinephrine auto‑injectors to an authorized entity, a third party that facilitates the availability of epinephrine auto‑injectors to an authorized entity, the department or other state agency engaged in approving training or in providing guidance to implement this chapter, and an individual or entity that conducts the training described in Section 44‑99‑50 are not liable for any injuries or related damages that result from any act or omission taken pursuant to this chapter; however, this immunity does not apply to acts or omissions constituting negligence, gross negligence, or wilful, wanton, or reckless disregard for the safety of others or for an act or omission that is performed while the individual is impaired by alcohol or drugs.

(B) The administration of an epinephrine auto‑injector in accordance with this chapter is not the practice of medicine or any other profession that otherwise requires licensure.

(C) This chapter does not eliminate, limit, or reduce any other immunities or defenses that may be available pursuant to state law, including those available pursuant to Section 15‑1‑310 and Chapter 78, Title 15.

(D) An entity located in this State is not liable for any injuries or related damages that result from the provision or administration of an epinephrine auto‑injector outside of this State if the entity:

(1) would not have been liable for the injuries or related damages had the provision or administration occurred within this State; or

(2) is not liable for the injuries or related damages under the law of the state in which such provision or administration occurred.”

SECTION 3. This act takes effect upon approval by the Governor.

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