



2015 ASSEMBLY BILL 96

March 12, 2015 - Introduced by Representatives KITCHENS, EDMING, BALLWEG, BORN, BRANDTJEN, E. BROOKS, R. BROOKS, CRAIG, CZAJA, KAHL, KREMER, KRUG, KULP, MURSAU, MURTHA, RIPP, ROHRKASTE, SPIROS, STEFFEN, THIESFELDT and VORPAGEL, cosponsored by Senators VUKMIR, CARPENTER, COWLES, FARROW, GUDEX, LEMAHIEU, MARKLEIN, MOULTON, NASS, RINGHAND, VINEHOUT and WIRCH. Referred to Committee on Health.

1 **AN ACT** *to amend* 961.39 (3) (b); and *to create* 961.39 (2m) of the statutes;
2 **relating to:** prescriptions for controlled substances issued by optometrists and
3 providing an exemption from emergency rule procedures.

Analysis by the Legislative Reference Bureau

Under current law, optometrists who satisfy certain criteria may, subject to certain limitations, prescribe and administer therapeutic pharmaceutical agents. These limitations include that an optometrist may prescribe or administer only schedule III, IV, and V controlled substances and may only prescribe or administer such a controlled substance if it is permitted for prescription or administration under rules promulgated by the Department of Safety and Professional Services (DSPS rules).

This bill allows an optometrist who satisfies the criteria for using therapeutic pharmaceutical agents to also prescribe or administer certain therapeutic pharmaceutical agents containing opioids, as detailed in the bill, if permitted under the DSPS rules.

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

4 **SECTION 1.** 961.39 (2m) of the statutes is created to read:

ASSEMBLY BILL 96

1 961.39 (2m) Notwithstanding sub. (1), may prescribe, dispense, or administer
2 any of the following, if permitted for prescription or administration under the rules
3 promulgated under s. 449.18 (6) (cm):

4 (a) Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100
5 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater
6 quantity of an isoquinoline alkaloid of opium.

7 (b) Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100
8 grams or not more than 15 milligrams per dosage unit, with one or more active,
9 nonnarcotic ingredients in recognized therapeutic amounts.

10 **SECTION 2.** 961.39 (3) (b) of the statutes is amended to read:

11 961.39 (3) (b) The indicated use of the controlled substance included in
12 schedule III, IV, or V so prescribed or the indicated use of the controlled substance
13 under sub. (2m) (a) or (b) so prescribed.

14 **SECTION 3. Nonstatutory provisions.**

15 (1) Using the procedure under section 227.24 of the statutes, the department
16 of safety and professional services may promulgate rules under section 449.18 (6)
17 (cm) of the statutes to account for section 961.39 (2m) of the statutes, as created by
18 this act, for the period before the effective date of any corresponding permanent
19 rules, but not to exceed the period authorized under section 227.24 (1) (c) of the
20 statutes, subject to extension under section 227.24 (2) of the statutes.
21 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department
22 is not required to provide evidence that promulgating a rule under this subsection
23 as an emergency rule is necessary for the preservation of the public peace, health,

ASSEMBLY BILL 96

1 safety, or welfare and is not required to provide a finding of emergency for a rule
2 promulgated under this subsection.

3 (END)