

1983 Assembly Bill 281

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1983 Wisconsin Act 334

AN ACT to create 118.29 of the statutes, relating to authorizing certain school personnel to administer drugs to pupils under specified conditions and immunizing the personnel from civil liability.

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

SECTION 1. 118.29 of the statutes is created to read:

118.29 Administration of drugs to pupils and emergency care. (1) DEFINITIONS. In this section:

(a) "Administer" means the direct application of a drug or prescription drug, whether by injection, ingestion or other means, to the human body.

(b) "Drug" has the meaning specified in s. 450.06.

(c) "Health care professional" means a person licensed as an ambulance attendant under s. 146.50 or any person licensed, certified, permitted or registered under s. 146.35 or chs. 441 or 446 to 449.

(d) "High degree of negligence" means conduct which demonstrates ordinary negligence to a high degree, consisting of an act which the person should realize creates a situation of unreasonable risk and high probability of death or great bodily harm to another.

(e) "Practitioner" means any physician, dentist or podiatrist licensed in this state.

(f) "Prescription drug" has the meaning specified in s. 450.07 (1) (a).

(g) "Private school" has the meaning specified in s. 121.51 (3).

(2) AUTHORITY TO ADMINISTER DRUGS; CIVIL LIABILITY EXEMPTION. (a) Notwithstanding chs. 441, 447, 448 and 450, a school bus operator licensed under s. 343.12, any school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer authorized in writing by the administrator of the school district, the board or the agency, respectively, or by a school principal, and any private school employe or volunteer authorized in writing by a private school administrator or private school principal:

1. May administer any drug which may lawfully be sold over the counter without a prescription to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents in writing.

2. May administer a prescription drug to a pupil in compliance with the written instructions of a practitioner if the pupil's parent or guardian consents in writing.

3. Is immune from civil liability for his or her acts or omissions in administering a drug or prescription drug to a pupil under subd. 1 or 2 unless the act or omission constitutes a high degree of negligence. This subdivision does not apply to health care professionals.

(b) Any school district administrator, county handicapped children's education board administrator, cooperative educational service agency administrator, public or private school principal or private school administrator who authorizes an employe or volunteer to administer a drug or prescription drug to a pupil under par. (a) is immune from civil liability for the act of authorization unless it constitutes a high degree of negligence.

(3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION. Any school bus operator licensed under s. 343.12 and any public or private school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer, other than a health care professional, who in good faith renders emergency care to a pupil of a public or private school is immune from civil liability for his or her acts or omissions in rendering such emergency care. The immunity from civil liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48.

(4) WRITTEN POLICIES. Any school board, county handicapped children's education board, cooperative educational service agency or governing body of a private school whose employes or volunteers may be authorized to administer drugs or prescription drugs to pupils under this section shall adopt a written policy governing the administration of drugs and prescription drugs to pupils. The policy shall include procedures for obtaining and filing in the school or other appropriate facility the written instructions and consent required under sub. (2) (a), for the periodic review of such written instructions, for the storing of drugs and prescription drugs, for record keeping and for the appropriate instruction of persons who may be authorized to administer drugs or prescription drugs to pupils under this section.

(5) EXEMPTION. No employe except a health care professional may be required to administer a drug or prescription drug to a pupil under this section by any means other than ingestion.
