

# HOUSE BILL 1462

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CF SB 477

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By: **Delegates Metzgar, Cullison, Anderton, Arikan, Cox, Forbes, Guyton, Hartman, Hill, Hornberger, Lisanti, McComas, Rose, Shoemaker, Szeliga, and Wilson**

Introduced and read first time: February 7, 2020  
Assigned to: Health and Government Operations

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Committee Report: Favorable

House action: Adopted

Read second time: March 10, 2020

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Emergency Use Auto-Injectable Epinephrine Program –**  
3 **Revisions**

4 FOR the purpose of altering the name of the Emergency Use Auto-Injectable Epinephrine  
5 Program at Institutions of Higher Education to be the Emergency Use  
6 Auto-Injectable Epinephrine Program; authorizing food service facilities to store and  
7 make available for administration auto-injectable epinephrine for a certain purpose  
8 under the Program; altering the purpose of the Program; authorizing participating  
9 food service facilities, except under certain circumstances, to obtain a certain  
10 prescription for and supply of auto-injectable epinephrine; requiring participating  
11 food service facilities to store a supply of auto-injectable epinephrine in a certain  
12 manner; requiring participating food service facilities to designate certain employees  
13 or individuals for a certain purpose; requiring participating food service facilities to  
14 maintain a copy of a certain certificate; providing that a participating food service  
15 facility may pay a certain fee on behalf of a certain applicant; providing that either  
16 entity may pay a certain application fee if a food service facility is part of an eligible  
17 institution; providing that certain individuals may not be liable for not taking certain  
18 actions; providing immunity from civil liability for certain individuals under certain  
19 circumstances; providing for the construction of certain provisions of this Act;  
20 altering certain definitions; defining certain terms; and generally relating to the  
21 Emergency Use Auto-Injectable Epinephrine Program.

22 BY repealing and reenacting, with amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health – General

2 Section 13–7A–01 through 13–7A–04 and 13–7A–07 through 13–7A–09 to be under  
3 the amended subtitle “Subtitle 7A. Emergency Use Auto–Injectable  
4 Epinephrine Program”

5 Annotated Code of Maryland  
6 (2019 Replacement Volume)

7 BY repealing and reenacting, without amendments,

8 Article – Health – General

9 Section 13–7A–05 and 13–7A–06

10 Annotated Code of Maryland  
11 (2019 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
13 That the Laws of Maryland read as follows:

14 **Article – Health – General**

15 Subtitle 7A. Emergency Use Auto–Injectable Epinephrine Program [at Institutions of  
16 Higher Education].

17 13–7A–01.

18 (a) In this subtitle the following words have the meanings indicated.

19 (b) “Agent” means an individual who:

20 (1) Is at least 18 years of age;

21 (2) Has successfully completed, at the expense of the [eligible institution]  
22 **PARTICIPATING FACILITY**, an educational training program approved by the Department  
23 under § 13–7A–03 of this subtitle; and

24 (3) Is designated by a certificate holder to administer auto–injectable  
25 epinephrine in accordance with the provisions of this subtitle.

26 (c) “Anaphylaxis” means a sudden, severe, and potentially life–threatening  
27 allergic reaction that occurs when an individual is exposed to an allergen.

28 (d) “Auto–injectable epinephrine” means a portable, disposable drug delivery  
29 device that contains a premeasured single dose of epinephrine that is used to treat  
30 anaphylaxis in an emergency situation.

31 (e) “Certificate” means a certificate issued by the Department to an individual to  
32 obtain, store, and administer auto–injectable epinephrine.

33 (f) “Certificate holder” means an individual who is authorized by the Department

1 to obtain, store, and administer auto-injectable epinephrine to be used in an emergency  
2 situation.

3 (g) “Eligible institution” means an institution of higher education that has a food  
4 service facility or a recreation and wellness facility on the premises and that is authorized  
5 under this subtitle to obtain and store auto-injectable epinephrine.

6 (h) “Food service facility” has the meaning indicated in § 21-301 of this article.

7 (i) **“PARTICIPATING FACILITY” MEANS A RECREATION OR WELLNESS**  
8 **FACILITY AT AN ELIGIBLE INSTITUTION OR A FOOD SERVICE FACILITY, INCLUDING**  
9 **A FOOD SERVICE FACILITY AT AN ELIGIBLE INSTITUTION, IN THE STATE THAT**  
10 **VOLUNTARILY PARTICIPATES IN THE PROGRAM.**

11 (j) “Program” means the Emergency Use Auto-Injectable Epinephrine Program  
12 [at Institutions of Higher Education] established under § 13-7A-02 of this subtitle.  
13 13-7A-02.

14 (a) There is an Emergency Use Auto-Injectable Epinephrine Program [at  
15 Institutions of Higher Education].

16 (b) The purpose of the Program is to authorize individuals employed by a [food  
17 service facility or a recreation and wellness facility at an eligible institution]  
18 **PARTICIPATING FACILITY** to obtain and store auto-injectable epinephrine and  
19 administer auto-injectable epinephrine to individuals who are experiencing or are believed  
20 to be experiencing anaphylaxis when a physician or emergency medical services are not  
21 immediately available.

22 (c) (1) Subject to paragraph (4) of this subsection, [an eligible institution]  
23 **EACH PARTICIPATING FACILITY** may obtain:

24 (i) A prescription for a supply of auto-injectable epinephrine from a  
25 licensed physician as provided in § 13-7A-06 of this subtitle; and

26 (ii) A supply of auto-injectable epinephrine from a licensed  
27 pharmacist or a licensed physician as provided in § 13-7A-06 of this subtitle.

28 (2) [An eligible institution] **EACH PARTICIPATING FACILITY** shall store  
29 a supply of auto-injectable epinephrine obtained under paragraph (1)(ii) of this subsection:

30 (i) In accordance with the manufacturer’s instructions; and

31 (ii) In a location that is readily accessible to employees or affiliated  
32 individuals in an emergency situation.

1           (3) [An eligible institution] **EACH PARTICIPATING FACILITY** shall  
2 designate the employees who are certificate holders or designated affiliated individuals who  
3 are certificate holders who will be responsible for the storage, maintenance, and control of  
4 the supply of auto-injectable epinephrine.

5           (4) [An eligible institution] **A PARTICIPATING FACILITY** may not obtain  
6 or store auto-injectable epinephrine unless the [eligible institution] **PARTICIPATING**  
7 **FACILITY** has at least two employees or designated affiliated individuals who are  
8 certificate holders.

9           (5) [An eligible institution] **EACH PARTICIPATING FACILITY** shall  
10 maintain a copy of the certificate issued to an employee or a designated affiliated individual  
11 under § 13-7A-05 of this subtitle.

12 13-7A-03.

13           (a) The Department shall:

14               (1) Adopt regulations for the administration of the Program;

15               (2) Collect fees necessary for the administration of the Program;

16               (3) Issue a certificate to, or renew the certificate of, an individual meeting  
17 the requirements of § 13-7A-04 of this subtitle;

18               (4) Approve educational training programs, including programs conducted  
19 by other State agencies or private entities;

20               (5) Develop a method by which certificate holders may submit a report to  
21 the Department about each incident that occurred on the premises of a [food service facility  
22 or a recreation and wellness facility at an eligible institution] **PARTICIPATING FACILITY**  
23 that involved the administration of auto-injectable epinephrine by a certificate holder or  
24 an agent; and

25               (6) On or before January 31 each year, publish a report summarizing the  
26 information obtained from reports submitted to the Department under item (5) of this  
27 subsection.

28           (b) The Department may:

29               (1) Set an application fee for a certificate;

30               (2) Establish a fee for the renewal or replacement of a certificate; and

31               (3) Require applicants to apply to the Program in the manner the  
32 Department chooses.

1 (c) An educational training program approved by the Department under  
2 subsection (a)(4) of this section may be an online training program.

3 13-7A-04.

4 (a) To qualify for a certificate, an applicant shall:

5 (1) Be employed by a [food service facility or a recreation and wellness  
6 facility at an eligible institution] **PARTICIPATING FACILITY**;

7 (2) Successfully complete, at the expense of the [eligible institution]  
8 **PARTICIPATING FACILITY**, an educational training program approved by the Department  
9 under § 13-7A-03 of this subtitle;

10 (3) Submit an application to the Department in a manner required by the  
11 Department under § 13-7A-03 of this subtitle; and

12 (4) Subject to subsection (b) of this section, pay to the Department an  
13 application fee required under § 13-7A-03 of this subtitle.

14 (b) (1) [An eligible institution] **A PARTICIPATING FACILITY** may pay the  
15 application fee on behalf of the applicant.

16 (2) **IF THE PARTICIPATING FACILITY IS A FOOD SERVICE FACILITY**  
17 **THAT IS PART OF AN ELIGIBLE INSTITUTION, EITHER ENTITY MAY PAY THE**  
18 **APPLICATION FEE ON BEHALF OF THE APPLICANT.**

19 13-7A-05.

20 (a) The Department shall issue a certificate to any applicant who meets the  
21 requirements of § 13-7A-04 of this subtitle.

22 (b) Each certificate shall include:

23 (1) The full name of the certificate holder; and

24 (2) A serial number.

