



## 2009 SENATE BILL 414

1     **AN ACT** *to renumber and amend* 118.29 (2) (a) 1.; *to amend* 115.001 (11), 115.88  
2           (1), 115.88 (1m) (am), 115.88 (1m) (b), 118.29 (1) (a), 118.29 (2) (a) 2., 2r. and 3.  
3           and (b), 118.29 (4) and 118.29 (5); *to repeal and recreate* 118.29 (1) (b); and  
4           *to create* 118.29 (1) (bg), 118.29 (1) (dm), 118.29 (2) (a) 1. b. and 118.29 (6) of  
5           the statutes; **relating to:** school nurses and the administration of drugs to  
6           pupils and granting rule-making authority.

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*Analysis by the Legislative Reference Bureau*

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

7           **SECTION 1m.** 115.001 (11) of the statutes is amended to read:  
8           115.001 (11) SCHOOL NURSE. "School nurse" means a registered nurse licensed  
9           under ~~ch. 441 s. 441.06~~ or in a party state, as defined in s. 441.50 (2) (j), who is also  
10          ~~certified by the department as being qualified to perform professional nursing~~

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1 ~~services in a public school~~ meets the qualifications for school nurses prescribed by  
2 the department by rule.

3 **SECTION 3.** 115.88 (1) of the statutes is amended to read:

4 115.88 (1) PERSONNEL. A school board, board of control of a cooperative  
5 educational service agency or, upon authorization of the county board, a county  
6 children with disabilities education board may employ, for a special education  
7 program, either full- or part-time licensed teachers, licensed coordinators of special  
8 education, licensed school nurses, licensed school social workers, licensed school  
9 psychologists, licensed school counselors, paraprofessionals, licensed consulting  
10 teachers to work with any teacher of regular education programs who has a child  
11 with a disability in a class and any other personnel approved by the department. The  
12 board may contract with private or public agencies for physical or occupational  
13 therapy services on the basis of demonstrated need. A school board may contract  
14 with a charter school to provide special education services to pupils attending the  
15 charter school if the charter school is under contract with the school board under s.  
16 118.40 (2m) and the charter school is not an instrumentality of the school district.

17 **SECTION 4.** 115.88 (1m) (am) of the statutes is amended to read:

18 115.88 (1m) (am) Subject to par. (b), if the operator of a charter school  
19 established under s. 118.40 (2r) operates a special education program and the state  
20 superintendent is satisfied that the operator of the charter school is complying with  
21 20 USC 1400 to 1491o, the state superintendent shall certify to the department of  
22 administration in favor of the operator of the charter school a sum equal to the  
23 amount that the operator of the charter school expended during the previous school  
24 year for salaries of full-time or part-time licensed teachers, licensed coordinators of  
25 special education, licensed school nurses, licensed school social workers, licensed

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1 school psychologists, licensed school counselors, paraprofessionals, licensed  
2 consulting teachers to work with any teacher of regular education programs who has  
3 a child with a disability in a class and any other personnel, as determined by the state  
4 superintendent, as costs eligible for reimbursement from the appropriation under s.  
5 20.255 (2) (b). The state superintendent may audit costs under this paragraph and  
6 adjust reimbursement to cover only actual, eligible costs.

7 **SECTION 5.** 115.88 (1m) (b) of the statutes is amended to read:

8 115.88 **(1m)** (b) The department shall promulgate rules establishing the  
9 percentage of the salaries of licensed school nurses, licensed school social workers,  
10 licensed school psychologists, and licensed school counselors that may be certified  
11 under pars. (a) and (am) as costs eligible for reimbursement. For each category of  
12 personnel, the department shall base the percentage on the average percentage of  
13 work time that the category spends providing services to children with disabilities,  
14 including conducting evaluations under s. 115.782.

15 **SECTION 6.** 118.29 (1) (a) of the statutes is amended to read:

16 118.29 **(1)** (a) “Administer” means the direct application of a nonprescription  
17 drug product or prescription drug, whether by injection, ingestion or other means,  
18 to the human body.

19 **SECTION 7.** 118.29 (1) (b) of the statutes is repealed and recreated to read:

20 118.29 **(1)** (b) “Drug” means any substance recognized as a drug in the official  
21 U.S. pharmacopoeia and national formulary or official homeopathic pharmacopoeia  
22 of the United States or any supplement to either of them.

23 **SECTION 8.** 118.29 (1) (bg) of the statutes is created to read:

24 118.29 **(1)** (bg) “Drug product” means a specific drug or drugs in a specific  
25 dosage form and strength from a known source of manufacture.

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1           **SECTION 9.** 118.29 (1) (dm) of the statutes is created to read:

2           118.29 (1) (dm) “Nonprescription drug product” means any nonnarcotic drug  
3 product which may be sold without a prescription order and which is prepackaged  
4 for use by consumers and labeled in accordance with the requirements of state and  
5 federal law.

