

State of Wisconsin



2023 Assembly Bill 914

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2023 WISCONSIN ACT 195

AN ACT *to amend* 450.11 (1); and *to create* 118.2915 and 448.03 (2) (qm) of the statutes; **relating to:** the supply and use of short-acting bronchodilators on school premises or at a school-sponsored event.

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

SECTION 1. 118.2915 of the statutes is created to read:

118.2915 Asthma in schools; use of short-acting bronchodilators. (1) **DEFINITIONS.** In this section:

(a) "Advanced practice nurse prescriber" means an advanced practice nurse who is certified under s. 441.16.

(b) "Asthma" means a chronic inflammatory disease of the airways, characterized by airway obstruction, which is at least partially reversible and which manifests as increased bronchial responsiveness to a variety of stimuli.

(c) "Designated school personnel" means employees, agents, or volunteers of a school, designated by the governing body of the school, who have completed the training specified in the plan adopted by the governing body of the school under sub. (2) (a).

(d) "Pharmacist" has the meaning given in s. 450.01 (15).

(e) "Physician" means a person licensed to practice medicine and surgery under ch. 448.

(f) "Physician assistant" means a person licensed under s. 448.974.

(g) "School" means a public, private, or tribal school.

(h) "Self-administer" means to administer a short-acting bronchodilator to one's own body.

(i) "Short-acting bronchodilator" means any beta-2 agonist, such as albuterol, used for the quick relief of asthma symptoms. "Short-acting bronchodilator" includes an orally inhaled medication that contains a pre-measured single dose of albuterol or albuterol sulfate delivered by a nebulizer or by a pressurized metered-dose inhaler.

(2) **SCHOOL PLAN.** (a) The governing body of a school may adopt a plan for the management of pupils attending the school who have asthma. If the governing body of a school adopts a plan under this paragraph, it shall specify in the plan the training necessary to perform the activities under sub. (4). The governing body of a school may not adopt a plan under this paragraph unless the plan has been approved by a physician, an advanced practice nurse prescriber, or a physician assistant.

(b) The governing body of a school that has adopted a plan under par. (a) shall make the plan available on the governing body's website or the website of each school under its jurisdiction or, if such a website does not exist, give a copy of the plan to any person upon request.

(3) **PRESCRIPTIONS AND SUPPLY.** (a) A physician, an advanced practice nurse prescriber, or a physician assistant may provide a prescription or standing order for a short-acting bronchodilator or components in the name

* 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."

of a school that has adopted a plan under sub. (2) (a) to be maintained by the school for use under sub. (4).

(b) The governing body of a school that has a valid prescription under par. (a) may accept as a donation a short-acting bronchodilator or components if the donated short-acting bronchodilator or components are new, unexpired, manufacturer-sealed, not subject to recall, unadulterated, and in compliance with regulations promulgated by the federal food and drug administration.

(c) The governing body of a school that has adopted a plan under sub. (2) (a) may obtain a prescription or standing order for a short-acting bronchodilator or components and may acquire and maintain, in accordance with the manufacturer's instructions, a supply of short-acting bronchodilators and components.

(4) USE OF BRONCHODILATORS. The governing body of a school that has adopted a plan under sub. (2) (a) may authorize a school nurse or designated school personnel to do any of the following on school premises or at a school-sponsored activity:

(a) Provide a short-acting bronchodilator to a pupil to self-administer the short-acting bronchodilator in accordance with a prescription specific to the pupil that is on file with the school.

(b) Administer a short-acting bronchodilator to a pupil in accordance with a prescription specific to the pupil that is on file with the school.

(c) In accordance with a prescription or standing order from a physician, an advanced practice nurse prescriber, or a physician assistant, administer a short-acting bronchodilator to a pupil or other person who the school nurse or designated school personnel believes in good faith is experiencing respiratory distress, regardless of whether the pupil or other person has a prescription for a short-acting bronchodilator.

(5) INDEPENDENT AUTHORITY. (a) The authority to self-administer a short-acting bronchodilator under sub. (4) (a) is independent of the authorized possession and use of a metered-dose inhaler or dry-powder inhaler under s. 118.291 (1r).

(b) The authority to administer a short-acting bronchodilator under sub. (4) (b) and (c) is independent of the authority to administer a metered-dose inhaler or dry-powder inhaler under s. 118.29 (2) (a) 2.

(6) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF MEDICINE. (a) None of the following are liable for any injury that results from the administration or self-administration of a short-acting bronchodilator 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:

1. A school, its school nurse, and its designated school personnel.

2. A physician, advanced practice nurse prescriber, or physician assistant who provides a prescription or standing order for a short-acting bronchodilator or components to a school under sub. (3) (a).

3. A physician, advanced practice nurse prescriber, physician assistant, or pharmacist who dispenses a short-acting bronchodilator or components to a school in accordance with a prescription or standing order under sub. (3) (a).

(b) The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48.

(7) HEALTH CARE PROFESSIONALS. Nothing in this section prohibits a health care professional, as defined in s. 118.29 (1) (c), from acting within the scope of practice of the health care professional's license, certificate, permit, or registration.

SECTION 2. 448.03 (2) (qm) of the statutes is created to read:

448.03 (2) (qm) The administration of a short-acting bronchodilator in accordance with s. 118.2915.

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

450.11 (1) **DISPENSING.** Except as provided in sub. (1i) (b) 2., no person may dispense any prescribed drug or device except upon the prescription order of a practitioner. All prescription orders shall, except as provided in sub. (1a), specify the date of issue, the name and address of the practitioner, the name and quantity of the drug product or device prescribed, directions for the use of the drug product or device, the symptom or purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is written by the practitioner, the signature of the practitioner. Except as provided in ss. 118.2915 (3) (a), 118.2925 (3), 255.07 (2), 441.18 (2) (a) 1., 448.035 (2), 448.037 (2) (a) 1., 448.9725 (2), and 448.9727 (2) (a) 1. and except for standing orders issued under s. 441.18 (2) (a) 2., 448.037 (2) (a) 2., or 448.9727 (2) (a) 2., all prescription orders shall also specify the name and address of the patient. A prescription order issued under s. 118.2915 (3) (a) or 118.2925 (3) shall specify the name and address of the school. A prescription order issued under s. 255.07 (2) shall specify the name and address of the authorized entity or authorized individual. Any oral prescription order shall be immediately reduced to writing by the pharmacist and filed according to sub. (2).