



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-3102/1
TJD:ahe

2021 ASSEMBLY BILL 337

May 21, 2021 - Introduced by Representatives SORTWELL, CABRERA, GUNDRUM, KNODL, MOSES, MURPHY, MURSAU, SUBECK, THIESFELDT, WICHGERS and SHANKLAND, cosponsored by Senators JACQUE and L. TAYLOR. Referred to Committee on Health.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 255.07 (2); *to amend* 118.292 (title), 118.292
2 (1r) (intro.) and (a) and (2) (a) and (b), 118.2925 (title), 118.2925 (1) (a), 118.2925
3 (1) (h), 118.2925 (3), 118.2925 (4) (title), (a), (b) and (c), 118.2925 (4m) (a) and
4 (b), 118.2925 (5), 255.07 (title) and (1) (a), 255.07 (3), 255.07 (4), 255.07 (5) (a)
5 2. and 3., 255.07 (6) (a) (intro.), 1., 2. and 3., (b), (d), (e) and (f), 448.03 (2) (q) and
6 450.11 (4) (a) 5. d.; and **to create** 118.292 (1g) (bm), 118.2925 (1) (fm), 255.07
7 (1) (e) and 255.07 (2) (b) of the statutes; **relating to:** use of epinephrine prefilled
8 syringes and standing orders for epinephrine.

Analysis by the Legislative Reference Bureau

This bill generally expands to prefilled syringes of epinephrine certain current law authority related to epinephrine auto-injectors. Under the bill, a prefilled syringe is a device that is used for the manual injection of epinephrine into the human body to prevent or treat a life-threatening allergic reaction, is approved by the federal Food and Drug Administration, and contains a dose of epinephrine.

Current law allows designated school personnel, school nurses, and authorized entities and individuals who have completed a training program to provide or administer epinephrine auto-injectors to pupils and other individuals. Authorized entities are those entities or organizations that operate or participate in a business,

ASSEMBLY BILL 337

activity, or event where anaphylaxis-causing allergens may be present, and examples of these entities or organizations include restaurants, camps, institutions of higher education, places of employment, amusement parks, and sports leagues and arenas. The bill allows the same individuals and entities to also provide or administer epinephrine prefilled syringes.

Pupils are also allowed under current law to possess and use an epinephrine auto-injector in certain circumstances while in school, participating in a school-sponsored activity, or under supervision by a school. Under the bill, pupils are also allowed to possess and use epinephrine prefilled syringes under those same circumstances.

In addition, current law allows prescribers to prescribe epinephrine auto-injectors in the name of the school or the name of the authorized entity or individual. This bill provides the same prescribing authority for epinephrine prefilled syringes.

Furthermore, the bill allows any prescriber to issue a standing order for the dispensing of epinephrine auto-injectors or prefilled syringes for use by trained individuals. The bill also allows a prescriber who is employed by or under contract with the Department of Health Services to issue a statewide standing order for the dispensing of epinephrine auto-injectors or prefilled syringes for use by trained individuals. Under current law, certain prescribers are allowed to issue standing orders for the dispensing of an opioid antagonist, which counteracts an opioid overdose, and DHS has issued a statewide standing order for the dispensing of the opioid antagonist naloxone.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 118.292 (title) of the statutes is amended to read:

2 **118.292 (title) Possession and use of epinephrine auto-injectors.**

3 **SECTION 2.** 118.292 (1g) (bm) of the statutes is created to read:

4 118.292 (1g) (bm) “Prefilled syringe” means a device that is approved by the
5 federal food and drug administration, that contains a dose of epinephrine, and that
6 is used for the manual injection of epinephrine into the human body to prevent or
7 treat a life-threatening allergic reaction.

ASSEMBLY BILL 337

1 **SECTION 3.** 118.292 (1r) (intro.) and (a) and (2) (a) and (b) of the statutes are
2 amended to read:

3 118.292 **(1r)** (intro.) While in school, at a school-sponsored activity or under
4 the supervision of a school authority, a pupil may possess and use an epinephrine
5 auto-injector or prefilled syringe if all of the following are true:

6 (a) The pupil uses the epinephrine auto-injector or prefilled syringe to prevent
7 the onset or alleviate the symptoms of an emergency situation.

