



2015 SENATE BILL 139

1 **AN ACT to amend** 448.03 (2) (q), 450.11 (1), 450.11 (3) and 450.11 (4) (a) 5. a.; and
2 **to create** 255.07 and 450.11 (4) (a) 5. d. of the statutes; **relating to:** supply and
3 use of epinephrine auto-injectors by certain authorized entities.

Analysis by the Legislative Reference Bureau

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

4 **SECTION 1.** 255.07 of the statutes is created to read:

5 **255.07 Life-saving allergy medication; use of epinephrine**
6 **auto-injectors. (1) DEFINITIONS.** In this section:

7 (a) "Administer" means the direct application of an epinephrine auto-injector
8 to the body of an individual.

9 (b) "Authorized entity" means any entity or organization, other than a school
10 described in s. 118.2925, operating a business, activity, or event at which allergens

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1 capable of causing anaphylaxis may be present, including a recreational and
2 educational camp, college, university, day care facility, youth sports league,
3 amusement park, restaurant, place of employment, and sports arena.

4 (c) “Epinephrine auto-injector” means a device for the automatic injection of
5 epinephrine into the human body to prevent or treat a life-threatening allergic
6 reaction.

7 (d) “Health care practitioner” means a physician, a physician assistant licensed
8 under s. 448.04 (1) (f), or an advanced practice nurse who is certified to issue
9 prescription orders under s. 441.16.

10 **(2) PRESCRIBING TO AN AUTHORIZED ENTITY PERMITTED.** A health care practitioner
11 may prescribe an epinephrine auto-injector in the name of an authorized entity for
12 use in accordance with this section.

13 **(3) AUTHORIZED ENTITIES PERMITTED TO MAINTAIN SUPPLY.** An authorized entity
14 may acquire and maintain a supply of epinephrine auto-injectors pursuant to a
15 prescription issued in accordance with this section. The authorized entity shall store
16 an epinephrine auto-injector in a location readily accessible in an emergency and in
17 accordance with the epinephrine auto-injector’s instructions for use. An authorized
18 entity shall designate an employee or agent who has completed the training required
19 in sub. (5) to be responsible for the storage, maintenance, control, and general
20 oversight of epinephrine auto-injectors acquired by the authorized entity.

21 **(4) USE OF EPINEPHRINE AUTO-INJECTORS.** An employee or agent of an authorized
22 entity, or other individual, who has completed the training required by sub. (5) may
23 use an epinephrine auto-injector prescribed under sub. (2) to do any of the following:

24 (a) Provide one or more epinephrine auto-injectors to any individual who the
25 employee, agent, or individual believes in good faith is experiencing anaphylaxis, or

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1 to the parent, guardian, or caregiver of that individual for immediate
2 administration, regardless of whether the individual has a prescription for an
3 epinephrine auto-injector or has previously been diagnosed with an allergy.

4 (b) Administer an epinephrine auto-injector to any individual who the
5 employee, agent or other individual believes in good faith is experiencing
6 anaphylaxis, regardless of whether the individual has a prescription for an
7 epinephrine auto-injector or has previously been diagnosed with an allergy.

8 (5) TRAINING. (a) An employee, agent, or other individual described in sub. (3)
9 or (4) shall complete an anaphylaxis training program and at least every 4 years
10 thereafter. The employee, agent, or other individual shall complete a training
11 program conducted by a nationally recognized organization experienced in training
12 laypersons in emergency health treatment or an organization approved by the
13 department. The department may approve an organization to conduct training,
14 either online or in person, that covers, at a minimum, all of the following:

15 1. How to recognize signs and symptoms of severe allergic reactions, including
16 anaphylaxis.

17 2. Standards and procedures for the storage and administration of an
18 epinephrine auto-injector.

19 3. Emergency follow-up procedures after an epinephrine auto-injector is
20 administered, including the necessity of calling the telephone number “911” or
21 another telephone number for an emergency medical service provider.

22 (b) The organization that conducts the training under par. (a) shall issue a
23 certificate, on a form approved by the department, to each person who successfully
24 completes the anaphylaxis training program.

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1 **(6) GOOD SAMARITAN PROTECTIONS; LIABILITY.** (a) All of the following are not liable
2 for any injury that results from the administration or failure to administer an
3 epinephrine auto-injector under this section, unless the injury is the result of an act
4 or omission that constitutes gross negligence or willful or wanton misconduct:

5 1. An authorized entity that possesses and makes available an epinephrine
6 auto-injector and its employees, agents, and other individuals that store, maintain,
7 control, oversee, provide, or use an epinephrine auto-injector.

8 2. A health care practitioner who prescribes or dispenses an epinephrine
9 auto-injector to an authorized entity.

10 3. A pharmacist or other person who dispenses an epinephrine auto-injector
11 to an authorized entity.

12 4. An organization that conducts the training described in sub. (5).

13 (b) The use of an epinephrine auto-injector under this section does not
14 constitute the practice of medicine or of any other health care profession that
15 requires a credential to practice.

16 (c) This immunity from liability or defense provided under this subsection is
17 in addition to and not in lieu of that provided under s. 895.48 or any other defense
18 or immunity provided under state law.

19 (d) A person is not liable for any injuries or related damages that result from
20 providing or administering an epinephrine auto-injector outside of this state if the
21 person satisfies any of the following criteria:

22 1. The person would not have been liable for injuries or damages if the
23 epinephrine auto-injector was provided or administered in this state.

24 2. The person is not liable for injuries or damages under the law of the state
25 in which the epinephrine auto-injector was provided or administered.

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1 (e) Nothing in this section creates or imposes any duty, obligation, or basis for
2 liability on any authorized entity, or its employees, agents, or other individuals, to
3 acquire or make available an epinephrine auto-injector.

4 (7) HEALTH CARE PROVIDERS. Nothing in this section prohibits a health care
5 provider, as defined in s. 146.81 (1) (a) to (hp) and (q) to (s), from acting within the
6 scope of practice of the health care provider's license, certificate, permit, or
7 registration.

8 **SECTION 2.** 448.03 (2) (q) of the statutes is amended to read:

9 448.03 (2) (q) The administration of an epinephrine auto-injector in
10 accordance with s. 118.2925 or 255.07.

11 **SECTION 3.** 450.11 (1) of the statutes is amended to read:

12 450.11 (1) DISPENSING. Except as provided in sub. (1i) (b) 2., no person may
13 dispense any prescribed drug or device except upon the prescription order of a
14 practitioner. All prescription orders shall specify the date of issue, the name and
15 address of the practitioner, the name and quantity of the drug product or device
16 prescribed, directions for the use of the drug product or device, the symptom or
17 purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and,
18 if the order is written by the practitioner, the signature of the practitioner. Except
19 as provided in ss. 118.2925 (3) and, 255.07 (2), 441.18 (2), 448.035 (2), and 448.037
20 (2), all prescription orders shall also specify the name and address of the patient. A
21 prescription order issued under s. 118.2925 (3) shall specify the name and address
22 of the school. A prescription order issued under s. 255.07 (2) shall specify the name
23 and address of the authorized entity. Any oral prescription order shall be
24 immediately reduced to writing by the pharmacist and filed according to sub. (2).

