

Amendment to HB 63

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT relative to the possession and use of epinephrine at recreation camps, schools, and
4 institutions of higher education.
5

6 Amend the bill by replacing all after the enacting clause with the following:

7
8 1 Recreational Camp Licensing; Possession and Use of Epinephrine at Recreation Camps.
9 Amend RSA 170-E:59 - 170-E:62 to read as follows:

10 170-E:59 Possession and Use of Epinephrine [~~Auto-Injectors~~] at Recreation Camps. A recreation
11 camp shall permit a child with severe, potentially life-threatening allergies to possess and use [~~an~~]
12 epinephrine [~~auto-injector~~], if the following conditions are satisfied:

13 I. The child has the written approval of the child's [~~physician~~] **primary health care**
14 **provider** and the written approval of the parent or guardian. The camp shall obtain the following
15 information from the child's [~~physician~~] **primary health care provider**:

- 16 (a) The child's name.
17 (b) The name and signature of the licensed prescriber and business and emergency
18 numbers.
19 (c) The name, route, and dosage of medication.
20 (d) The frequency and time of medication administration or assistance.
21 (e) The date of the order.
22 (f) A diagnosis and any other medical conditions requiring medications, if not a violation
23 of confidentiality or if not contrary to the request of the parent or guardian to keep confidential.
24 (g) Specific recommendations for administration.
25 (h) Any special side effects, contraindications, and adverse reactions to be observed.
26 (i) The name of each required medication.
27 (j) Any severe adverse reactions that may occur to another child, for whom the
28 epinephrine [~~auto-injector~~] is not prescribed, should such a child receive a dose of the medication.

29 II. The recreational camp administrator or, if a nurse is assigned to the camp, the nurse
30 shall receive copies of the written approvals required by paragraph I.

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1 III. The child's parent or guardian shall submit written verification from the ~~[physician]~~
2 ***primary health care provider*** confirming that the child has the knowledge and skills to safely
3 possess and use ~~[an]~~ epinephrine ~~[auto-injector]~~ in a camp setting.

4 IV. If the conditions provided in this section are satisfied, the child may possess and use the
5 epinephrine ~~[auto-injector]~~ at the camp or at any camp-sponsored activity, event, or program.

6 V. In this section, ~~["physician"]~~ ***"primary health care provider"*** means any physician or
7 health practitioner with the authority to write prescriptions.

8 170-E:60 Use of Epinephrine ~~[Auto-Injector]~~. Immediately after using ~~[the]~~ epinephrine ~~[auto-~~
9 ~~injector]~~, the child shall report such use to the nurse or another camp employee to enable the nurse
10 or camp employee to provide appropriate follow-up care.

11 170-E:61 Availability of Epinephrine ~~[Auto-Injector]~~. The recreational camp nurse or, if a nurse
12 is not assigned to the camp, the recreational camp administrator shall maintain for the use of a child
13 with severe allergies at least one ***dose of*** epinephrine ~~[auto-injector]~~, provided by the child or the
14 child's parent or guardian, which shall be readily accessible to the recreational camp staff caring for
15 children requiring such medications.

16 170-E:62 Immunity. No recreational camp or camp employee shall be liable in a suit for
17 damages as a result of any act or omission related to a child's use of ~~[an]~~ epinephrine ~~[auto-injector]~~
18 if the provisions of RSA 170-E:59 have been met, unless the damages were caused by willful or
19 wanton conduct or disregard of the criteria established in that section for the possession and self-
20 administration of ~~[an]~~ epinephrine ~~[auto-injector]~~ by a child.

21 2 Education; Pupil Use of Epinephrine Auto-Injectors. Amend the subdivision heading
22 preceding RSA 200:42 and RSA 200:42 - 200:45 to read as follows:

Pupil Use of Epinephrine ~~[Auto-Injectors]~~

24 200:42 Possession and Use of Epinephrine ~~[Auto-Injectors]~~ Permitted. A pupil with severe,
25 potentially life-threatening allergies may possess and self-administer ~~[an]~~ epinephrine ~~[auto-~~
26 ~~injector]~~ if the following conditions are satisfied:

27 I. The pupil has the written approval of the pupil's ~~[physician]~~ ***primary health care***
28 ***provider*** and, if the pupil is a minor, the written approval of the parent or guardian. The school
29 shall obtain the following information from the pupil's ~~[physician]~~ ***primary health care provider***:

- 30 (a) The pupil's name.
- 31 (b) The name and signature of the licensed prescriber and business and emergency
32 numbers.
- 33 (c) The name, route, and dosage of medication.
- 34 (d) The frequency and time of medication administration or assistance.
- 35 (e) The date of the order.
- 36 (f) A diagnosis and any other medical conditions requiring medications, if not a violation
37 of confidentiality or if not contrary to the request of the parent or guardian to keep confidential.

