

(DN)

LRB-2278/P/dn  
PG:lgf

Lori -

1. In ~~the last sentence of~~ s. 118.29 (2) (a) 1-b, I used "practitioner." I realized that it is, in fact, defined. Do you want the definition changed so the <sup>term</sup> has the meaning given in s. 450.01 (17)?

2. I used ~~"altered mental state"~~ instead of ~~"altered consciousness"~~ and "severe low blood sugar event with altered mental state" instead of "severe altered low blood sugar with altered consciousness event." OK?

3. In response to your answer to my question about s. 118.29 (4), I changed "health care professionals" to "school nurses." Note, however, that with the change in the definition

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LRB

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of "school nurse," this would require the  
 school board <sup>CCDER,</sup> <sup>CEPA,</sup> or private school to  
 seek the assistance of a registered nurse who  
 has a BA in nursing <sup>(or a currently employed nurse).</sup> your answer to

my question, however, goes on to say:

that "a two or three year RN is capable  
 of providing training." Should I <sup>change</sup> change  
 the <sup>term</sup> term to "registered nurse licensee

under s. 441.06"?

4. Why change "such" to "all" <sup>in</sup> in  
 the third sentence <sup>✓</sup> of s. 118.29 (4)? I  
 don't think that changes the meaning of  
 the sentence, and am ~~was~~ therefore unsure  
 of your intent.

~~5. I delayed the effective date of~~

~~the bill to July, following passage. OK?~~

5. ~~or~~ Please note <sup>that</sup> the change to the definition

of "school nurse". Please note ~~that~~ this

has certain effects. For example, ~~although~~ <sup>in</sup>

~~general~~, a nurse will not be required to be licensed

by DPH to be employed by a school district,

~~but~~ a school nurse employed for a special education program will still need

that license - as well as a BA <sup>in nursing</sup>. See

s. 115.88. DPH will no longer be able

to license a person as a school nurse unless

he or she has a BA in nursing. <sup>In addition,</sup>

the confidentiality provision <sup>in</sup> s. 118.126 and

the exemption from liability for referring a

pupil to the police under s. 118.257 would

apply only to school nurses (RN's who have not

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or are currently employed ~~to~~  
bachelor's degrees ( ) even though school  
districts need not employ <sup>only</sup> "school nurses."  
OK?

PL

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2278/P1dn

PG:kjf:rs

April 1, 2009

Lori-

1. In s. 118.29 (2) (a) 1. b., I used "practitioner." I realized that it is, in fact, defined. Do you want the definition changed so the term has the meaning given in s. 450.01 (17)?
2. I used "severe low blood sugar event with altered mental state" instead of "severe low blood sugar with altered consciousness event." OK?
3. In response to your answer to my question about s. 118.29 (4), I changed "health care professionals" to "school nurses." Note, however, that with the change in the definition of "school nurse," this would require the school board, CCDEB, CESA, or private school to seek the assistance of a registered nurse who has a BA in nursing (or a currently employed nurse). Your answer to my question, however, goes on to say that "a two or three year RN is capable of providing training." Should I change the term to "registered nurse licensed under s. 441.06"?
4. Why change "such" to "all" in the third sentence of s. 118.29 (4)? I don't think that changes the meaning of the sentence, and am therefore unsure of your intent.
5. Please note that the change to the definition of "school nurse" has certain effects. For example, the confidentiality provision in s. 118.126 and the exemption from liability for referring a pupil to the police under s. 118.257 would apply only to school nurses (RN's who have bachelor's degrees or are currently employed) even though school districts need not employ only "school nurses." OK?

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

## Duerst, Christina

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**From:** Grant, Peter  
**Sent:** Wednesday, April 01, 2009 11:17 AM  
**To:** Duerst, Christina  
**Subject:** RE: Out of Office: Draft review: LRB 09-2278/P1 Topic: Administration of drugs to pupils

Please forward to Mike Bormett. Thanks.

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**From:** Duerst, Christina  
**Sent:** Wednesday, April 01, 2009 11:17 AM  
**To:** Grant, Peter  
**Subject:** FW: Out of Office: Draft review: LRB 09-2278/P1 Topic: Administration of drugs to pupils

Peter,

I got this in response to the draft when I submitted it. Should I forward it to Mike Bormett or is it all taken care of?

Thanks,  
Christina

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**From:** Kammerud, Jennifer DPI [mailto:Jennifer.Kammerud@dpi.wi.gov]  
**Sent:** Wednesday, April 01, 2009 11:12 AM  
**To:** Duerst, Christina  
**Subject:** Out of Office: Draft review: LRB 09-2278/P1 Topic: Administration of drugs to pupils

I am out of the office on leave. Please contact Mike Bormett, Budget and Policy Director, in my absence. Mike can be reached at (608)266-2804 or via e-mail at [michael.bormett@dpi.wi.gov](mailto:michael.bormett@dpi.wi.gov). Thank you.

Jennifer Kammerud  
Legislative Liaison, DPI

TC w/ Levi Stanson

- if do it w/out training, or if authorize someone to administer, + person isn't trained: no immunity

- training requirement does not apply to health care professionals

- change eff date to ~ one year after passage



SOON

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

regen

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

*Analysis by the Legislative Reference Bureau*

(see attached)

~~This is a preliminary draft. An analysis will be provided in a later version.~~  
For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

7 SECTION 1. 115.001 (11) of the statutes is renumbered 115.001 (11) (intro.) and  
8 amended to read:

9 115.001 (11) SCHOOL NURSE. (intro.) "School nurse" means a registered nurse  
10 licensed under ~~ch. 441 s. 441.06~~ or in a party state, as defined in s. 441.50 (2) (j), who



1 is also certified by the department as being qualified to perform professional nursing  
 2 ~~services in a public school.~~ satisfies one or both of the following:

3 **SECTION 2.** 115.001 (11) (a) and (b) of the statutes are created to read:

4 115.001 (11) (a) Has a baccalaureate in nursing.

5 (b) Was employed ~~as a nurse~~ by <sup>or under contract with,</sup> a ~~school district,~~ <sup>a</sup> board of control of a  
 6 cooperative educational service agency, <sup>a</sup> county children with disabilities education  
 7 board, or <sup>an</sup> operator of a charter school established under s. 118.40 (2r) <sup>as a nurse,</sup> on the effective  
 8 date of this paragraph .... [LRB inserts date].

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

10 115.88 (1) PERSONNEL. A school board, board of control of a cooperative  
 11 educational service agency or, upon authorization of the county board, a county  
 12 children with disabilities education board may employ, for a special education  
 13 program, either full- or part-time licensed teachers, licensed coordinators of special  
 14 education, ~~licensed~~ school nurses, licensed school social workers, licensed school  
 15 psychologists, licensed school counselors, paraprofessionals, licensed consulting  
 16 teachers to work with any teacher of regular education programs who has a child  
 17 with a disability in a class and any other personnel approved by the department. The  
 18 board may contract with private or public agencies for physical or occupational  
 19 therapy services on the basis of demonstrated need. A school board may contract  
 20 with a charter school to provide special education services to pupils attending the  
 21 charter school if the charter school is under contract with the school board under s.  
 22 118.40 (2m) and the charter school is not an instrumentality of the school district.

