

2013 DRAFTING REQUEST

Bill

Received: 4/4/2013 Received By: pgrant
Wanted: As time permits Same as LRB:
For: Leah Vukmir (608) 266-2512 By/Representing: Dean Cady
May Contact: Drafter: pgrant
Subject: Education - miscellaneous Addl. Drafters: mgallagh
Education - school boards
Education - state superintendent Extra Copies: TTK
FFK
Submit via email: YES
Requester's email: Sen.Vukmir@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Use of epinephrine auto-injectors in schools

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 4/18/2013	kfollett 4/25/2013	rschluet 4/8/2013	_____			
/P1	pgrant 9/17/2013	kfollett 9/18/2013	rschluet 9/18/2013	_____	sbasford 4/26/2013		
/1				_____	srose	srose	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				<u> </u>	9/18/2013	10/16/2013	

FE Sent For:

*None
needed*

<END>

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/1				_____	srose		

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9/18/2013

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/?	mgallagh 4/18/2013	kfollett 4/25/2013	rschluet 4/8/2013	_____			
/P1			jmurphy 4/26/2013	_____	sbasford 4/26/2013		

Handwritten signatures and initials:
A large signature (possibly 'mgallagh') and initials 'JK' are written over the bottom of the Drafting History table.

FE Sent For:

<END>

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant	PKF 4/25	Jm 4/24 Jm 4/25	_____	Jm + PA 4/26		

FE Sent For:

<END>

Grant, Peter

From: Cady, Dean
Sent: Wednesday, April 03, 2013 12:06 PM
To: Grant, Peter
Subject: Drafting request / P Draft

Hey Peter, this is deano from Senator Vukmir's office. ☺

I hope you are the right person, so if not I apologize. Leah asked me to check and see if she could have a preliminary bill draft relating to the administration/use of epinephrine auto-injectors in schools. I have attached some language that should give you an idea of where Leah is headed. Peter, Leah would like this to be permissive and not mandatory so if a school district or school chooses to participate then this is the procedure. Also, in section 5 (5), involving protocols/policies developed by the schools, Leah would like to have a requirement that whatever is developed that doctor sign off on it. Finally, in section 5 (7), involving the participating schools having to report incidents/events involving allergic reactions and the administration of epinephrine auto-injectors, Leah would like them to follow (and report) to whomever they normally would currently for health related incidents.

I hope this all makes sense. Leah is following what was done last session with Act 85. Give me a shout if you have any questions.

Thankx a mil Peter, I know you all are extremely busy these days.

Deano



Epinephrine
auto-injectors - ...

BILL

Date (time) needed _____

LRB - 2085 / 1P1

(DN)

PG&MPC: _____ : _____

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] **to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .** of the statutes; **relating to:** . . . *the use of ^{an} epinephrine auto-injector in school* . . .

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: **create** → **anal:** → **title:** → **head**

For the subheading, execute: **create** → **anal:** → **title:** → **sub**

For the sub-subheading, execute: **create** → **anal:** → **title:** → **sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: **create** → **anal:** → **text**

(no analysis; preliminary draft)

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

SECTION #.

DRAFT

Section 1. 118.29(1)(bm) of the statutes is repealed.

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

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

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

Section 4. 118.29(6) of the statutes is amended to read:

(6) TRAINING.

Notwithstanding sub. (2) (a) 1. to 2r., no school bus driver, employee, or volunteer may administer a nonprescription drug product or prescription drug under sub. (2) (a) 1., or 2., ~~use an epinephrine auto-injector under sub. (2) (a) 2m.,~~ or administer glucagon under sub. (2) (a) 2r. unless he or she has received training, approved by the department, in administering nonprescription drug product or prescription drugs. This subsection does not apply to health care professionals.

Section 5. 118.293 of the statutes is created to read:

118.293 Life-threatening allergies in schools; guidelines; stock pile of epinephrine auto-injectors; emergency administration. (1) Definitions

(a) "Administer" means the direct application of an epinephrine auto-injector to ^{a person's} ~~the~~ body of an individual.

(b) "Designated school personnel" means an employee, agent, or volunteer of a school designated by the governing authority of a school who has completed the training required by regulation to provide or administer an epinephrine auto-injector to a student.

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

(d) "Provide" means ~~the~~ supply ~~of~~ one or more epinephrine auto-injectors to an individual.

(e) "School" means any public, private, or tribal school.

(f) "Self-administration" means a ~~student~~ or other person's ~~discretionary~~ use of an epinephrine auto-injector, whether provided by the student or by a school nurse or designated school personnel pursuant to this section.

(2). Schools permitted to maintain supply. A physician licensed to practice medicine, an advance practice registered nurse licensed to prescribe in accordance with §441.16, or a physician assistant licensed to prescribe in accordance with §448.21 may prescribe epinephrine auto-injectors in the name of the school to be maintained for use in accordance with subsection (3). Licensed pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in accordance with this subsection. A school may maintain a stock pile of epinephrine auto-injectors.

(3). Use of supply. The governing body of a school may authorize ^{employees} school nurses and ^{any} designated school personnel to do the following:

(a) Provide an epinephrine auto-injector to a ^{pupil} student to self-administer the epinephrine auto-injector in accordance with a prescription specific to the ^{pupil} student on file with the school nurse;

(b) Administer an epinephrine auto-injector to a ^{pupil} student in accordance with a prescription specific to the ^{pupil} student on file with the school nurse, and

(c) Administer an epinephrine auto-injector to any ^{pupil} student or other individual on school premises that the school nurse or ^{pupil} designated school personnel in good faith believes is experiencing anaphylaxis in accordance with a standing protocol from a physician licensed to practice medicine, an advance practice registered nurse licensed to prescribe in accordance with §441.16, or a physician assistant licensed to prescribe in accordance with §448.21, ^{other school employee} regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.

