



FOOD ALLERGIES Issue Brief

Epinephrine Entity Stocking Laws in the U.S.

In recent years, a growing number of states have adopted epinephrine entity stocking laws. These laws allow authorized entities like restaurants and sports venues to obtain and store auto-injectable epinephrine, or EpiPens, and administer the drug to individuals experiencing anaphylaxis. In the United States, about 15 million Americans have food allergies; one in every 13 children has this potentially deadly condition. A food allergy reaction sends a patient to the emergency department every three minutes, totaling over 200,000 visits per year.¹ Estimates show that in the span of one year, the total costs related to allergic reactions reached approximately \$340 million.² Epinephrine is the first-line treatment for severe or life-threatening allergic reactions, or anaphylaxis. Anaphylaxis is a sudden, severe, rapidly progressive, and potentially life-threatening allergic reaction that affects multiple organ systems of the body at the same time. Anaphylaxis requires immediate medical attention, as it can be fatal if not reversed within seconds or minutes of coming in contact with the allergen.³ Epinephrine is a highly effective medication that can reverse severe symptoms. Administering an EpiPen to someone experiencing anaphylaxis can save his or her life.⁴

In response to the increasing number of people suffering from food allergies, states across the country have sought to expand access to EpiPens in order to save lives. In the school setting, approximately 20-25 percent of epinephrine administrations involve students or staff who were not known to have a specific allergy at the time of the event.⁵ This alarming reality highlights the need for undesignated EpiPens.⁶ Nearly every state has passed legislation regarding stocking undesignated EpiPens in K-12 schools.⁷ However, laws differ from state to state. In some states, only a school nurse may administer the EpiPen to a student with no known history of food allergy. In other instances, states allow other school staff, such as teachers, to administer the medication in an emergency.⁸ This school-based legislation is part of the nationwide movement to increase awareness regarding food allergies and the need to increase access to epinephrine.

Current Statutory Landscape for Entities

Although many states initially focused on making EpiPens available in a school setting, more recent legislation expands the range of organizations permitted to maintain these emergency supplies. Multiple states have passed legislation that permits, but does not require, various entities to stock undesignated epinephrine for use in case of an emergency. An entity is usually defined by states as a place where allergens causing anaphylaxis may be present. Examples of such entities include restaurants, amusement parks, and sports arenas. For these entities to stock and administer epinephrine, they must be certified and have trained employees. These training requirements are generally created by the state's health department and often can be completed online if the state provides that option. Finally, the laws provide immunity



from liability for the entity, its trained employees, medical professionals who prescribed and dispensed the epinephrine, and others.

Currently, twenty-seven (27) states have entity stocking laws:⁹

- Alabama
- Arizona
- Arkansas
- Colorado
- Florida
- Georgia
- Idaho
- Indiana
- Iowa
- Kentucky
- Maine
- Michigan
- Minnesota
- Missouri
- Nevada
- New Hampshire
- New Jersey
- North Carolina
- Oklahoma
- Oregon
- Rhode Island
- South Carolina
- Tennessee
- Utah
- Washington
- West Virginia
- Wisconsin

Six (6) states have pending entity stocking legislation:¹⁰

- California
- Hawaii
- New York
- Ohio
- Pennsylvania
- Vermont

Seventeen (17) states have neither entity stocking laws nor pending entity stocking legislation:¹¹

- Alaska
- Connecticut
- Delaware
- Illinois
- Kansas
- Louisiana
- Maryland
- Massachusetts
- Mississippi
- Montana
- Nebraska
- New Mexico
- North Dakota
- South Dakota
- Texas
- Virginia
- Wyoming

Breakdown of Key Components in Statutory Language

While many of the laws have very similar—if not identical—statutory language, there are several differences worth noting. The three most integral components of each law are: the definition of entity; training requirements; and liability exemptions.

Definition of Entity

States broadly define the term “entity” with the intent of making EpiPens widely available. To this point, states have taken various approaches in defining this term. Of the twenty-seven (27) states with epinephrine entity stocking laws, twenty (20) states have virtually the same statutory language defining an entity as “an entity or organization at which allergens capable of causing anaphylaxis may be present.”¹² These states include:¹³

- Alabama
- Arizona
- Arkansas
- Colorado
- Florida
- Georgia
- Idaho
- Kentucky
- Maine
- Michigan
- Nevada
- New Hampshire
- North Carolina
- Oklahoma
- Rhode Island
- South Carolina
- Tennessee
- Washington
- West Virginia

Along with this general definition, these states also provide non-exclusive lists of additional qualifying entities that may stock EpiPens. These lists include recreation camps, youth sports leagues, amusement parks, sports arenas and day care facilities.