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

24 115.88 (1m) (am) Subject to par. (b), if the operator of a charter school  
 25 established under s. 118.40 (2r) operates a special education program and the state

1 superintendent is satisfied that the operator of the charter school is complying with  
2 20 USC 1400 to 1491o, the state superintendent shall certify to the department of  
3 administration in favor of the operator of the charter school a sum equal to the  
4 amount that the operator of the charter school expended during the previous school  
5 year for salaries of full-time or part-time licensed teachers, licensed coordinators of  
6 special education, ~~licensed~~ school nurses, licensed school social workers, licensed  
7 school psychologists, licensed school counselors, paraprofessionals, licensed  
8 consulting teachers to work with any teacher of regular education programs who has  
9 a child with a disability in a class and any other personnel, as determined by the state  
10 superintendent, as costs eligible for reimbursement from the appropriation under s.  
11 20.255 (2) (b). The state superintendent may audit costs under this paragraph and  
12 adjust reimbursement to cover only actual, eligible costs.

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

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

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

22 118.29 (1) (a) “Administer” means the direct application of a nonprescription  
23 drug product or prescription drug, whether by injection, ingestion or other means,  
24 to the human body.

25 **SECTION 7.** 118.29 (1) (b) of the statutes is repealed.

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

2           118.29 (1) (dm) “Nonprescription drug product” has the meaning given in s.  
3 450.01 (13m).

4           **SECTION 9.** 118.29 (2) (a) 1. of the statutes is renumbered 118.29 (2) (a) 1. a. and  
5 amended to read:

6           118.29 (2) (a) 1. a. May Except as provided in subd. 1. b., may administer any

7 nonprescription drug which may lawfully be sold over the counter ~~product~~ without

8 a prescription to a pupil in compliance with the written instructions of the pupil's

9 parent or guardian if the pupil's parent or guardian consents in writing, the

10 nonprescription drug product is supplied by the pupil's parent or guardian in the

11 original sealed manufacturer's package, and the package lists the ingredients and

12 recommended therapeutic dose in a legible format.

13           **SECTION 10.** 118.29 (2) (a) 1. b. of the statutes is created to read:

14           118.29 (2) (a) 1. b. May administer a nonprescription drug product to a pupil

15 in a dosage other than the recommended therapeutic dose only if the request to do

16 so is accompanied by the written approval of the pupil's practitioner.

17           **SECTION 11.** 118.29 (2) (a) 2., 2r, and 3. and (b) of the statutes are amended to

18 read:

19           118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance

20 with the written instructions of a practitioner if the pupil's parent or guardian

21 consents in writing; the prescription drug is supplied by the pupil's parent or

22 guardian in the original pharmacy-labeled package; and the package specifies the

23 name of the pupil, the name of the prescriber, the name of the prescription drug, the

24 dose, the effective date, and the directions in a legible format.

consciousness

1           2r. Except for glucagon administered under subd. 2., may administer glucagon  
 2 to any pupil who the school bus driver, employee, or volunteer knows is diabetic and  
 3 who appears to be experiencing a severe hypoglycemic low blood sugar event with  
 4 altered mental state if, as soon as practicable, the school bus operator, employee, or  
 5 volunteer reports the event to by dialing the telephone number "911" or, in an area  
 6 in which the telephone number "911" is not available, the telephone number for an  
 7 emergency medical service provider. is in violation of sub. (6) or the act

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

12           (b) Any school district administrator, county children with disabilities  
 13 education board administrator, cooperative educational service agency  
 14 administrator, public or private school principal <sup>or</sup> private school administrator who  
 15 authorizes an employee or volunteer to administer a nonprescription drug product  
 16 or prescription drug to a pupil under par. (a) is immune from civil liability for the act  
 17 of authorization unless it constitutes a high degree of negligence.

**SECTION 12.** 118.29 (4) of the statutes is amended to read:

18           118.29 (4) WRITTEN POLICIES. Any school board, county children with  
 19 disabilities education board, cooperative educational service agency or governing  
 20 body of a private school whose employees or volunteers may be authorized to  
 21 administer drugs nonprescription drug products or prescription drugs to pupils  
 22 under this section shall adopt a written policy governing the administration of drugs  
 23 nonprescription drug products and prescription drugs to pupils. In developing the  
 24 policy, the school board, board, agency or governing body shall seek the assistance

the required  
or the administrator or principal authorizes a person who has not  
received training under sub. (6) to administer a nonprescription  
drug product or prescription drug to a pupil

*licensed under s. 441.06 or in a party state, as defined in s. 441.50 (2) (j)*

of one or more ~~appropriate health care professionals~~ school nurses who are employees of the school board, board, agency or governing body or are providing services or consultation under s. 121.02 (1) (g). 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 <sup>by a ~~school~~ registered nurse</sup>, for the storing of ~~drugs~~ nonprescription drug products and prescription drugs, and 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, including documenting the administration of each dose, including errors.

**SECTION 13.** 118.29 (5) of the statutes is amended to read:

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

**SECTION 14.** 118.29 (6) of the statutes is created to read:

118.29 (6) TRAINING. Notwithstanding sub. (2) <sup>(a) 1. to 2r.</sup> 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 medication.

**SECTION 15. Effective date.**

(1) This act takes effect on July 1, 2010.

(END)

*nonprescription drug products and prescription drugs*

*the first day of the 12th month beginning after publication*

*This subsection does not apply to health care professionals.*

③ ①

ANALYSIS

School nurses.

Current law directs the Department of Public Instruction (DPI) as a Public Instruction to license any <sup>who is</sup> registered nurse qualified to perform professional nursing services in a public school. A school district may employ or contract for the services of a registered nurse licensed <sup>as</sup> a school nurse; ~~however~~ only a <sup>licensed</sup> school nurse, <sup>however,</sup> is immune from civil liability for referring a pupil to law enforcement authorities, <sup>or</sup> for removing a pupil from school premises, for suspicion of possession, distribution, delivery, or consumption of an alcohol beverage or controlled substance, and only a licensed school nurse may be employed for a special

education program, and receive reimbursement from the state for a portion of the salary) only a licensed school nurse.

# Under this bill, a school nurse is defined as a registered nurse who has a bachelor's degree in nursing or who is employed <sup>by, or</sup> or under contract <sup>with,</sup> ~~as a nurse by~~ a school board, <sup>a</sup> cooperative educational service agency, <sup>(CESA)</sup> security children with disabilities education board <sup>(CCDEB)</sup> or <sup>or an</sup> independent charter school <sup>as a nurse</sup> on the effective date of the bill

~~and~~ ~~by~~ ~~2014~~: A school nurse need not be licensed by DPS to enjoy <sup>immunity from</sup> civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

③ ①

## Administration of drugs to pupils

¶ Under current law, a school bus operator, CCDEB, or CESA and any school employee or volunteer, authorized by a school district, CCDEB, or CESA, or by a school administrator, ~~or~~ school principal, may administer a nonprescription drug to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents. This bill adds the following conditions: the nonprescription drug must be supplied by the pupil's parent or guardian in the original sealed manufacturer's package and the package must list the ingredients and recommended therapeutic dose. A pupil may be administered a nonprescription drug in a dosage other than the recommended therapeutic dose only with the written approval



of the pupil's practitioner.

¶ Under current law, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents.

This bill adds the following conditions: the prescription drug must be supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package must specify the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions.

The bill also adds a condition that applies to ~~the administration of both~~ prescription and nonprescription drugs: none of the persons enumerated above may administer either to a pupil unless the

person has received <sup>appropriate</sup> training <sup>that has been</sup> approved by  
DPI.

Current law exempts <sup>any person enumerated above</sup> from civil  
liability for <sup>his or her</sup> acts <sup>or</sup> omissions in administering  
a prescription <sup>or</sup> nonprescription drug to a  
pupil unless <sup>he or she is a health care professional or</sup> the act <sup>or</sup> omission constitutes  
a high degree of negligence. Similarly, any  
person who authorizes a person enumerated  
above to administer <sup>a</sup> prescription <sup>or</sup>  
drug to <sup>a</sup> pupil is immune from civil  
liability for the act of authorization unless it  
constitutes a high degree of negligence.