(4). Arrangements with manufacturers. A school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors ^{at} to obtain epinephrine auto-injectors at fair market value, free, or reduced prices.

(5). School policies required. ^(a) ~~Not later than July 1, 2014,~~ the Department of Public Instruction, in consultation with the Department of Health Services, shall develop and make available to all schools ^{pupils} guidelines for the management of students with life-threatening food allergies. The guidelines shall include, but need not be limited to: ^{all of the following:} (a) education and training for school personnel on the management of students with life-threatening allergies, including training related to the administration of an epinephrine auto-injector; ^{§ 1.} (b) procedures for responding to life-threatening allergic reactions; ^{pupils} (c) a process for the development of individualized health care and allergy action plans for every student with a known life-threatening allergy, and; ^{§ 3.} (d) protocols to prevent exposure to allergens. ^{§ 4.} ^{body} (2). Pursuant to subsection (1), the governing authority of a school shall: (a) implement a plan based on the guidelines developed pursuant to this subsection for the management of students with life-threatening allergies enrolled in the schools under its jurisdiction, (b) make such plan available on such governing authority's website or the website of each individual school under its jurisdiction, or in the event a website does exist make such plan available to the public through any practicable means as determined by the governing authority. (3). The superintendent of a school district that develops a plan pursuant to this subsection shall inform the Department of Public Instruction annually, the schools that are implementing such a plan in accordance with the provisions of this subsection.

^{§ 2.} ^{procedure} ^{pupil} ^{§ (b)} ^{do all of the following}

(6). Good Samaritan protections. A school, ^{and} its employees or agents, including a physician, advance practice registered nurse, or physician assistant providing a ^{and} prescription or standing protocol for school epinephrine auto-injectors, ^{is} shall not be liable for damages for ^{any} injuries that result from the administration or self-administration of an epinephrine auto-injector that may constitute ordinary negligence, regardless of

whether authorization was given by the student's parent or guardian or by the student's physician, physician assistant, or advance practice registered nurse. This immunity does not apply to acts or omissions constituting gross, willful, or wanton negligence. The administration of an epinephrine auto-injector in accordance with this section is not the practice of medicine. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under §895.48.

(7). Adoption of regulations. No later than January 2014, the Department of Public Instruction and the Department of Health Services, shall adopt regulations as necessary to carry out the provisions of this section. The regulations shall:

(a) Require each school to submit, on a form developed by the Department of Public Instruction, a report of each incident at a school, that has implemented a plan pursuant to section 5 (2), or event involving a severe allergic reaction or the administration of an epinephrine auto-injector.

(b). Provide for the development and publication of an annual report by the Department of Public Instruction compiling, summarizing, and analyzing all incident reports submitted pursuant to paragraph (a) of this subsection.

(END)

~~st an epinephrine~~
~~the administration to create own body, which~~

1. (6) > school, cc's, or agents ^{with} : what abt ~~reg~~
 volunteers (see def of des. sch. personnel)

2. > what abt sch-nurses? (will it be cc's?)
 might not be an ee)

3. need sub (4)? cant a school do this
 w/ explicit authority? Or is the intent to limit it
 to "fmv, fire, or vehicle prices"?

4. conflicts w/ 118-292?
 allows pupils to possess & use
 epinephrine ^{only} under certain conditions

5. ~~did you intend~~ in 118.293 (1)(b) , re
 "completed the training req'd
 by regulation"
 did you intend training req'd be
 prom. by DPL & DHS as an admin-rule?

6. are there currently req'd reports for
 "health-related incidents"?

4/4/13 Dean will get back to me RE Q's.

Grant, Peter

From: Cady, Dean
Sent: Sunday, April 07, 2013 5:55 PM
To: Grant, Peter
Subject: Drafting request - Preliminary / Follow-up
Attachments: Epinephrine auto-injectors - draft 2.docx

Hey Peter. I spoke with Leah regarding our conversation Thursday and passed along your questions concerning the draft language I sent over to you.

First, concerning this draft being in conflict with Act 85 from last session, she views it as merely adding on to what was previously passed. Secondly, she does not intend to create any new authority for administrative rule making, as a result I made some "strike-thrus" in sub section 5 and 7. In subs. sections 4 and 6, there are notes in italics; and you were right, volunteers & school nurses being omitted was an oversight. Fourth, in sub section 5, Leah said that her intention is that if a school district chooses to take advantage of this legislation then it will adopt guidelines/protocol that are signed off by a physician; Leah wants the state to stay out of this process as much as possible [she does not want the state to dictate, but allow each school district to develop their own protocol as they choose]. Finally, as far as the last sub section, I asked Laura Rose to check in to what, if any requirements there are currently in place for schools, or school districts to report health related issues/incidents generally, as we discussed. For now, Leah said (because we are only in the "P" draft stage) to leave in language absent department rule-making authority, sub section 7.

Thankx a mil Peter. I hope this all makes sense, if not give me a shout on Monday.

deano

Reed
Farm Dean
4/8/13

DRAFT

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

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

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

Section 4. 118.29(6) of the statutes is amended to read:

(6) TRAINING.

