
WEST VIRGINIA CODE CHAPTER 16
ARTICLE 50

WV Legislature

§16-50-1. Definitions.

As used in this article the term:

- (1) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual.
- (2) "Authorized entity" means an entity or organization where allergens capable of causing a severe allergic reaction may be present.
- (3) "Authorized health care practitioner" means an allopathic physician licensed to practice pursuant to the provisions of article three, chapter thirty of this code and an osteopathic physician licensed to practice pursuant to the provisions of article fourteen, chapter thirty of this code.
- (4) "Department" means the Department of Health.
- (5) "Epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.
- (6) "Self-administration" means an individual's discretionary administration of an epinephrine auto-injector on herself or himself.

§16-50-2. Authority.

The department may:

- (1) Propose legislative rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, necessary to administer this article; and
- (2) Conduct and approve education training programs.

§16-50-3. Educational training programs.

Educational training programs shall be conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or an entity or individual approved by the department. The curriculum shall include at a minimum:

- (1) Recognition of the symptoms of allergic reactions to food, insect stings and other allergens; and
- (2) The proper administration of a subcutaneous injection of epinephrine auto-injector.

§16-50-4. Prescriptive authority for epinephrine auto-injectors; emergency administration.

(a) An authorized health care practitioner may prescribe an epinephrine injector to an authorized entity. A pharmacist may dispense an epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity.

(b) An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. The epinephrine auto-injectors shall be stored in accordance with the epinephrine auto-injector's instructions. An authorized entity shall designate employees or agents who are trained pursuant to section three of this article to be responsible for the storage, maintenance and general oversight of epinephrine auto-injectors.

(c) An individual trained pursuant to section three of this article may, on the premises of or in connection with the authorized entity, use epinephrine auto-injectors to:

(1) Provide an epinephrine auto-injector to a person who the trained individual in good faith believes is experiencing a severe allergic reaction for that person's immediate self-administration, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy; or

(2) Administer an epinephrine auto-injector to a person who the trained individual in good faith believes is experiencing a severe allergic reaction, regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

§16-50-5. Not practice of medicine; limits on liability.

(a) The administration of an epinephrine auto-injector in accordance with this article is not the practice of medicine.

(b) An authorized health care practitioner who prescribes epinephrine auto-injectors to an authorized entity; an authorized entity that possesses and makes available epinephrine auto-injectors; and, an entity or person that conducts the training under section three of this article are not liable for civil damages that result from the administration or self-administration of an epinephrine auto-injector, the failure to administer an epinephrine auto-injector, or any other act or omission committed, in good faith, pursuant to this article.

(c) An individual employed by an authorized entity who administers or provides an epinephrine auto-injection to a person as provided in this article is immune from liability for any civil action arising out of an act or omission resulting from the administration of the epinephrine auto-injection unless the act or omission was the result of the individual's gross negligence or willful misconduct.