6           **SECTION 10.** 118.29 (2) (a) 1. of the statutes is renumbered 118.29 (2) (a) 1. a.  
7 and amended to read:

8           118.29 (2) (a) 1. a. May Except as provided in subd. 1. b., may administer any  
9 nonprescription drug which may lawfully be sold over the counter without a  
10 prescription product to a pupil in compliance with the written instructions of the  
11 pupil’s parent or guardian if the pupil’s parent or guardian consents in writing, the  
12 nonprescription drug product is supplied by the pupil’s parent or guardian in the  
13 original manufacturer’s package, and the package lists the ingredients and  
14 recommended therapeutic dose in a legible format.

15           **SECTION 11.** 118.29 (2) (a) 1. b. of the statutes is created to read:

16           118.29 (2) (a) 1. b. May administer a nonprescription drug product to a pupil  
17 in a dosage other than the recommended therapeutic dose only if the request to do  
18 so is accompanied by the written approval of the pupil’s practitioner.

19           **SECTION 12.** 118.29 (2) (a) 2., 2r. and 3. and (b) of the statutes are amended to  
20 read:

21           118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance  
22 with the written instructions of a practitioner if the pupil’s parent or guardian  
23 consents in writing; the prescription drug is supplied by the pupil’s parent or  
24 guardian in the original pharmacy-labeled package; and the package specifies the

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1 name of the pupil, the name of the prescriber, the name of the prescription drug, the  
2 dose, the effective date, and the directions in a legible format.

3 2r. Except for glucagon administered under subd. 2., may administer glucagon  
4 to any pupil who the school bus driver, employee, or volunteer knows is diabetic and  
5 who appears to be experiencing a severe hypoglycemic low blood sugar event with  
6 altered consciousness if, as soon as practicable, the school bus operator, employee,  
7 or volunteer reports the event to by dialing the telephone number “911” or, in an area  
8 in which the telephone number “911” is not available, the telephone number for an  
9 emergency medical service provider.

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

14 (b) Any school district administrator, county children with disabilities  
15 education board administrator, cooperative educational service agency  
16 administrator, public or private school principal, or private school administrator who  
17 authorizes an employee or volunteer to administer a nonprescription drug product  
18 or prescription drug to a pupil under par. (a) is immune from civil liability for the act  
19 of authorization unless it constitutes a high degree of negligence or the administrator  
20 or principal authorizes a person who has not received the required training under  
21 sub. (6) to administer a nonprescription drug product or prescription drug to a pupil.

22 **SECTION 13.** 118.29 (4) of the statutes is amended to read:

23 118.29 (4) WRITTEN POLICIES. Any school board, county children with  
24 disabilities education board, cooperative educational service agency or governing  
25 body of a private school whose employees or volunteers may be authorized to

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1 administer ~~drugs~~ nonprescription drug products or prescription drugs to pupils  
2 under this section shall adopt a written policy governing the administration of ~~drugs~~  
3 nonprescription drug products and prescription drugs to pupils. In developing the  
4 policy, the school board, board, agency or governing body shall seek the assistance  
5 of one or more ~~appropriate health care professionals~~ school nurses who are  
6 employees of the school board, board, agency or governing body or are providing  
7 services or consultation under s. 121.02 (1) (g). The policy shall include procedures  
8 for obtaining and filing in the school or other appropriate facility the written  
9 instructions and consent required under sub. (2) (a), for the periodic review of such  
10 written instructions by a registered nurse licensed under s. 441.06 or in a party state,  
11 as defined in s. 441.50 (2) (j), for the storing of ~~drugs~~ nonprescription drug products  
12 and prescription drugs, and for record keeping and for the appropriate instruction  
13 of persons who may be authorized to administer drugs or prescription drugs to pupils  
14 under this section, including documenting the administration of each dose, including  
15 errors.

16 **SECTION 14.** 118.29 (5) of the statutes is amended to read:

17 118.29 (5) EXEMPTION. No employee except a health care professional may be  
18 required to administer a nonprescription drug product or prescription drug to a pupil  
19 under this section by any means other than ingestion.

20 **SECTION 15.** 118.29 (6) of the statutes is created to read:

21 118.29 (6) TRAINING. Notwithstanding sub. (2) (a) 1. to 2r., no school bus driver,  
22 employee, or volunteer may administer a nonprescription drug product or  
23 prescription drug under sub. (2) (a) 1. or 2., use an epinephrine auto-injector under  
24 sub. (2) (a) 2m., or administer glucagon under sub. (2) (a) 2r. unless he or she has  
25 received training, approved by the department, in administering nonprescription

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1 drug products and prescription drugs. This subsection does not apply to health care  
2 professionals.

3 **SECTION 16m. Effective dates.** This act takes effect on the first day of the 12th  
4 month beginning after publication, except as follows:

5 (1) The treatment of sections 115.001 (11) and 115.88 (1) and (1m) (am) and (b)  
6 of the statutes takes effect on January 1, 2011.

7 (END)