Notwithstanding sub. (2) (a) 1. to 2r., no school bus driver, employee, or volunteer may administer a nonprescription drug product or prescription drug under sub. (2) (a) 1., or 2., ~~use an epinephrine auto-injector under sub. (2) (a) 2m.~~, or administer glucagon under sub. (2) (a) 2r. unless he or she has received training, approved by the department, in administering nonprescription drug product or prescription drugs. This subsection does not apply to health care professionals.

Section 5. 118.293 of the statutes is created to read:

118.293 Life-threatening allergies in schools; guidelines; stock pile of epinephrine auto-injectors; emergency administration. (1) Definitions

(a) "Administer" means the direct application of an epinephrine auto-injector to the body of an individual.

(b) "Designated school personnel" means an employee, agent, or volunteer of a school designated by the governing authority of a school who has completed the training required by regulation to provide or administer an epinephrine auto-injector to a student.

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

(d) "Provide" means the supply of one or more epinephrine auto-injectors to an individual.

(e) "School" means any public, private, or tribal school.

(f) "Self-administration" means a student or other person's discretionary use of an epinephrine auto-injector, whether provided by the student or by a school nurse or designated school personnel pursuant to this section.

(2). Schools permitted to maintain supply. A physician licensed to practice medicine, an advance practice registered nurse licensed to prescribe in accordance with §441.16, or a physician assistant licensed to prescribe in accordance with §448.21 may prescribe epinephrine auto-injectors in the name of the school to be maintained for use in accordance with subsection (3). Licensed pharmacists and physicians may dispense epinephrine auto-injectors pursuant to a prescription issued in accordance with this subsection. A school may maintain a stock pile of epinephrine auto-injectors.

(3). Use of supply. The governing body of a school may authorize school nurses and designated school personnel to do the following:

(a) Provide an epinephrine auto-injector to a student to self-administer the epinephrine auto-injector in accordance with a prescription specific to the student on file with the school nurse;

(b) Administer an epinephrine auto-injector to a student in accordance with a prescription specific to the student on file with the school nurse; and

(c) Administer an epinephrine auto-injector to any student or other individual on school premises that the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis in accordance with a standing protocol from a physician licensed to practice medicine, an advance practice registered nurse licensed to prescribe in accordance with §441.16, or a physician assistant licensed to prescribe in accordance with §448.21, regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.

(4). Arrangements with manufacturers. A school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors or to obtain epinephrine auto-injectors at fair market value, free, or reduced prices.

Leave this section in the “Preliminary Draft” but Leah would like included in a draft’s note that the section is unnecessary, should be left out.

(5). School policies required. (1). ~~Not later than July 1, 2014, the Department of Public Instruction, in consultation with the Department of Health Services, shall develop and make available to all schools, guidelines for the management of students with life-threatening food allergies. The guidelines shall include, but need not be limited to: (a) education and training for school personnel on the management of students with life-threatening allergies, including training related to the administration of an epinephrine auto-injector; (b) procedures for responding to life-threatening allergic reactions; (c) a process for the development of individualized health care and allergy action plans for every student with a known life-threatening allergy, and; (d) protocols to prevent exposure to allergens.~~ (2). Pursuant to subsection (1), the governing authority of a school shall: (a) implement a plan based on the guidelines developed pursuant to this subsection for the management of students with life-threatening allergies enrolled in the schools under its jurisdiction, (b) make such plan available on such governing authority’s website or the website of each individual school under its jurisdiction, or in the event a website does exist make such plan available to the public through any practicable means as determined by the governing authority. (3). The superintendent of a school district that develops a plan pursuant to this subsection shall inform the Department of Public Instruction annually, the schools that are implementing such a plan in accordance with the provisions of this subsection.

(6). Good Samaritan protections. A school, its employees or agents, including a physician, advance practice registered nurse, or physician assistant providing a prescription or standing protocol for school epinephrine auto-injectors, shall not be liable

for damages for any injuries that result from the administration or self-administration of an epinephrine auto-injector that may constitute ordinary negligence, regardless of whether authorization was given by the student's parent or guardian or by the student's physician, physician assistant, or advance practice registered nurse. This immunity does not apply to acts or omissions constituting gross, willful, or wanton negligence. The administration of an epinephrine auto-injector in accordance with this section is not the practice of medicine. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under §895.48.

Yes, please include "volunteers" and "school nurses" they were inadvertently left omitted.

~~(7). Adoption of regulations. No later than January 2014, the Department of Public Instruction and the Department of Health Services, shall adopt regulations as necessary to carry out the provisions of this section. The regulations shall Incident Reports:~~

(a) Require each school to submit, on a form developed by the Department of Public Instruction, a report of each incident at a school, that has implemented a plan pursuant to section 5 (2), or event involving a severe allergic reaction or the administration of an epinephrine auto-injector.

(b). Provide for the development and publication of an annual report by the Department of Public Instruction compiling, summarizing, and analyzing all incident reports submitted pursuant to paragraph (a) of this subsection.

(END)

DRAFT

checked in

Section 1. 118.29(1)(bm) of the statutes is repealed.

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

Section 3. 118.293 of the statutes is created to read:

118.293 Life-threatening allergies in schools; use of epinephrine auto-injectors. (1)

Definitions. In this section:

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

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

(c) "Designated school personnel" means an employee, agent, or volunteer of a school, designated by the governing body of the school, who has completed the training specified in the plan adopted by the governing body of the school in sub. (3) (a).

