



2013 SENATE BILL 375

October 29, 2013 – Introduced by Senators VUKMIR, LAZICH, GROTHMAN, COWLES and LASSA, cosponsored by Representatives KERKMAN, KUGLITSCH, JACQUE, NASS, T. LARSON, BERNIER, A. OTT, MURPHY, KNODL, BROOKS, OHNSTAD, KOOYENGA and LEMAHIEU. Referred to Committee on Education.

1 **AN ACT** *to repeal* 118.29 (1) (bm) and 118.29 (2) (a) 2m.; *to amend* 118.29 (2) (a)
2 3. and 450.11 (1); and *to create* 118.2925 and 448.03 (2) (q) of the statutes;
3 **relating to:** the use of an epinephrine auto-injector on school premises or at
4 a school-sponsored activity.

Analysis by the Legislative Reference Bureau

Under current law, certain school personnel who are authorized to do so by the school administrator, may administer an epinephrine auto-injector (a device designated to prevent or treat a life-threatening allergic reaction) to a pupil who appears to be experiencing a severe allergic reaction if the person who does so reports the allergic reaction dialing 911 as soon as practicable.

This bill eliminates this provision. Under the bill, the governing body of a public, private, or tribal school may adopt a plan for the management of pupils attending the school who have life-threatening allergies. The plan must be approved by a physician. If the governing body adopts a plan, it may authorize a school nurse, or designated school personnel who have received training specified in the school's plan, to do any of the following on a school premises or at a school-sponsored activity.

1. Provide an epinephrine auto-injector to a pupil to self-administer the auto-injector in accordance with a prescription specific to the pupil that is on file with the school nurse.

2. Administer an epinephrine auto-injector to a pupil in accordance with a prescription specific to the pupil that is on file with the school nurse.

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3. Administer an epinephrine auto-injector to a pupil or other person who the school nurse or designated personnel believes is experiencing anaphylaxis, regardless of whether the pupil or other person has a prescription for an epinephrine auto-injector.

The bill grants immunity from civil liability for a school and specified school personnel for injuries resulting from the administration or self-administration of epinephrine auto-injectors. The bill requires each school that has adopted a plan described above to report to the Department of Public Instruction each incident on school premises or at a school-sponsored activity that involved a severe allergic reaction or the administration of an epinephrine auto-injector.

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

1 **SECTION 1.** 118.29 (1) (bm) of the statutes is repealed.

2 **SECTION 2.** 118.29 (2) (a) 2m. of the statutes is repealed.

3 **SECTION 3.** 118.29 (2) (a) 3. of the statutes is amended to read:

4 118.29 (2) (a) 3. Subject to sub. (4m), is immune from civil liability for his or
5 her acts or omissions in administering a nonprescription drug product or
6 prescription drug to a pupil under subd. 1., 2., ~~2m.~~, or 2r. unless the act is in violation
7 of sub. (6) or the act or omission constitutes a high degree of negligence. This
8 subdivision does not apply to health care professionals.

9 **SECTION 4.** 118.2925 of the statutes is created to read:

10 **118.2925 Life-threatening allergies in schools; use of epinephrine**
11 **auto-injectors. (1) DEFINITIONS.** In this section:

12 (a) "Administer" means the direct application of an epinephrine auto-injector
13 to a person's body.

14 (b) "Advanced practice nurse prescriber" means an advanced practice nurse
15 who is certified under s. 441.16.

16 (c) "Designated school personnel" means an employee, agent, or volunteer of
17 a school, designated by the governing body of the school, who has completed the

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1 training specified in the plan adopted by the governing body of the school in sub. (2)

2 (a).

3 (d) "Epinephrine auto-injector" means a device used for the automatic
4 injection of epinephrine into the human body to prevent or treat a life-threatening
5 allergic reaction.

6 (e) "Physician" means a person licensed to practice medicine and surgery under
7 ch. 448.

8 (f) "Physician assistant" means a person licensed under s. 448.04 (1) (f).

9 (g) "School" means a public, private, or tribal school.

10 (h) "Self-administer" means to administer an epinephrine auto-injector to
11 one's own body.

12 **(2) SCHOOL PLAN.** (a) The governing body of a school may adopt a plan for the
13 management of pupils attending the school who have life-threatening allergies. If
14 the governing body of a school does so, it shall specify in the plan the training
15 necessary to perform the activities under sub. (4). The governing body of a school
16 may not adopt a plan unless it has been approved by a physician.

17 (b) The governing body of a school that has adopted a plan under par. (a) shall
18 make the plan available on the governing body's Internet site or the Internet site of
19 each school under its jurisdiction or, if an Internet site does not exist, give a copy of
20 the plan to any person upon request.

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

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1 **(4) USE OF EPINEPHRINE AUTO-INJECTORS.** The governing body of a school that
2 has adopted a plan under sub. (2) (a) may authorize a school nurse or designated
3 school personnel to do any of the following on school premises or at a
4 school-sponsored activity:

5 (a) Provide an epinephrine auto-injector to a pupil to self-administer the
6 epinephrine auto-injector in accordance with a prescription specific to the pupil that
7 is on file with the school nurse.

8 (b) Administer an epinephrine auto-injector to a pupil in accordance with a
9 prescription specific to the pupil that is on file with the school nurse.

10 (c) Administer an epinephrine auto-injector to a pupil or other person who the
11 school nurse or designated school personnel in good faith believes is experiencing
12 anaphylaxis in accordance with a standing protocol from a physician, an advanced
13 practice nurse prescriber, or a physician assistant, regardless of whether the pupil
14 or other person has a prescription for an epinephrine auto-injector.

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

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1 **(6) REPORTS.** (a) The governing body of a school that has adopted a plan under
2 sub. (2) (a) shall submit to the department, on a form developed by the department,
3 a report of each incident on school premises or at a school-sponsored activity that
4 involved a severe allergic reaction or the administration of an epinephrine
5 auto-injector.

6 (b) The department shall annually publish a report that summarizes and
7 analyzes all reports submitted to the department under par. (a) in the previous school
8 year.

9 **SECTION 5.** 448.03 (2) (q) of the statutes is created to read:

10 448.03 **(2)** (q) The administration of an epinephrine auto-injector in
11 accordance with s. 118.2925.

12 **SECTION 6.** 450.11 (1) of the statutes is amended to read:

13 450.11 **(1) DISPENSING.** No person may dispense any prescribed drug or device
14 except upon the prescription order of a practitioner. All prescription orders shall
15 specify the date of issue, the name and address of the practitioner, the name and
16 quantity of the drug product or device prescribed, directions for the use of the drug
17 product or device, the symptom or purpose for which the drug is being prescribed if
18 required under sub. (4) (a) 8., and, if the order is written by the practitioner, the
19 signature of the practitioner. Except as provided in s. ss. 118.2925 (3) and 448.035
20 (2), all prescription orders shall also specify the name and address of the patient. A
21 prescription order issued under s. 118.2925 (3) shall specify the name and address
22 of the school. Any oral prescription order shall be immediately reduced to writing
23 by the pharmacist and filed according to sub. (2).

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(END)