This bill provides that the person  
administering the drug <sup>to a pupil</sup> is not immune <sup>from civil liability</sup> if he  
<sup>or</sup> she has not received DPI-approved training,  
and <sup>that</sup> the authorizer is not immune from civil

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liability if he or she authorizes a  
person who has not received DPI-approved training  
to administer a drug to a pupil.

The bill takes effect on the first  
day of the 12th month beginning after  
publication.

~~HR~~-SK

## Grant, Peter

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**From:** Kammerud, Jennifer DPI [Jennifer.Kammerud@dpi.wi.gov]  
**Sent:** Thursday, September 24, 2009 2:18 PM  
**To:** Grant, Peter  
**Cc:** White, Douglas DPI; Gallagher, Rachel A. DPI  
**Subject:** LRB 2278/1 School Nurse and Administration of Drugs to Pupils

Peter,

We talked about the draft you did for us on school nurses and administration of drugs to pupils (LRB 2278/1) with the school nurse association as we were hoping to move the bill forward yet this session. In talking with them, however, they had a concern that the definition of nonprescription drug product was broader than they wanted. They really want to limit what can be administered to what is currently defined as a drug under Wis. Stats. 450.01 (10)(a). What I'm wondering is if we can accomplish this by removing all references to nonprescription drug product and simply altering the definition of a drug under 118.29 (1)(b) to read that drug has the meaning specified under 450.01 (10)(a). Your thoughts?

Jennifer

Jennifer Kammerud  
Legislative Liaison  
Department of Public Instruction  
125 South Webster Street  
Madison, WI 53707  
Ph: 608/266-7073  
E-mail: jennifer.kammerud@dpi.wi.gov

## Grant, Peter

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**From:** Kammerud, Jennifer DPI [Jennifer.Kammerud@dpi.wi.gov]  
**Sent:** Friday, September 25, 2009 10:10 AM  
**To:** Grant, Peter  
**Subject:** School Nurses and the Administration of Drugs to Pupils - Bill 2278/1

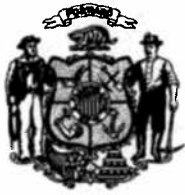
RE: School Nurses and the Administration of Drugs to Pupils - Bill 2278/1

Peter,  
Sorry about yesterday. I was given one piece of information in the morning and a different one in the afternoon on this bill. What is trying to be accomplished is to somehow narrow the definition of nonprescription drug product so that it still has the meaning under 450.01 (13m), but is further limited to only those drugs as defined under 450.01 (10)(a). I'm not sure of the best way to do that, so I'd like your thoughts.

Thanks again for everything, especially your patience. ☺

Jennifer

Jennifer Kammerud  
Legislative Liaison  
Department of Public Instruction  
125 South Webster Street  
Madison, WI 53707  
Ph: 608/266-7073  
E-mail: jennifer.kammerud@dpi.wi.gov



2009 BILL

(P. 5)

repeal

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

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*Analysis by the Legislative Reference Bureau*

**School nurses**

Current law directs the Department of Public Instruction (DPI) to license as a school nurse any registered nurse who is qualified to perform professional nursing services in a public school. A school district may employ or contract for the services of a registered nurse who is not licensed as a school nurse; only a licensed school nurse, however, is immune from civil liability for referring a pupil to law enforcement authorities, or for removing a pupil from school premises, for suspicion of possession, distribution, delivery, or consumption of an alcohol beverage or controlled substance, and only a licensed school nurse may be employed for a special education program.