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

(e) "Pharmacist" means a person who is licensed as a pharmacist under ch. 450.

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

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

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

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

(2) Prescriptions for schools; obtaining epinephrine auto-injectors. (a) A physician, an advance practice nurse prescriber, or a physician assistant may prescribe epinephrine auto-injectors in the name of the school to be maintained by the school for use under sub. (4).

(b) The governing body of a school that has adopted a plan under sub. (3) (a) may contract with a manufacturer of epinephrine auto-injectors or other supplier to obtain epinephrine auto-injectors at fair market value, free, or at reduced prices and may maintain a supply of epinephrine auto-injectors.

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

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

(4) Use of epinephrine auto-injectors. The governing body of a school that has adopted a plan under sub. (3) (a) may authorize a school nurse or designated school personnel to do any of the following:

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

(b) 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.

(c) Administer an epinephrine auto-injector on school premises to a pupil or other individual that the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis in accordance with a standing protocol from a physician, an advance practice nurse prescriber, or a physician assistant, regardless of whether the pupil or other individual has a prescription for an epinephrine auto-injector.

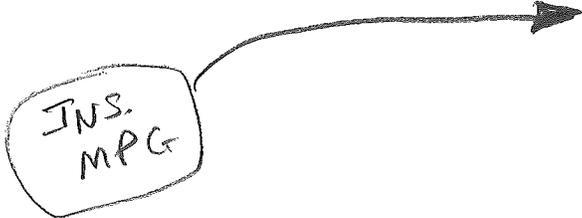
(5) Immunity from civil liability; exemption from practice of medicine. A school and its designated school personnel, and a physician, advance practice nurse prescriber, or physician assistant who provides a prescription or standing protocol for school epinephrine auto-injectors, is not liable for any injury that results from the administration or self-administration of an epinephrine auto-injector under this section, regardless of whether authorization was given by the pupil's parent or guardian or by the pupil's physician, physician assistant, or advance practice nurse prescriber, unless the injury is the result of an act or omission that constitutes gross negligence or willful or wanton misconduct. The immunity from liability provided under this paragraph is in addition to and not in lieu of that provided under s. 895.48.

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

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

(END)

INS.
MPG



A

Section #. 118.29 (2) (a) 3. of the statutes is amended to read:

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

History: 1983 a. 334; 1985 a. 146 s. 8; 1985 a. 218; 1987 a. 14, 399; 1989 a. 56, 102, 105; 1991 a. 103; 1997 a. 164; 1999 a. 56, 126; 2001 a. 16, 83; 2007 a. 130; 2009 a. 160, 302; 2011 a. 86, 260.

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2085/P1ins
MPG:.....

1 INSERT MPG

2 **SECTION 1.** 448.03 (2) (q) of the statutes is created to read:

3 448.03 (2) (q) The administration of an epinephrine auto-injector in
4 accordance with s. 118.293.

5 **SECTION 2.** 450.11 (1) of the statutes is amended to read:

6 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
7 except upon the prescription order of a practitioner. All prescription orders shall
8 specify the date of issue, the name and address of the practitioner, the name and
9 quantity of the drug product or device prescribed, directions for the use of the drug
10 product or device, the symptom or purpose for which the drug is being prescribed if
11 required under sub. (4) (a) 8., and, if the order is written by the practitioner, the
12 signature of the practitioner. Except as provided in s. ss. 118.293 (2) (a) and 448.035
13 (2), all prescription orders shall also specify the name and address of the patient. A
14 prescription order issued under s. 118.293 (2) (a) shall specify the name and address
15 of the school. Any oral prescription order shall be immediately reduced to writing
16 by the pharmacist and filed according to sub. (2).

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

17 **END INSERT MPG**

DN

Dean :

~~I have several questions about the submitted instructions~~

1. Portions of this draft appear to be in conflict with s. 118.292, which was enacted last session as 2011 Wisconsin Act 85 (SB 204).

Section 118.292 allows a pupil to possess and use an epinephrine auto-injector (EpiPen) only under certain conditions: the pupil uses the EpiPen to prevent the onset or alleviate the symptoms of a severe allergic reaction; the pupil has the written approval of the pupil's physician (or his or her parents, if the pupil is a minor); and the pupil has provided the school principal with a copy of these approvals.

~~This bill allows a pupil to self-administer~~

Under this bill, if a school adopts a plan under s. 118.293^{e. 2925} (3) (a), a pupil may self-administer an Epipen, using one provided by school personnel, if there is a prescription for its use by the pupil on file with the school nurse. Neither a physician's ^{nor a parent's} written approval ~~is~~ is required.

2. I'm not sure why sub. (2)(b) of the draft (sub. (4) in the instructions) is necessary. I ^{don't} believe a school ~~does not~~ needs explicit authority to enter into ^a contract for supplies.

(B) → 3. The bill allows the administration of an Epipen to a pupil and the provision of an Epipen to a pupil ^{in accordance with a prescription, but} does not specify where

this may occur. (~~These must be used in accordance with a prescription.~~) (The bill also allows the administration of an Epipen to a pupil or other person on school premises, without a prescription, if the pupil or other person is experiencing a severe allergic reaction.) In addition, the provision regarding reports refers to events occurring at school or on school premises.

