



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 45**

May 23, 2011 – Offered by Senator OLSEN.

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

Analysis by the Legislative Reference Bureau

2009 Wisconsin Act 160 (Act 160) made several changes to the law governing the administration of medication to pupils, all of which took effect on March 1, 2011. This substitute amendment repeals some of the changes made in Act 160 and modifies others.

School nurses

Under Act 160, a school nurse is defined as a registered nurse who meets the qualifications for school nurses established by the Department of Public Instruction (DPI) by rule. A school nurse need not be licensed by DPI to enjoy immunity from civil liability for referring a pupil to law enforcement authorities or to be employed for a special education program.

This substitute amendment changes the definition for school nurse to mean a registered nurse who has successfully completed a course in public health or community health. 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, may be employed for a special education program.

Administration of drugs to pupils

Under Act 160, a school bus operator, and any school, county children with disabilities education board (CCDEB), or cooperative educational service agency (CESA) employee or volunteer authorized by a school district, CCDEB, or CESA administrator, or by a school principal, may administer a nonprescription drug product to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents and if the following conditions are satisfied: the nonprescription drug product is supplied by the pupil's parent or guardian in the original sealed manufacturer's package and the package lists the ingredients and recommended therapeutic dose.

This substitute amendment eliminates the requirement that a nonprescription drug product be supplied by the pupil's parent or guardian. However, if a nonprescription drug product is supplied by the parent or guardian, the nonprescription drug product must be in the original manufacturer's package.

Under Act 160, the persons enumerated above may administer a prescription drug to a pupil if the pupil's parent or guardian consents and all of the following conditions are met: the prescription drug is supplied by the pupil's parent or guardian in the original pharmacy-labeled package, and the package specifies the pupil's name, the prescriber's name, the name of the drug, the dose, the effective date, and the directions. This substitute amendment eliminates the requirement that the prescription drug be supplied by the pupil's parent or guardian.

Under Act 160, none of the persons enumerated above may administer prescription drugs to a pupil unless the person has received appropriate training that has been approved by DPI. This substitute amendment requires the persons enumerated above to receive training before administering a prescription drug or nonprescription drug product that must be inhaled, injected, or rectally administered.

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

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

2 115.001 **(11)** SCHOOL NURSE. "School nurse" means a registered nurse licensed

3 under s. 441.06 ch. 441 or in a party state, as defined in s. 441.50 (2) (j), who also

4 ~~meets the qualifications for school nurses prescribed by the department by rule~~

5 submits evidence satisfactory to the department that he or she has successfully

6 completed a course, determined to be satisfactory to the department, in public health

7 or community health.

1 **SECTION 2.** 115.88 (1m) (am) of the statutes is amended to read:

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

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

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

24 **SECTION 4.** 118.29 (2) (a) 1. a. of the statutes, as affected by 2009 Wisconsin Act
25 160, is amended to read:

1 118.29 (2) (a) 1. a. Except as provided in subd. 1. b., may administer any
2 nonprescription drug product which may lawfully be sold over the counter without
3 a prescription to a pupil in compliance with the written instructions of the pupil's
4 parent or guardian if the pupil's parent or guardian consents in writing. If the
5 nonprescription drug product is supplied by the pupil's parent or guardian, the
6 nonprescription drug product shall be supplied in the original manufacturer's
7 package, and the package lists must list the ingredients and recommended
8 therapeutic dose in a legible format.

9 **SECTION 5.** 118.29 (2) (a) 2. of the statutes, as affected by 2009 Wisconsin Act
10 160, is amended to read:

11 118.29 (2) (a) 2. May administer a prescription drug to a pupil in compliance
12 with the written instructions of a practitioner if the pupil's parent or guardian
13 consents in writing; the prescription drug is supplied ~~by the pupil's parent or~~
14 ~~guardian~~ in the original pharmacy-labeled package; and the package specifies the
15 name of the pupil, the name of the prescriber, the name of the prescription drug, the
16 dose, the effective date, and the directions in a legible format.

17 **SECTION 6.** 118.29 (6) of the statutes, as created by 2009 Wisconsin Act 160, is
18 renumbered 118.29 (6) (a) (intro.) and amended to read:

19 118.29 (6) (a) (intro.) Notwithstanding sub. (2) (a) 1. to 2r., and subject to par.
20 (b), no school bus driver, employee, or volunteer may administer ~~a~~ any of the
21 following nonprescription drug product products or prescription drug under sub. (2)
22 ~~(a) 1. or 2., use an epinephrine auto-injector under sub. (2) (a) 2m., or administer~~
23 ~~glucagon under sub. (2) (a) 2r.~~ drugs unless he or she has received training, approved
24 by the department, in administering these nonprescription drug products and
25 prescription drugs.:

