

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Low

February 27, 2015

An act to ~~amend~~ *add* Section ~~7099.4~~ of 4119.4 to the Business and Professions Code, to amend Section 1714.23 of the Civil Code, and to amend Section 1797.197a of the Health and Safety Code, relating to ~~contractors~~: *emergency medical care*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Low. ~~Contractors: discipline: citation.~~
Emergency medical care: epinephrine auto-injectors.

(1) Existing law authorizes a prehospital emergency medical care person, first responder, or lay rescuer to use an epinephrine auto-injector to render emergency care to another person, as specified. Existing law also requires the California Emergency Medical Services (EMS) Authority to establish or approve authorized training providers and minimum standards for training and the use and administration of epinephrine auto-injectors, in consultation with the local emergency medical system agency, the county health department, the manufacturer, the State Department of Health Care Services, and other private organizations. The Pharmacy Law also authorizes a pharmacy to dispense epinephrine auto-injectors to a prehospital emergency medical care person, first responder, or lay rescuer for the purpose of rendering emergency care in accordance with these provisions. A violation of the Pharmacy Law is a crime.

This bill would authorize an “authorized entity,” as defined, to use an epinephrine auto-injector to render emergency care to another person in accordance with these provisions. The bill would also authorize a pharmacy to furnish epinephrine auto-injectors to an authorized entity pursuant to those provisions. Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would also require an authorized entity to submit a report to the State Department of Public Health on incidents related to the administration of epinephrine auto-injectors, and for the department to issue an annual report summarizing and analyzing the reports submitted to it.

(2) Under existing law, everyone is generally responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself. Existing law also provides that a prehospital emergency care person, first responder, or lay rescuer who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards.

This bill would provide that employees, agents, or other trained individuals of an authorized entity who administers an epinephrine auto-injector to another person who appears to be experiencing anaphylaxis at the scene of an emergency situation, in good faith and not for compensation, is not liable for any civil damages resulting from his or her acts or omissions in administering the epinephrine auto-injector, if that person has complied with specified certification and training requirements and standards. The bill would also provide that an authorized entity located in this state shall not be liable, in this state, for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent would not have been liable for those injuries or related damages had the provision or administration occurred within this state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law, based upon an investigation and probable cause, authorizes the registrar of contractors, in lieu of disciplinary proceedings, to issue a citation to a licensee, as defined, or an applicant for a license for violations of the Contractors' State License Law. Existing law provides that if the licensee or applicant fails to notify the registrar that he or she intends to contest the citation within 15 working days from service of the citation, the citation is deemed a final order of the registrar and is not subject to review by any court or agency, as provided.~~

This bill would extend the time available for a licensee or applicant to contest that citation from 15 to 20 working days.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 4119.4 is added to the Business and*
2 *Professions Code, to read:*

3 *4119.4. (a) Notwithstanding any other law, a pharmacy may*
4 *furnish epinephrine auto-injectors to an authorized entity, as*
5 *defined by Section 1797.197a of the Health and Safety Code, if*
6 *both of the following requirements are met:*

7 *(1) The epinephrine auto-injectors are furnished exclusively for*
8 *use at or in connection with an authorized entity.*

9 *(2) An authorized health care provider provides a prescription*
10 *that specifies the quantity of epinephrine auto-injectors to be*
11 *furnished.*

12 *(b) Records regarding the acquisition and disposition of*
13 *epinephrine auto-injectors furnished pursuant to subdivision (a)*
14 *shall be maintained by the authorized entity for a period of three*
15 *years from the date the records were created. The authorized entity*
16 *shall be responsible for monitoring the supply of epinephrine*
17 *auto-injectors and ensuring the destruction of expired epinephrine*
18 *auto-injectors.*

19 *SEC. 2. Section 1714.23 of the Civil Code is amended to read:*

1 1714.23. (a) For purposes of this section, the following
2 definitions shall apply:

3 (1) “Anaphylaxis” means a potentially life-threatening
4 hypersensitivity or allergic reaction to a substance.

5 (A) Symptoms of anaphylaxis may include shortness of breath,
6 wheezing, difficulty breathing, difficulty talking or swallowing,
7 hives, itching, swelling, shock, or asthma.

8 (B) Causes of anaphylaxis may include, but are not limited to,
9 insect stings or bites, foods, drugs, and other allergens, as well as
10 idiopathic or exercise-induced anaphylaxis.

11 (2) “Epinephrine auto-injector” means a disposable drug delivery
12 system with a spring-activated concealed needle that is designed
13 for emergency administration of epinephrine to provide rapid,
14 convenient first aid for persons suffering from anaphylaxis.

15 (b) (1) Any person described in subdivision (b) of Section
16 1797.197a of the Health and Safety Code *or employees, agents,*
17 *or other trained individuals of an authorized entity, as defined by*
18 *paragraph (2) of subdivision (a) of Section 1797.197a of the Health*
19 *and Safety Code, who administers an epinephrine auto-injector,*
20 *in good faith and not for compensation, to another person who*
21 *appears to be experiencing anaphylaxis at the scene of an*
22 *emergency situation is not liable for any civil damages resulting*
23 *from his or her acts or omissions in administering the epinephrine*
24 *auto-injector, if that person has complied with the requirements*
25 *and standards of Section 1797.197a of the Health and Safety Code.*

26 (2) *An authorized health care provider that prescribes an*
27 *epinephrine auto-injector to a person described in subdivision (b)*
28 *of Section 1797.197a of the Health and Safety Code or an*
29 *authorized entity is not liable for any civil damages resulting from*
30 *any act or omission related to the provision of an epinephrine*
31 *auto-injector.*

32 (3) *A person that conducts the training described in subdivision*
33 *(c) of Section 1797.197a of the Health and Safety Code is not liable*
34 *for any civil damages resulting from any act or omission related*
35 *to the acquisition, possession, administration, or provision of an*
36 *epinephrine auto-injector.*

37 (4) *An authorized entity located in this state shall not be liable,*
38 *in this state, for any injuries or related damages that result from*
39 *the provision or administration of an epinephrine auto-injector*
40 *by its employees or agents outside of this state if the entity or its*

1 *employee or agent would not have been liable for those injuries*
2 *or related damages had the provision or administration occurred*
3 *within this state.*

4 (5) *This subdivision does not eliminate, limit, or reduce any*
5 *other immunity or defense that may otherwise be available under*
6 *state law.*

7 (c) The protection specified in subdivision (b) shall not apply
8 in a case of personal injury or wrongful death that results from the
9 gross negligence or willful or wanton misconduct of the person
10 who renders emergency care treatment by the use of an epinephrine
11 auto-injector.

12 (d) Nothing in this section relieves a manufacturer, designer,
13 developer, distributor, or supplier of an epinephrine auto-injector
14 of liability under any other applicable law.

15 *SEC. 3. Section 1797.197a of the Health and Safety Code is*
16 *amended to read:*

17 1797.197a. (a) For purposes of this section, the following
18 definitions shall apply:

19 (1) “Anaphylaxis” means a potentially life-threatening
20 hypersensitivity or allergic reaction to a substance.

21 (A) Symptoms of anaphylaxis may include shortness of breath,
22 wheezing, difficulty breathing, difficulty talking or swallowing,
23 hives, itching, swelling, shock, or asthma.

24 (B) Causes of anaphylaxis may include, but are not limited to,
25 insect stings or bites, foods, drugs, and other allergens, as well as
26 idiopathic or exercise-induced anaphylaxis.

27 (2) “Authorized entity” means any entity or organization in
28 connection with, or at which, allergens capable of causing
29 anaphylaxis may be present, including, but not limited to,
30 recreation camps, colleges and universities, day care facilities,
31 youth sport leagues, amusement parks, restaurants, places of
32 employment, and sports arenas.

33 ~~(2)~~

34 (3) “Epinephrine auto-injector” means a disposable drug delivery
35 system with a spring-activated concealed needle that is designed
36 for emergency administration of epinephrine to provide rapid,
37 convenient first aid for persons suffering from anaphylaxis.

38 ~~(3)~~

39 (4) “Lay rescuer” means any person who has met the training
40 standards and other requirements of this section but who is not

1 otherwise licensed or certified to use an epinephrine auto-injector
2 on another person.

3 ~~(4)~~

4 (5) “Prehospital emergency medical care person” has the same
5 meaning as defined in paragraph (2) of subdivision (a) of Section
6 1797.189.

7 (b) A prehospital emergency medical care ~~person or person~~, lay
8 ~~rescuer~~ *rescuer, or employees, agents, or other trained individuals*
9 *of an authorized entity* may use an epinephrine auto-injector to
10 render emergency care to another person if all of the following
11 requirements are met:

12 (1) The epinephrine auto-injector is legally obtained by
13 prescription from an authorized health care ~~provider~~. *provider or*
14 *from an authorized entity that acquired the epinephrine*
15 *auto-injector pursuant to subdivision (e)*. An authorized health
16 care provider may issue a prescription for an epinephrine
17 auto-injector to a person described in this subdivision for the
18 purpose of rendering emergency care to another person, upon
19 presentation of current certification demonstrating that person is
20 trained and qualified to administer an epinephrine auto-injector as
21 a prehospital emergency medical care person or lay rescuer,
22 pursuant to this section or any other statute or regulation.

23 (2) The epinephrine auto-injector is used on another, with the
24 expressed or implied consent of that person, to treat anaphylaxis.

25 (3) The epinephrine auto-injector is stored and maintained as
26 directed by the manufacturer’s instructions for that product.

27 (4) The person using the epinephrine auto-injector has
28 successfully completed a course of training with an authorized
29 training provider, as described in subdivision (c), and has current
30 certification of training issued by the provider.

31 (5) The epinephrine auto-injectors obtained by prehospital
32 emergency medical care personnel pursuant to Section 4119.3 of
33 the Business and Professions Code shall be used only when
34 functioning outside the course of the person’s occupational duties,
35 or as a volunteer, pursuant to this section.

36 (6) The Emergency Medical Services System is activated as
37 soon as practicable when an epinephrine auto-injector is used.

38 (c) (1) The authorized training providers shall be approved,
39 and the minimum standards for training and the use and
40 administration of epinephrine auto-injectors pursuant to this section

1 shall be established and approved, by the California Emergency
2 Medical Services (EMS) Authority. The authority may designate
3 existing training standards for the use and administration of
4 epinephrine auto-injectors by prehospital emergency medical care
5 personnel to satisfy the requirements of this section.

6 (2) The minimum training and requirements shall include all of
7 the following components:

8 (A) Techniques for recognizing circumstances, signs, and
9 symptoms of anaphylaxis.

10 (B) Standards and procedures for proper storage and emergency
11 use of epinephrine auto-injectors.

12 (C) Emergency followup procedures, including activation of
13 the Emergency Medical Services System, by calling the emergency
14 9-1-1 telephone number or otherwise alerting and summoning
15 more advanced medical personnel and services.

16 (D) Compliance with all regulations governing the training,
17 indications, use, and precautions concerning epinephrine
18 auto-injectors.

19 (E) Written material covering the information required under
20 this provision, including the manufacturer product information
21 sheets on commonly available models of epinephrine auto-injectors.

22 (F) Completion of a training course in cardiopulmonary
23 resuscitation and the use of an automatic external defibrillator
24 (AED) for infants, children, and adults that complies with
25 regulations adopted by the EMS Authority and the standards of
26 the American Heart Association or the American Red Cross, and
27 a current certification for that training.

28 (3) Training certification shall be valid for no more than two
29 years, after which recertification with an authorized training
30 provider is required.

31 (4) The director of the authority may, in accordance with
32 regulations adopted by the authority, deny, suspend, or revoke any
33 approval issued under this subdivision or may place any approved
34 training provider on probation upon a finding by the director of
35 an imminent threat to public health and safety, as evidenced by
36 any of the following:

37 (A) Fraud.

38 (B) Incompetence.

1 (C) The commission of any fraudulent, dishonest, or corrupt
2 act that is substantially related to the qualifications, functions, or
3 duties of training program directors or instructors.

4 (D) Conviction of any crime that is substantially related to the
5 qualifications, functions, or duties of training program directors
6 or instructors. The record of conviction or a certified copy of the
7 record shall be conclusive evidence of the conviction.

8 (E) Violating or attempting to violate, directly or indirectly, or
9 assisting in or abetting the violation of, or conspiring to violate,
10 any provision of this section or the regulations promulgated by the
11 authority pertaining to the review and approval of training
12 programs in anaphylaxis and the use and administration of
13 epinephrine auto-injectors, as described in this subdivision.

14 (d) (1) The authority shall assess a fee pursuant to regulation
15 sufficient to cover the reasonable costs incurred by the authority
16 for the ongoing review and approval of training and certification
17 under subdivision (c).

18 (2) The fees shall be deposited in the Specialized First Aid
19 Training Program Approval Fund, which is hereby created in the
20 State Treasury. All moneys deposited in the fund shall be made
21 available, upon appropriation, to the authority for purposes
22 described in paragraph (1).

23 (3) The authority may transfer unused portions of the Specialized
24 First Aid Training Program Approval Fund to the Surplus Money
25 Investment Fund. Funds transferred to the Surplus Money
26 Investment Fund shall be placed in a separate trust account, and
27 shall be available for transfer to the Specialized First Aid Training
28 Program Approval Fund, together with the interest earned, when
29 requested by the authority.

30 (4) The authority shall maintain a reserve balance in the
31 Specialized First Aid Training Program Approval Fund of 5 percent
32 of annual revenues. Any increase in the fees deposited in the
33 Specialized First Aid Training Program Approval Fund shall be
34 effective upon determination by the authority that additional
35 moneys are required to fund expenditures pursuant to subdivision
36 (c).

37 (e) *An authorized health care provider may prescribe*
38 *epinephrine auto-injectors to an authorized entity or to an*
39 *employee or agent of which that holds a current certification*
40 *demonstrating that the person is trained and qualified to administer*

1 *an epinephrine auto-injector as a lay rescuer. Epinephrine*
2 *auto-injectors acquired by an authorized entity shall be stored in*
3 *a location readily accessible in an emergency and in accordance*
4 *with the epinephrine auto-injectors instructions for use and any*
5 *additional requirements that may be established by the EMS*
6 *Authority.*

7 *(f) An authorized entity that possesses and makes available*
8 *epinephrine auto-injectors shall submit to the State Department*
9 *of Public Health, on a form developed by the State Department of*
10 *Public Health, a report of each incident on the authorized entity's*
11 *premises that involves the administration of an epinephrine*
12 *auto-injector. The State Department of Public Health shall*
13 *annually publish a report that summarizes and analyzes all reports*
14 *submitted to it under this subdivision.*

15 *(e)*

16 *(g) This section shall not apply to a school district or county*
17 *office of education, or its personnel, that provides and utilizes*
18 *epinephrine auto-injectors to provide emergency medical aid*
19 *pursuant to Section 49414 of the Education Code.*

20 *(f)*

21 *(h) This section shall not be construed to limit or restrict the*
22 *ability of prehospital emergency medical care personnel, under*
23 *any other statute or regulation, to administer epinephrine, including*
24 *the use of epinephrine auto-injectors, or to require additional*
25 *training or certification beyond what is already required under the*
26 *other statute or regulation.*

27 *SEC. 4. No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *the only costs that may be incurred by a local agency or school*
30 *district will be incurred because this act creates a new crime or*
31 *infraction, eliminates a crime or infraction, or changes the penalty*
32 *for a crime or infraction, within the meaning of Section 17556 of*
33 *the Government Code, or changes the definition of a crime within*
34 *the meaning of Section 6 of Article XIII B of the California*
35 *Constitution.*

36 ~~SECTION 1. Section 7099.4 of the Business and Professions~~
37 ~~Code is amended to read:~~

38 ~~7099.4. If within 20 working days from service of the citation~~
39 ~~issued by the registrar, the licensee or applicant for licensure fails~~
40 ~~to notify the registrar that he or she intends to contest the citation,~~

- 1 ~~the citation shall be deemed a final order of the registrar and not~~
- 2 ~~be subject to review by any court or agency. The 20-day period~~
- 3 ~~may be extended by the registrar for cause.~~