You may wish to specify that this may ~~only~~ occur ^{only} in school, ~~or~~ on school premises, ~~or~~ at a school-sponsored activity, or while under the supervision of a school authority. (Note that

PLC

(B)

(ms 97) In addition, the provision seems to limit a school to obtaining Epipens only at fair market value, free, or at reduced prices. Is that your intent?



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2085/P1
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kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

put
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jbn

Gen

an

1

AN ACT ...; relating to: the use of epinephrine auto-injector in school.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

2

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

3

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

4

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

5

118.29 (2) (a) 3. Subject to sub. (4m), is immune from civil liability for his or

6

her acts or omissions in administering a nonprescription drug product or

7

prescription drug to a pupil under subd. 1., 2., ~~2m.~~ or 2r. unless the act is in violation

8

of sub. (6) or the act or omission constitutes a high degree of negligence. This

9

subdivision does not apply to health care professionals.

1
2
3

SECTION 4. 118.293 of the statutes is created to read:

118.293 Life-threatening allergies in schools; use of epinephrine

auto-injectors. (1) Definitions. In this section:

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

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

(c) "Designated school personnel" means an employee, agent, or volunteer of a school, designated by the governing body of the school, who has completed the training specified in the plan adopted by the governing body of the school in sub. (3)

(a).

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

~~(e) "Pharmacist" means a person who is licensed as a pharmacist under ch. 450.~~

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

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

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

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

(2) Prescriptions for schools; obtaining epinephrine auto-injectors.

(a) A physician, an advanced practice nurse prescriber, or a physician assistant may prescribe epinephrine auto-injectors in the name of the school to be maintained by the school for use under sub. (4).

23
24
25

1 (b) The governing body of a school that has adopted a plan under sub. (3) (a) ✓
2 may contract with a manufacturer of epinephrine auto-injectors or other supplier to
3 obtain epinephrine auto-injectors at fair market value, free, or at reduced prices and
4 may maintain a supply of epinephrine auto-injectors.

5 (3) **School plan.** (a) The governing body of a school may adopt a plan for the
6 management of pupils attending the school who have life-threatening allergies. If
7 the governing body of a school does so, it shall specify in the plan the training
8 necessary to perform the activities under sub. (4). The governing body of a school may
9 not adopt a plan unless it has been approved by a physician.

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

14 (4) **Use of epinephrine auto-injectors.** The governing body of a school that
15 has adopted a plan under sub. (3) (a) may authorize a school nurse or designated ✓
16 school personnel to do any of the following:

17 (a) Provide an epinephrine auto-injector to a pupil to self-administer the ✓
18 epinephrine auto-injector in accordance with a prescription specific to the pupil that
19 is on file with the school nurse.

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

22 (c) Administer an epinephrine auto-injector on school premises to a pupil or
23 other individual that the school nurse or designated school personnel in good faith
24 believes is experiencing anaphylaxis in accordance with a standing protocol from a
25 physician, an advance practice nurse prescriber, or a physician assistant, regardless

1 of whether the pupil or other individual has a prescription for an epinephrine
2 auto-injector.

3 **(5) Immunity from civil liability; exemption from practice of medicine.**

4 A school and its designated school personnel, and a physician, advanced practice
5 nurse prescriber, or physician assistant who provides a prescription or standing
6 protocol for school epinephrine auto-injectors, ^{is all} is not liable for any injury that results
7 from the administration or self-administration of an epinephrine auto-injector
8 under this section, regardless of whether authorization was given by the pupil's
9 parent or guardian or by the pupil's physician, physician assistant, or advanced
10 practice nurse prescriber, unless the injury is the result of an act or omission that
11 constitutes gross negligence or willful or wanton misconduct. The immunity from
12 liability provided under this ^{sub} paragraph is in addition to and not in lieu of that
13 provided under s. 895.48.

14 **(6) Reports.** (a) The governing body of a school that has adopted a plan under
15 sub. (3) (a) shall submit to the department, on a form developed by the department,
16 a report of each incident at the school or on school premises that involved a severe
17 allergic reaction or the administration of an epinephrine auto-injector.

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

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

22 448.03 (2) (q) The administration of an epinephrine auto-injector in
23 accordance with s. 118.293. ²⁹²⁵

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

1 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
2 except upon the prescription order of a practitioner. All prescription orders shall
3 specify the date of issue, the name and address of the practitioner, the name and
4 quantity of the drug product or device prescribed, directions for the use of the drug
5 product or device, the symptom or purpose for which the drug is being prescribed if
6 required under sub. (4) (a) 8., and, if the order is written by the practitioner, the
7 signature of the practitioner. Except as provided in ~~s. ss. 118.293~~(2) (a) and 448.035
8 (2), all prescription orders shall also specify the name and address of the patient. A
9 prescription order issued under s. 118.293(2) (a) shall specify the name and address
10 of the school. Any oral prescription order shall be immediately reduced to writing
11 by the pharmacist and filed according to sub. (2).

(END)

2925

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2085/P1dn

PG&MPG:jm

:kjf

April 24, 2013

Date

CPS:
Proof
this rough
with draft please

Dean:

X 1. Portions of this draft appear to be in conflict with s. 118.292, which was enacted last session as 2011 Wisconsin Act 85 (SB 204). Section 118.292 allows a pupil to possess and use an epinephrine auto-injector (EpiPen) only under certain conditions: The pupil uses the EpiPen to prevent the onset or alleviate the symptoms of a severe allergic reaction; the pupil has the written approval of the pupil's physician (and his or her parents, if the pupil is a minor); and the pupil has provided the school principal with a copy of these approvals.

