



2023 SENATE BILL 854

December 26, 2023 - Introduced by Senators JAMES, L. JOHNSON, LARSON and TAYLOR, cosponsored by Representatives SNYDER, BALDEH, BEHNKE, GUNDRUM, MURPHY, O'CONNOR, OHNSTAD, ORTIZ-VELEZ, PALMERI, ROZAR, SINICKI, SPIROS, STUBBS, SUBECK, TITTL and VANDERMEER. Referred to Committee on Education.

1 **AN ACT** *to amend* 450.11 (1); and *to create* 118.2915 and 448.03 (2) (qm) of the
2 statutes; **relating to:** the supply and use of short-acting bronchodilators on
3 school premises or at a school-sponsored event.

Analysis by the Legislative Reference Bureau

This bill allows the governing body of a public, private, or tribal school to adopt a plan for the management of pupils who have asthma. The plan must be approved by a physician, an advanced practice nurse prescriber, or a physician assistant. Under the bill, physicians, advanced practice nurse prescribers, and physician assistants may provide prescriptions and standing orders for short-acting bronchodilators or components to schools that adopt a plan. The governing body of a school that adopts a plan and has a valid prescription or standing order may accept donated short-acting bronchodilators or components if they are unopened and unexpired and meet certain other requirements.

The governing body of a school that adopts a plan 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 school premises or at a school-sponsored activity:

1. Provide a short-acting bronchodilator to a pupil to self-administer in accordance with a prescription specific to the pupil that is on file.
2. Administer a short-acting bronchodilator to a pupil in accordance with a prescription specific to the pupil that is on file.
3. Administer a short-acting bronchodilator to a pupil or other person who the school nurse or designated personnel believes is experiencing respiratory distress,

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regardless of whether the pupil or other person has a prescription for a short-acting bronchodilator.

The bill grants immunity from civil liability for injuries resulting from the administration or self-administration of a short-acting bronchodilator 1) to a school and designated school personnel; 2) to a physician, an advanced practice nurse prescriber, or a physician assistant who provides a prescription or standing order to a school for a short-acting bronchodilator; and 3) to a physician, an advanced practice nurse prescriber, a physician assistant, or a pharmacist who dispenses a short-acting bronchodilator to a school.

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

1 **SECTION 1.** 118.2915 of the statutes is created to read:

2 **118.2915 Asthma in schools; use of short-acting bronchodilators. (1)**

3 DEFINITIONS. In this section:

4 (a) “Advanced practice nurse prescriber” means an advanced practice nurse
5 who is certified under s. 441.16.

6 (b) “Asthma” means a chronic inflammatory disease of the airways,
7 characterized by airway obstruction, which is at least partially reversible and which
8 manifests as increased bronchial responsiveness to a variety of stimuli.

9 (c) “Designated school personnel” means employees, agents, or volunteers of a
10 school, designated by the governing body of the school, who have completed the
11 training specified in the plan adopted by the governing body of the school under sub.
12 (2) (a).

13 (d) “Pharmacist” has the meaning given in s. 450.01 (15).

14 (e) “Physician” means a person licensed to practice medicine and surgery under
15 ch. 448.

16 (f) “Physician assistant” means a person licensed under s. 448.974.

17 (g) “School” means a public, private, or tribal school.

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1 (h) “Self-administer” means to administer a short-acting bronchodilator to
2 one’s own body.

3 (i) “Short-acting bronchodilator” means any beta-2 agonist, such as albuterol,
4 used for the quick relief of asthma symptoms. “Short-acting bronchodilator”
5 includes an orally inhaled medication that contains a premeasured single dose of
6 albuterol or albuterol sulfate delivered by a nebulizer or by a pressurized
7 metered-dose inhaler.

8 **(2) SCHOOL PLAN.** (a) The governing body of a school may adopt a plan for the
9 management of pupils attending the school who have asthma. If the governing body
10 of a school adopts a plan under this paragraph, it shall specify in the plan the training
11 necessary to perform the activities under sub. (4). The governing body of a school
12 may not adopt a plan under this paragraph unless the plan has been approved by a
13 physician, an advanced practice nurse prescriber, or a physician assistant.

14 (b) The governing body of a school that has adopted a plan under par. (a) shall
15 make the plan available on the governing body’s website or the website of each school
16 under its jurisdiction or, if such a website does not exist, give a copy of the plan to any
17 person upon request.

18 **(3) PRESCRIPTIONS AND SUPPLY.** (a) A physician, an advanced practice nurse
19 prescriber, or a physician assistant may provide a prescription or standing order for
20 a short-acting bronchodilator or components in the name of a school that has
21 adopted a plan under sub. (2) (a) to be maintained by the school for use under sub.
22 (4).