Under this bill, a school nurse is defined as a registered nurse who has a bachelor's degree in nursing or who is employed by, or under contract with, a school board, a cooperative educational service agency (CESA), a county children with disabilities education board (CCDEB), or an independent charter school as a nurse on the effective date of the bill. A school nurse need not be licensed by DPI to enjoy

**BILL**

immunity from civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

***Administration of drugs to pupils***

Under current law, a school bus operator, and any school, CCDEB, or CESA employee or volunteer authorized by a school district, CCDEB, or CESA administrator, or by a school principal, may administer a nonprescription drug to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents. This bill adds the following conditions: the nonprescription drug must be supplied by the pupil's parent or guardian in the original sealed manufacturer's package and the package must list the ingredients and recommended therapeutic dose. A pupil may be administered a nonprescription drug in a dosage other than the recommended therapeutic dose only with the written approval of the pupil's practitioner.

Under current law, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents. This bill adds the following conditions: the prescription drug must be supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package must specify the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions.

The bill also adds a condition that applies to both prescription and nonprescription drugs: none of the persons enumerated above may administer either to a pupil unless the person has received appropriate training that has been approved by DPI.

Current law exempts any person enumerated above from civil liability for his or her acts or omissions in administering a prescription or nonprescription drug to a pupil unless he or she is a health care professional or the act or omission constitutes a high degree of negligence. Similarly, any person who authorizes a person enumerated above to administer a prescription or nonprescription drug to a pupil is immune from civil liability for the act of authorization unless it constitutes a high degree of negligence.

This bill provides that the person administering the drug to a pupil is not immune from civil liability if he or she has not received DPI-approved training, and that the authorizer is not immune from civil liability if he or she authorizes a person who has not received DPI-approved training to administer a drug to a pupil.

The bill takes effect on the first day of the 12th month beginning after publication.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

**BILL**

✓

1           **SECTION 1.** 115.001 (11) of the statutes is renumbered 115.001 (11) (intro.) and  
2 amended to read:

3           115.001 (11) SCHOOL NURSE. (intro.) “School nurse” means a registered nurse  
4 licensed under ~~ch. 441 s. 441.06~~ or in a party state, as defined in s. 441.50 (2) (j), who  
5 is also ~~certified by the department as being qualified to perform professional nursing~~  
6 ~~services in a public school.~~ satisfies one or both of the following:

7           **SECTION 2.** 115.001 (11) (a) and (b) of the statutes are created to read:

8           115.001 (11) (a) Has a baccalaureate in nursing.

9           (b) Was employed by, or under contract with, a school board, a board of control  
10 of a cooperative educational service agency, a county children with disabilities  
11 education board, or an operator of a charter school established under s. 118.40 (2r),  
12 as a nurse, on the effective date of this paragraph .... [LRB inserts date].

✓

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

14           115.88 (1) PERSONNEL. A school board, board of control of a cooperative  
15 educational service agency or, upon authorization of the county board, a county  
16 children with disabilities education board may employ, for a special education  
17 program, either full- or part-time licensed teachers, licensed coordinators of special  
18 education, ~~licensed~~ school nurses, licensed school social workers, licensed school  
19 psychologists, licensed school counselors, paraprofessionals, licensed consulting  
20 teachers to work with any teacher of regular education programs who has a child  
21 with a disability in a class and any other personnel approved by the department. The  
22 board may contract with private or public agencies for physical or occupational  
23 therapy services on the basis of demonstrated need. A school board may contract  
24 with a charter school to provide special education services to pupils attending the



**BILL****SECTION 3**

1 charter school if the charter school is under contract with the school board under s.  
2 118.40 (2m) and the charter school is not an instrumentality of the school district.

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

4 115.88 (1m) (am) Subject to par. (b), if the operator of a charter school  
5 established under s. 118.40 (2r) operates a special education program and the state  
6 superintendent is satisfied that the operator of the charter school is complying with  
7 20 USC 1400 to 1491o, the state superintendent shall certify to the department of  
8 administration in favor of the operator of the charter school a sum equal to the  
9 amount that the operator of the charter school expended during the previous school  
10 year for salaries of full-time or part-time licensed teachers, licensed coordinators of  
11 special education, licensed school nurses, licensed school social workers, licensed  
12 school psychologists, licensed school counselors, paraprofessionals, licensed  
13 consulting teachers to work with any teacher of regular education programs who has  
14 a child with a disability in a class and any other personnel, as determined by the state  
15 superintendent, as costs eligible for reimbursement from the appropriation under s.  
16 20.255 (2) (b). The state superintendent may audit costs under this paragraph and  
17 adjust reimbursement to cover only actual, eligible costs.

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

19 115.88 (1m) (b) The department shall promulgate rules establishing the  
20 percentage of the salaries of licensed school nurses, licensed school social workers,  
21 licensed school psychologists, and licensed school counselors that may be certified  
22 under pars. (a) and (am) as costs eligible for reimbursement. For each category of  
23 personnel, the department shall base the percentage on the average percentage of  
24 work time that the category spends providing services to children with disabilities,  
25 including conducting evaluations under s. 115.782.

**BILL**

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

2           118.29 (1) (a) “Administer” means the direct application of a nonprescription  
3           drug product or prescription drug, whether by injection, ingestion or other means,  
4           to the human body.

Change  
5-5 component  
→

5           **SECTION 7.** 118.29 (1) (b) of the statutes is repealed.

and recreated to read:

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

7           118.29 (1) (dm) “Nonprescription drug product” has the meaning given in s.  
8           450.01 (13m).

5-8  
→

9           **SECTION 9.** 118.29 (2) (a) 1. of the statutes is renumbered 118.29 (2) (a) 1. a. and  
10           amended to read:

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

18           **SECTION 10.** 118.29 (2) (a) 1. b. of the statutes is created to read:

19           118.29 (2) (a) 1. b. May administer a nonprescription drug product to a pupil  
20           in a dosage other than the recommended therapeutic dose only if the request to do  
21           so is accompanied by the written approval of the pupil’s practitioner.

22           **SECTION 11.** 118.29 (2) (a) 2., 2r. and 3. and (b) of the statutes are amended to  
23           read:

24           118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance  
25           with the written instructions of a practitioner if the pupil’s parent or guardian

**BILL****SECTION 11**

1 consents in writing; the prescription drug is supplied by the pupil's parent or  
2 guardian in the original pharmacy-labeled package; and the package specifies the  
3 name of the pupil, the name of the prescriber, the name of the prescription drug, the  
4 dose, the effective date, and the directions in a legible format.

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

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

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

24 **SECTION 12.** 118.29 (4) of the statutes is amended to read:

**BILL**

1           118.29 (4) WRITTEN POLICIES. Any school board, county children with  
2 disabilities education board, cooperative educational service agency or governing  
3 body of a private school whose employees or volunteers may be authorized to  
4 administer ~~drugs~~ nonprescription drug products or prescription drugs to pupils  
5 under this section shall adopt a written policy governing the administration of ~~drugs~~  
6 nonprescription drug products and prescription drugs to pupils. In developing the  
7 policy, the school board, board, agency or governing body shall seek the assistance  
8 of one or more ~~appropriate health care professionals~~ school nurses who are  
9 employees of the school board, board, agency or governing body or are providing  
10 services or consultation under s. 121.02 (1) (g). The policy shall include procedures  
11 for obtaining and filing in the school or other appropriate facility the written  
12 instructions and consent required under sub. (2) (a), for the periodic review of such  
13 written instructions by a registered nurse licensed under s. 441.06 or in a party state,  
14 as defined in s. 441.50 (2) (j), for the storing of ~~drugs~~ nonprescription drug products  
15 and prescription drugs, and for record keeping and for the appropriate instruction  
16 of persons who may be authorized to administer drugs or prescription drugs to pupils  
17 under this section, including documenting the administration of each dose, including  
18 errors.