X Under this bill, if a school adopts a plan under s. 118.293²⁹²⁵ (3) (a), a pupil may self-administer an EpiPen, using one provided by school personnel, if there is a prescription for its use by the pupil on file with the school nurse. Neither a physician's nor a parent's written approval is required.

2. I'm not sure why sub. (2) (b) of the draft (sub. (4) in the instructions) is necessary. I don't believe a school needs explicit authority to enter into a contract for supplies. In addition, the provision seems to limit a school to obtaining EpiPens only at fair market value, free, or at reduced prices. Is that your intent?

X 3. The bill allows the administration of an EpiPen to a pupil and the provision of an EpiPen to a pupil in accordance with a prescription, but does not specify where this may occur. You may wish to specify that this may occur only in school, or school premises, at a school-sponsored activity, or while under the supervision of a school authority. (Note that the bill also allows the administration of an EpiPen to a pupil or other person on school premises, without a prescription, if the pupil or other person is experiencing a severe allergic reaction.) In addition, the provision requiring reports refers to events occurring at school or on school premises.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2085/P1dn
PG:kjf:jm

April 26, 2013

Dean:

1. Portions of this draft appear to be in conflict with s. 118.292, which was enacted last session as 2011 Wisconsin Act 85 (SB 204). Section 118.292 allows a pupil to possess and use an epinephrine auto-injector (EpiPen) only under certain conditions: the pupil uses the EpiPen to prevent the onset or alleviate the symptoms of a severe allergic reaction; the pupil has the written approval of the pupil's physician (and his or her parents, if the pupil is a minor); and the pupil has provided the school principal with a copy of these approvals.

Under this bill, if a school adopts a plan under s. 118.2925 (3) (a), a pupil may self-administer an EpiPen, using one provided by school personnel, if there is a prescription for its use by the pupil on file with the school nurse. Neither a physician's nor a parent's written approval is required.

2. I'm not sure why sub. (2) (b) of the draft (sub. (4) in the instructions) is necessary. I don't believe a school needs explicit authority to enter into a contract for supplies. In addition, the provision seems to limit a school to obtaining EpiPens only at fair market value, free, or at reduced prices. Is that your intent?

3. The bill allows the administration of an EpiPen to a pupil and the provision of an EpiPen to a pupil in accordance with a prescription, but does not specify where this may occur. You may wish to specify that this may occur only in school, on school premises, at a school-sponsored activity, or while under the supervision of a school authority. (Note that the bill also allows the administration of an EpiPen to a pupil or other person on school premises, without a prescription, if the pupil or other person is experiencing a severe allergic reaction.) In addition, the provision requiring reports refers to events occurring at school or on school premises.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.wisconsin.gov

Grant, Peter

From: Cady, Dean
Sent: Tuesday, July 30, 2013 1:05 PM
To: Grant, Peter
Subject: P Draft 2085 / Epi Pens

Hey Peter. With these following changes, according to your drafter note, we are ready to have the Bill ready for introduction.

Regarding the P draft for the Epi Pens, your Note indicated several items that we might want to consider addressing prior to introduction of the draft, Under point #1 of the "Note" that's fine, I believe to have either a physician or parental approval, written. And, point #2 we're fine with that suggestion as well – not necessary. Point #3 the suggestion is to "specify that this may occur only in school, on school premises, at school-sponsored activity, or while under the supervision of a school authority," yes, that's fine to include. And finally, we were attempting to address "reporting" (Laura Rose checked into this for the Senator if you need to touch base with her again), and if the schools all are already including the information in reports then that provision is unnecessary.

That's about it peter, give me a shout with any questions.

Thankx a mil – I know you guys are extremely busy.

Deano

Grant, Peter

From: Rose, Laura
Sent: Thursday, August 01, 2013 11:15 AM
To: Grant, Peter
Subject: RE: epi-pens

Hi Peter,

I spoke with Dean about this a few months ago and determined that I couldn't find any statutory requirement to report this type of information. Hence, the inclusion of the reporting requirement in 118.2925(6). If you know of any such requirement that I might be missing, let me know. If there is a requirement somewhere that I missed, I think what Dean is saying is that it would be okay to delete sub. (6).

Laura

Laura D. Rose

Deputy Director

Wisconsin Legislative Council

One East Main Street, Suite 401

PO Box 2536

Madison, WI 53701-2536

tel. 608.266.9791

fax: 608.266.3830

laura.rose@legis.wisconsin.gov

From: Grant, Peter
Sent: Wednesday, July 31, 2013 1:09 PM
To: Rose, Laura
Subject: epi-pens

<< File: 13-2085_P1.pdf >>

Here's Dean's email. (Sorry for the formatting, but it's exactly what I received.) He's responding to questions I raised in a drafter's note, but I did not address reporting requirements, so I'm not sure what he's talking about.

Hey Peter. With these following changes, according to your drafter note, we are ready to have the Bill ready for introduction.

Regarding the P draft for the Epi Pens, your Note indicated several items that we might want to consider addressing prior to introduction of the draft, Under point #1 of the "Note" that's fine, I believe to have either a physician or parental approval, written. And, point #2 we're fine with that suggestion as well – not necessary. Point #3 the suggestion is to "specify that this may occur only in school, on school premises, at school-sponsored activity, or while under the supervision of a school authority," yes, that's fine to include. **And finally, we were attempting to address "reporting" (Laura Rose checked into this for the Senator if you need to touch base with her again), and if the schools all are already including the information in reports then that provision is unnecessary.**

That's about it peter, give me a shout with any questions.

