



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB: [handwritten] 50207/P1
MED: [handwritten]

eev;

ASA to

Inserts

2013 ASSEMBLY BILL 446

October 18, 2013 - Introduced by Representatives NYGREN, KRUG, BERNIER, NERISON, PETRYK, BORN, CRAIG, CZAJA, ENDSLEY, JAGLER, KAPENGA, KAUFERT, KLEEFISCH, KNODL, KNUDSON, LEMAHIEU, MURSAU, A. OTT, PETERSEN, PRIDEMORE, RIPP, SPIROS, STRACHOTA, SWEARINGEN, TAUCHEN, TITTL, BERCHAU, BERNARD SCHABER, DOYLE, GENRICH, HULSEY, KAHL, JOHNSON, RICHARDS, SMITH, SCHRAA and BALWEG, cosponsored by Senators HARSDOFF, COWLES, L. TAYLOR, DARLING, JAUCH, GUDEX, OLSEN, LASSA, ELLIS, MOULTON, LEIBHAM, SHILLING, PETROWSKI, LAZICH, MILLER, CARPENTER, SCHULTZ, WIRCH, ERPENBACH, HANSEN, HARRIS and RISSER. Referred to Committee on Health.

SAV
xref v

1
2
3
4

AN ACT *Reger* **to amend** *INS RA* **256.15 (8) (e); and to create** *carry opioid antagonists* **256.40 of the statutes; relating** *opioid antagonists* **to training and agreements for administering the drug naloxone requiring** **emergency medical technicians to carry naloxone, and immunity for certain** **individuals who administer naloxone.** *opioid antagonists* *INS RB*

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) serves as the lead state agency for emergency medical services and has various duties relating to the provision of emergency medical services, including:

1) Certifying first responders, who are individuals that, as a condition of employment or as members of an organization that provides emergency medical care before hospitalization, provide emergency medical care to sick, disabled, or injured individuals before the arrival of an ambulance. In order to become certified as a first responder, an individual must satisfy certain criteria, including completing a first responder course that meets certain specified criteria. Certified first responders may undertake only certain actions specified under current law, including administering medications that are specified by DHS by rule.

2) Licensing emergency medical technicians (EMTs), who are individuals that may provide emergency medical services ranging from basic life support and patient handling and transportation to emergency cardiac, trauma, and other lifesaving or emergency procedures, depending on the level of EMT licensure. Current law specifies three levels of EMT licensure, known as EMT - basic, EMT - intermediate, and EMT - paramedic (advanced). In order to become licensed as an EMT, an

Insert
Analysis A

ASSEMBLY BILL 446

individual must satisfy certain criteria, including obtaining training commensurate with the level of EMT licensure that is sought. EMTs may, under current law, undertake only those actions that are authorized in rules promulgated by DHS for their level of licensure. *substitute amendment* *or another opioid antagonist* *substitute amendment*

This bill provides that certified first responders may administer the drug naloxone if they have received training necessary to safely administer naloxone, as determined by DHS. Naloxone is a prescription drug which, when administered to a person undergoing an opioid-related drug overdose, can have the effect of countering the effects of the overdose. The bill also requires that DHS permit EMTs at all levels of licensure to administer naloxone to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. DHS must, under the bill, require EMTs to undergo any training necessary to safely and properly administer naloxone. The bill also requires each EMT so trained to, at all times when performing his or her duties as an emergency medical technician, carry or have available for administration a supply of naloxone. *opioid antagonist* *or another opioid antagonist*

In addition, the bill allows a law enforcement agency or fire department to enter into a written agreement to affiliate with an ambulance service provider or a physician for the purposes of: 1) obtaining a supply of naloxone; and 2) allowing law enforcement officers and fire fighters to obtain the training necessary to safely and properly administer naloxone to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. The bill provides that a law enforcement officer or fire fighter who, acting in good faith, administers naloxone to an individual whom the officer or fire fighter reasonably believes to be undergoing an opioid-related drug overdose may not be subject to any criminal or civil liability in connection with administering naloxone to the individual, if the law enforcement officer or fire fighter is acting pursuant to a written agreement described above. *substitute amendment* *or another opioid antagonist* *or another opioid antagonist* *Ins. Amend C*

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill. *Ins B* *Ins Analgesic A* *Insert 2-1* *Ins Analysis D*

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

- 1 SECTION 1. 256.15 (8) (e) of the statutes is amended to read:
- 2 256.15 (8) (e) A certified first responder is authorized to use an automated
- 3 external defibrillator, as prescribed for first responders in rules promulgated by the
- 4 department. The rules shall set forth authorization for the use of an automated
- 5 external defibrillator or, for a defibrillator that may be operated in more than one
- 6 mode, use as an automated external defibrillator only. A certified first responder is
- 7 authorized to administer the drug naloxone *or another opioid antagonist* if the first responder has received

ASSEMBLY BILL 446

of the other opioid antagonist

1 training necessary to safely administer the drug naloxone, as determined by the
 2 department. A certified first responder is also authorized to employ other
 3 techniques, including the administration of nonvisualized advanced airways, and
 4 the administration of medications that are specified by the department by rule. In
 5 promulgating the rules under this paragraph, the department shall consult with the
 6 state medical director for emergency medical services and the emergency medical
 7 services board. The rule shall include those techniques that are specified in the most
 8 current guidelines issued by the National Highway Traffic Safety Administration
 9 under 23 CFR 1205.3 (a) (5).

SECTION 2. 256.40 of the statutes is created to read:

256.40 Administration of naloxone in cases of opioid-related drug

overdose. (1) In this section:

Opioid antagonists

(a) "Fire fighter" means any person employed by the state or any political subdivision as a member or officer of a fire department or a member of a volunteer fire department, including the state fire marshal and deputies.

(b) "Law enforcement agency" means an agency of a federally recognized Indian tribe or band or a state or political subdivision of a state, whose purpose is the detection and prevention of crime and enforcement of laws or ordinances.

(c) "Law enforcement officer" means any person employed by a law enforcement agency who is authorized to make arrests for violations of the laws or ordinances that the person is employed to enforce.

(d) "Opioid-related drug overdose" means a condition including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

has the meaning given in s. 448.037(1)(e)

Ins C

ASSEMBLY BILL 446

SECTION 2

1 (2) (a) Subject to par. (b), the department shall permit all emergency medical
2 technicians to administer the drug naloxone to individuals who are undergoing or
3 who are believed to be undergoing an opioid-related drug overdose.

or another opioid antagonist

or the other opioid antagonist

4 (b) The department shall require emergency medical technicians to undergo
5 any training necessary to safely and properly administer the drug naloxone as
6 specified under par. (a).

Ins 4-7

7 (c) Every emergency medical technician who has obtained the training
8 necessary to safely and properly administer the drug naloxone shall, at all times
9 when performing his or her duties as an emergency medical technician, carry or have
10 available for administration a supply of the drug naloxone.

11 (3) (a) A law enforcement agency or fire department may enter into a written
12 agreement to affiliate with an ambulance service provider or a physician for all of the
13 following purposes:

- 14 1. Obtaining a supply of the drug naloxone.
- 15 2. Allowing law enforcement officers and fire fighters to obtain the training
16 necessary to safely and properly administer the drug naloxone to individuals who are
17 undergoing or who are believed to be undergoing an opioid-related drug overdose.

or another opioid antagonist

or another opioid antagonist

18 (b) A law enforcement officer or fire fighter who, acting in good faith,
19 administers the drug naloxone to an individual whom the officer or fire fighter
20 reasonably believes to be undergoing an opioid-related drug overdose may not be
21 subject to any criminal or civil liability in connection with administering the drug
22 naloxone to the individual, if the law enforcement officer or fire fighter is acting
23 pursuant to an agreement and any training obtained under par. (a).

administers naloxone or another opioid antagonist to that person shall be immune from

(END)

for any outcomes resulting from the administration of the drug to that person

INS
33100

INSERT ANALYSIS A

Prescriptions for opioid antagonists written to third parties; possession, delivery, and dispensing of naloxone ~~opioid~~ antagonists (B, I)

Under current law, no person may dispense any prescribed drug or device, except upon the prescription order of a person who is authorized to prescribe drugs (practitioner). Prescription orders must contain certain information and must generally specify the name and address of the patient to whom the drug or device is prescribed (patient). In addition, under current law, no prescribed drug or device may be dispensed unless there is a label attached to the container that includes certain information, including the name of the patient. Also under current law, no person may possess a prescription drug unless the prescription drug is obtained in compliance with certain requirements for prescriptions and prescription orders, and no person may possess a prescription drug with intent to deliver.

This substitute amendment specifically provides that any person may possess an opioid antagonist, as defined in the substitute amendment, and provides that, with certain qualifications, any person may deliver (transfer) or dispense an opioid antagonist to another person. Opioid antagonists are prescription drugs, such as the drug naloxone, some of which can, when administered to a person undergoing an overdose on drugs such as heroin or prescription narcotics, have the effect of countering the effects of the overdose.

Also under this substitute amendment, a licensed physician, a licensed physician assistant, or an advanced practice nurse certified to issue prescription orders (APRN prescriber) may, directly or by the use of a standing order, prescribe an opioid antagonist to a person in a position to assist an individual at risk of experiencing an opioid-related drug overdose. The substitute amendment requires a physician, physician assistant, or APRN prescriber who prescribes an opioid antagonist in this manner to ensure that the person to whom the opioid antagonist will be delivered or dispensed has the knowledge and training necessary to safely administer the opioid antagonist to an individual ~~experiencing~~ undergoing an opioid-related overdose and that the person will ensure that any individual to whom the person further delivers or dispenses the opioid antagonist has or receives that knowledge and training. A physician, physician assistant, or APRN prescriber may only dispense or deliver an opioid antagonist in accordance with these provisions or his or her other lawful authority to dispense prescription drugs.

The substitute amendment allows a licensed pharmacist to, upon the prescription order of a physician, physician assistant, or APRN prescriber that is in accordance with the provisions described above, deliver or dispense the opioid antagonist to the person specified in the prescription order. Under the substitute amendment, a pharmacist may only deliver or dispense an opioid antagonist in accordance with those provisions or in accordance with his or her other legal authority to dispense prescription drugs.

The substitute amendment specifically provides that actions taken by a licensed physician, licensed physician assistant, certified APRN prescriber, or licensed pharmacist in accordance with the provisions described above do not

undergoing

demonstrates the capacity to

undergoing

constitute unprofessional conduct and are therefore not grounds for professional discipline.

Administration of opioid antagonists by emergency medical services personnel

INSERT ANALYSIS B

No 9

EMTs operate under a medical director, a physician who trains, medically coordinates, directs, supervises, establishes standard operating procedures for, and designates physicians for direction and supervision of, EMTs and who reviews the performance of EMTs and ambulance service providers.

INSERT ANALYSIS C

1 no 9

requires every ambulance service provider medical director to ensure that every EMT under his or her supervision who has obtained the training necessary to safely and properly administer the drug naloxone or another opioid antagonist has a supply of naloxone or the other opioid antagonist available for administration when he or she is performing his or her duties as an EMT, to the extent that naloxone or the other opioid antagonist is available to the ambulance service provider.

INSERT ANALYSIS D

9

Immunity

The substitute amendment provides that any person who delivers an opioid antagonist to another person is immune from civil or criminal liability for any outcomes resulting from delivering or dispensing the opioid antagonist, subject to the qualifications that: 1) a physician, a physician assistant, or an APRN prescriber is immune from any criminal or civil liability for any outcomes resulting from prescribing, delivering, or dispensing an opioid antagonist if he or she acts in accordance with the procedures in the substitute amendment or otherwise lawfully prescribes or dispenses an opioid antagonist, and if he or she acts in good faith; and 2) a pharmacist is immune from criminal or civil liability for any outcomes resulting from delivering or dispensing the opioid antagonist if he or she acts in accordance with the procedures in the substitute amendment or otherwise lawfully dispenses an opioid antagonist, and if he or she acts in good faith. The substitute amendment also provides that a physician, physician assistant, APRN prescriber, or pharmacist who has the immunity described above may not be subject to professional discipline by the relevant credentialing board.

In addition, the substitute amendment provides that any person who, reasonably believing another person to be experiencing an opioid-related drug overdose, administers an opioid antagonist to that person shall be immune from civil or criminal liability for any outcomes resulting from the administration of the opioid antagonist to that person. However, the substitute amendment qualifies this immunity granted for administering opioid antagonists by providing that: 1) consistent with Wisconsin's Good Samaritan law, the immunity does not extend when employees trained in health care or health care professionals render

emergency care for compensation and within the scope of their usual and customary employment or practice under certain circumstances; and 2) a law enforcement officer or fire fighter only has the immunity granted in the substitute amendment for administering an opioid antagonist if acting pursuant to an agreement described above to affiliate with an ambulance service provider or a physician.

INSERTS (LRB-3274)

✓ INSERT 2-1

1 SECTION 1. 256.01 (13) of the statutes is created to read:
2 256.01 (13) "Opioid antagonist" has the meaning given under s. 450.01 (13v).

✓ INSERT 4-7

3 (c) Every ambulance service provider medical director shall ensure that every
4 emergency medical technician under his or her supervision who has obtained the
5 training necessary to safely and properly administer naloxone or another opioid
6 antagonist has a supply of naloxone or the other opioid antagonist available for
7 administration when he or she is performing his or her duties as an emergency
8 medical technician, to the extent that naloxone or the other opioid antagonist is
9 available to the ambulance service provider.

INSERTS (LRB-3360)

✓ INSERT 2-12

10 (d) "Opioid antagonist" has the meaning given under s. 450.01 (13v).

✓ INSERT 3-3

11 An advanced practice nurse who, acting in good faith, prescribes or delivers an
12 opioid antagonist in accordance with sub. (2), or who, acting in good faith, otherwise
13 lawfully prescribes or dispenses an opioid antagonist, shall be immune from criminal
14 or civil liability and may not be subject to professional discipline under s. 441.07 for

Ins D

No 9

in
9.1.
do all of the following

1 any outcomes resulting from prescribing, delivering, or dispensing the opioid
2 antagonist.

✓ INSERT 3-20

3 (d) "Opioid antagonist" has the meaning given ⁱⁿ under s. 450.01 (13v).

✓ INSERT 4-14

No 9

4 A physician or physician assistant who, acting in good faith, prescribes or
5 delivers an opioid antagonist in accordance with sub. (2), or who, acting in good faith,
6 otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune
7 from criminal or civil liability and may not be subject to professional discipline under
8 s. 441.07^{e 448.02} for any outcomes resulting from prescribing, delivering, or dispensing the
9 opioid antagonist.

✓ INSERT 4-20

10 SECTION 2. 450.01 (13v) of the statutes is created to read:

11 450.01 (13v) "Opioid antagonist" means means a drug, such as naloxone, that
12 satisfies all of the following:

13 (a) The drug binds to the opioid receptors and competes with or displaces opioid
14 agonists at the opioid receptor site but does not activate the receptors, effectively
15 blocking the receptor and preventing or reversing the effect of an opioid agonist.

~~***NOTE: The definition from the PSW used the term "competes." Here I said "competes with" but I was not entirely sure this was the correct use of the term. Let me know if this is incorrect.~~

16 (b) The drug is not a controlled substance.

✓ INSERT 5-21

17 2. A pharmacist who, acting in good faith, delivers an opioid antagonist in
18 accordance with subd. 1., or who, acting in good faith, otherwise lawfully dispenses

1 an opioid antagonist, shall be immune from criminal or civil liability and may not be
2 subject to professional discipline under s. 441.07^{e 450.10} for any outcomes resulting from
3 delivering or dispensing that opioid antagonist.

✓ INSERT 6-5

4 2. a. Except as qualified under subd. 2. b. to ^dc., any person may deliver or
5 dispense an opioid antagonist. _{Subject to}

6 b. An advanced practice nurse prescriber may only deliver or dispense an opioid
7 antagonist in accordance with s. 441.18^v(2) or in accordance with his or her other legal
8 authority to dispense prescription drugs.

9 c. A physician or physician assistant may only deliver or dispense an opioid
10 antagonist in accordance with s. 448.037^v(2) or in accordance with his or her other
11 legal authority to dispense prescription drugs.

12 d. A pharmacist may only deliver or dispense an opioid antagonist in
13 accordance with par. (a) 1. or in accordance with his or her other legal authority to
14 dispense prescription drugs.

✓ INSERT 6-8

15 ^{NO} Subject to par. (a) 2. and ss. 441.18^v(2) and 448.037^v(2)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Inserts

This is Ins RA

opioid antagonists

opioid antagonists

1 **AN ACT to renumber and amend** 441.07 (1) (d) and 448.015 (4) (bm); **to amend**
 2 450.10 (1) (a) (intro.), 450.11 (1), 450.11 (3), 450.11 (4) (a) 5. a., 450.11 (7) (h) and
 3 895.48 (1); and **to create** 441.07 (1) (d) 2., 441.18, 448.015 (4) (bm) 2., 448.037,
 4 450.01 (1) (d), 450.11 (1i) and 450.11 (4) (a) 5. c. of the statutes; **relating to:**
 5 prescription, possession, dispensing, delivery, and administration of the drug
 6 naloxone and immunity for certain individuals who prescribe, dispense,
 7 deliver, or administer naloxone. This is Ins RB

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

8 SECTION 1. 441.07 (1) (d) of the statutes is renumbered 441.07 (1) (d) (intro.)
 9 and amended to read: (1g)

Begin
Ins
3360

as affected by 2013
Wisconsin Act 114

1 441.07 (1) (d) ^g ^B (intro.) Misconduct or unprofessional conduct. In this paragraph,
 2 "misconduct" and "unprofessional conduct" do not include providing any of the
 3 following:

4 1. Providing expedited partner therapy as described in s. 448.035.

5 SECTION 2. 441.07 (1) (d) 2. of the statutes is created to read:

6 441.07 (1) (d) 2. Prescribing, ^{g or} delivering, or dispensing the drug naloxone in
 7 accordance with s. 441.18 (2).

8 SECTION 3. 441.18 of the statutes is created to read:

9 441.18 Prescription for and dispensing of naloxone. (1) In this section:

- 10 (a) "Administer" has the meaning given in s. 450.01 (1) ^e (d).
- 11 (b) "Deliver" has the meaning given in s. 450.01 (5).
- 12 (c) "Dispense" has the meaning given in s. 450.01 (7).
- 13 ^{e (e)} (d) "Opioid-related drug overdose" has the meaning given in s. 448.037 (1) ^{e (e)} (d).

14 (2) (a) An advanced practice nurse certified to issue prescription orders under
 15 s. 441.16 may, directly or by the use of a standing order, prescribe the drug naloxone
 16 ^{an opioid antagonist} to a person in a position to assist an individual at risk of experiencing an
 17 opioid-related drug overdose and may deliver ^e or dispense the drug ^e to that person. ^{e undergoing}
 18 A prescription order under this paragraph need not specify the name and address of
 19 the individual to whom the naloxone will be administered, but shall instead specify
 20 the name of the person to whom the drug will be delivered or dispensed.

21 (b) An advanced practice nurse who prescribes, ^{or} delivers, or dispenses the drug
 22 naloxone ^{e an opioid antagonist} under par. (a) shall ensure that the person to whom the drug ^{e opioid antagonist} will be
 23 delivered or dispensed has the knowledge and training necessary to safely
 24 administer the drug to an individual experiencing an opioid-related overdose and

✓
 INS
 2-12

demonstrates the capacity to
opioid antagonist

1 that the person will ensure that any individual to whom the person further delivers
2 or dispenses the drug has or receives that knowledge and training.

3 (3) An advanced practice nurse who, acting in good faith, prescribes, delivers
4 or dispenses the drug naloxone in accordance with sub. (2) may not be subject to any
5 criminal or civil liability and may not be subject to professional discipline under s.
6 441.07 for any outcomes resulting from prescribing, delivering, or dispensing that
7 drug.

8 SECTION 4. 448.015 (4) (bm) of the statutes is renumbered 448.015 (4) (bm)
9 (intro.) and amended to read:

10 448.015 (4) (bm) (intro.) "Unprofessional conduct" does not include providing
11 any of the following:

12 1. Providing expedited partner therapy as described in s. 448.035.

13 SECTION 5. 448.015 (4) (bm) 2. of the statutes is created to read:

14 448.015 (4) (bm) 2. Prescribing, delivering, or dispensing the drug naloxone in
15 accordance with s. 448.037 (2).

16 SECTION 6. 448.037 of the statutes is created to read:

17 448.037 (Prescription for and dispensing of naloxone) (1) In this section:

18 (a) "Administer" has the meaning given in s. 450.01 (1) (d).

19 (b) "Deliver" has the meaning given in s. 450.01 (5).

20 (c) "Dispense" has the meaning given in s. 450.01 (7).

21 (d) "Opioid-related drug overdose" means a condition including extreme
22 physical illness, decreased level of consciousness, respiratory depression, coma, or
23 the ceasing of respiratory or circulatory function resulting from the consumption or
24 use of an opioid, or another substance with which an opioid was combined.

Ins
3-20

Prescriptions for and delivery

opioid antagonists

Ins 3-3

or

1 (2) (a) A physician or physician assistant may, directly or by the use of a
 2 standing order, prescribe the drug naloxone to a person in a position to assist an
 3 individual at risk of experiencing an opioid-related drug overdose and may deliver
 4 or dispense the drug to that person. A prescription order under this paragraph need
 5 not specify the name and address of the individual to whom the naloxone will be
 6 administered, but shall instead specify the name of the person to whom the drug will
 7 be delivered or dispensed.

8 (b) A physician or physician assistant who prescribes, delivers, or dispenses the
 9 drug naloxone under par. (a) shall ensure that the person to whom the drug will be
 10 delivered or dispensed has the knowledge and training necessary to safely
 11 administer the drug to an individual experiencing an opioid-related overdose and
 12 that the person will ensure that any individual to whom the person further delivers
 13 or dispenses the drug has or receives that knowledge and training.

14 (3) A physician or physician assistant who, acting in good faith, prescribes,
 15 delivers, or dispenses the drug naloxone in accordance with sub. (2) may not be
 16 subject to any criminal or civil liability and may not be subject to professional
 17 discipline under s. 448.02 for any outcomes resulting from prescribing, delivering,
 18 or dispensing that drug.

19 SECTION 7. 450.01 (1) (d) of the statutes is created to read:

20 450.01 (1) (d) In the case of the drug naloxone, any person.

21 SECTION 8. 450.10 (1) (a) (intro.) of the statutes is amended to read:

22 450.10 (1) (a) (intro.) In this subsection, "unprofessional conduct" includes any
 23 of the following, but does not include the dispensing of an antimicrobial drug for
 24 expedited partner therapy as described in s. 450.11 (1g) or the delivery or dispensing
 25 of naloxone as described in s. 450.11 (1i):

INS 4-20

undergoing

an opioid antagonist

the opioid antagonist

opioid antagonist
(use)
2x

an opioid antagonist

opioid antagonist
(use)
3x

INS 4-14

an opioid antagonist

an opioid antagonist

1 SECTION 9. 450.11[✓] (1) of the statutes is amended to read:

2 450.11 (1) DISPENSING. No Except as provided in sub. (1) (b) 2.[✓], no person may
 3 dispense any prescribed drug or device except upon the prescription order of a
 4 practitioner. All prescription orders shall specify the date of issue, the name and
 5 address of the practitioner, the name and quantity of the drug product or device
 6 prescribed, directions for the use of the drug product or device, the symptom or
 7 purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and,
 8 if the order is written by the practitioner, the signature of the practitioner. Except
 9 as provided in s. ss. 441.18[✓] (2), 448.035 (2), and 448.037[✓] (2), all prescription orders
 10 shall also specify the name and address of the patient. Any oral prescription order
 11 shall be immediately reduced to writing by the pharmacist and filed according to sub.
 12 (2).

13 SECTION 10. 450.11[✓] (1i) of the statutes is created to read:

14 450.11 (1i) NALOXONE ^{OPIOD ANTAGONISTS (CS)} (a) *Prescription and liability*. 1. A pharmacist may,
 15 upon the prescription order of an advanced practice nurse prescriber under s. 441.18
 16 (2), or ^{of} a physician or physician assistant under s. 448.037[✓] (2), that complies with the
 17 requirements of sub. (1), deliver or dispense the drug naloxone ^{an opioid antagonist} to the person specified
 18 in the prescription order. The pharmacist shall provide a consultation in accordance
 19 with rules promulgated by the board for the delivery or dispensing of a prescription
 20 to the person to whom the drug ^{opioid antagonist} is delivered or dispensed.

21 2. A pharmacist who, acting in good faith, delivers or dispenses the drug
 22 naloxone in accordance with subd. 1. may not be subject to any criminal or civil
 23 liability and may not be subject to professional discipline under s. 450.10 for any
 24 outcomes resulting from delivering or dispensing that drug.

elms 5-21

(b) *Possession, dispensing, and delivery.* 1. Any person may possess ^{an} the drug

^{an opioid antagonist} naloxone.

2. Any person who is not a pharmacist, physician, physician assistant, or advanced practice nurse prescriber may deliver or dispense the drug naloxone to another person.

(c) *Immunity.* 1. In this paragraph, "opioid-related drug overdose" has the meaning given in s. 448.037 (1) (d).

2. (a) Except as provided in subd. 2. b. to d., any person who ^{acting in good faith} delivers or dispenses the drug naloxone ^{an opioid antagonist} to another person shall be immune from civil or criminal liability for any outcomes resulting from delivering or dispensing that drug.

b. An advanced practice nurse prescriber who delivers or dispenses the drug naloxone in accordance with s. 441.18 (2) shall be immune from civil or criminal liability for any outcomes resulting from delivering or dispensing that drug if the advanced practice nurse prescriber complies with s. 441.18 (3).

c. A physician or physician assistant who delivers or dispenses the drug naloxone in accordance with s. 448.037 (2) shall be immune from civil or criminal liability for any outcomes resulting from delivering or dispensing that drug if the physician or physician assistant complies with s. 448.037 (3).

d. A pharmacist who delivers or dispenses the drug naloxone in accordance with par. (a) 1. shall be immune from civil or criminal liability for any outcomes resulting from delivering or dispensing that drug if the pharmacist complies with par. (a) 2.

3. Except as provided in s. 895.48 (1g), any person who, reasonably believing another person to be ^{undergoing} experiencing an opioid-related drug overdose, administers ^{an opioid antagonist} the

^{Subject to ss. 256.40(3)(b) and}

1 drug naloxone to that person shall be immune from civil or criminal liability for any
2 outcomes resulting from the administration of the drug to that person. *opioid antagonist*

3 SECTION 11. 450.11 (3) of the statutes is amended to read:

4 450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. ~~No~~ Except as provided in sub.
5 (1i) (b), no person other than a pharmacist or practitioner or their agents and
6 employees as directed, supervised ² and inspected by the pharmacist or practitioner
7 may prepare, compound, dispense, or prepare for delivery for a patient any
8 prescription drug.

9 SECTION 12. 450.11 (4) (a) 5. a. of the statutes is amended to read:

10 450.11 (4) (a) 5. a. Except as provided in subd. 5. b. and c., the full name of the
11 patient.

12 SECTION 13. 450.11 (4) (a) 5. c. of the statutes is created to read:

13 450.11 (4) (a) 5. c. For the drug naloxone *an opioid antagonist* when delivered or dispensed under
14 sub. (1i) ^(a), the name of the person to whom the drug will be delivered or dispensed as
15 specified in s. 441.18 (2) or 448.037 (2). *opioid antagonist*

16 SECTION 14. 450.11 (7) (h) of the statutes is amended to read:

17 450.11 (7) (h) ~~No~~ Except as provided in sub. (1i) (b), no person may possess a
18 prescription drug unless the prescription drug is obtained in compliance with this
19 section. ~~Amended from sub. (1i) (a) and~~

20 SECTION 15. 895.48 (1) of the statutes is amended to read:

21 895.48 (1) Any Except as provided in sub. (1g), any person who renders
22 emergency care at the scene of any emergency or accident in good faith shall be
23 immune from civil liability for his or her acts or omissions in rendering such
24 emergency care. This

No changes

1 (1g) The immunity described in sub. (1) and s. 450.11 (1) (c) 3. does not extend
2 when employees trained in health care or health care professionals render
3 emergency care for compensation and within the scope of their usual and customary
4 employment or practice at a hospital or other institution equipped with hospital
5 facilities, at the scene of any emergency or accident, enroute to a hospital or other
6 institution equipped with hospital facilities[↑] or ~~at~~ a physician's office.

7

(END)

INSERT ANALYSIS A

✓ Finally, the ^{substitute a amendment} bill requires ambulance service medical directors to ensure that all EMTs and certified first responders keep records of the administration of naloxone and other opioid antagonists in cases of suspected opioid-related overdose, and to submit those records to DHS in accordance with uniform methods, procedures, and timelines prescribed by DHS.

INSERT B

1 ^x SECTION 1. 146.82 (1) of the statutes is amended to read:

2 146.82 (1) CONFIDENTIALITY. All patient health care records shall remain
3 confidential. Patient health care records may be released only to the persons
4 designated in this section or to other persons with the informed consent of the patient
5 or of a person authorized by the patient. This subsection does not prohibit reports
6 made in compliance with s. 253.12 (2), 255.40, 256.40 (2) (c), ^{2. or 3.} or 979.01; records
7 generated or disclosed pursuant to rules promulgated under s. 450.19; testimony
8 authorized under s. 905.04 (4) (h); or releases made for purposes of health care
9 operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164,
10 subpart E.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 83, 114, 151; 2001 a. 38, 59, 69, 105; 2003 a. 281; 2005 a. 187, 344, 387, 388, 434; 2007 a. 20 s. 9121 (6) (a); 2007 a. 45, 106, 108, 130; 2009 a. 28, 276, 362; 2011 a. 32, 161; 2013 a. 20.

INSERT C

11 ^x SECTION 2. 256.15 (12) (a) of the statutes is amended to read:

12 256.15 (12) (a) ~~All~~ Except as provided in par. (c), all records made by an
13 ambulance service provider, an emergency medical technician or a first responder in
14 administering emergency care procedures to and handling and transporting sick,
15 disabled or injured individuals shall be maintained as confidential patient health
16 care records subject to s. 252.15 (3m), (6), (8) and (9), if applicable. Nothing in this
17 paragraph or ss. 146.81 to 146.84 permits disclosure to an ambulance service

1 provider, an emergency medical technician or a first responder under s. 252.15 (3m),
2 except under s. 252.15 (3m) (e).

History: 1973 c. 321; 1975 c. 39 ss. 645 to 647d, 732(2); 1975 c. 224; 1977 c. 29, 167; 1979 c. 321; 1981 c. 73, 380; 1981 c. 391 s. 211; 1983 a. 189; 1985 a. 120, 135; 1987 a. 70, 399; 1989 a. 31; 1989 a. 102 ss. 20, 21, 36 to 59; 1991 a. 39, 238; 1993 a. 27, 29, 105, 183, 251, 399; 1997 a. 79, 191, 237; 1999 a. 7, 56; 2001 a. 109; 2005 a. 25, 486; 2007 a. 104; 2007 a. 130 ss. 50 to 52, 55 to 57, 63 to 66, 69, 71 to 104; Stats. 2007 s. 256.15; 2009 a. 28, 42; 2009 a. 180 s. 123; 2009 a. 209; 2011 a. 120, 209.

3 **SECTION 3. 256.15 (12) (c)** of the statutes is created to read:

4 256.15 (12) (c) Paragraph (a) does not apply to records made in compliance with
5 s. 256.40 (2) (c).^{2. or 3}

INSERT D

6 2. Require each certified first responder and emergency medical technician
7 under his or her supervision to, in accordance with the methods, procedures, and
8 timelines prescribed by the department under par. (d) 1., keep a record of each
9 instance in which the certified first responder or emergency medical technician
10 administers naloxone or another opioid antagonist to an individual who is
11 undergoing or who is believed to be undergoing an opioid-related drug overdose.

12 3. Compile and submit records under subd. 2. to the department in accordance
13 with the methods, procedures, and timelines prescribed by the department under
14 par. (d) 1.

15 (d) 1. The department shall prescribe uniform methods, procedures, and
16 timelines for keeping records under par. (c) 2. and for compiling and submitting
17 records to the department under par. (c) 3. The department shall prescribe methods
18 and procedures under this subdivision that ensure that records under par. (c) 2. and
19 3. will maintain the anonymity of the individuals to whom naloxone or another opioid
20 antagonist is administered.

1 2. The department may, using records received under par. (c) 3., prepare reports
2 on the administration of naloxone and other opioid antagonists by certified first
3 responders and emergency medical technicians.

INSERT DN

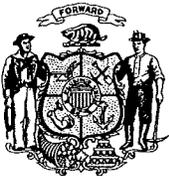
4. Please review the language I created for reporting on the use of naloxone and
5 other opioid antagonists by EMTs and first responders. To ^{better} ensure compliance with
6 confidentiality provisions under federal HIPAA law and to better facilitate
7 compilation of these records by DHS, I required DHS to prescribe uniform methods
8 for complying with the recordkeeping requirements. This would also provide time
9 for EMTs to comply with the new requirement because they would be able to wait
10 until DHS prescribed methods and procedures for keeping these records. Let me
11 know if any of these provisions do not reflect the intent or if any other changes are
12 needed and I will make the requested changes.

~~Would also recommend~~

I was unable to

~~might want~~ get in touch with anyone at DHS regarding this language,
so you may want to have them review it as well.

Please review
this language and



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0207/P1
MED:eev:jm

today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 446

regen

1 AN ACT *to renumber and amend* 448.015 (4) (bm); *to amend* 146.82 (1), 256.15
2 (8) (e), 256.15 (12) (a), 441.07 (1g) (d), 450.10 (1) (a) (intro.), 450.11 (1), 450.11
3 (3), 450.11 (4) (a) 5. a., 450.11 (7) (h) and 895.48 (1); and *to create* 256.01 (13),
4 256.15 (12) (c), 256.40, 441.07 (1g) (d) 2., 441.18, 448.015 (4) (bm) 2., 448.037,
5 450.01 (1) (d), 450.01 (13v), 450.11 (1i) and 450.11 (4) (a) 5. c. of the statutes;
6 **relating to:** prescription, possession, dispensing, delivery, and administration
7 of opioid antagonists; training and agreements for administering opioid
8 antagonists; requiring emergency medical technicians to carry opioid

accordance with those provisions or in accordance with his or her other legal authority to dispense prescription drugs.

The substitute amendment specifically provides that actions taken by a licensed physician, licensed physician assistant, certified APRN prescriber, or licensed pharmacist in accordance with the provisions described above do not constitute unprofessional conduct and are therefore not grounds for professional discipline.

Administration of opioid antagonists by emergency medical services personnel

Under current law, the Department of Health Services (DHS) serves as the lead state agency for emergency medical services and has various duties relating to the provision of emergency medical services, including:

1) Certifying first responders, who are individuals that, as a condition of employment or as members of an organization that provides emergency medical care before hospitalization, provide emergency medical care to sick, disabled, or injured individuals before the arrival of an ambulance. In order to become certified as a first responder, an individual must satisfy certain criteria, including completing a first responder course that meets certain specified criteria. Certified first responders may undertake only certain actions specified under current law, including administering medications that are specified by DHS by rule.

2) Licensing emergency medical technicians (EMTs), who are individuals that may provide emergency medical services ranging from basic life support and patient handling and transportation to emergency cardiac, trauma, and other lifesaving or emergency procedures, depending on the level of EMT licensure. Current law specifies three levels of EMT licensure, known as EMT – basic, EMT – intermediate, and EMT – paramedic (advanced). In order to become licensed as an EMT, an individual must satisfy certain criteria, including obtaining training commensurate with the level of EMT licensure that is sought. EMTs may, under current law, undertake only those actions that are authorized in rules promulgated by DHS for their level of licensure. EMTs operate under a medical director, a physician who trains, medically coordinates, directs, supervises, establishes standard operating procedures for, and designates physicians for direction and supervision of, EMTs, and who reviews the performance of EMTs and ambulance service providers.

This substitute amendment provides that certified first responders may administer naloxone or another opioid antagonist if they have received training necessary to safely administer naloxone or the other opioid antagonist, as determined by DHS. The substitute amendment also requires that DHS permit EMTs at all levels of licensure to administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose. DHS must, under the substitute amendment, require EMTs to undergo any training necessary to safely and properly administer naloxone or the other opioid antagonist. The substitute amendment also requires every medical director of an ambulance service provider to ensure that every EMT under his or her supervision who has obtained the training necessary to safely and properly administer the drug naloxone or another opioid antagonist has a supply of naloxone

or the other opioid antagonist available for administration when he or she is performing his or her duties as an EMT, to the extent that naloxone or the other opioid antagonist is available to the ambulance service provider. *Not*

In addition, the substitute amendment allows a law enforcement agency or fire department to enter into a written agreement to affiliate with an ambulance service provider or a physician for the purposes of: 1) obtaining a supply of naloxone or another opioid antagonist; and 2) allowing law enforcement officers and fire fighters to obtain the training necessary to safely and properly administer naloxone or another opioid antagonist to individuals who are undergoing or who are believed to be undergoing an opioid-related drug overdose.

Immunity

The substitute amendment provides that any person who delivers an opioid antagonist to another person is immune from civil or criminal liability for any outcomes resulting from delivering or dispensing the opioid antagonist, subject to the qualifications that: 1) a physician, a physician assistant, or an APRN prescriber is immune from any criminal or civil liability for any outcomes resulting from prescribing, delivering, or dispensing an opioid antagonist if he or she acts in accordance with the procedures in the substitute amendment or otherwise lawfully prescribes or dispenses an opioid antagonist, and if he or she acts in good faith; and 2) a pharmacist is immune from criminal or civil liability for any outcomes resulting from delivering or dispensing the opioid antagonist if he or she acts in accordance with the procedures in the substitute amendment or otherwise lawfully dispenses an opioid antagonist, and if he or she acts in good faith. The substitute amendment also provides that a physician, physician assistant, APRN prescriber, or pharmacist who has the immunity described above may not be subject to professional discipline by the relevant credentialing board.

In addition, the substitute amendment provides that any person who, reasonably believing another person to be undergoing an opioid-related drug overdose, administers an opioid antagonist to that person shall be immune from civil or criminal liability for any outcomes resulting from the administration of the opioid antagonist to that person. However, the substitute amendment qualifies this immunity granted for administering opioid antagonists by providing that: 1) consistent with Wisconsin's Good Samaritan law, the immunity does not extend when employees trained in health care or health care professionals render emergency care for compensation and within the scope of their usual and customary employment or practice under certain circumstances; and 2) a law enforcement officer or fire fighter only has the immunity granted in the substitute amendment for administering an opioid antagonist if acting pursuant to an agreement described above to affiliate with an ambulance service provider or a physician.

Finally, the substitute amendment requires ambulance service medical directors to ensure that all EMTs and certified first responders keep records of the administration of naloxone and other opioid antagonists in cases of suspected

More up here

any

is

every

of an ambulance service provider

the case of a

move
where
indicated
on p. 4

opioid-related overdose, and to submit those records to DHS in accordance with uniform methods, procedures, and timelines prescribed by DHS.

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

SECTION 1. 146.82 (1) of the statutes is amended to read:

146.82 (1) CONFIDENTIALITY. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 253.12 (2), 255.40, 256.40 (2) (c) 2. or 3., or 979.01; records generated or disclosed pursuant to rules promulgated under s. 450.19; testimony authorized under s. 905.04 (4) (h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

SECTION 2. 256.01 (13) of the statutes is created to read:

256.01 (13) "Opioid antagonist" has the meaning given in s. 450.01 (13v).

SECTION 3. 256.15 (8) (e) of the statutes is amended to read:

256.15 (8) (e) A certified first responder is authorized to use an automated external defibrillator, as prescribed for first responders in rules promulgated by the department. The rules shall set forth authorization for the use of an automated external defibrillator or, for a defibrillator that may be operated in more than one mode, use as an automated external defibrillator only. A certified first responder is authorized to administer naloxone or another opioid antagonist if the first responder has received training necessary to safely administer naloxone or the other opioid antagonist, as determined by the department. A certified first responder is also

1 authorized to employ other techniques, including the administration of
2 nonvisualized advanced airways, and the administration of medications that are
3 specified by the department by rule. In promulgating the rules under this
4 paragraph, the department shall consult with the state medical director for
5 emergency medical services and the emergency medical services board. The rule
6 shall include those techniques that are specified in the most current guidelines
7 issued by the National Highway Traffic Safety Administration under 23 CFR 1205.3
8 (a) (5).

9 **SECTION 4.** 256.15 (12) (a) of the statutes is amended to read:

10 256.15 (12) (a) All Except as provided in par. (c), all records made by an
11 ambulance service provider, an emergency medical technician or a first responder in
12 administering emergency care procedures to and handling and transporting sick,
13 disabled or injured individuals shall be maintained as confidential patient health
14 care records subject to s. 252.15 (3m), (6), (8) and (9), if applicable. Nothing in this
15 paragraph or ss. 146.81 to 146.84 permits disclosure to an ambulance service
16 provider, an emergency medical technician or a first responder under s. 252.15 (3m),
17 except under s. 252.15 (3m) (e).

18 **SECTION 5.** 256.15 (12) (c) of the statutes is created to read:

19 256.15 (12) (c) Paragraph (a) does not apply to records made in compliance with
20 s. 256.40 (2) (c) 2. or 3.

21 **SECTION 6.** 256.40 of the statutes is created to read:

22 **256.40 Opioid antagonists.** (1) In this section:

23 (a) “Fire fighter” means any person employed by the state or any political
24 subdivision as a member or officer of a fire department or a member of a volunteer
25 fire department, including the state fire marshal and deputies.

1 (b) “Law enforcement agency” means an agency of a federally recognized Indian
2 tribe or band or a state or political subdivision of a state, whose purpose is the
3 detection and prevention of crime and enforcement of laws or ordinances.

4 (c) “Law enforcement officer” means any person employed by a law enforcement
5 agency who is authorized to make arrests for violations of the laws or ordinances that
6 the person is employed to enforce.

7 (d) “Opioid-related drug overdose” has the meaning given in s. 448.037 (1) (e).

8 (2) (a) Subject to par. (b), the department shall permit all emergency medical
9 technicians to administer naloxone or another opioid antagonist to individuals who
10 are undergoing or who are believed to be undergoing an opioid-related drug
11 overdose.

12 (b) The department shall require emergency medical technicians to undergo
13 any training necessary to safely and properly administer naloxone or the other opioid
14 antagonist as specified under par. (a). *e another*

15 (c) Every medical director of an ambulance service provider shall do all of the
16 following:

17 1. Ensure that every emergency medical technician under his or her
18 supervision who has obtained the training necessary to safely and properly
19 administer naloxone or another opioid antagonist has a supply of naloxone or the
20 other opioid antagonist available for administration when he or she is performing his
21 or her duties as an emergency medical technician, to the extent that naloxone or the
22 other opioid antagonist is available to the ambulance service provider.