Of the remaining seven (7) states that do not share this common definition of entity, two (2) states, New Jersey and Oregon, define an authorized entity as “an entity employing a person authorized to administer, maintain, and dispose of an epinephrine auto-injector.”¹⁴

Missouri defines an authorized entity as “an ambulance service, or emergency medical response agency, a certified first-responder, emergency medical technical-basic or emergency medical technician-paramedic who is employed by, or an enrolled member, person, firm, organization or entity designated by, rule of the department of health and senior services in consultation with other appropriate agencies.”¹⁵

Three (3) states—Minnesota, Utah, and Iowa—have similar definitions for entity, although Iowa refers to an entity as a “facility”. These states have inclusive lists of specific entities that may stock and administer epinephrine; these lists include recreation camps, colleges and universities, and sports arenas.¹⁶

Indiana’s definition for entity is “any business, association, or governmental entity.”¹⁷ In the end, all of these definitions—be it entity, facility, or otherwise—reflect the desire to expand access to lifesaving EpiPens.

Training Requirements

All twenty-seven (27) states require entities to adopt training programs for their staff before they are allowed to stock and administer epinephrine. Most state laws allow the state health department to establish their own program or use a nationally recognized organization to establish a training program.¹⁸ These training programs require training in the recognition of systemic reactions to food, insect stings, and other allergens and the proper administration of an epinephrine auto-injector.¹⁹ The most significant difference in the laws is the renewal process requirement. A minority of states require periodic training renewal to maintain certification for stocking epinephrine. The purpose for training renewal is to ensure that individuals authorized to administer epinephrine remain current in their skill and knowledge in order to protect the safety of the state’s citizens. The varying training requirements include:

Wisconsin requires an employee or agent of the entity be retrained every four (4) years.

Comparably, ten (10) states require renewal of training every two (2) years:

- Alabama
- Arizona
- Arkansas
- Georgia
- Maine
- Michigan
- Minnesota
- New Hampshire
- South Carolina
- Tennessee

Finally, sixteen (16) states have no specified renewal requirements in their statutory language:

- Colorado
- Florida
- Idaho
- Indiana
- Iowa
- Kentucky
- Missouri
- Nevada
- New Jersey
- North Carolina
- Oklahoma
- Oregon
- Rhode Island
- Utah
- Washington
- West Virginia

The training renewal requirements ensure that those administering epinephrine are capable of doing so in a safe manner. In addition, those experiencing anaphylaxis will be reassured by the knowledge that those administering the EpiPen have had periodic, updated training.

Liability Exemptions

Liability exemptions are important to the application of these laws. Every state provides good faith immunity from negligence claims as a key component of the EpiPen legislation. This immunity protects 1) the entity administering the

program, 2.) the employees involved in the application of epinephrine; and 3.) the health care professionals who prescribe and dispense the drug. A majority of states provide immunity for at least these three groups. The following twenty (25) fall into this category:

- Alabama
- Arizona
- Arkansas
- Colorado
- Florida
- Georgia
- Idaho
- Iowa
- Kentucky
- Maine
- Michigan
- Minnesota
- Nevada
- New Hampshire
- New Jersey
- North Carolina
- Oklahoma
- Oregon
- Rhode Island
- South Carolina
- Tennessee
- Utah
- Washington
- West Virginia
- Wisconsin

It is necessary to note that some of these states provide further exemptions for liability.

Indiana and Missouri have unique immunity provisions. Missouri states that the “use of an epinephrine auto-injector device pursuant to this section shall be considered first aid or emergency treatment for the purpose of any law relating to liability,” deferring to the state’s Good Samaritan law.²⁰ Indiana only provides immunity “for licensed nurse(s) employed by entity and licensed health care provider(s).”²¹

In addition, some states also provide liability protection for the organizations that train individuals in the administration of epinephrine.²²

These immunity provisions are necessary because the entities, their employees, and the healthcare practitioners prescribing epinephrine must be protected. Without liability protections, the effectiveness of these laws would be undercut because the fear of liability could temper the desire to prevent anaphylaxis deaths

Conclusion

State epinephrine stocking laws help ensure the safety of the public and have minimal disadvantages. The rise in those suffering from food allergies has created a greater need for the wide availability of epinephrine and people trained to



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administer this life saving drug. For this reason, epinephrine entity stocking laws help create safer communities.