Thankx a mil – I know you guys are extremely busy.

Deano

Grant, Peter

From: Cady, Dean
Sent: Friday, September 13, 2013 3:12 PM
To: Grant, Peter
Subject: Epi Pen Bill draft

Hey Peter, deano from Leah's office. I passed along our last conversation about the latest "preliminary" version of the Epi Pen Bill draft and Leah said she would like that latest version moved out of the P Draft stage. Leah said she appreciates raising the potential issues and I'm sure a "note" will accompany the draft.

Peter, thankx a mil and have a great weekend.

deano

Grant, Peter

From: Cady, Dean
Sent: Monday, September 16, 2013 12:06 PM
To: Grant, Peter
Subject: Epi Draft

Hey Peter just hung up and on page three, sec (4) (a)(b) and (c) for consistency sake let's add "on school premises or a school sanctioned activity."

Any questions give me a shout, and as always, Thank You for all the help.

☺



State of Wisconsin
2013 - 2014 LEGISLATURE

FRIDAY
a.m.
DN



LRB-2085/P1
PG&MPG:kjf:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

legen

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 ^{in school} *premises or at a school-sponsored activity*

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft. *(attached)*

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

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

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

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

7 118.29 (2) (a) 3. Subject to sub. (4m), is immune from civil liability for his or
8 her acts or omissions in administering a nonprescription drug product or
9 prescription drug to a pupil under subd. 1., 2., ~~2m.~~, or 2r. unless the act is in violation

1 of sub. (6) or the act or omission constitutes a high degree of negligence. This
2 subdivision does not apply to health care professionals.

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

4 118.2925 Life-threatening allergies in schools; use of epinephrine
5 auto-injectors. (1) DEFINITIONS. In this section:

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

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

10 (c) "Designated school personnel" means an employee, agent, or volunteer of
11 a school, designated by the governing body of the school, who has completed the
12 training specified in the plan adopted by the governing body of the school in sub. (3) (2)

13 (a).

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

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

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

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

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

Insert from p. 3
23

(2) PRESCRIPTIONS FOR SCHOOLS, OBTAINING EPINEPHRINE AUTO-INJECTORS (a) A

24 physician, an advanced practice nurse prescriber, or a physician assistant may

SECTION 4

that has adopted a plan under sub. (2)(a),

1 prescribe epinephrine auto-injectors in the name of ^{e a} the school to be maintained by
2 the school for use under sub. (4).

3 (b) The governing body of a school that has adopted a plan under sub. (3) (a)
4 may contract with a manufacturer of epinephrine auto-injectors or other supplier to
5 obtain epinephrine auto-injectors at fair market value, free, or at reduced prices and
6 ~~may maintain a supply of epinephrine auto-injectors.~~

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

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

16 (4) USE OF EPINEPHRINE AUTO-INJECTORS. The governing body of a school that
17 has adopted a plan under sub. ^{e (2)} (3) (a) may authorize a school nurse or designated
18 school personnel to do any of the following: ⁽³⁻¹⁸⁾

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

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

24 (c) Administer an epinephrine auto-injector ~~on school premises~~ to a pupil or
25 other ^{person who} individual ~~that~~ the school nurse or designated school personnel in good faith

Move to p. 2

Move

1 believes is experiencing anaphylaxis in accordance with a standing protocol from a
2 physician, an advanced practice nurse prescriber, or a physician assistant,
3 regardless of whether the pupil or other ~~individual~~^{person} has a prescription for an
4 epinephrine auto-injector.

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

15 (6) REPORTS. (a) The governing body of a school that has adopted a plan under
16 sub. (3)⁽²⁾ (a) shall submit to the department, on a form developed by the department,
17 a report of each incident ~~at the school~~^{at the school or} on school premises that involved a severe
18 allergic reaction or the administration of an epinephrine auto-injector.

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

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

23 448.03 (2) (q) The administration of an epinephrine auto-injector in
24 accordance with s. 118.2925.

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

or at a school-
sponsored activity

ANALYSIS

with a copy of the approval or approvals.
 ¶ This bill does not affect these provisions.

Under current law, ~~also authorizes~~ certain
~~specified~~ school personnel, who are authorized
 to do so by the school administrator, may
 administer ^(INS) an epinephrine auto-injector to a
 pupil who appears to be experiencing a
 severe allergic reaction if the person who
 does reports the allergic reaction
 does so (dialing 911) as soon as practicable.

¶ This bill eliminates this provision.

(m) ¶ 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
 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 specific in the school's plan, to do any of the following on 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.

3. Administer an epinephrine auto-injector to a pupil or other person who the school nurse or ~~the~~ 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 personnel for injuries resulting from the administration or self-administration of epinephrine auto-injectors under the bill. The bill requires each school that has adopted a plan described above to report to the Department of Public Instruction each

X incident on school premises or at a
school-sponsored activity that involves
a severe allergic reaction or the
administration of an epinephrine auto-
injector.