8 **(2)** (a) A pupil as a result of using an epinephrine auto-injector or prefilled
9 syringe under sub. (1r).

10 (b) Any person as a result of a pupil possessing or using an epinephrine
11 auto-injector or prefilled syringe under sub. (1r).

12 **SECTION 4.** 118.2925 (title) of the statutes is amended to read:

13 **118.2925** (title) **Life-threatening allergies in schools; use of**
14 **epinephrine auto-injectors.**

15 **SECTION 5.** 118.2925 (1) (a) of the statutes is amended to read:

16 118.2925 **(1)** (a) “Administer” means the direct application of an epinephrine
17 auto-injector or prefilled syringe to a person’s body.

18 **SECTION 6.** 118.2925 (1) (fm) of the statutes is created to read:

19 118.2925 **(1)** (fm) “Prefilled syringe” means a device that is approved by the
20 federal food and drug administration, that contains a dose of epinephrine, and that
21 is used for the manual injection of epinephrine into the human body to prevent or
22 treat a life-threatening allergic reaction.

23 **SECTION 7.** 118.2925 (1) (h) of the statutes is amended to read:

24 118.2925 **(1)** (h) “Self-administer” means to administer an epinephrine
25 auto-injector or prefilled syringe to one’s own body.

ASSEMBLY BILL 337**SECTION 8**

1 **SECTION 8.** 118.2925 (3) of the statutes is amended to read:

2 118.2925 (3) PRESCRIPTIONS FOR SCHOOLS. A physician, an advanced practice
3 nurse prescriber, or a physician assistant may prescribe epinephrine auto-injectors
4 or prefilled syringes in the name of a school that has adopted a plan under sub. (2)
5 (a), to be maintained by the school for use under sub. (4).

6 **SECTION 9.** 118.2925 (4) (title), (a), (b) and (c) of the statutes are amended to
7 read:

8 118.2925 (4) (title) USE OF EPINEPHRINE AUTO-INJECTORS.

9 (a) Provide an epinephrine auto-injector or prefilled syringe to a pupil to
10 self-administer the epinephrine auto-injector or prefilled syringe in accordance
11 with a prescription specific to the pupil that is on file with the school.

12 (b) Administer an epinephrine auto-injector or prefilled syringe to a pupil in
13 accordance with a prescription specific to the pupil that is on file with the school.

14 (c) Administer an epinephrine auto-injector or prefilled syringe to a pupil or
15 other person who the school nurse or designated school personnel in good faith
16 believes is experiencing anaphylaxis in accordance with a standing protocol from a
17 physician, an advanced practice nurse prescriber, or a physician assistant,
18 regardless of whether the pupil or other person has a prescription for an epinephrine
19 auto-injector or prefilled syringe. If the pupil or other person does not have a
20 prescription for an epinephrine auto-injector or prefilled syringe, or the person who
21 administers the epinephrine auto-injector or prefilled syringe does not know
22 whether the pupil or other person has a prescription for an epinephrine auto-injector
23 or prefilled syringe, the person who administers the epinephrine auto-injector or
24 prefilled syringe shall, as soon as practicable, report the administration by dialing

ASSEMBLY BILL 337

1 the telephone number “911” or, in an area in which the telephone number “911” is not
2 available, the telephone number for an emergency medical service provider.

3 **SECTION 10.** 118.2925 (4m) (a) and (b) of the statutes are amended to read:

4 118.2925 (4m) (a) The authority to self-administer an epinephrine
5 auto-injector or prefilled syringe under sub. (4) (a) is independent of the authorized
6 possession and use of an epinephrine auto-injector or prefilled syringe under s.
7 118.292 (1r).

8 (b) The authority to administer an epinephrine auto-injector or prefilled
9 syringe under sub. (4) (b) and (c) is independent of the authority to administer an
10 epinephrine auto-injector under s. 118.29 (2) (a) 2. and 2m.