23 2. Require each certified first responder and emergency medical technician
24 under his or her supervision to, in accordance with the methods, procedures, and
25 timelines prescribed by the department under par. (d) 1., keep a record of each

1 instance in which the certified first responder or emergency medical technician
2 administers naloxone or another opioid antagonist to an individual who is
3 undergoing or who is believed to be undergoing an opioid-related drug overdose.

4 3. Compile and submit records under subd. 2. to the department in accordance
5 with the methods, procedures, and timelines prescribed by the department under
6 par. (d) 1.

7 (d) 1. The department shall prescribe uniform methods, procedures, and
8 timelines for keeping records under par. (c) 2. and for compiling and submitting
9 records to the department under par. (c) 3. The department shall prescribe methods
10 and procedures under this subdivision that ensure that records under par. (c) 2. and
11 3. will maintain the anonymity of the individuals to whom naloxone or another opioid
12 antagonist is administered.

13 2. The department may, using records received under par. (c) 3., prepare reports
14 on the administration of naloxone and other opioid antagonists by certified first
15 responders and emergency medical technicians.

16 (3) (a) A law enforcement agency or fire department may enter into a written
17 agreement to affiliate with an ambulance service provider or a physician for all of the
18 following purposes:

19 1. Obtaining a supply of naloxone or another opioid antagonist.

20 2. Allowing law enforcement officers and fire fighters to obtain the training
21 necessary to safely and properly administer naloxone or another opioid antagonist
22 to individuals who are undergoing or who are believed to be undergoing an
23 opioid-related drug overdose.

24 (b) A law enforcement officer or fire fighter who, reasonably believing another
25 person to be undergoing an opioid-related drug overdose, administers naloxone or

1 another opioid antagonist to that person shall be immune from civil or criminal
2 liability for any outcomes resulting from the administration of the drug to that
3 person, if the law enforcement officer or fire fighter is acting pursuant to an
4 agreement and any training obtained under par. (a).

5 **SECTION 7.** 441.07 (1g) (d) of the statutes, as affected by 2013 Wisconsin Act 114,
6 is amended to read:

7 441.07 (1g) (d) Misconduct or unprofessional conduct. In this paragraph,
8 “misconduct” and “unprofessional conduct” do not include providing any of the
9 following:

10 1. Providing expedited partner therapy as described in s. 448.035.

11 **SECTION 8.** 441.07 (1g) (d) 2. of the statutes is created to read:

12 441.07 (1g) (d) 2. Prescribing or delivering an opioid antagonist in accordance
13 with s. 441.18 (2).

14 **SECTION 9.** 441.18 of the statutes is created to read:

15 **441.18 Prescriptions for and delivery of opioid antagonists. (1)** In this
16 section:

17 (a) “Administer” has the meaning given in s. 450.01 (1).

18 (b) “Deliver” has the meaning given in s. 450.01 (5).

19 (c) “Dispense” has the meaning given in s. 450.01 (7).

20 (d) “Opioid antagonist” has the meaning given in s. 450.01 (13v).

21 (e) “Opioid-related drug overdose” has the meaning given in s. 448.037 (1) (e).

22 **(2)** (a) An advanced practice nurse certified to issue prescription orders under
23 s. 441.16 may, directly or by the use of a standing order, prescribe an opioid
24 antagonist to a person in a position to assist an individual at risk of undergoing an
25 opioid-related drug overdose and may deliver the opioid antagonist to that person.

1 A prescription order under this paragraph need not specify the name and address of
2 the individual to whom the opioid antagonist will be administered, but shall instead
3 specify the name of the person to whom the opioid antagonist will be delivered.

4 (b) An advanced practice nurse who prescribes or delivers an opioid antagonist
5 under par. (a) shall ensure that the person to whom the opioid antagonist will be
6 delivered has the knowledge and training necessary to safely administer the opioid
7 antagonist to an individual undergoing an opioid-related overdose and that the
8 person demonstrates the capacity to ensure that any individual to whom the person
9 further delivers or dispenses^e the opioid antagonist has or receives that knowledge
10 and training.

11 (3) An advanced practice nurse who, acting in good faith, prescribes or delivers
12 an opioid antagonist in accordance with sub. (2), or who, acting in good faith,
13 otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune
14 from criminal or civil liability and may not be subject to professional discipline under
15 s. 441.07 for any outcomes resulting from prescribing, delivering, or dispensing the
16 opioid antagonist.

17 **SECTION 10.** 448.015 (4) (bm) of the statutes is renumbered 448.015 (4) (bm)
18 (intro.) and amended to read:

19 448.015 (4) (bm) (intro.) “Unprofessional conduct” does not include providing
20 any of the following:

21 1. Providing expedited partner therapy as described in s. 448.035.

22 **SECTION 11.** 448.015 (4) (bm) 2. of the statutes is created to read:

23 448.015 (4) (bm) 2. Prescribing or delivering an opioid antagonist in accordance
24 with s. 448.037 (2).

25 **SECTION 12.** 448.037 of the statutes is created to read:

1 **448.037 Prescriptions for and delivery of opioid antagonists.** (1) In this
2 section:

3 (a) “Administer” has the meaning given in s. 450.01 (1).

4 (b) “Deliver” has the meaning given in s. 450.01 (5).

5 (c) “Dispense” has the meaning given in s. 450.01 (7).

6 (d) “Opioid antagonist” has the meaning given in s. 450.01 (13v).

7 (e) “Opioid-related drug overdose” means a condition including extreme
8 physical illness, decreased level of consciousness, respiratory depression, coma, or
9 the ceasing of respiratory or circulatory function resulting from the consumption or
10 use of an opioid, or another substance with which an opioid was combined.

11 (2) (a) A physician or physician assistant may, directly or by the use of a
12 standing order, prescribe an opioid antagonist to a person in a position to assist an
13 individual at risk of undergoing an opioid-related drug overdose and may deliver the
14 opioid antagonist to that person. A prescription order under this paragraph need not
15 specify the name and address of the individual to whom the opioid antagonist will
16 be administered, but shall instead specify the name of the person to whom the opioid
17 antagonist will be delivered.

18 (b) A physician or physician assistant who prescribes or delivers an opioid
19 antagonist under par. (a) shall ensure that the person to whom the opioid antagonist
20 will be delivered has the knowledge and training necessary to safely administer the
21 opioid antagonist to an individual undergoing an opioid-related overdose and that
22 the person demonstrates the capacity to ensure that any individual to whom the
23 person further delivers or dispenses the opioid antagonist has or receives that
24 knowledge and training.

1 **(3)** A physician or physician assistant who, acting in good faith, prescribes or
2 delivers an opioid antagonist in accordance with sub. (2), or who, acting in good faith,
3 otherwise lawfully prescribes or dispenses an opioid antagonist, shall be immune
4 from criminal or civil liability and may not be subject to professional discipline under
5 s. 448.02 for any outcomes resulting from prescribing, delivering, or dispensing the
6 opioid antagonist.

7 **SECTION 13.** 450.01 (1) (d) of the statutes is created to read:

8 450.01 (1) (d) In the case of an opioid antagonist, any person.

9 **SECTION 14.** 450.01 (13v) of the statutes is created to read:

10 450.01 (13v) “Opioid antagonist” means a drug, such as naloxone, that satisfies
11 all of the following:

12 (a) The drug binds to the opioid receptors and competes with or displaces opioid
13 agonists at the opioid receptor site but does not activate the receptors, effectively
14 blocking the receptor and preventing or reversing the effect of an opioid agonist.

15 (b) The drug is not a controlled substance.

16 **SECTION 15.** 450.10 (1) (a) (intro.) of the statutes is amended to read:

17 450.10 (1) (a) (intro.) In this subsection, “unprofessional conduct” includes any
18 of the following, but does not include the dispensing of an antimicrobial drug for
19 expedited partner therapy as described in s. 450.11 (1g) or the delivery of an opioid
20 antagonist as described in s. 450.11 (1i):

21 **SECTION 16.** 450.11 (1) of the statutes is amended to read:

22 450.11 (1) DISPENSING. ~~No~~ Except as provided in sub. (1i) (b) 2., no person may
23 dispense any prescribed drug or device except upon the prescription order of a
24 practitioner. All prescription orders shall specify the date of issue, the name and
25 address of the practitioner, the name and quantity of the drug product or device

1 prescribed, directions for the use of the drug product or device, the symptom or
2 purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and,
3 if the order is written by the practitioner, the signature of the practitioner. Except
4 as provided in ~~s.~~ ss. 441.18 (2), 448.035 (2), and 448.037 (2), all prescription orders
5 shall also specify the name and address of the patient. Any oral prescription order
6 shall be immediately reduced to writing by the pharmacist and filed according to sub.
7 (2).

8 **SECTION 17.** 450.11 (1i) of the statutes is created to read:

9 **450.11 (1i) OPIOID ANTAGONISTS.** (a) *Prescription and liability.* 1. A pharmacist
10 may, upon the prescription order of an advanced practice nurse prescriber under s.
11 441.18 (2), or of a physician or physician assistant under s. 448.037 (2), that complies
12 with the requirements of sub. (1), deliver an opioid antagonist to the person specified
13 in the prescription order. The pharmacist shall provide a consultation in accordance
14 with rules promulgated by the board for the delivery of a prescription to the person
15 to whom the opioid antagonist is delivered.

16 2. A pharmacist who, acting in good faith, delivers an opioid antagonist in
17 accordance with subd. 1., or who, acting in good faith, otherwise lawfully dispenses
18 an opioid antagonist, shall be immune from criminal or civil liability and may not be
19 subject to professional discipline under s. 450.10 for any outcomes resulting from
20 delivering or dispensing that opioid antagonist.

21 (b) *Possession, dispensing, and delivery.* 1. Any person may possess an opioid
22 antagonist.

23 2. a. Subject to subd. 2. b. to d., any person may deliver or dispense an opioid
24 antagonist.

1 b. An advanced practice nurse prescriber may only deliver or dispense an opioid
2 antagonist in accordance with s. 441.18 (2) or in accordance with his or her other legal
3 authority to dispense prescription drugs.

4 c. A physician or physician assistant may only deliver or dispense an opioid
5 antagonist in accordance with s. 448.037 (2) or in accordance with his or her other
6 legal authority to dispense prescription drugs.

7 d. A pharmacist may only deliver or dispense an opioid antagonist in
8 accordance with par. (a) 1. or in accordance with his or her other legal authority to
9 dispense prescription drugs.

10 (c) *Immunity*. 1. In this paragraph, "opioid-related drug overdose" has the
11 meaning given in s. 448.037 (1) (e).

12 2. Subject to par. (a) 2. and ss. 441.18⁽³⁾ (2) and 448.037⁽³⁾ (2), any person who, acting
13 in good faith, delivers or dispenses an opioid antagonist to another person shall be
14 immune from civil or criminal liability for any outcomes resulting from delivering or
15 dispensing ^{the} that opioid antagonist.

16 3. Subject to ss. 256.40 (3) (b) and 895.48 (1g), any person who, reasonably
17 believing another person to be undergoing an opioid-related drug overdose,
18 administers an opioid antagonist to that person shall be immune from civil or
19 criminal liability for any outcomes resulting from the administration of the opioid
20 antagonist to that person.

21 SECTION 18. 450.11 (3) of the statutes is amended to read:

22 450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. No Except as provided in sub.
23 (1i) (b), no person other than a pharmacist or practitioner or their agents and
24 employees as directed, supervised, and inspected by the pharmacist or practitioner

1 may prepare, compound, dispense, or prepare for delivery for a patient any
2 prescription drug.

3 **SECTION 19.** 450.11 (4) (a) 5. a. of the statutes is amended to read:

4 450.11 (4) (a) 5. a. Except as provided in subd. 5. b. and c., the full name of the
5 patient.

6 **SECTION 20.** 450.11 (4) (a) 5. c. of the statutes is created to read:

7 450.11 (4) (a) 5. c. For an opioid antagonist when delivered under sub. (1i) (a),
8 the name of the person to whom the opioid antagonist will be delivered as specified

9 in s. 441.18 (2)^(a) or 448.037 (2)^(b).

10 **SECTION 21.** 450.11 (7) (h) of the statutes is amended to read:

11 450.11 (7) (h) ~~No~~ Except as provided in sub. (1i) (b), no person may possess a
12 prescription drug unless the prescription drug is obtained in compliance with this
13 section.

14 **SECTION 22.** 895.48 (1) of the statutes is amended to read:

15 895.48 (1) Any Except as provided in sub. (1g), any person who renders
16 emergency care at the scene of any emergency or accident in good faith shall be
17 immune from civil liability for his or her acts or omissions in rendering such
18 emergency care. This

19 (1g) The immunity described in sub. (1) and s. 450.11 (1i) (c) 3. does not extend
20 when employees trained in health care or health care professionals render
21 emergency care for compensation and within the scope of their usual and customary
22 employment or practice at a hospital or other institution equipped with hospital
23 facilities, at the scene of any emergency or accident, enroute to a hospital or other
24 institution equipped with hospital facilities, or at a physician's office.

25

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

13s0207/P1dn

MED:.....

pev

date

In this substitute amendment, I combined ²⁰¹³ AB-446 and ²⁰¹³ LRB-3360 ^{1/2} and did the following:

1. I incorporated changes suggested by DSPS, including eliminating some references to “dispensing” from LRB-3360 (because “delivery” already includes “dispensing”) and providing that the immunity in the bill for delivery and dispensing extends to physicians, physician assistants, and APRN prescribers acting under their normal prescribing and dispensing authority as well (in addition to the authority granted under the bill).
2. I harmonized the immunity and other provisions between AB-446 and LRB-3360.
3. I added the concept of other opioid antagonists throughout the bill, using essentially the definition provided by the Pharmacy Society of Wisconsin. Note, however, that in the PSW’s definition of opioid antagonist, the word “with” seemed to be missing, which I added. Let me know if this was incorrect. As requested, I retained specific references to naloxone in the provisions pertaining to EMTs, law enforcement officers, and fire fighters.

Let me know if you would like any other changes to the substitute amendment.

Insert DN

Michael Duchek
Legislative Attorney
Phone: (608) 266-0130
E-mail: michael.duchek@legis.wisconsin.gov