IMS

~~Analysis~~

~~Under current law, a pupil may use an epinephrine auto-injector (a device designed to prevent or treat a life-threatening allergic~~

~~reaction) at school, at a school-sponsored activity, or under the supervision of a school authority only, in the following circumstances:~~

- ~~1. The pupil uses the injector to prevent the onset or alleviate the symptoms of a severe allergic reaction.~~
- ~~2. The pupil has the written approval of his or her physician and, if the pupil is a minor, the written approval of his or her parent or guardian.~~
- ~~3. The pupil has provided the school principal~~

3-18

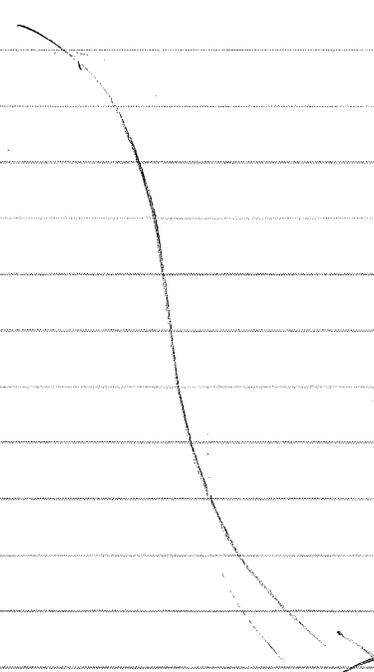
on school premises / ^{or} while at a school -
sponsored activity, ~~or while under~~
~~supervision of a school authority~~

(DN)
date

LRB-2085/ldh
PG:lgf

Dean:

~~As I mentioned in the note accompanying~~
~~the preliminary draft,~~ It's unclear how
 is 118.292, [✓] stats., and this bill, should
 it become law, will be interpreted. Section
 118.192 [✓] allows a pupil to ^{possess} possess and use
 an EpiPen if it is used to prevent the



DN

Dean:

As I mentioned in the note accompanying the preliminary draft, portions of this bill appear to be in conflict with s. 118.292, Stats. Section 118.292 allows a pupil to possess and use an epinephrine auto-injector if it is used to prevent the onset or alleviate the symptoms of a severe allergic reaction, the pupil has the written approval of his or her physician (and his or her parent or guardian, if the pupil is a minor), and the pupil has provided the school principal with copies of these approvals.

Under this bill, if the governing body

of a school adopts a plan for the management of pupils who have life threatening allergies, ~~then~~ a school nurse or other designated personnel may provide an ^{EpiPen} ~~epinephrine~~ ~~ant-injector~~ to a pupil ~~(thus implying that the pupil may not normally possess an ant-injector that he or she brings from home)~~ to self-administer ^{the EpiPen} ~~in~~ accordance with a prescription on file with the school nurse.

If these two provisions ~~may be~~ ^{are} ~~viewed~~ as ^{totally} separate methods for pupils to have access to EpiPens, there ~~will be no problem~~ ^{is no issue}.

However, they may be interpreted quite differently. The bill allows a school nurse



to provide an EpiPen to a pupil for his
 or her use, ~~one could read~~ ^{but} s. 118.292
 provides that a pupil may possess and use
 an EpiPen only if three conditions are
 met. If one reads these provisions together,
 one could conclude that the three
 conditions apply when the school nurse
 provides the EpiPen to the pupil. In
 other words, the pupil may not possess or use the EpiPen
 unless the pupil has the written approval
 of his or her physician and his or her
 parent or guardian and the principal has
 been provided copies of the approvals.

If you wish to clear up this
 ambiguity, please let me know.

PG

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2085/1dn
PG:kjf:rs

September 18, 2013

Dean:

It's unclear how s. 118.292, stats., and this bill, should it become law, will be interpreted. Section 118.192 allows a pupil to possess and use an EpiPen if it is used to prevent the onset or alleviate the symptoms of a severe allergic reaction, the pupil has the written approval of his or her physician (and his or her parent or guardian, if the pupil is a minor), and the pupil has provided the school principal with copies of these approvals.

Under this bill, if the governing body of a school adopts a plan for the management of pupils who have life threatening allergies, a school nurse or other designated personnel may provide an EpiPen to a pupil to self-administer the EpiPen in accordance with a prescription on file with the school nurse.

If these two provisions are read as totally separate methods for pupils to have access to EpiPens, there is no issue. However, they may be interpreted quite differently. The bill allows a school nurse to provide an EpiPen to a pupil for his or her use, but s. 118.292 provides that a pupil may possess and use an EpiPen only if three conditions are met. If one reads these provisions together, one could conclude that the three conditions apply even when the school nurse provides the EpiPen to the pupil. In other words, the pupil may not possess or use the EpiPen unless the pupil has the written approval of his or her physician and his or her parent or guardian and the principal has been provided copies of the approvals.

If you wish to clear up this ambiguity, please let me know.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
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Rose, Stefanie

From: Cady, Dean
Sent: Wednesday, October 16, 2013 10:47 AM
To: LRB.Legal
Subject: Draft Review: LRB -2085/1 Topic: Use of epinephrine auto-injectors in schools

Please Jacket LRB -2085/1 for the SENATE.



2013 SENATE BILL 375

10-29-13

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.



2013 SENATE BILL 375

10-30-13

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

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

Rose, Stefanie

From: Renk, Jeff
Sent: Wednesday, October 30, 2013 12:42 PM
To: Rose, Stefanie
Subject: SB 375

Hi Rose,

SB 375 is ready to be rerun as a "Corrected Copy". I added Representative Severson as the main cosponsor. Thanks.

Jeffrey Renk
Chief Clerk & Director of Senate Operations
Wisconsin State Senate
Room B20 Southeast, State Capitol
(608) 266-2517
jeff.renk@legis.wisconsin.gov