11 **SECTION 11.** 118.2925 (5) of the statutes is amended to read:

12 118.2925 (5) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF
13 MEDICINE. A school and its designated school personnel, and a physician, advanced
14 practice nurse prescriber, or physician assistant who provides a prescription or
15 standing protocol for school epinephrine auto-injectors or prefilled syringes, are not
16 liable for any injury that results from the administration or self-administration of
17 an epinephrine auto-injector or prefilled syringe under this section, regardless of
18 whether authorization was given by the pupil’s parent or guardian or by the pupil’s
19 physician, physician assistant, or advanced practice nurse prescriber, unless the
20 injury is the result of an act or omission that constitutes gross negligence or willful
21 or wanton misconduct. The immunity from liability provided under this subsection
22 is in addition to and not in lieu of that provided under s. 895.48.

23 **SECTION 12.** 255.07 (title) and (1) (a) of the statutes are amended to read:

24 **255.07 (title) Life-saving allergy medication; use of epinephrine**
25 **auto-injectors.**

ASSEMBLY BILL 337**SECTION 12**

1 **(1)** (a) “Administer” means the direct application of an epinephrine
2 auto-injector or prefilled syringe to the body of an individual.

3 **SECTION 13.** 255.07 (1) (e) of the statutes is created to read:

4 255.07 **(1)** (e) “Prefilled syringe” means a device that is approved by the federal
5 food and drug administration, that contains a dose of epinephrine, and that is used
6 for the manual injection of epinephrine into the human body to prevent or treat a
7 life-threatening allergic reaction.

8 **SECTION 14.** 255.07 (2) of the statutes is renumbered 255.07 (2) (a) and
9 amended to read:

10 255.07 **(2)** (a) A health care practitioner may prescribe an epinephrine
11 auto-injector or prefilled syringe in the name of an authorized entity or an
12 authorized individual for use in accordance with this section. A health care
13 practitioner may issue to one or more persons a standing order authorizing the
14 dispensing of epinephrine auto-injectors or prefilled syringes for use under sub. (4)
15 by an authorized individual or by an employee or agent of an authorized entity who
16 has completed the training required by sub. (5).

17 **SECTION 15.** 255.07 (2) (b) of the statutes is created to read:

18 255.07 **(2)** (b) A health care provider with prescribing authority who is
19 employed by or under contract with the department may issue a statewide standing
20 order for the dispensing of epinephrine auto-injectors or prefilled syringes for use
21 under sub. (4) by authorized individuals or by employees or agents of authorized
22 entities who have completed the training required by sub. (5).

23 **SECTION 16.** 255.07 (3) of the statutes is amended to read:

24 255.07 **(3)** AUTHORIZED ENTITIES OR INDIVIDUALS PERMITTED TO MAINTAIN SUPPLY.
25 An authorized entity or an authorized individual may acquire and maintain a supply

ASSEMBLY BILL 337**SECTION 16**

1 of epinephrine auto-injectors and prefilled syringes pursuant to a prescription
2 issued in accordance with this section. The authorized entity or authorized
3 individual shall store an epinephrine auto-injector or prefilled syringe in a location
4 readily accessible in an emergency and in accordance with the epinephrine
5 auto-injector's or prefilled syringe's instructions for use. An authorized entity shall
6 designate an employee or agent who has completed the training required in sub. (5)
7 to be responsible for the storage, maintenance, control, and general oversight of
8 epinephrine auto-injectors or prefilled syringes acquired by the authorized entity.

9 **SECTION 17.** 255.07 (4) of the statutes is amended to read:

10 255.07 (4) USE OF EPINEPHRINE AUTO-INJECTORS. An employee or agent of an
11 authorized entity who has completed the training required by sub. (5) or an
12 authorized individual may use an epinephrine auto-injector or prefilled syringe
13 prescribed under sub. (2) to do any of the following:

14 (a) Provide one or more epinephrine auto-injectors or prefilled syringes to any
15 individual who the employee, agent, or authorized individual believes in good faith
16 is experiencing anaphylaxis, or to the parent, guardian, or caregiver of that
17 individual for immediate administration, regardless of whether the individual has
18 a prescription for an epinephrine auto-injector or prefilled syringe or has previously
19 been diagnosed with an allergy.

