

State of Wisconsin



2021 Assembly Bill 337

Date of enactment: **April 8, 2022**
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2021 WISCONSIN ACT 218

AN ACT to *renumber and amend* 255.07 (2); to *amend* 118.29 (2) (a) 2m., 118.292 (title), 118.292 (1r) (intro.) and (a) and (2) (a) and (b), 118.2925 (title), 118.2925 (1) (a), 118.2925 (1) (h), 118.2925 (3), 118.2925 (4) (title), (a), (b) and (c), 118.2925 (4m) (a) and (b), 118.2925 (5), 255.07 (title) and (1) (a), 255.07 (3), 255.07 (4), 255.07 (5) (a) 2. and 3., 255.07 (6) (a) (intro.), 1., 2. and 3., (b), (d), (e) and (f), 448.03 (2) (q) and 450.11 (4) (a) 5. d.; and to *create* 118.292 (1g) (bm), 118.2925 (1) (fm), 255.07 (1) (e) and 255.07 (2) (b) of the statutes; **relating to**: use of epinephrine prefilled syringes and standing orders for epinephrine.

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

SECTION 1g. 118.29 (2) (a) 2m. of the statutes is amended to read:

118.29 (2) (a) 2m. Except for epinephrine administered under subd. 2., may use an epinephrine auto-injector or prefilled syringe, as defined in s. 118.292 (1g) (bm), to administer epinephrine to any pupil who appears to be experiencing a severe allergic reaction if, as soon as practicable, the school bus operator, employee or volunteer reports the allergic reaction 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.

SECTION 1m. 118.292 (title) of the statutes is amended to read:

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

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

118.292 (1g) (bm) "Prefilled syringe" means a device that is approved 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.

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

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

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

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

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

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

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

* 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."

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

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

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

118.2925 (1) (fm) “Prefilled syringe” means a device that is approved 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.

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

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

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

118.2925 (3) PRESCRIPTIONS FOR SCHOOLS. A physician, an advanced practice nurse prescriber, or a physician assistant may prescribe epinephrine auto-injectors or prefilled syringes 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).

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

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

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

(b) Administer an epinephrine auto-injector or prefilled syringe 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 or prefilled syringe 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 or prefilled syringe. If the pupil or other person does not have a prescription for an epinephrine auto-injector or prefilled syringe, or the person who administers the epinephrine auto-injector or prefilled syringe does not know whether the pupil or other person has a prescription for an epinephrine auto-injector or prefilled syringe, the person who administers the epinephrine auto-injector or prefilled syringe 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.

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

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

(b) The authority to administer an epinephrine auto-injector or prefilled syringe 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.

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

118.2925 (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 or prefilled syringes, are not liable for any injury that results from the administration or self-administration of an epinephrine auto-injector or prefilled syringe 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.

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

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

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

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

255.07 (1) (e) “Prefilled syringe” means a device that is approved 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.

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

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

of an authorized entity who has completed the training required by sub. (5).

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

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

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

255.07 (3) AUTHORIZED ENTITIES OR INDIVIDUALS PERMITTED TO MAINTAIN SUPPLY. An authorized entity or an authorized individual may acquire and maintain a supply of epinephrine auto-injectors and prefilled syringes pursuant to a prescription issued in accordance with this section. The authorized entity or authorized individual shall store an epinephrine auto-injector or prefilled syringe in a location readily accessible in an emergency and in accordance with the epinephrine auto-injector's or prefilled syringe's instructions for use. An authorized entity shall designate an employee or agent who has completed the training required in sub. (5) to be responsible for the storage, maintenance, control, and general oversight of epinephrine auto-injectors or prefilled syringes acquired by the authorized entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Nothing in this section creates or imposes any duty, obligation, or basis for liability on any employer or any other person to supervise or exercise control over an individual's provision or administration of an epinephrine auto-injector or prefilled syringe, if the employer or

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other person reasonably believes the individual is acting as an authorized individual under this section.

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

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

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

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