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(g) Specific recommendations for administration.

(h) Any special side effects, contraindications, and adverse reactions to be observed.

(i) The name of each required medication.

(j) Any severe adverse reactions that may occur to another pupil, for whom the epinephrine ~~[auto-injector]~~ is not prescribed, should such a pupil receive a dose of the medication.

II. The school principal or, if a school nurse is assigned to the pupil's school building, the school nurse shall receive copies of the written approvals required by paragraph I.

III. The pupil's parent or guardian shall submit written verification from the ~~[physician]~~ **primary health care provider** confirming that the pupil has the knowledge and skills to safely possess and use ~~[an]~~ epinephrine ~~[auto-injector]~~ in a school setting.

IV. If the conditions provided in this section are satisfied, the pupil may possess and use the epinephrine ~~[auto-injector]~~ at school or at any school-sponsored activity, event, or program.

V. In this section, ~~["physician"]~~ **"primary health care provider"** includes any physician or health practitioner with the authority to write prescriptions.

200:43 Use of Epinephrine ~~[Auto-Injector]~~. Immediately after using ~~[the]~~ epinephrine ~~[auto-injector]~~ during the school day, the pupil shall report to the nurse's office or principal's office to enable the nurse or another school employee to provide appropriate follow-up care.

200:44 Availability of Epinephrine ~~[Auto-Injector]~~. The school nurse or, if a school nurse is not assigned to the school building, the school principal shall maintain for a pupil's use at least one **dose of** epinephrine ~~[auto-injector]~~, provided by the pupil, in the nurse's office or in a similarly accessible location.

200:44-a Anaphylaxis Training Required.

I.(a) Designated assistive personnel shall complete an anaphylaxis training program prior to providing or administering ~~[an]~~ epinephrine ~~[auto-injector]~~ at least every 2 years following completion of the initial anaphylaxis training program. Such training shall be conducted based on resources provided by the National Association of School Nurses, the Food and Allergy Anaphylaxis Network, or the New Hampshire School Nurses' Association. Training shall be conducted online or in person and, at a minimum, shall cover:

(1) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis.

(2) Standards and procedures for the storage and administration of ~~[an]~~ epinephrine ~~[auto-injector]~~.

(3) Emergency follow-up procedures.

(b) The school nurse conducting the anaphylaxis training shall maintain a list of individuals who have successfully completed the anaphylaxis training program.

II. Not later than January 1, 2017, the department of education, in consultation with the New Hampshire School Nurses' Association, shall develop and make available to all schools

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1 guidelines for the management of students with life-threatening allergies. The guidelines shall
2 include, but not be limited to implementation of the following by a school nurse: education and
3 training for designated unlicensed assistive personnel on the management of students with life-
4 threatening allergies, including training related to the administration of ~~[an]~~ epinephrine ~~[auto-~~
5 ~~injector]~~; procedures for responding to life-threatening allergic reactions; the development of
6 individualized health care plans and allergy action plans for every student with a known life-
7 threatening allergy; and protocols to prevent exposure to allergens. Not later than September 1,
8 2017, each school district, under the direction of a school nurse, shall implement a plan based on the
9 guidelines developed pursuant to this section for the management of students with life-threatening
10 allergies enrolled in the schools under its jurisdiction, and make such plan available to the public.

11 200:44-b Supply of Epinephrine ~~[Auto-Injectors]~~.

12 I. A school board may authorize a school nurse who is employed by the school district and for
13 whom the board is responsible to maintain a supply of epinephrine ~~[auto-injectors]~~ for use in the
14 event of an allergic emergency. The nurse shall determine the quantity of medication the school
15 should maintain.

16 II. To obtain life-saving allergy medication for a school district, a health care practitioner
17 may prescribe epinephrine ~~[auto-injectors]~~ in the name of a school district for use in life-saving
18 allergy emergency situations.

19 III. A pharmacist may dispense epinephrine ~~[auto-injectors]~~ pursuant to a prescription
20 issued in the name of a school. A school, under the direction of the school nurse, may maintain a
21 supply of epinephrine ~~[auto-injectors]~~ for use in accordance with this subdivision.

22 IV. A school may enter into an agreement with a manufacturer of epinephrine ~~[auto-~~
23 ~~injectors]~~, third-party suppliers of epinephrine ~~[auto-injectors]~~, or health care offices to obtain
24 epinephrine ~~[auto-injectors]~~ at no charge or at fair-market prices or at reduced prices. A school
25 district may accept gifts, grants or donations from foundations, organizations, or private parties to
26 purchase epinephrine ~~[auto-injectors]~~.

27 V. A school that possesses and makes available a supply of epinephrine ~~[auto-injectors]~~
28 pursuant to this subdivision shall maintain an annual report summarizing the use of the
29 epinephrine ~~[auto-injectors]~~.

30 200:45 Immunity.

31 I. No school district, member of a school board, or school district employee shall be liable in a
32 suit for damages as a result of any act or omission related to a pupil's use of ~~[an]~~ epinephrine ~~[auto-~~
33 ~~injector]~~ pursuant to RSA 200:43, if the provisions of RSA 200:42 have been met, unless the damages
34 were caused by willful or wanton conduct or disregard of the criteria established in that section for
35 the possession and self-administration of ~~[an]~~ epinephrine ~~[auto-injector]~~ by a pupil.

36 II. No school that possesses and makes available epinephrine ~~[auto-injectors]~~, member of its
37 school board, school nurse, school district employee, agents or volunteers, no health care practitioner

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1 that prescribes epinephrine [~~auto-injectors~~] to a school, and no person that conducts the training
2 described in RSA 200:44-a shall be liable for damages as a result of the administration or self-
3 administration of [~~an~~] epinephrine [~~auto-injector~~], the failure to administer [~~an~~] epinephrine [~~auto-~~
4 ~~injector~~], or any other act or omission related to the possession or use of [~~an~~] epinephrine [~~auto-~~
5 ~~injector~~], unless the damages were caused by willful or wanton misconduct.

6 III. The administration of [~~an~~] epinephrine [~~auto-injector~~] by designated school personnel
7 pursuant to the provisions of this subdivision shall not require licensure.

8 IV. This section shall not be construed to eliminate, limit, or reduce any other immunity or
9 defense that may be available under state law.

10 3 Epinephrine Administration in Postsecondary Educational Institutions and Independent
11 Schools; Definition of Trained Designee. Amend RSA 200-N:1, V to read as follows:

12 V. "Trained designee" means a member of the campus community trained by a licensed
13 campus medical professional in the emergency administration of [~~auto-injectable~~] epinephrine.

14 4 Epinephrine Administration in Postsecondary Educational Institutions and Independent
15 Schools; Emergency Administration Policies and Guidelines. Amend RSA 200-N:2 to read as follows:

16 200-N:2 Emergency Administration of Epinephrine; Policies and Guidelines.

17 I. A postsecondary educational institution or independent school accredited to operate in
18 this state may develop a policy in accordance with this chapter and guidelines issued under RSA
19 200-N:4 for the emergency administration of [~~auto-injectable~~] epinephrine to a member of the
20 campus community for anaphylaxis when a licensed campus medical professional is not available.

21 II. Such policy shall include:

22 (a) Permission for a trained designee to do the following:

23 (1) Administer [~~auto-injectable~~] epinephrine to a member of the campus community
24 for anaphylaxis when a licensed campus medical professional is unavailable.

25 (2) When responsible for the safety of at least one member of the campus
26 community, carry in a secure but accessible location a supply of [~~auto-injectable~~] epinephrine that is
27 prescribed under a standing protocol from a health care provider who is licensed in New Hampshire
28 and whose scope of practice includes the prescribing of medication.

29 (b) Provisions that a licensed campus medical professional has responsibility for training
30 designees in the following:

31 (1) The administration of [~~auto-injectable~~] epinephrine.

32 (2) Identification of an anaphylactic reaction and indications for when to use
33 epinephrine.

34 III. Each postsecondary educational institution and independent school that develops a
35 policy under this chapter shall designate a licensed campus medical professional.

36 IV. A licensed campus medical professional may:

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1 (a) Establish and administer a standardized training protocol for the emergency
2 administration of epinephrine by trained designees.

3 (b) Ensure that trained designees have satisfactorily completed the training protocol.

4 (c) Obtain a supply of ~~[auto-injectable]~~ epinephrine under a standing protocol from a
5 physician licensed under RSA 329, ***physician assistant licensed under RSA 328-D, or advanced***
6 ***practice registered nurse licensed under RSA 326-B.***

7 (d) Control distribution to trained designees of ~~[auto-injectable]~~ epinephrine.

8 5 Epinephrine Administration in Postsecondary Educational Institutions and Independent
9 Schools; Storage of Epinephrine. Amend RSA 200-N:5 and 200-N:6 to read as follows:

10 200-N:5 Storage of Epinephrine.

