



2019 ASSEMBLY BILL 839

January 30, 2020 - Introduced by Representatives SORTWELL, DITTRICH, SHANKLAND, SKOWRONSKI, SUBECK and TUSLER, cosponsored by Senators JACQUE and RINGHAND. Referred to Committee on Health.

1 **AN ACT** *to renumber and amend* 255.07 (2); *to amend* 118.292 (title), 118.292
2 (1r) (intro.) and (a) and (2) (a) and (b), 118.2925 (title), 118.2925 (1) (a), 118.2925
3 (1) (h), 118.2925 (3), 118.2925 (4) (title), (a), (b) and (c), 118.2925 (4m) (a) and
4 (b), 118.2925 (5), 255.07 (title) and (1) (a), 255.07 (3), 255.07 (4), 255.07 (5) (a)
5 2. and 3., 255.07 (6) (a) (intro.), 1., 2. and 3., (b), (d), (e) and (f), 448.03 (2) (q) and
6 450.11 (4) (a) 5. d.; and **to create** 118.292 (1g) (bm), 118.2925 (1) (fm), 255.07
7 (1) (e) and 255.07 (2) (b) of the statutes; **relating to:** use of epinephrine prefilled
8 syringes and standing order for epinephrine.

Analysis by the Legislative Reference Bureau

Current law allows designated school personnel and authorized entities and individuals who have completed a training program and school nurses to provide or administer epinephrine auto-injectors to pupils and other individuals. Pupils are also allowed under current law to possess and use an epinephrine auto-injector in certain circumstances. Current law allows prescribers to prescribe epinephrine auto-injectors in the name of the school or the name of the authorized entity or individual. This bill adds prefilled syringes to the authorities granted for prescription, possession, and administration of epinephrine auto-injectors in current law. A “prefilled syringe” is defined in the bill as “a device that is approved

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by the federal Food and Drug Administration, that contains a dose of epinephrine, and that is used for the manual injection of epinephrine into the human body to prevent or treat a life-threatening allergic reaction.”

The bill allows a health care provider with prescribing authority who is employed by or under contract with the Department of Health Services to issue a statewide standing order for the dispensing of epinephrine auto-injectors or prefilled syringes for use by trained individuals. The bill also allows prescribers to issue a standing order for the dispensing of epinephrine auto-injectors or prefilled syringes for use by trained individuals. Under current law, certain prescribers are allowed to issue standing orders for the dispensing of an opioid antagonist, and DHS has issued a statewide standing order for the dispensing of naloxone, which is an opioid antagonist.

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.** 118.292 (title) of the statutes is amended to read:

2 **118.292 (title) Possession and use of epinephrine auto-injectors.**

3 **SECTION 2.** 118.292 (1g) (bm) of the statutes is created to read:

4 118.292 (**1g**) (bm) “Prefilled syringe” means a device that is approved by the
5 federal food and drug administration, that contains a dose of epinephrine, and that
6 is used for the manual injection of epinephrine into the human body to prevent or
7 treat a life-threatening allergic reaction.

8 **SECTION 3.** 118.292 (1r) (intro.) and (a) and (2) (a) and (b) of the statutes are
9 amended to read:

10 118.292 (**1r**) (intro.) While in school, at a school-sponsored activity or under
11 the supervision of a school authority, a pupil may possess and use an epinephrine
12 auto-injector or prefilled syringe if all of the following are true:

13 (a) The pupil uses the epinephrine auto-injector or prefilled syringe to prevent
14 the onset or alleviate the symptoms of an emergency situation.

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1 **(2)** (a) A pupil as a result of using an epinephrine auto-injector or prefilled
2 syringe under sub. (1r).

3 (b) Any person as a result of a pupil possessing or using an epinephrine
4 auto-injector or prefilled syringe under sub. (1r).

5 **SECTION 4.** 118.2925 (title) of the statutes is amended to read:

6 **118.2925** (title) **Life-threatening allergies in schools; use of**
7 **epinephrine auto-injectors.**

8 **SECTION 5.** 118.2925 (1) (a) of the statutes is amended to read:

9 118.2925 **(1)** (a) “Administer” means the direct application of an epinephrine
10 auto-injector or prefilled syringe to a person’s body.

11 **SECTION 6.** 118.2925 (1) (fm) of the statutes is created to read:

12 118.2925 **(1)** (fm) “Prefilled syringe” means a device that is approved by the
13 federal food and drug administration, that contains a dose of epinephrine, and that
14 is used for the manual injection of epinephrine into the human body to prevent or
15 treat a life-threatening allergic reaction.

16 **SECTION 7.** 118.2925 (1) (h) of the statutes is amended to read:

17 118.2925 **(1)** (h) “Self-administer” means to administer an epinephrine
18 auto-injector or prefilled syringe to one’s own body.