25 (c) A replacement certificate may be issued to replace a lost, destroyed, or  
26 mutilated certificate if the certificate holder pays a certificate replacement fee set by the  
27 Department.

28 (d) (1) A certificate shall be valid for a term of 1 year.

29 (2) To renew a certificate for an additional 1-year term, the renewal

1 applicant shall successfully complete a refresher educational training program approved  
2 by the Department under § 13-7A-03 of this subtitle.

3 13-7A-06.

4 (a) (1) A physician licensed to practice medicine in the State may prescribe  
5 auto-injectable epinephrine in the name of a certificate holder.

6 (2) A pharmacist licensed to practice pharmacy in the State or a physician  
7 may dispense auto-injectable epinephrine under a prescription issued to a certificate  
8 holder.

9 (b) A certificate holder may:

10 (1) On presentment of a certificate, receive from any physician licensed to  
11 practice medicine in the State a prescription for auto-injectable epinephrine and the  
12 necessary paraphernalia for the administration of auto-injectable epinephrine; and

13 (2) Possess and store prescribed auto-injectable epinephrine and the  
14 necessary paraphernalia for the administration of auto-injectable epinephrine.

15 (c) In an emergency situation when a physician or emergency medical services  
16 are not immediately available, a certificate holder or an agent may administer  
17 auto-injectable epinephrine to an individual who is experiencing or is believed in good faith  
18 by the certificate holder or agent to be experiencing anaphylaxis.

19 13-7A-07.

20 (a) (1) Except as provided in paragraph (2) of this subsection, a cause of action  
21 may not arise against a certificate holder for any act or omission if the certificate holder or  
22 agent is acting in good faith while administering auto-injectable epinephrine to an  
23 individual who is experiencing or believed by the certificate holder or agent to be  
24 experiencing anaphylaxis except where the conduct of the certificate holder or agent  
25 amounts to gross negligence, willful or wanton misconduct, or intentionally tortious  
26 conduct.

27 (2) The provisions of paragraph (1) of this subsection do not apply if a  
28 certificate holder or [an eligible institution] **PARTICIPATING FACILITY** that makes  
29 available, or a certificate holder who administers, auto-injectable epinephrine to an  
30 individual who is experiencing or is believed by the certificate holder or [authorized entity]  
31 **PARTICIPATING FACILITY** to be experiencing anaphylaxis:

32 (i) Fails to follow standards and procedures for storage and  
33 administration of auto-injectable epinephrine; or

34 (ii) Administers auto-injectable epinephrine that is beyond the  
35 manufacturer's expiration date.

1 (b) (1) A cause of action may not arise against any physician for any act or  
2 omission if the physician in good faith prescribes or dispenses auto-injectable epinephrine  
3 and the necessary paraphernalia for the administration of auto-injectable epinephrine to  
4 a certificate holder or [an eligible institution] **PARTICIPATING FACILITY** under this  
5 subtitle.

6 (2) A cause of action may not arise against any pharmacist for any act or  
7 omission if the pharmacist in good faith dispenses auto-injectable epinephrine and the  
8 necessary paraphernalia for the administration of auto-injectable epinephrine to a  
9 certificate holder or [an eligible institution] **A PARTICIPATING FACILITY** under this  
10 subtitle.

11 (c) This section does not affect and may not be construed as affecting any  
12 immunities from civil liability or defenses established by any other provision of law or by  
13 common law to which a physician or pharmacist may be entitled.

14 13-7A-08.

15 (a) This subtitle may not be construed to create a duty on any individual  
16 **EMPLOYED BY A RECREATION OR WELLNESS FACILITY AT AN ELIGIBLE INSTITUTION**  
17 **OR FOOD SERVICE FACILITY** to obtain a certificate under this subtitle, and an individual  
18 **EMPLOYED BY A RECREATION OR WELLNESS FACILITY AT AN ELIGIBLE INSTITUTION**  
19 **OR FOOD SERVICE FACILITY** may not be held civilly liable for failing to obtain a certificate  
20 under this subtitle.

21 (b) An individual may not be held civilly liable in any action arising from or in  
22 connection with the administration of auto-injectable epinephrine by the individual solely  
23 because the individual did not possess a certificate issued under this subtitle.

24 13-7A-09.

25 A certificate holder shall submit to the Department, in the manner required under §  
26 13-7A-03 of this subtitle, a report of each incident that occurred on the premises of [a food  
27 service facility or a recreation and wellness facility at an eligible institution] **A**  
28 **PARTICIPATING FACILITY** that involved the administration of auto-injectable  
29 epinephrine by a certificate holder or an agent.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2020.