20 (b) Administer an epinephrine auto-injector or prefilled syringe to any
21 individual who the employee, agent, or authorized individual believes in good faith
22 is experiencing anaphylaxis, regardless of whether the individual has a prescription
23 for an epinephrine auto-injector or prefilled syringe or has previously been
24 diagnosed with an allergy.

25 **SECTION 18.** 255.07 (5) (a) 2. and 3. of the statutes are amended to read:

ASSEMBLY BILL 337**SECTION 18**

1 255.07 (5) (a) 2. Standards and procedures for the storage and administration
2 of an epinephrine auto-injector and, if applicable, a prefilled syringe.

3 3. Emergency follow-up procedures after an epinephrine auto-injector or
4 prefilled syringe is administered, including the necessity of calling the telephone
5 number “911” or another telephone number for an emergency medical service
6 provider.

7 **SECTION 19.** 255.07 (6) (a) (intro.), 1., 2. and 3., (b), (d), (e) and (f) of the statutes
8 are amended to read:

9 255.07 (6) (a) (intro.) All of the following are not liable for any injury that
10 results from the administration or failure to administer an epinephrine
11 auto-injector or prefilled syringe under this section, unless the injury is the result
12 of an act or omission that constitutes gross negligence or willful or wanton
13 misconduct:

14 1. An authorized entity or authorized individual that possesses and makes
15 available an epinephrine auto-injector or prefilled syringe and employees, agents,
16 and authorized individuals that store, maintain, control, oversee, provide, or use an
17 epinephrine auto-injector or prefilled syringe.

18 2. A health care practitioner who prescribes or dispenses an epinephrine
19 auto-injector or prefilled syringe to an authorized entity or authorized individual.

20 3. A pharmacist or other person who dispenses an epinephrine auto-injector
21 or prefilled syringe to an authorized entity or authorized individual.

22 (b) The use of an epinephrine auto-injector or prefilled syringe under this
23 section does not constitute the practice of medicine or of any other health care
24 profession that requires a credential to practice.

ASSEMBLY BILL 337**SECTION 19**

1 (d) A person is not liable for any injuries or related damages that result from
2 providing or administering an epinephrine auto-injector or prefilled syringe outside
3 of this state if the person satisfies any of the following criteria:

4 1. The person would not have been liable for injuries or damages if the
5 epinephrine auto-injector or prefilled syringe was provided or administered in this
6 state.

7 2. The person is not liable for injuries or damages under the law of the state
8 in which the epinephrine auto-injector or prefilled syringe was provided or
9 administered.

10 (e) Nothing in this section creates or imposes any duty, obligation, or basis for
11 liability on any authorized entity, or employees, agents, or authorized individuals,
12 to acquire or make available an epinephrine auto-injector or prefilled syringe.

13 (f) Nothing in this section creates or imposes any duty, obligation, or basis for
14 liability on any employer or any other person to supervise or exercise control over an
15 individual's provision or administration of an epinephrine auto-injector or prefilled
16 syringe, if the employer or other person reasonably believes the individual is acting
17 as an authorized individual under this section.

18 **SECTION 20.** 448.03 (2) (q) of the statutes is amended to read:

19 448.03 (2) (q) The administration of an epinephrine auto-injector or prefilled
20 syringe in accordance with s. 118.2925 or 255.07.

21 **SECTION 21.** 450.11 (4) (a) 5. d. of the statutes is amended to read:

22 450.11 (4) (a) 5. d. For an epinephrine auto-injector or prefilled syringe
23 prescribed under s. 118.2925 (3) or 255.07 (2), the name of the school, authorized
24 entity, authorized individual, or other person specified under s. 255.07 (3).

25 (END)