19 **SECTION 8.** 118.2925 (3) of the statutes is amended to read:

20 118.2925 **(3)** PRESCRIPTIONS FOR SCHOOLS. A physician, an advanced practice
21 nurse prescriber, or a physician assistant may prescribe epinephrine auto-injectors
22 or prefilled syringe in the name of a school that has adopted a plan under sub. (2) (a),
23 to be maintained by the school for use under sub. (4).

24 **SECTION 9.** 118.2925 (4) (title), (a), (b) and (c) of the statutes are amended to
25 read:

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1 118.2925 (4) (title) USE OF EPINEPHRINE AUTO-INJECTORS.

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

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

7 (c) Administer an epinephrine auto-injector or prefilled syringe to a pupil or
8 other person who the school nurse or designated school personnel in good faith
9 believes is experiencing anaphylaxis in accordance with a standing protocol from a
10 physician, an advanced practice nurse prescriber, or a physician assistant,
11 regardless of whether the pupil or other person has a prescription for an epinephrine
12 auto-injector or prefilled syringe. If the pupil or other person does not have a
13 prescription for an epinephrine auto-injector or prefilled syringe, or the person who
14 administers the epinephrine auto-injector or prefilled syringe does not know
15 whether the pupil or other person has a prescription for an epinephrine auto-injector
16 or prefilled syringe, the person who administers the epinephrine auto-injector or
17 prefilled syringe shall, as soon as practicable, report the administration by dialing
18 the telephone number “911” or, in an area in which the telephone number “911” is not
19 available, the telephone number for an emergency medical service provider.

20 **SECTION 10.** 118.2925 (4m) (a) and (b) of the statutes are amended to read:

21 118.2925 (4m) (a) The authority to self-administer an epinephrine
22 auto-injector or prefilled syringe under sub. (4) (a) is independent of the authorized
23 possession and use of an epinephrine auto-injector or prefilled syringe under s.
24 118.292 (1r).

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

4 **SECTION 11.** 118.2925 (5) of the statutes is amended to read:

5 118.2925 (5) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF
6 MEDICINE. A school and its designated school personnel, and a physician, advanced
7 practice nurse prescriber, or physician assistant who provides a prescription or
8 standing protocol for school epinephrine auto-injectors or prefilled syringes, are not
9 liable for any injury that results from the administration or self-administration of
10 an epinephrine auto-injector or prefilled syringe under this section, regardless of
11 whether authorization was given by the pupil's parent or guardian or by the pupil's
12 physician, physician assistant, or advanced practice nurse prescriber, unless the
13 injury is the result of an act or omission that constitutes gross negligence or willful
14 or wanton misconduct. The immunity from liability provided under this subsection
15 is in addition to and not in lieu of that provided under s. 895.48.

16 **SECTION 12.** 255.07 (title) and (1) (a) of the statutes are amended to read:

17 **255.07 (title) Life-saving allergy medication; use of epinephrine**
18 **auto-injectors.**

19 (1) (a) "Administer" means the direct application of an epinephrine
20 auto-injector or prefilled syringe to the body of an individual.

21 **SECTION 13.** 255.07 (1) (e) of the statutes is created to read:

22 255.07 (1) (e) "Prefilled syringe" means a device that is approved by the federal
23 food and drug administration, that contains a dose of epinephrine, and that is used
24 for the manual injection of epinephrine into the human body to prevent or treat a
25 life-threatening allergic reaction.

ASSEMBLY BILL 839**SECTION 14**

1 **SECTION 14.** 255.07 (2) of the statutes is renumbered 255.07 (2) (a) and
2 amended to read:

3 255.07 (2) (a) A health care practitioner may prescribe an epinephrine
4 auto-injector or prefilled syringe in the name of an authorized entity or an
5 authorized individual for use in accordance with this section. A health care
6 practitioner may issue a standing order to one or more persons authorizing the
7 dispensing of epinephrine auto-injectors or prefilled syringes for use under sub. (4)
8 by an authorized individual or by an employee or agent of an authorized entity who
9 has completed the training required by sub. (5).

10 **SECTION 15.** 255.07 (2) (b) of the statutes is created to read:

11 255.07 (2) (b) A health care provider with prescribing authority who is
12 employed by or under contract with the department may issue a statewide standing
13 order for the dispensing of epinephrine auto-injectors or prefilled syringes for use
14 under sub. (4) by authorized individuals or by employees or agents of authorized
15 entities who have completed the training required by sub. (5).

