



2013 ASSEMBLY BILL 445

October 18, 2013 – Introduced by Representatives NYGREN, PETRYK, BERNIER, KRUG, NERISON, TRANEL, BORN, CZAJA, ENDSLEY, JAGLER, KAPENGA, KAUFERT, KLEEFISCH, KNODL, KNUDSON, LEMAHIEU, MARKLEIN, MURPHY, MURSAU, MURTHA, A. OTT, PETERSEN, RIPP, SWEARINGEN, STRACHOTA, TAUCHEN, TITTL, BERCEAU, BERNARD SCHABER, BEWLEY, DOYLE, GENRICH, KAHL, KOLSTE, JOHNSON, RICHARDS and SMITH, cosponsored by Senators HARSDORF, COWLES, L. TAYLOR, DARLING, JAUCH, GUDEx, GROTHMAN, T. CULLEN, ELLIS, LEIBHAM, KEDZIE, PETROWSKI, LAZICH, MILLER, ERPENBACH, SCHULTZ, HANSEN and RISSER. Referred to Committee on Health.

- 1 **AN ACT** *to amend* 450.19 (2) (b); and *to create* 450.11 (1b) and 450.11 (9) (bm)
2 of the statutes; **relating to:** identification presentation and monitoring for
3 certain prescription drugs.

Analysis by the Legislative Reference Bureau

Under current law, a drug, or controlled substance, is classified in one of five separate schedules. The classification is based on 1) whether there is a currently accepted medical use for the drug; 2) the drug's potential for abuse; and 3) the nature of the dependence that use of the drug may produce. Controlled substances that have a high potential for abuse and no currently accepted medical use are included in Schedule I. Controlled substances that have an accepted medical use and that have the lowest potential for abuse and produce the least dependence when compared with other controlled substances are included in Schedule V. In general, a Schedule I controlled substance may not be dispensed, even with a prescription. A Schedule II, III, or IV controlled substance may be dispensed, but only with a prescription. Any person who dispenses a Schedule II, III, or IV controlled substance without a prescription is guilty of a felony, the level of which depends on the classification of the controlled substance. Under this bill, a Schedule II or III controlled substance may not be dispensed unless the person who is picking up the drug shows his or her identification card. Acceptable forms of identification are a driver's license, a state identification card, a U.S. uniformed service card, or a U.S. passport.

Current law requires the Pharmacy Examining Board (PEB) to establish a program to monitor the dispensing of certain prescription drugs, including Schedule

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II and III controlled substances and other drugs identified by the PEB as having a high potential for abuse. The program requires pharmacists or persons who prescribe prescription drugs to generate records documenting the dispensing of prescription drugs. The bill requires a pharmacist or other person who dispenses a Schedule II or III controlled substance to record the name on the identification card of the person to whom the controlled substance is dispensed.

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.** 450.11 (1b) of the statutes is created to read:

2 **450.11 (1b)** IDENTIFICATION CARD REQUIRED FOR CERTAIN CONTROLLED SUBSTANCES.

3 (a) In this subsection, "identification card" means any of the following:

- 4 1. An operator's license issued under ch. 343.
- 5 2. An identification card issued under s. 343.50.
- 6 3. An identification card issued by a U.S. uniformed service.
- 7 4. A U.S. passport.

8 (b) Except when administered or dispensed directly to the ultimate user by a
9 practitioner, a controlled substance included in schedule II or III of ch. 961 may not
10 be dispensed, and may not be delivered to a representative of the ultimate user,
11 without an identification card belonging to the person to whom the drug is being
12 dispensed or delivered.

13 (c) If the person to whom a drug subject to par. (b) is being delivered is not the
14 ultimate user of the drug, the person delivering the drug may ask the ultimate user
15 of the drug to designate a person who is authorized to pick up the drug on behalf of
16 the ultimate user and may inform the person to whom the drug is being delivered
17 that his or her identification is being recorded under s. 450.19.

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1 (d) A pharmacist is immune from any civil or criminal liability and from
2 discipline under s. 450.10 for any act taken by the pharmacist in reliance on an
3 identification card that the pharmacist reasonably believed was authentic and
4 displayed the name of the person to whom the drug was being delivered if the sale
5 was made in good faith.

6 **SECTION 2.** 450.11 (9) (bm) of the statutes is created to read:

7 450.11 **(9)** (bm) A violation of sub. (1b) is not punishable under par. (a) or (b).

8 **SECTION 3.** 450.19 (2) (b) of the statutes is amended to read:

9 450.19 **(2)** (b) Identify specific data elements, including the name on any
10 identification card presented under s. 450.11 (1b), to be contained in a record
11 documenting the dispensing of a prescription drug. In identifying specific data
12 elements, the board shall consider data elements identified by similar programs in
13 other states and shall ensure, to the extent possible, that records generated by the
14 program are easily shared with other states.

15 (END)