SUPPORTERS

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation with direction and technical assistance by the Public Health Law Center at William Mitchell College of Law.

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¹ Food Allergy Research & Education, *Facts and Statistics*. Retrieved from <https://www.foodallergy.org/facts-and-stats>.

² Although specific estimates are unavailable for Maryland, a recent study estimated the national cost of food allergies in 2007 was \$225 million in direct medical services, with another \$115 million in indirect costs. (Found at Maryland General Assembly, *Report Of The Task Force On Food Allergy Awareness, Food Safety, And Food Service Facility Letter Grading To The Maryland General Assembly In Fulfillment Of Chapter 252 – January 2014*. Retrieved from

<http://phpa.dhmh.maryland.gov/OEHFP/OFPCHS/Shared%20Documents/Final%20Report%20of%20the%20Food%20Allergy%20Awareness,%20Food%20Safety,%20and%20Food%20Service%20Facility%20Letter%20Grading%20Task%20Force.pdf>.

³ Maryland State Department of Education, *Epinephrine Policy Requirements – (SB 621) Frequently Asked Questions*. Retrieved from http://www.marylandpublicschools.org/msde/divisions/studentschoolsvcs/student_services_alt/school_based_health_centers/doc/FAQ_AnaphylaxisGuidance_03112014.pdf.

⁴ Food Allergy Research & Education, *Facts and Statistics*. Retrieved from <https://www.foodallergy.org/facts-and-stats>.

⁵ Food Allergy Research & Education, *Epinephrine at School*. Retrieved from <http://www.foodallergy.org/advocacy/epinephrine-at-school>.

⁶ Undesignated epinephrine auto-injectors are devices that are not prescribed to a particular individual and may be stocked in public places. (Found at Food Allergy Research & Education, *Access to Epinephrine*. Retrieved from <http://www.foodallergy.org/advocacy/advocacy-priorities/access-to-epinephrine>.)

⁷ Network for Public Health Law, *Summary Matrix of State Laws Addressing Epi-Pen Use in Schools*. Retrieved from https://www.networkforphl.org/_asset/wh2271/Food-Allergy-Epi-Pen-50-State-Compilation-FINAL.pdf.

⁸ Food Allergy Research & Education, *Access to Epinephrine*. Retrieved from <http://www.foodallergy.org/advocacy/advocacy-priorities/access-to-epinephrine>.

⁹ The Network for Public Health Law, *Survey of State Epinephrine Entity Stocking Laws*. Retrieved from https://www.networkforphl.org/_asset/tmdxgd/50-State-Survey-Epinephrine-Entity-Stocking-Laws.pdf.

¹⁰ *Id.*

¹¹ *Id.*

¹² See e.g., [FLA. STAT. § 381.88](#) (Florida's statutory definition of entity: "Entity or organization at or in connection with or at which allergens capable of causing a severe allergic reaction may be present. The term includes, but is not limited to, restaurants, recreation camps, youth sports leagues, theme parks and resorts, and sports arenas.")

¹³ The Network for Public Health Law, *Survey of State Epinephrine Entity Stocking Laws*. Retrieved from https://www.networkforphl.org/_asset/tmdxgd/50-State-Survey-Epinephrine-Entity-Stocking-Laws.pdf.

¹⁴ [N.J. STAT. ANN. § 26:4L-4](#); [OR. REV. STAT. § 433.825](#)

¹⁵ [MO. REV. STAT. § 190.246.1](#).

¹⁶ [MINN. STAT. § 144.999](#); [UTAH CODE ANN. § 26-41-105](#); [IOWA CODE § 135.185](#).

¹⁷ [IND. CODE § 16-41-43-2](#).

¹⁸ See e.g., [GA. CODE ANN. § 31-1-15](#).

¹⁹ See e.g., [FLA. STAT. § 381.88](#).

²⁰ [MO. REV. STAT. § 190.246.1](#).

²¹ [IND. CODE § 16-41-43-6](#).

²² See e.g., [COLO. REV. STAT. § 25-47-107](#)