16 **SECTION 16.** 255.07 (3) of the statutes is amended to read:

17 255.07 (3) AUTHORIZED ENTITIES OR INDIVIDUALS PERMITTED TO MAINTAIN SUPPLY.
18 An authorized entity or an authorized individual may acquire and maintain a supply
19 of epinephrine auto-injectors and prefilled syringes pursuant to a prescription
20 issued in accordance with this section. The authorized entity or authorized
21 individual shall store an epinephrine auto-injector or prefilled syringe in a location
22 readily accessible in an emergency and in accordance with the epinephrine
23 auto-injector's or prefilled syringe's instructions for use. An authorized entity shall
24 designate an employee or agent who has completed the training required in sub. (5)

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1 to be responsible for the storage, maintenance, control, and general oversight of
2 epinephrine auto-injectors or prefilled syringes acquired by the authorized entity.

3 **SECTION 17.** 255.07 (4) of the statutes is amended to read:

4 255.07 (4) USE OF EPINEPHRINE AUTO-INJECTORS. An employee or agent of an
5 authorized entity who has completed the training required by sub. (5) or an
6 authorized individual may use an epinephrine auto-injector or prefilled syringe
7 prescribed under sub. (2) to do any of the following:

8 (a) Provide one or more epinephrine auto-injectors or prefilled syringes to any
9 individual who the employee, agent, or authorized individual believes in good faith
10 is experiencing anaphylaxis, or to the parent, guardian, or caregiver of that
11 individual for immediate administration, regardless of whether the individual has
12 a prescription for an epinephrine auto-injector or prefilled syringe or has previously
13 been diagnosed with an allergy.

14 (b) Administer an epinephrine auto-injector or prefilled syringe to any
15 individual who the employee, agent, or authorized individual believes in good faith
16 is experiencing anaphylaxis, regardless of whether the individual has a prescription
17 for an epinephrine auto-injector or prefilled syringe or has previously been
18 diagnosed with an allergy.

19 **SECTION 18.** 255.07 (5) (a) 2. and 3. of the statutes are amended to read:

20 255.07 (5) (a) 2. Standards and procedures for the storage and administration
21 of an epinephrine auto-injector and, if applicable, a prefilled syringe.

22 3. Emergency follow-up procedures after an epinephrine auto-injector or
23 prefilled syringe is administered, including the necessity of calling the telephone
24 number "911" or another telephone number for an emergency medical service
25 provider.

ASSEMBLY BILL 839**SECTION 19**

1 **SECTION 19.** 255.07 (6) (a) (intro.), 1., 2. and 3., (b), (d), (e) and (f) of the statutes
2 are amended to read:

3 255.07 **(6)** (a) (intro.) All of the following are not liable for any injury that
4 results from the administration or failure to administer an epinephrine
5 auto-injector or prefilled syringe under this section, unless the injury is the result
6 of an act or omission that constitutes gross negligence or willful or wanton
7 misconduct:

8 1. An authorized entity or authorized individual that possesses and makes
9 available an epinephrine auto-injector or prefilled syringe and employees, agents,
10 and authorized individuals that store, maintain, control, oversee, provide, or use an
11 epinephrine auto-injector or prefilled syringe.

12 2. A health care practitioner who prescribes or dispenses an epinephrine
13 auto-injector or prefilled syringe to an authorized entity or authorized individual.

14 3. A pharmacist or other person who dispenses an epinephrine auto-injector
15 or prefilled syringe to an authorized entity or authorized individual.

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

19 (d) A person is not liable for any injuries or related damages that result from
20 providing or administering an epinephrine auto-injector or prefilled syringe outside
21 of this state if the 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 or prefilled syringe was provided or administered in this
24 state.

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

4 (e) Nothing in this section creates or imposes any duty, obligation, or basis for
5 liability on any authorized entity, or employees, agents, or authorized individuals,
6 to acquire or make available an epinephrine auto-injector or prefilled syringe.

7 (f) Nothing in this section creates or imposes any duty, obligation, or basis for
8 liability on any employer or any other person to supervise or exercise control over an
9 individual’s provision or administration of an epinephrine auto-injector or prefilled
10 syringe, if the employer or other person reasonably believes the individual is acting
11 as an authorized individual under this section.

12 **SECTION 20.** 448.03 (2) (q) of the statutes is amended to read:

13 448.03 (2) (q) The administration of an epinephrine auto-injector or prefilled
14 syringe in accordance with s. 118.2925 or 255.07.

15 **SECTION 21.** 450.11 (4) (a) 5. d. of the statutes is amended to read:

16 450.11 (4) (a) 5. d. For an epinephrine auto-injector or prefilled syringe
17 prescribed under s. 118.2925 (3) or 255.07 (2), the name of the school, authorized
18 entity, authorized individual, or other person specified under s. 255.07 (3).

19 (END)