23 (b) The governing body of a school that has a valid prescription under par. (a)
24 may accept as a donation a short-acting bronchodilator or components if the donated
25 short-acting bronchodilator or components are new, unexpired,

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1 manufacturer-sealed, not subject to recall, unadulterated, and in compliance with
2 regulations promulgated by the federal food and drug administration.

3 (c) The governing body of a school that has adopted a plan under sub. (2) (a) may
4 obtain a prescription or standing order for a short-acting bronchodilator or
5 components and may acquire and maintain, in accordance with the manufacturer's
6 instructions, a supply of short-acting bronchodilators and components.

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

10 (a) Provide a short-acting bronchodilator to a pupil to self-administer the
11 short-acting bronchodilator in accordance with a prescription specific to the pupil
12 that is on file with the school.

13 (b) Administer a short-acting bronchodilator to a pupil in accordance with a
14 prescription specific to the pupil that is on file with the school.

15 (c) In accordance with a prescription or standing order from a physician, an
16 advanced practice nurse prescriber, or a physician assistant, administer a
17 short-acting bronchodilator to a pupil or other person who the school nurse or
18 designated school personnel believes in good faith is experiencing respiratory
19 distress, regardless of whether the pupil or other person has a prescription for a
20 short-acting bronchodilator.

21 **(5) INDEPENDENT AUTHORITY.** (a) The authority to self-administer a
22 short-acting bronchodilator under sub. (4) (a) is independent of the authorized
23 possession and use of a metered-dose inhaler or dry-powder inhaler under s. 118.291
24 (1r).

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1 (b) The authority to administer a short-acting bronchodilator under sub. (4)
2 (b) and (c) is independent of the authority to administer a metered-dose inhaler or
3 dry-powder inhaler under s. 118.29 (2) (a) 2.

4 **(6) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF MEDICINE.** (a)
5 None of the following are liable for any injury that results from the administration
6 or self-administration of a short-acting bronchodilator under this section,
7 regardless of whether authorization was given by the pupil's parent or guardian or
8 by the pupil's physician, physician assistant, or advanced practice nurse prescriber,
9 unless the injury is the result of an act or omission that constitutes gross negligence
10 or willful or wanton misconduct:

- 11 1. A school, its school nurse, and its designated school personnel.
- 12 2. A physician, advanced practice nurse prescriber, or physician assistant who
13 provides a prescription or standing order for a short-acting bronchodilator or
14 components to a school under sub. (3) (a).
- 15 3. A physician, advanced practice nurse prescriber, physician assistant, or
16 pharmacist who dispenses a short-acting bronchodilator or components to a school
17 in accordance with a prescription or standing order under sub. (3) (a).

18 (b) The immunity from liability provided under this subsection is in addition
19 to and not in lieu of that provided under s. 895.48.

20 **(7) HEALTH CARE PROFESSIONALS.** Nothing in this section prohibits a health care
21 professional, as defined in s. 118.29 (1) (c), from acting within the scope of practice
22 of the health care professional's license, certificate, permit, or registration.

23 **SECTION 2.** 448.03 (2) (qm) of the statutes is created to read:

24 448.03 **(2)** (qm) The administration of a short-acting bronchodilator in
25 accordance with s. 118.2915.

SENATE BILL 854**SECTION 3**

1 **SECTION 3.** 450.11 (1) of the statutes is amended to read:

2 450.11 (1) DISPENSING. Except as provided in sub. (1i) (b) 2., no person may
3 dispense any prescribed drug or device except upon the prescription order of a
4 practitioner. All prescription orders shall, except as provided in sub. (1a), specify the
5 date of issue, the name and address of the practitioner, the name and quantity of the
6 drug product or device prescribed, directions for the use of the drug product or device,
7 the symptom or purpose for which the drug is being prescribed if required under sub.
8 (4) (a) 8., and, if the order is written by the practitioner, the signature of the
9 practitioner. Except as provided in ss. 118.2915 (3) (a), 118.2925 (3), 255.07 (2),
10 441.18 (2) (a) 1., 448.035 (2), 448.037 (2) (a) 1., 448.9725 (2), and 448.9727 (2) (a) 1.
11 and except for standing orders issued under s. 441.18 (2) (a) 2., 448.037 (2) (a) 2., or
12 448.9727 (2) (a) 2., all prescription orders shall also specify the name and address of
13 the patient. A prescription order issued under s. 118.2915 (3) (a) or 118.2925 (3) shall
14 specify the name and address of the school. A prescription order issued under s.
15 255.07 (2) shall specify the name and address of the authorized entity or authorized
16 individual. Any oral prescription order shall be immediately reduced to writing by
17 the pharmacist and filed according to sub. (2).

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(END)