19           SECTION 13. 118.29 (5) of the statutes is amended to read:

20           118.29 (5) EXEMPTION. No employee except a health care professional may be  
21 required to administer a nonprescription drug product or prescription drug to a pupil  
22 under this section by any means other than ingestion.

23           SECTION 14. 118.29 (6) of the statutes is created to read:

24           118.29 (6) TRAINING. Notwithstanding sub. (2) (a) 1. to 2r., no school bus driver,  
25 employee, or volunteer may administer a nonprescription drug product or

**BILL****SECTION 14**

1 prescription drug under sub. (2) (a) 1. or 2., use an epinephrine auto-injector under  
2 sub. (2) (a) 2m., or administer glucagon under sub. (2) (a) 2r. unless he or she has  
3 received training, approved by the department, in administering nonprescription  
4 drug products and prescription drugs. This subsection does not apply to health care  
5 professionals

6 **SECTION 15. Effective date.**

7 (1) This act takes effect on the first day of the 12th month beginning after  
8 publication.

9 (END)

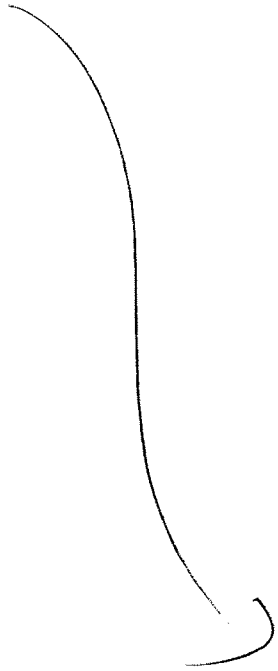
5-5:1

~~Section #. 450.01 (10) (a) of the statutes is amended to read:~~

118.29 (1)(b) "Drug" means

X ~~450.01 (10) (a)~~ Any substance recognized as a drug in the official U.S. pharmacopoeia and national formulary or official homeopathic pharmacopoeia of the United States or any supplement to either of them.

History: 1985 a. 146; 1987 a. 65; 1991 a. 114; 1995 a. 448; 1997 a. 27, 68; 1997 a. 237 s. 727m; 2005 a. 187; 2007 a. 20.



5-5:2

Section # ~~450.01~~ (11) of the statutes is amended to read:

SEC. <sup>(B)</sup> CR. 118.29 (1)(b)  
118.29 (1)(b)

~~450.01(11)~~ "Drug product" means a specific drug or drugs in a specific dosage form and strength from a known source of manufacture.

History: 1985 a. 146; 1987 a. 65; 1991 a. 114; 1995 a. 448; 1997 a. 27, 68; 1997 a. 237 s. 727m; 2005 a. 187; 2007 a. 20.

5-8

~~Section # 450.01 (13m) of the statutes is amended to read:~~

118.29 (1) (d m) ✓  
Ⓟ

~~450.01 (13m)~~ "Nonprescription drug product" means any nonnarcotic drug product which may be sold without a prescription order and which is prepackaged for use by consumers and labeled in accordance with the requirements of state and federal law.

History: 1985 a. 146; 1987 a. 65; 1991 a. 114; 1995 a. 448; 1997 a. 27, 68; 1997 a. 237 s. 727m; 2005 a. 187; 2007 a. 20.



## **Duerst, Christina**

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**From:** Kammerud, Jennifer DPI [Jennifer.Kammerud@dpi.wi.gov]  
**Sent:** Thursday, November 12, 2009 12:12 PM  
**To:** LRB.Legal  
**Cc:** Dauscher, Sara  
**Subject:** Draft Review: LRB 09-2278/2 Topic: Administration of drugs to pupils

Please Jacket LRB 09-2278/2 for the SENATE and have it sent to Sen. John Lehman's office for introduction.

Jennifer Kammerud  
Legislative Liaison  
Department of Public Instruction  
125 South Webster Street  
Madison, WI 53707  
Ph: 608/266-7073  
E-mail: jennifer.kammerud@dpi.wi.gov