

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

LRB-2085/1dn  
PG:kjf:rs

September 18, 2013

Dean:

It's unclear how s. 118.292, stats., and this bill, should it become law, will be interpreted. Section 118.192 allows a pupil to possess and use an EpiPen if it is used to prevent the onset or alleviate the symptoms of a severe allergic reaction, the pupil has the written approval of his or her physician (and his or her parent or guardian, if the pupil is a minor), and the pupil has provided the school principal with copies of these approvals.

Under this bill, if the governing body of a school adopts a plan for the management of pupils who have life threatening allergies, a school nurse or other designated personnel may provide an EpiPen to a pupil to self-administer the EpiPen in accordance with a prescription on file with the school nurse.

If these two provisions are read as totally separate methods for pupils to have access to EpiPens, there is no issue. However, they may be interpreted quite differently. The bill allows a school nurse to provide an EpiPen to a pupil for his or her use, but s. 118.292 provides that a pupil may possess and use an EpiPen only if three conditions are met. If one reads these provisions together, one could conclude that the three conditions apply even when the school nurse provides the EpiPen to the pupil. In other words, the pupil may not possess or use the EpiPen unless the pupil has the written approval of his or her physician and his or her parent or guardian and the principal has been provided copies of the approvals.

If you wish to clear up this ambiguity, please let me know.

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