11 I. A postsecondary educational institution or independent school may fill a prescription for
12 ~~[auto-injectable]~~ epinephrine and store the ~~[auto-injectable]~~ epinephrine on the campus if a licensed
13 health care provider whose scope of practice includes the prescribing of medication writes the
14 prescription for ~~[auto-injectable]~~ epinephrine for the postsecondary educational institution or
15 independent school.

16 II. The postsecondary educational institution or independent school shall store the ~~[auto-~~
17 ~~injectable]~~ epinephrine in an unlocked safe location in which only postsecondary educational
18 institution or independent school personnel have access.

19 III. A health care provider who is licensed in this state and whose scope of practice includes
20 the prescribing of medication may write a prescription, drug order, or protocol for ~~[auto-injectable]~~
21 epinephrine for the postsecondary educational institution or independent school.

22 IV. A pharmacist licensed under RSA 318 may dispense a valid prescription, drug order, or
23 protocol for ~~[auto-injectable]~~ epinephrine issued in the name of a postsecondary educational
24 institution or an independent school.

25 200-N:6 Immunity From Civil Liability.

26 I. A licensed campus medical professional who acts in accordance with this chapter shall not
27 be liable for civil damages for any act or omission committed in accordance with this chapter unless
28 the act or omission constitutes gross negligence or willful misconduct.

29 II. A trained designee who administers ~~[auto-injectable]~~ epinephrine in accordance with this
30 chapter shall not be liable for civil damages resulting from the administration of ~~[auto-injectable]~~
31 epinephrine under this chapter unless the act or omission constitutes gross negligence or willful
32 misconduct.

33 III. A licensed health care provider who writes a prescription, drug order, or protocol under
34 this chapter is not liable for civil damages resulting from the administration of ~~[auto-injectable]~~
35 epinephrine under this chapter unless the act or omission constitutes gross negligence or willful
36 misconduct.

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1 IV. A licensed pharmacy, whether with a physical presence or doing business through mail
2 order, that fulfills a prescription, drug order, or protocol under this chapter is not liable for civil
3 damages resulting from the administration of ~~[auto-injectable]~~ epinephrine under this chapter
4 unless the act or omission constitutes gross negligence or willful misconduct.

5 6 Epinephrine Administration in Postsecondary Educational Institutions and Independent
6 Schools; Applicability. Amend RSA 200-N:7, II and III to read as follows:

7 II. Prohibit the administration of ~~[a pre-filled auto-injector of]~~ epinephrine by a person
8 acting under a lawful prescription.

9 III. Prevent a licensed health care provider from acting within the individual's scope of
10 practice in administering ~~[auto-injectable]~~ epinephrine.

11 7 Administration of Epinephrine. Amend RSA 329:1-h to read as follows:

12 329:1-h Administration of Epinephrine.

13 I. In this section:

14 (a) "Administer" means the direct application of ~~[an]~~ epinephrine ~~[auto-injector]~~ to the
15 body of an individual.

16 (b) "Authorized entity" means any entity or organization in which allergens capable of
17 causing anaphylaxis may be present, including recreation camps and day care facilities. Authorized
18 entity shall not include an elementary or secondary school or a postsecondary educational institution
19 eligible to establish policies and guidelines for the emergency administration of epinephrine under
20 RSA 200-N.

21 (c) ~~["Epinephrine auto-injector" means a single-use device used for the automatic~~
22 ~~injection of a premeasured dose of epinephrine into the human body.~~

23 ~~(d)]~~ "Health care practitioner" means a person who is lawfully entitled to prescribe,
24 administer, dispense, or distribute controlled drugs.

25 ~~[(e)]~~ (d) "Provide" means to furnish one or more **doses of** epinephrine ~~[auto-injectors]~~ to
26 an individual.

27 II. A health care practitioner may prescribe epinephrine ~~[auto-injectors]~~ in the name of an
28 authorized entity for use in accordance with this section, and pharmacists and health care
29 practitioners may dispense epinephrine ~~[auto-injectors]~~ pursuant to a prescription issued in the
30 name of an authorized entity.

31 III. An authorized entity may acquire and maintain a supply of epinephrine ~~[auto-injectors]~~
32 pursuant to a prescription issued in accordance with this section. Such epinephrine ~~[auto-injectors]~~
33 shall be stored in a location readily accessible in an emergency and in accordance with the
34 instructions for use, and any additional requirements that may be established by **the** board of
35 medicine. An authorized entity shall designate employees or agents who have completed the
36 training required by paragraph V to be responsible for the storage, maintenance, control, and
37 general oversight of epinephrine ~~[auto-injectors]~~ acquired by the authorized entity.

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1 IV. An employee or agent of an authorized entity, or other individual, who has completed the
2 training required by paragraph V may use epinephrine ~~[auto-injectors]~~ pursuant to this section to:

3 (a) Provide ~~[an]~~ epinephrine ~~[auto-injector]~~ to any individual who the employee agent or
4 other individual believes in good faith is experiencing anaphylaxis, or the parent, guardian, or
5 caregiver of such individual, for immediate administration, regardless of whether the individual has
6 a prescription for ~~[an]~~ epinephrine ~~[auto-injector]~~ or has previously been diagnosed with an allergy.

7 (b) Administer ~~[an]~~ epinephrine ~~[auto-injector]~~ to any individual who the employee,
8 agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether
9 the individual has a prescription for ~~[an]~~ epinephrine ~~[auto-injector]~~ or has previously been
10 diagnosed with an allergy.

11 V.(a) An employee, agent, or other individual described in paragraph IV shall complete an
12 anaphylaxis training program at least every 2 years, following completion of the initial anaphylaxis
13 training program. Such training shall be conducted by a nationally-recognized organization
14 experienced in training unlicensed persons in emergency health care treatment or an entity or
15 individual approved by the board of medicine. Training may be conducted online or in person and, at
16 a minimum, shall cover:

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

19 (2) Standards and procedures for the storage and administration of ~~[an]~~ epinephrine
20 ~~[auto-injector]~~; and

21 (3) Emergency follow-up procedures.

22 (b) The entity or individual that conducts the training shall issue a certificate, on a form
23 developed or approved by the board of medicine to each person who successfully completes the
24 anaphylaxis training program.

25 VI. No authorized entity that possesses and makes available epinephrine ~~[auto-injectors]~~
26 and its employees, agents, and other individuals, or health care practitioner that prescribes or
27 dispenses epinephrine ~~[auto-injectors]~~ to an authorized entity, or pharmacist or health care
28 practitioner that dispenses epinephrine ~~[auto-injectors]~~ to an authorized entity, or individual or
29 entity that conducts the training described in paragraph V, shall be liable for any injuries or related
30 damages that result from any act or omission pursuant to this section, unless such injury or damage
31 is the result of willful or wanton misconduct. The administration of ~~[an]~~ epinephrine ~~[auto-injector]~~
32 in accordance with this section shall not be considered to be the practice of medicine or any other
33 profession that otherwise requires licensure. This section shall not be construed to eliminate, limit,
34 or reduce any other immunity or defense that may be available under state law. An entity located in
35 this state shall not be liable for any injuries or related damages that result from the provision or
36 administration of ~~[an]~~ epinephrine ~~[auto-injector]~~ outside of this state if the entity would not have
37 been liable for such injuries or related damages had the provision or administration occurred within

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1 this state, or is not liable for such injuries or related damages under the law of the state in which
2 such provision or administration occurred.

3 8 Dealing In or Possessing Prescription Drugs. Amend RSA 318:42, VII-a(b) to read as follows:

4 (b) The possession and administration of epinephrine for the emergency treatment of
5 anaphylaxis by licensed practical nurses or registered nurses employed or contracted by public
6 school systems or by licensed campus medical professionals in postsecondary educational institutions
7 or independent schools. ***A pharmacist may dispense epinephrine pursuant to a prescription***
8 ***issued in the name of a school, postsecondary institution, or independent school. A school,***
9 ***under the direction of the school nurse, may maintain a supply of epinephrine for use in***
10 ***accordance with RSA 200:44-b and RSA 200-N:5. The emergency treatment of anaphylaxis***
11 ***by licensed practical nurses or registered nurses employed or contracted by public school***
12 ***systems or by licensed campus medical professionals in postsecondary educational***
13 ***institutions or independent schools or camp personnel may include the administration of***
14 ***epinephrine belonging to another person being stored at school or camp to be administered***
15 ***to another person requiring the emergent treatment of anaphylaxis. No persons employed***
16 ***or contracted by a school or camp when acting in good faith and with reasonable care, who***
17 ***administers epinephrine shall be subject to any criminal or civil liability, or any***
18 ***professional disciplinary action, for any action authorized by this paragraph or any***
19 ***outcome resulting from an action authorized by this paragraph.***

20 9 Effective Date. This act shall take effect upon its passage.

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AMENDED ANALYSIS

This bill allows authorized entities, including recreation camps, elementary schools, secondary schools, and institutions of higher education, to possess and administer epinephrine to treat anaphylaxis. The bill removes the specific reference in current statutes to administration by auto-injectors. The bill also changes references from "physician" to "primary health care provider", and clarifies that epinephrine prescribed for an individual at a school or camp may be used to treat another individual experiencing an anaphylactic emergency.