

State of Wisconsin



2013 Senate Bill 375

Date of enactment: April 8, 2014
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2013 WISCONSIN ACT 239

AN ACT *to amend* 450.11 (1); and *to create* 118.2925 and 448.03 (2) (q) of the statutes; **relating to:** the use of an epinephrine auto-injector on school premises or at a school-sponsored activity.

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

SECTION 4. 118.2925 of the statutes is created to read:
118.2925 Life-threatening allergies in schools; use of epinephrine auto-injectors. (1) **DEFINITIONS.** In this section:

(a) "Administer" means the direct application of an epinephrine auto-injector to a person's body.

(b) "Advanced practice nurse prescriber" means an advanced practice nurse who is certified under s. 441.16.

(c) "Designated school personnel" means an employee, agent, or volunteer of a school, designated by the governing body of the school, who has completed the training specified in the plan adopted by the governing body of the school in sub. (2) (a).

(d) "Epinephrine auto-injector" means a device used for the automatic injection of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(e) "Physician" means a person licensed to practice medicine and surgery under ch. 448.

(f) "Physician assistant" means a person licensed under s. 448.04 (1) (f).

(g) "School" means a public, private, or tribal school.

(h) "Self-administer" means to administer an epinephrine auto-injector to one's own body.

(2) **SCHOOL PLAN.** (a) The governing body of a school may adopt a plan for the management of pupils attending the school who have life-threatening allergies. If the governing body of a school does so, it shall specify in the plan the training necessary to perform the activities under sub. (4). The governing body of a school may not adopt a plan unless it has been approved by a physician.

(b) The governing body of a school that has adopted a plan under par. (a) shall make the plan available on the governing body's Internet site or the Internet site of each school under its jurisdiction or, if an Internet site does not exist, give a copy of the plan to any person upon request.

(3) **PRESCRIPTIONS FOR SCHOOLS.** A physician, an advanced practice nurse prescriber, or a physician assistant may prescribe epinephrine auto-injectors in the name of a school that has adopted a plan under sub. (2) (a), to be maintained by the school for use under sub. (4).

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

(a) Provide an epinephrine auto-injector to a pupil to self-administer the epinephrine auto-injector in accordance with a prescription specific to the pupil that is on file with the school.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(b) Administer an epinephrine auto-injector to a pupil in accordance with a prescription specific to the pupil that is on file with the school.

(c) Administer an epinephrine auto-injector to a pupil or other person who the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis in accordance with a standing protocol from a physician, an advanced practice nurse prescriber, or a physician assistant, regardless of whether the pupil or other person has a prescription for an epinephrine auto-injector. If the pupil or other person does not have a prescription for an epinephrine auto-injector, or the person who administers the epinephrine auto-injector does not know whether the pupil or other person has a prescription for an epinephrine auto-injector, the person who administers the epinephrine auto-injector shall, as soon as practicable, report the administration by dialing the telephone number "911" or, in an area in which the telephone number "911" is not available, the telephone number for an emergency medical service provider.

(4m) INDEPENDENT AUTHORITY. (a) The authority to self-administer an epinephrine auto-injector under sub. (4) (a) is independent of the authorized possession and use of an epinephrine auto-injector under s. 118.292 (1r).

(b) The authority to administer an epinephrine auto-injector under sub. (4) (b) and (c) is independent of the authority to administer an epinephrine auto-injector under s. 118.29 (2) (a) 2. and 2m.

(5) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF MEDICINE. A school and its designated school personnel, and a physician, advanced practice nurse prescriber, or physician assistant who provides a prescription or standing protocol for school epinephrine auto-injectors, are not liable for any injury that results from the administration or self-administration of an epinephrine auto-injector under this section, regardless of

whether authorization was given by the pupil's parent or guardian or by the pupil's physician, physician assistant, or advanced practice nurse prescriber, unless the injury is the result of an act or omission that constitutes gross negligence or willful or wanton misconduct. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48.

(6m) HEALTH CARE PROFESSIONALS. Nothing in this section prohibits a health care professional, as defined in s. 118.29 (1) (c), from acting within the scope of practice of the health care professional's license, certificate, permit, or registration.

SECTION 5. 448.03 (2) (q) of the statutes is created to read:

448.03 (2) (q) The administration of an epinephrine auto-injector in accordance with s. 118.2925.

SECTION 6. 450.11 (1) of the statutes is amended to read:

450.11 (1) **DISPENSING.** No person may dispense any prescribed drug or device except upon the prescription order of a practitioner. All prescription orders shall specify the date of issue, the name and address of the practitioner, the name and quantity of the drug product or device prescribed, directions for the use of the drug product or device, the symptom or purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is written by the practitioner, the signature of the practitioner. Except as provided in ~~s. ss. 118.2925 (3) and 448.035 (2)~~, all prescription orders shall also specify the name and address of the patient. A prescription order issued under s. 118.2925 (3) shall specify the name and address of the school. Any oral prescription order shall be immediately reduced to writing by the pharmacist and filed according to sub. (2).