



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 SENATE BILL 139

April 28, 2015 – Introduced by Senators VUKMIR, COWLES, HARRIS DODD, LASSA, MILLER, MOULTON, NASS and VINEHOUT, cosponsored by Representatives EDMING, KREMER, BERCEAU, BRANDTJEN, CONSIDINE, DANOU, HORLACHER, HUTTON, JACQUE, KLEEFISCH, KNODL, KULP, T. LARSON, MURPHY, PETRYK, QUINN, RIPP, ROHRKASTE, SPREITZER, SUBECK and TITTL. Referred to Committee on Health and Human Services.

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

Under current law, 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 for the management of pupils with life-threatening allergies. The governing body of such a school may authorize a school nurse or other school personnel to: 1) provide an epinephrine auto injector to a pupil for that pupil to self-administer in accordance with that pupil's prescription; 2) administer an epinephrine auto-injector to a pupil in accordance with that pupil's prescription; or 3) administer an epinephrine auto-injector to a pupil or other person who the nurse or other personnel believes to be experiencing anaphylaxis according to a standing protocol regardless whether the pupil or other person has a prescription for an epinephrine auto-injector. This bill allows a physician, physician assistant, or advance practice nurse prescriber to prescribe an epinephrine auto-injector in the name of any entity or organization, other than a school, operating a business, activity, or event at which allergens capable of causing anaphylaxis may be present (authorized entity), including a camp, college, university, day care facility, youth sports league, amusement park, restaurant, place of employment, and sports arena. The authorized entity may acquire and maintain a supply of epinephrine auto-injectors and must store the epinephrine auto-injectors in a location readily

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accessible in an emergency and in accordance with the instructions for using an epinephrine auto-injector and any requirements established by the Department of Health Services. The bill requires the authorized entity to designate an employee or agent who has completed the training required under the bill to be responsible for the storage, maintenance, control, and oversight of the epinephrine auto-injectors.

The bill allows an employee or agent of an authorized entity or other individual who has completed the training required under the bill to either provide or administer an epinephrine auto-injector to an individual who the employee, agent, or other individual believes is experiencing anaphylaxis regardless of whether that individual has a prescription for an epinephrine auto-injector or has been diagnosed with an allergy. Among other liability protections, the bill exempts from liability for any injury that results from the administration or failure to administer an epinephrine auto-injector, all of the following: an authorized entity that possesses and makes available an epinephrine auto-injector; employees and agents of the authorized entity or other individuals that store, maintain, control, oversee, provide, or use an epinephrine auto-injector; a health care practitioner who prescribes or dispenses an epinephrine auto-injector to an authorized entity; a pharmacist or other person who dispenses an epinephrine auto-injector to an authorized entity; and a person who provides the training required under the bill.

For further information see the *state* 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:

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

2 **255.07 Life-saving allergy medication; use of epinephrine**
3 **auto-injectors. (1) DEFINITIONS.** (a) “Administer” means the direct application of
4 an epinephrine auto-injector to the body of an individual.

5 (b) “Authorized entity” means any entity or organization, other than a school
6 described in s. 118.2925, operating a business, activity, or event at which allergens
7 capable of causing anaphylaxis may be present, including a recreational and
8 educational camp, college, university, day care facility, youth sports league,
9 amusement park, restaurant, place of employment, and sports arena.

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

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

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

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

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

22 (a) Provide one or more epinephrine auto-injectors to any individual who the
23 employee, agent, or individual believes in good faith is experiencing anaphylaxis, or
24 to the parent, guardian, or caregiver of that individual for immediate

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1 administration, regardless of whether the individual has a prescription for an
2 epinephrine auto-injector or has previously been diagnosed with an allergy.

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

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

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

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

18 3. Emergency follow-up procedures after an epinephrine auto-injector is
19 administered.

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

23 (6) GOOD SAMARITAN PROTECTIONS. (a) All of the following are not liable for any
24 injury that results from the administration or failure to administer an epinephrine

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1 auto-injector under this section, unless the injury is the result of an act or omission
2 that constitutes gross negligence or willful or wanton misconduct:

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

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

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

10 4. A person who conducts the training described in sub. (5).

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

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

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

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

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

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

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1 448.03 (2) (q) The administration of an epinephrine auto-injector in
2 accordance with s. 118.2925 or 255.07.

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

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

17 **SECTION 4.** 450.11 (3) of the statutes, as affected by 2015 Wisconsin Act 3, is
18 amended to read:

19 450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. Except as provided in sub. (1i)
20 (b) and ~~s.~~ ss. 118.2925 (4), 255.07 (3), and 450.076, no person other than a pharmacist
21 or practitioner or their agents and employees as directed, supervised, and inspected
22 by the pharmacist or practitioner may prepare, compound, dispense, or prepare for
23 delivery for a patient any prescription drug.

24 **SECTION 5.** 450.11 (4) (a) 5. a. of the statutes is amended to read:

