



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for 2013 LRB-3360/P2 (For: Rep. Nygren)

has been copied/added to the drafting file for

2013 LRBs0207 (For: Rep. Nygren)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 01/08/2013 (Per: MED)

The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			11/14/2013	_____	11/14/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **10/4/2013** Received By: **mduchek**
Wanted: **As time permits** Same as LRB:
For: **John Nygren (608) 266-2343** By/Representing: **Jennifer Malcore**
May Contact: Drafter: **mduchek**
Subject: **Occupational Reg. - misc** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Nygren@legis.wisconsin.gov**
Carbon copy (CC) to: **tamara.dodge@legis.wisconsin.gov**
michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Allow for dispensing and possession of naloxone; immunity for administering and dispensing naloxone to OD victims

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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1/2	mduchek						
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Handwritten notes:
10/13/13
J
10/13/13
J
11/14

FE Sent For:

<END>

Duchek, Michael

From: Malcore, Jennifer
Sent: Wednesday, October 02, 2013 4:08 PM
To: Duchek, Michael
Subject: RE: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Mike,

Yes, that would be really helpful to send me a draft without ARCW and I will send around what I sent you to DHS and get back to you.

Thank you for all of your work.

Jennifer Malcore

Office of State Representative John Nygren
Co-Chair , Joint Committee on Finance
89th Assembly District
309 East, State Capitol
608.266.2344

From: Duchek, Michael
Sent: Wednesday, October 02, 2013 4:02 PM
To: Malcore, Jennifer
Subject: RE: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Jennifer,

I am out the door, but I will touch base with you tomorrow. It sounds like they/you want to immunize not only ARCW employees but also the physician and/or pharmacist involved. Is that correct? Something you may want to run by DSPS and the Med/Pharmacy Boards.

Also, just so I know, would it be at all of help if I got you something for just the EMTs/police/fire/first responders first if that were quicker?

-Mike

From: Malcore, Jennifer
Sent: Wednesday, October 02, 2013 3:56 PM
To: Duchek, Michael
Subject: FW: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Mike,

He again sent the language he would like to see in the bill so I am forwarding this again. Let me know your thoughts.

Thanks,

Jennifer Malcore

Office of State Representative John Nygren
Co-Chair , Joint Committee on Finance

89th Assembly District
309 East, State Capitol
608.266.2344

From: Bill Keeton [<mailto:Bill.Keeton@arcw.org>]

Sent: Wednesday, October 02, 2013 3:49 PM

To: Malcore, Jennifer

Subject: RE: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Thanks Jennifer – I really appreciate all the time and energy you guys are spending on this. Two quick additional items:

- 1.) Regarding our usage of injectable versus nasal Narcan: Nasal delivery is \$14/dose; injectable is 63 cents per dose.
- 2.) Question on the drafting instructions you provided to LRB... Was a decision made about inclusion of the following from my previous email? These provisions would ensure our program continues to reach and save as many lives as possible:

Third-Party Prescription/Standing Order Distribution Sample Language:

Notwithstanding any other law or regulation, a health care professional otherwise authorized to prescribe an opioid antagonist may, directly or by standing order, prescribe, dispense, and distribute an opioid antagonist to a person at risk of experiencing an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice.

Prescriber/Dispenser Civil and Criminal Immunity Sample Language:

A health care professional who, acting in good faith and with reasonable care, prescribes or dispenses an opioid antagonist shall not be subject to any criminal or civil liability or any professional disciplinary action for (1) such prescribing or dispensing; and (2) any outcomes resulting from the eventual administration of the opioid antagonist.

Possession of Naloxone Lawful Sample Language:

Notwithstanding any other law or regulation, any person may lawfully possess an opioid antagonist.

Civil and Criminal Immunity for Administration of Naloxone Sample Language:

A person who, acting in good faith and with reasonable care, administers an opioid antagonist to another person whom the person believes to be suffering an opioid-related drug overdose shall be immune from criminal prosecution, sanction under any professional licensing statute, and civil liability, for acts or omissions resulting from such act.

Lay Distribution of Naloxone Via Standing Orders Sample Language:

Notwithstanding any other law or regulation, a person or organization acting under a standing order issued by a health care professional who is otherwise authorized to prescribe an opioid antagonist may store an opioid antagonist without being subject to provisions of [the state pharmacy act] except [those provisions regarding storage of drugs], and may dispense an opioid antagonist so long as such activities are undertaken without charge or compensation.

From: Malcore, Jennifer [<mailto:Jennifer.Malcore@legis.wisconsin.gov>]

Sent: Wednesday, October 02, 2013 3:42 PM

To: Bill Keeton

Subject: RE: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Thanks Bill.

The drafters are in the process of drafting right now. I am sure more questions will come up, if so I will be in touch and I will also share the draft language when done.

Jennifer Malcore

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From: Bill Keeton [<mailto:Bill.Keeton@arcw.org>]

Sent: Wednesday, October 02, 2013 3:38 PM

To: Malcore, Jennifer

Subject: RE: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Hello Jennifer –

Thank you for the email.

At ARCW, all of the individuals who do the training and the distribution of the Narcan to the injection drug users (IDUs) - or to an IDU's parent/family member - are employees of ARCW.

The Narcan we provide to the individuals who have been trained is the injection form. Intranasal naloxone has not been approved by the FDA (i.e., it is an "off-label" delivery method).

Please let me know if you have any other questions. I realize I sent over a sizable amount of information in my last email that included an attachment with model language. If it would help to have additional conversation about our concerns/preferences I would be happy to do so.

Thanks,
Bill

From: Malcore, Jennifer [<mailto:Jennifer.Malcore@legis.wisconsin.gov>]

Sent: Wednesday, October 02, 2013 3:29 PM

To: Bill Keeton

Subject: RE: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Bill,

A question came up today while discussing Narcan, are the people who distribute the Narcan all employees. Also, in what form is the Narcan, is it a nasal spray or is it injected with a needle.

Thank you,

Jennifer Malcore

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89th Assembly District
309 East, State Capitol
608.266.2344

From: Bill Keeton [<mailto:Bill.Keeton@arcw.org>]
Sent: Tuesday, September 17, 2013 4:24 PM
To: Malcore, Jennifer
Cc: Ramie Zelenkova; Ignatowski, Alex - DHS; 'jbauknecht@hwz-gov.com'
Subject: AODA/HIV prevention programs at ARCW and Narcan/Naloxone distribution mechanism for ARCW staff

Hello Jennifer –

My apologies for not getting this information to you sooner, and for this being a relatively long email.

Below are answers to questions you and Representative Nygren raised during our conversation last week. If you have any additional questions or would like more clarification or detail, please don't hesitate to contact me.

Q. *How many slots do we have for our harm reduction AODA treatment program at any given time?*

A. Our day treatment and intensive outpatient groups typically have between 8-10 individuals enrolled in them. Additionally, we have an estimated 20 individual counseling sessions open weekly. Treatment is available for alcohol and other substance abuse issues, including for individuals confronting heroin/opiate addiction.

Q. *What is the total number of people we have had go through our AODA program?*

A. Between 2002-2012, ARCW has served 564 individuals through our AODA treatment program in Milwaukee. In Green Bay (where the program started one year and two months ago) we have served 106 individuals. So far in 2013, 171 individuals have been served through our AODA program (combined in Green Bay and Milwaukee).

Q. *What is the success rate for our AODA program?*

A. To date in 2013, we have a 39% success rate (as defined by the State of Wisconsin). ARCW works with the State of Wisconsin through what is called the STAR-SI Program. We were chosen to participate in this select group of AODA treatment providers who engage annually in various initiatives to rigorously enhance the quality of programming.

According to research, success rates for AODA treatment programs across the United States are low, with averages between 0-40% and most programs falling in the very low portion of this range.

Q. *How many referrals to AODA treatment does our Lifepoint clean syringe exchange and opiate overdose prevention program make on an annual basis?*

A. Approximately 225 referrals to treatment services, including to the ARCW AODA program, annually. Annually, our Lifepoint program reaches approximately 17,000 injection drug users.

Q. *What is the total number of people we have trained on narcan/Naloxone?*

A. ARCW has trained 2,491 people in how to safely administer narcan/naloxone since starting our opiate overdose prevention program in 2008.

Q. *What is the total number of reported peer reversals in the history of the program?*

A. 2,134 individuals trained by ARCW have returned to ARCW to report a peer reversal since 2008.

You had also asked for a legislative mechanism to carve-in our HIV/opiate overdose prevention staff with the paramedics and police for the possession and use of narcan/naloxone.

This can be accomplished by utilizing the already existing definition of an AIDS service organization in chapter 252 of the Statutes by stating that the individual possessing narcan must be either an employee of a state designated ASO or be an individual trained by such. You could make this pool even smaller by saying that the ASO hosting/training individuals in the use of narcan must receive funding from the state from the appropriation account 20.435 (1) (md) to do HIV prevention work. We would also be willing to have our staff go through training by DHS should that be an option Representative Nygren or the legislature would want to include.

By way of background, here is the language I am referencing from Ch. 252:

252.12 HIV and related infections, including hepatitis C virus infections; services and prevention.

252.12(1) (1) Definitions. In this section:

- 252.12(1)(b) (b) "AIDS service organizations" means nonprofit corporations or public agencies that provide, or arrange for the provision of, comprehensive services to prevent HIV infection and comprehensive health and social services for persons who have HIV infection, and that are designated as such by the department under sub. (4).
- 252.12(1)(c) (c) "Nonprofit corporation" means a nonstock corporation organized under ch. 181 that is a nonprofit corporation, as defined in s. 181.0103 (17).
- 252.12(1)(d) (d) "Organization" means a nonprofit corporation or a public agency which proposes to provide services to individuals with acquired immunodeficiency syndrome.
- 252.12(1)(e) (e) "Public agency" means a county, city, village, town or school district or an agency of this state or of a county, city, village, town or school district.

Bill Keeton
Vice President of Government and Public Relations
AIDS Resource Center of Wisconsin
414.225.1572 (o)
414.313.2036 (c)



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Bill Keeton
Vice President of Government and Public Relations
AIDS Resource Center of Wisconsin
414.225.1572 (o)
414.313.2036 (c)



Duchek, Michael

From: Malcore, Jennifer
Sent: Tuesday, October 08, 2013 10:04 AM
To: Duchek, Michael
Subject: FW: Naloxone program

Mike,

Please read the e-mail chain below. DHS has expressed that they think a bystander law would cover public health workers and ARCW, is that correct?

Thanks for your input.

Jennifer Malcore

Office of State Representative John Nygren
Co-Chair, Joint Committee on Finance
89th Assembly District
309 East, State Capitol
608.266.2344

From: Ignatowski, Alex - DHS [mailto:Alex.Ignatowski@dhs.wisconsin.gov]
Sent: Wednesday, October 02, 2013 5:08 PM
To: Malcore, Jennifer
Subject: FW: Naloxone program

Alex Ignatowski

Legislative Advisor
Department of Health Services
Office: 608-266-3262
Mobile: 608-301-6149
alex.ignatowski@wisconsin.gov

From: McKeown, Karen D - DHS
Sent: Wednesday, October 02, 2013 10:20 AM
To: Ignatowski, Alex - DHS; Ullsvik, Jennifer C - DHS
Subject: FW: Naloxone program

See below for description of Mass. Program.

Karen

Karen McKeown, RN, MSN
Administrator, Division of Public Health
Wisconsin Department of Health Services

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From: Jacobs, Hilary (DPH) [<mailto:hilary.jacobs@state.ma.us>]
Sent: Tuesday, October 01, 2013 8:10 AM
To: McKeown, Karen D - DHS; 'Monica Valdes Lupi'; Bartlett, Cheryl (DPH)
Cc: Elizabeth Walker Romero; Sharon Moffatt; Ruiz, Sarah (DPH)
Subject: RE: Naloxone program

Hi:

Sorry for the delay. I am not sure what your reimbursement structure will be, but in MA the DPH, specifically the Bureau of Substance Abuse Services, pays for the Naloxone that is distributed to first responders as well as to "bystanders". Are you thinking about bystander distribution? FYI, for clarity, we define a bystander as any person who could witness an overdose, so that could be a parent, a roommate, an outreach worker, etc. The MA program is heavily weighted on distribution of Naloxone to bystanders, we only have 4 police and fire departments in the program that we fund. The lion's share of overdose reversal in MA is done by bystanders. Also, we use nasal Narcan here with first responders, police, fire and bystanders, not the injectable. Ambulance personnel carry injectable Narcan. So, to try to answer your questions specifically:

Are there evaluations of your program that would reassure people in the EMS community that providers at the EMT-Basic level can safely and effectively administer this drug?

While we do not have specific data, I think the following fact is relevant. We have had almost 2,200 overdose reversals since 2007 and those reversals have been done by bystanders without any ill effect. So, to get Naloxone in MA, you receive a 15-1 hour long training by a non-medical professional on recognizing the signs and symptoms of overdose, how to use nasal Narcan and the importance of calling 911 even when an overdose is reversed. So, my contention would be, if those people can do it successfully, so can persons with 60 hours of training.

Also, are we missing important pieces in this legislative proposal?

I would strongly suggest you consider bystander distribution of Narcan. It is by far the most effective tool for overdose reversal, especially in rural areas where even a few minutes of waiting for a response may be the difference between life and death. I am not sure where your state would be on this, in MA this was originally very controversial but has wide public acceptance at this time. Secondly, it is imperative that there be both some kind of protection from prosecution for those who report an overdose and are in possession of drugs or paraphernalia that are for their own use, we are not talking dealers here, and that there be some money for education about this protection. Also, I would suggest protection for persons administering the Naloxone, which is more important if you include bystander intervention.

I have included Sarah Ruiz on this email, she is responsible for this program at BSAS. I hope this information is what you were looking for, we can always do a phone call if its confusing or if there are other questions. Tx h

Hilary Jacobs, LICSW, LADC I
Director
Bureau of Substance Abuse Services
Massachusetts Department of Public Health
250 Washington Street Third Floor
Boston, MA 02108-4619
Telephone: 617-624-5151
Fax: 617-624-5185
Hilary.Jacobs@state.ma.us
WEBSITE: WWW.MASS.GOV/DPH
BLOG: [HTTP://PUBLICHEALTH.BLOG.STATE.MA.US](http://PUBLICHEALTH.BLOG.STATE.MA.US)

From: McKeown, Karen D - DHS [<mailto:Karen.McKeown@dhs.wisconsin.gov>]
Sent: Thursday, September 26, 2013 12:41 PM
To: 'Monica Valdes Lupi'; Jacobs, Hilary (DPH); Bartlett, Cheryl (DPH)

Cc: Elizabeth Walker Romero; Sharon Moffatt
Subject: RE: Naloxone program

Hi, Cheryl and Hilary,

We are working with one of our legislators who is going to introduce legislation about this issue. While the exact draft is still in flux, at this point I believe it will

- Require EMT-Basics to be able to administer naloxone (currently only paramedics and EMT-Intermediates can).
- Allow police and fire to administer naloxone.
- Offer some form of immunity for those who call emergency services to report an overdose.

I am interested in adding medical First Responders to the police and fire bullet – allowing them also to carry and administer naloxone if their medical director wants to add it to their protocols. Do you have any thoughts about this? (We see this level of providers mostly in the rural, volunteer setting. They receive about 60 hours of initial training; basically, they provide emergency medical assistance until EMTs arrive.)

Also, are we missing important pieces in this legislative proposal?

Also, I appreciate any help you can give me.

Thank you,
Karen

Karen McKeown, RN, MSN
Administrator, Division of Public Health
Wisconsin Department of Health Services

NOTICE: This email and any attachments may contain confidential information. Use and further disclosure of the information by the recipient must be consistent with applicable laws, regulations and agreements. If you received this E-mail in error, please notify the sender, delete the E-mail, and do not use, disclose or store the information it contains.

From: Monica Valdes Lupi [<mailto:MLupi@astho.org>]
Sent: Wednesday, September 25, 2013 8:49 PM
To: hilary.jacobs@state.ma.us; cheryl.bartlett@state.ma.us; McKeown, Karen D - DHS
Cc: Elizabeth Walker Romero; Sharon Moffatt
Subject: Naloxone program

Hello,

I wanted to introduce you all "virtually" to one another – Cheryl, Karen is the SHO from Wisconsin and attended the annual meeting last week in Orlando. She reached out to ASTHO for some additional information re: naloxone and training for medical/non medical providers and I mentioned the work that we did in Boston and at MA Department of Public Health. I shared the link to the BSAS website that provides some information about the program along with a PDF that I found on the EOHHS website. Finally, I offered to connect Karen with both of you so that she can follow up directly on some questions that she may have since you're really at the front of the pack among states that have implemented naloxone programs.

Many thanks in advance,
Monica

Monica Valdes Lupi, JD, MPH
Senior State Public Health Advisor
Association of State and Territorial Health Officials
2231 Crystal Drive, Suite 450
Arlington, VA 22202

Cell: 617.719.0950 Direct: 571.318.5411

www.astho.org



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3360/P1
MED:.....

10-14
TGDRS, 12 2013

WJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10-14
TGDRS

1
2
3

AN ACT ...; relating to: possession, dispensing, delivery, and administration of
the drug naloxone and immunity for certain individuals who dispense, deliver,
or administer naloxone.

(gen)

prescriptions
prescriber

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:

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6
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8

SECTION 1. 448.015 (4) (bm) of the statutes is renumbered 448.015 (4) (bm) (intro.) and amended to read:
448.015 (4) (bm) (intro.) "Unprofessional conduct" does not include providing
any of the following:

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

9

History: 1997 a. 175 ss. 16, 23, 24, 25, 27; 1999 a. 33; 2001 a. 89, 105, 2009 a. 280, 387; 2011 a. 160, 260

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

448.015 (4) (b)

1 2. Prescribing, delivering, or dispensing the drug naloxone in accordance with
2 s. 448.037 (2).

3 SECTION 3. 448.037 of the statutes is created to read:

4 **448.037 Prescription for and dispensing of naloxone.** (1) In this section:

Insert 2-4

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

6 (b) "Dispense" has the meaning given in s. 450.01 (7).

7 (c) "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 physician may, directly or by the use of a standing order, prescribe the
12 drug naloxone, in a nasally administered form, to a person in a position to assist an
13 individual at risk of experiencing an opioid-related drug overdose and may deliver
14 or dispense the drug to that person. A prescription ^{standing order} under this subsection need not
15 specify the name and address of the individual to whom the naloxone will be
16 administered, but shall instead specify the name of the person to whom the drug will
17 be delivered or dispensed.

****NOTE: This provision allows a physician to prescribe nasal naloxone to someone other than the person to whom the naloxone will be administered (i.e., to the ARCW and its employees), also known as "third party" or "bystander" administration. Does this fully capture the physician's role or is additional language needed? I also provided that, instead of the patient's name, the prescription must contain the names of persons or the entity to whom the drug will be given. Will that work? Finally, I also allowed the physician prescribing the naloxone to give the drug to the third party (as opposed to going through a pharmacy). Let me know if that is not necessary.

18 (3) A physician who, acting in good faith, prescribes, delivers, or dispenses the
19 drug naloxone in accordance with sub. (2) may not be subject to any criminal or civil
20 liability and may not be subject to professional discipline under s. 448.02 for any
21 outcomes resulting from the administration of that drug.

delivering or dispensing

****NOTE: Please review this provision carefully. I included civil and criminal immunity here for the physician, and immunity from professional discipline, for prescribing nasal naloxone. You may wish to consider whether criminal immunity is necessary here, as I am not sure which criminal prohibitions, other than those already addressed below, would be implicated. Also, is the immunity necessary for any outcomes resulting from the administration of the drug, or only for outcomes resulting to the person to whom the naloxone is administered? Let me know if you would like to modify this provision in any way.

INSERT 3-1 →

1 SECTION 4. 450.10 (1) (a) (intro.) of the statutes is amended to read:

2 450.10 (1) (a) (intro.) In this subsection, "unprofessional conduct" includes any
3 of the following, but does not include the dispensing of an antimicrobial drug for
4 expedited partner therapy as described in s. 450.11 (1g) or the delivery or dispensing
5 of naloxone as described in s. 450.11 (1i):

History: 1985 a. 146; 1987 a. 264, 399; 1989 a. 31, 316; 1991 a. 39, 160; 1993 a. 222, 443; 1995 a. 27 s. 9145 (1); 1995 a. 448; 1997 a. 27, 67, 75, 175; 1999 a. 9, 32, 180; 2001 a. 70, 80; 2009 a. 280.

6 SECTION 5. 450.11 (1) of the statutes is amended to read:

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

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

17 SECTION 6. 450.11 (1i) of the statutes is created to read:

18 450.11 (1i) NALOXONE. (a) *Prescription and liability.* 1. A pharmacist may,
19 upon the ^{prescription} order of a physician under s. 448.037 (2) that complies with the
20 requirements of sub. (1), deliver or dispense the drug naloxone, in a nasally

1 administered form, to the person specified in the prescription order. The pharmacist
 2 shall provide a consultation in accordance with rules promulgated by the board for
 3 the delivery or dispensing of a prescription to the person to whom the drug is
 4 delivered or dispensed.

****NOTE: This provision gives a pharmacist explicit authority to dispense or deliver nasal naloxone prescribed by a physician in accordance with the physician's authority above.

5 2. A pharmacist who, acting in good faith, delivers or dispenses the drug
 6 naloxone in accordance with subd. 1. may not be subject to any criminal or civil
 7 liability and may not be subject to professional discipline under s. 450.10 for any
 8 outcomes resulting from the administration of that drug.

****NOTE: I included an immunity provision here as was included for the physicians, using the same language. See the questions there.

9 (b) *Possession, dispensing, and delivery.* 1. Any person may possess the drug
 10 naloxone if the drug is in a nasally administered form.

U.C. 7
A.R. 7

****NOTE: As requested, this provision provides that any person may possess naloxone, which would otherwise be illegal due to it being a prescription drug (see also SECTION 10). Let me know if this should be somehow further limited (i.e., to those who obtained it through a valid prescription order under the bill) and, if so, to whom.

11 2. Any person who is not a pharmacist or a physician may deliver or dispense
 12 the drug naloxone to another person if the drug is in a nasally administered form.

deliver or dispense

****NOTE: This provision allows persons, other than pharmacists or physicians, to transfer nasal naloxone to other people, which appears would be otherwise prohibited by s. 450.11 (3). As drafted, once it leaves the hands of the physician or pharmacist, it may be given out to anyone. I drafted it this way because I am not sure how many times the drug could potentially change hands before it is administered to someone. You may wish to consider tying the ability to transfer to some kind of training requirement or further limiting this provision in some other way depending on the feedback you get.

STL

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109, 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

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

15 2. Any individual, other than a pharmacist or physician, who delivers or
 16 dispenses the drug naloxone, in a nasally administered form, to another person shall

1 be immune from civil or criminal liability for any outcomes resulting from delivering
2 or dispensing that drug.

3 3. Except as provided in s. 895.48 (1g), any ^{person} person who, reasonably believing ^{that} another ^{person} individual to be experiencing an opioid-related drug overdose, administers
4 the drug naloxone, in a nasally administered form, to that individual; shall be
5 immune from civil or criminal liability for any outcomes resulting from the
6 administration of the drug to that ^{person} individual.

****NOTE: I crafted this immunity provision for "lay persons" who administer nasal naloxone. This immunity, however, appears to largely overlap, at least in the civil context, with s. 895.48, stats., the so-called Good Samaritan law. I therefore provided that, like the Good Samaritan law, it does not apply to health care professionals acting within the scope of their duties. However, given this overlap with the Good Samaritan law and the fact that criminal liability may be unlikely, these liability provisions may not be necessary at all. See also my questions above pertaining to immunity for physicians.

8 SECTION 7. 450.11 (3) of the statutes is amended to read:

9 450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. ~~No~~ Except as provided in sub.
10 (1i) (b), no person other than a pharmacist or practitioner or their agents and
11 employees as directed, supervised and inspected by the pharmacist or practitioner
12 may prepare, compound, dispense, or prepare for delivery for a patient any
13 prescription drug.

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

14 SECTION 8. 450.11 (4) (a) 5. a. of the statutes is amended to read:

15 450.11 (4) (a) 5. a. Except as provided in subd. 5. b. and c., the full name of the
16 patient.

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

17 SECTION 9. 450.11 (4) (a) 5. c. of the statutes is created to read:

18 450.11 (4) (a) 5. c. For the drug naloxone when delivered or dispensed under
19 sub. (1i), the name of the person to whom the drug will be delivered or dispensed as
20 specified in s. ^{s.} 448.037 (2).

****NOTE: Current law requires a label to be attached to all prescriptions that contains certain information, including the name of the patient. Since the naloxone is being transferred to other people before it is administered to an overdose victim, I instead provided that the label must specify ~~whoever~~ ^{whenever the person to whom} the drug is prescribed to by the physician.

Circle
A.R.T.
y

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

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

2 450.11 (7) (h) ~~No~~ Except as provided in sub. (1i) (b), no person may possess a
3 prescription drug unless the prescription drug is obtained in compliance with this
4 section.

History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97; 2009 a. 113, 280; 2011 a. 159, 161.

5 SECTION 11. 895.48 (1) of the statutes is amended to read:

6 895.48 (1) Any Except as provided in sub. (1g), any person who renders
7 emergency care at the scene of any emergency or accident in good faith shall be
8 immune from civil liability for his or her acts or omissions in rendering such
9 emergency care. This

10 (1g) The immunity described in sub. (1) and s. 450.11 (1g) (c) 3. does not extend
11 when employees trained in health care or health care professionals render
12 emergency care for compensation and within the scope of their usual and customary
13 employment or practice at a hospital or other institution equipped with hospital
14 facilities, at the scene of any emergency or accident, enroute to a hospital or other
15 institution equipped with hospital facilities or at a physician's office.

History: 1977 c. 164; 1987 a. 14; 1989 a. 31; 1993 a. 109; 1995 a. 227; 1997 a. 67, 156, 191; 1999 a. 7, 9, 32, 56, 186; 2001 a. 74; 2003 a. 33; 2005 a. 155, 188, 486; 2007 a. 130; 2009 a. 113, 302, 355; 2011 a. 260.

16

(END)

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2013-2014 DRAFTING INSERT
FROM THE
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LRB-3360/P1ins
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INSERT 2-4

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

INSERT 3-1

2 **SECTION 4.** 450.01 (1) (d) of the statutes is created to read:

3 450.01 (1) (d) In the case of the drug naloxone, in a nasally administered form,
4 any person.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3360/P1dn
MED:.....

Date

WJ

them
the provisions
or simply combine it with LRB-3274

This is a draft of the provisions requested by the AIDS Resource Center of Wisconsin (ARCW). I prepared them using a separate LRB number so that you can review these provisions independently. When you are satisfied with the draft, I can, if needed, turn it to an amendment and include any additional provisions in the amendment necessary to reconcile it with LRB-3274.

The draft provides that a physician may, directly or by using a standing order, prescribe naloxone to a third party for ultimate use by those who are at risk of an opioid overdose and allows a pharmacist or physician to deliver or dispense the naloxone pursuant to the physician's order. The bill also provides certain immunity for delivering, dispensing, and administering naloxone to an overdose victim and allows any person to possess nasal naloxone even without a valid prescription. I recommend forwarding this draft to DSPS to ensure that the process contemplated for third party prescription of naloxone in the bill is workable and logical for pharmacists, physicians, and any other professionals affected. Please note the following about this draft:

1. As requested, I limited the provisions in this draft to naloxone in a nasally administered form.
2. When EMTs administer prescription drugs to patients, they are acting under the delegated practice of a physician (see <http://1.usa.gov/1hzu6jX>). I assumed, however, that if a third party (sometimes referred to as a bystander) were administering naloxone to an OD victim, that person would not necessarily be acting under the delegated practice of a physician, which made it necessary to allow for the third party to possess and dispense the drug. However, if my assumption is not correct, then some of the provisions included in this draft may not be necessary. I recommend consulting with DSPS and Medical Examining Board staff about this issue.
3. In some emails, the ARCW suggested limiting these provisions so that they only apply to ARCW employees. However, the requested provisions were more general and, without any training requirement involved, it seemed more appropriate not to restrict these provisions to distribution by ARCW employees. Therefore, I drafted the provisions as described in general terms. If you would like to limit certain provisions to ARCW employees, let me know.
4. In drafting this request, I partly used 2009 Wisconsin Act 280 as a model, as it also involved granting immunity to practitioners and pharmacists when prescribing drugs

be considered to be

practitioners

for individuals who may be unidentified by the prescription order. 2009 Act 280 also allowed a prescription to be written by a physician, physician assistant, or advanced practice nurse with prescriptive authority. In this version, I only included physicians, but if you would like to include physician assistants or APRN prescribers, let me know.

5. As in LRB-3274, I referred specifically to "naloxone." You may instead wish to use the more general term "opioid antagonist," which is used in other states' legislation, although it is my understanding that naloxone is currently considered the most and/or only effective opioid antagonist in overdose situations. The general term would allow for future drugs that might also be effective, but, on the other hand, future drugs may not be as safe as naloxone. But I just wanted to put this to you for your consideration.

So

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



#1. The immunity provisions in this draft overlap to some extent with provisions in LRB 3164, drafted by Sen. Hurley. We should try to coordinate the two bills to ensure that these provisions are not duplicated.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3360/P1dn
MED:wlj:rs

October 14, 2013

This is a draft of the provisions requested by the AIDS Resource Center of Wisconsin (ARCW). I prepared the provisions using a separate LRB number so that you can review them independently. When you are satisfied with the draft, I can, if needed, turn it to an amendment and include any additional provisions in the amendment necessary to reconcile it with LRB-3274 or simply combine it with LRB-3274.

The draft provides that a physician may, directly or by using a standing order, prescribe naloxone to a third party for ultimate use by those who are at risk of an opioid overdose and allows a pharmacist or physician to deliver or dispense the naloxone pursuant to the physician's order. The bill also provides certain immunity for delivering, dispensing, and administering naloxone to an overdose victim and allows any person to possess nasal naloxone even without a valid prescription. I recommend forwarding this draft to DSPS to ensure that the process contemplated for third-party prescription of naloxone in the bill is workable and logical for pharmacists, physicians, and any other professionals affected. Please note the following about this draft:

1. As requested, I limited the provisions in this draft to naloxone in a nasally administered form.
2. When EMTs administer prescription drugs to patients, they are acting under the delegated practice of a physician (see <http://1.usa.gov/1hzu6jX>). I assumed, however, that if a third party (sometimes referred to as a bystander) were administering naloxone to an OD victim, that person would *not* necessarily be considered to be acting under the delegated practice of a physician, which made it necessary to allow for the third party to possess and dispense the drug. However, if my assumption is not correct, then some of the provisions included in this draft may not be necessary. I recommend consulting DSPS and the Medical Examining Board staff about this issue.
3. In some e-mails, the ARCW suggested limiting these provisions so that they apply only to ARCW employees. However, the requested provisions were more general and, without any training requirement involved, it seemed more appropriate not to restrict these provisions to ARCW employees. Therefore, I drafted the provisions as described in general terms. If you would like to limit certain provisions to ARCW employees, let me know.
4. In drafting this request, I partly used 2009 Wisconsin Act 280 as a model, as it also involved granting immunity to practitioners and pharmacists when prescribing drugs

for individuals who may be unidentified by the prescription order. 2009 Act 280 also allowed a prescription to be written by a physician, physician assistant, or advanced practice nurse with prescriptive authority. In this version, I included only physicians, but if you would like to include physician assistants or APRN prescribers, let me know.

5. As in LRB-3274, I referred specifically to "naloxone." You may instead wish to use the more general term "opioid antagonist," which is used in other states' legislation, although it is my understanding that naloxone is currently considered the most or only effective opioid antagonist in overdose situations. The general term would allow for future drugs that might also be effective, but, on the other hand, future drugs may not be as safe as naloxone. So I just wanted to put this to you for your consideration.

6. The immunity provisions in this draft overlap, to some extent, with provisions in LRB-3164, drafted by Peggy Hurley. We should try to coordinate the two bills to ensure that these provisions are not duplicated.

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



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3360/P1
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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Intro

By 200
Th, 11/19

D-note

Recip

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

Analysis by the Legislative Reference Bureau

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

has to do

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

7 **SECTION 1.** 448.015 (4) (bm) of the statutes is renumbered 448.015 (4) (bm)
8 (intro.) and amended to read:
9 448.015 (4) (bm) (intro.) "Unprofessional conduct" does not include providing
10 any of the following:

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

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

3 448.015 (4) (bm) 2. Prescribing, delivering, or dispensing the drug naloxone in
4 accordance with s. 448.037 (2).

5 SECTION 3. 448.037 of the statutes is created to read:

6 **448.037 Prescription for and dispensing of naloxone.** (1) In this section:

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

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

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

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

14 (2) ^(b) A physician ^{or pharmacist} may, directly or by the use of a standing order, prescribe the
15 drug naloxone, in a nasally administered form, to a person in a position to assist an
16 individual at risk of experiencing an opioid-related drug overdose and may deliver
17 or dispense the drug to that person. A prescription order under this ^{paragraph} subsection need
18 not specify the name and address of the individual to whom the naloxone will be
19 administered, but shall instead specify the name of the person to whom the drug will
20 be delivered or dispensed.

***NOTE: This provision allows a physician to prescribe nasal naloxone to someone other than the person to whom the naloxone will be administered (i.e., to the ARCW and its employees), also known as "third party" or "bystander" administration. Does this fully capture the physician's role or is additional language needed? I also provided that, instead of the patient's name, the prescription must contain the name of the person or the entity to whom the drug will be given. Will that work? Finally, I also allowed the physician prescribing the naloxone to give the drug to the third party (as opposed to going through a pharmacy). Let me know if that is not necessary.

1 (3) A physician who, acting in good faith, prescribes, delivers, or dispenses the
2 drug naloxone in accordance with sub. (2) may not be subject to any criminal or civil
3 liability and may not be subject to professional discipline under s. 448.02 for any
4 outcomes resulting from the administration of that drug.

****NOTE: Please review this provision carefully. I included civil and criminal immunity here for the physician, and immunity from professional discipline, for prescribing, delivering, or dispensing nasal naloxone. You may wish to consider whether criminal immunity is necessary here, as I am not sure which criminal prohibitions, other than those already addressed below, would be implicated. Also, is the immunity necessary for any outcomes resulting from the administration of the drug, or only for outcomes resulting to *the person to whom the naloxone is administered*? Let me know if you would like to modify this provision in any way.

5 **SECTION 4.** 450.01 (1) (d) of the statutes is created to read:

6 450.01 (1) (d) In the case of the drug naloxone, in a nasally administered form,
7 any person. STILL

8 **SECTION 5.** 450.10 (1) (a) (intro.) of the statutes is amended to read:

9 450.10 (1) (a) (intro.) In this subsection, "unprofessional conduct" includes any
10 of the following, but does not include the dispensing of an antimicrobial drug for
11 expedited partner therapy as described in s. 450.11 (1g) or the delivery or dispensing
12 of naloxone as described in s. 450.11 (1i):

13 **SECTION 6.** 450.11 (1) of the statutes is amended to read:

14 450.11 (1) DISPENSING. ~~No~~ Except as provided in sub. (1i) (b) 2., no person may
15 dispense any prescribed drug or device except upon the prescription order of a
16 practitioner. All prescription orders shall specify the date of issue, the name and
17 address of the practitioner, the name and quantity of the drug product or device
18 prescribed, directions for the use of the drug product or device, the symptom or
19 purpose for which the drug is being prescribed if required under sub. (4) (a) 8., and,
20 if the order is written by the practitioner, the signature of the practitioner. Except
21 as provided in s. ss. 448.035 (2) and 448.037 (2), all prescription orders shall also

1 specify the name and address of the patient. Any oral prescription order shall be
2 immediately reduced to writing by the pharmacist and filed according to sub. (2).

3 SECTION 7. 450.11 (1i) of the statutes is created to read:

4 450.11 (1i) NALOXONE. (a) *Prescription and liability.* 1. A pharmacist may,
5 upon the prescription order of a physician under s. 448.037 (2) that complies with the
6 requirements of sub. (1), deliver or dispense the drug naloxone, in a nasally
7 administered form, to the person specified in the prescription order. The pharmacist
8 shall provide a consultation in accordance with rules promulgated by the board for
9 the delivery or dispensing of a prescription to the person to whom the drug is
10 delivered or dispensed.

****NOTE: This provision gives a pharmacist explicit authority to dispense or deliver nasal naloxone prescribed by a physician in accordance with the physician's authority above.

11 2. A pharmacist who, acting in good faith, delivers or dispenses the drug
12 naloxone in accordance with subd. 1. may not be subject to any criminal or civil
13 liability and may not be subject to professional discipline under s. 450.10 for any
14 outcomes resulting from the administration of that drug.

****NOTE: I included an immunity provision here as was included for the physicians, using the same language. See the questions there.

15 (b) *Possession, dispensing, and delivery.* 1. Any person may possess the drug
16 naloxone if the drug is in a nasally administered form.

****NOTE: As requested, this provision provides that any person may possess naloxone, which would otherwise be illegal due to it being a prescription drug (see also SECTION 11). Let me know if this should be somehow further limited (i.e., to those who obtained it through a valid prescription order under the bill) and, if so, to whom.

17 2. Any person who is not a pharmacist or a physician may deliver or dispense
18 the drug naloxone to another person if the drug is in a nasally administered form.

****NOTE: This provision allows persons, other than pharmacists or physicians, to deliver or dispense nasal naloxone to other people, which appears would be otherwise prohibited by s. 450.11 (3), stats. As drafted, once it leaves the hands of the physician or pharmacist, it may be given out to anyone. I drafted it this way because I am not sure

how many times the drug could potentially change hands before it is administered to someone. You may wish to consider tying the ability to deliver or dispense to some kind of training requirement or further limiting this provision in some other way depending on the feedback you get.

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

3 2. (Any person, other than a pharmacist or physician, who delivers or dispenses
4 the drug naloxone, in a nasally administered form, to another person shall be
5 immune from civil or criminal liability for any outcomes resulting from delivering or
6 dispensing that drug.

7 3. Except as provided in s. 895.48 (1g), any person who, reasonably believing
8 another person to be experiencing an opioid-related drug overdose, administers the
9 drug naloxone, in a nasally administered form, to that person, shall be immune from
10 civil or criminal liability for any outcomes resulting from the administration of the
11 drug to that person.

***NOTE: I crafted this immunity provision for "laypersons" who administer nasal naloxone. This immunity, however, appears to largely overlap, at least in the civil context, with s. 895.48, stats., the so-called Good Samaritan law. I therefore provided that, like the Good Samaritan law, it does not apply to health care professionals acting within the scope of their duties. However, given this overlap with the Good Samaritan law and the fact that criminal liability may be unlikely, these liability provisions may not be necessary at all. See also my questions above pertaining to immunity for physicians.

12 SECTION 8. 450.11 (3) of the statutes is amended to read:

13 450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. No Except as provided in sub.
14 (1i) (b), no person other than a pharmacist or practitioner or their agents and
15 employees as directed, supervised and inspected by the pharmacist or practitioner
16 may prepare, compound, dispense, or prepare for delivery for a patient any
17 prescription drug.

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

1 450.11 (4) (a) 5. a. Except as provided in subd. 5. b. and c., the full name of the
2 patient.

3 SECTION 10. 450.11 (4) (a) 5. c. of the statutes is created to read:

4 450.11 (4) (a) 5. c. For the drug naloxone when delivered or dispensed under
5 sub. (1i), the name of the person to whom the drug will be delivered or dispensed as
6 specified in s. ^{448.037 (2)} 448.037 (2).

****NOTE: Current law requires a label that contains certain information, including
the name of the patient, to be attached to all prescriptions. Since the naloxone is being
transferred to other people before it is administered to an overdose victim, I instead
provided that the label must specify the person to whom the drug is prescribed by the
physician.

7 SECTION 11. 450.11 (7) (h) of the statutes is amended to read:

8 450.11 (7) (h) ~~No~~ Except as provided in sub. (1i) (b), no person may possess a
9 prescription drug unless the prescription drug is obtained in compliance with this
10 section.

11 SECTION 12. 895.48 (1) of the statutes is amended to read:

12 895.48 (1) ~~Any~~ Except as provided in sub. (1g), any person who renders
13 emergency care at the scene of any emergency or accident in good faith shall be
14 immune from civil liability for his or her acts or omissions in rendering such
15 emergency care. ~~This~~

16 (1g) The immunity described in sub. (1) and s. 450.11 (1g) (c) 3. ^{s. (1i) ✓} does not extend
17 when employees trained in health care or health care professionals render
18 emergency care for compensation and within the scope of their usual and customary
19 employment or practice at a hospital or other institution equipped with hospital
20 facilities, at the scene of any emergency or accident, enroute to a hospital or other
21 institution equipped with hospital facilities or at a physician's office.

22

(END)

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LEGISLATIVE REFERENCE BUREAU

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1 **SECTION 1.** 441.07 (1) (d) of the statutes is renumbered 441.07 (1) (d) (intro.)
2 and amended to read:

3 441.07 (1) (d) (intro.) Misconduct or unprofessional conduct. In this paragraph,
4 “misconduct” and “unprofessional conduct” do not include providing any of the
5 following:

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

7 History: 1977 c. 418; 1979 c. 317, 337; 1981 c. 162; 1983 a. 273 s. 8; 1985 a. 29, 340; 1987 a. 264; 1993 a. 138; 1995 a. 309; 1997 a. 237; 1999 a. 22; 2009 a. 280.

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

8 441.07 (1) (d) 2. Prescribing, delivering, or dispensing the drug naloxone in
9 accordance with s. 441.18 (2).

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

11 **441.18 Prescription for and dispensing of naloxone.** (1) In this section:

12 (a) “Administer” has the meaning given in s. 450.01 (1) (d). ✓

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

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

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

16 (2) (a) An advanced practice nurse certified to issue prescription orders under
17 s. 441.16 may, directly or by the use of a standing order, prescribe the drug naloxone
18 to a person in a position to assist an individual at risk of experiencing an
19 opioid-related drug overdose and may deliver or dispense the drug to that person.

20 A prescription order under this subsection need not specify the name and address of
21 the individual to whom the naloxone will be administered, but shall instead specify
22 the name of the person to whom the drug will be delivered or dispensed. ✓

1 (b) An advanced practice nurse who prescribes, delivers, or dispenses the drug
2 naloxone under par. (a) shall ensure that the person to whom the drug will be
3 delivered or dispensed has the knowledge and training necessary to safely
4 administer the drug to an individual ^{experiencing} experiencing an opioid-related overdose and
5 that the person will ensure that any individual to whom the person further delivers
6 or dispenses the drug has or receives that knowledge and training. ✓

7 (3) An advanced practice nurse who, acting in good faith, prescribes, delivers,
8 or dispenses the drug naloxone in accordance with sub. (2) may not be subject to any
9 criminal or civil liability and may not be subject to professional discipline under s.
10 441.07 for any outcomes resulting from prescribing, delivering, or dispensing that
11 drug. ✓

INSERT 2-20

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

INSERT 5-6

18 b. An advanced practice nurse prescriber who delivers or dispenses the drug
19 naloxone ^{in accordance with} pursuant to s. 441.18 (2) shall be immune from civil or criminal liability for
20 any outcomes resulting from delivering or dispensing that drug if the advanced
21 practice nurse prescriber complies with s. 441.18 (3). ✓

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

5 d. A pharmacist who delivers or dispenses the drug naloxone pursuant to par. ^{with}
6 (a) 1. shall be immune from civil or criminal liability for any outcomes resulting from
7 delivering or dispensing that drug if the pharmacist complies with ^(s.) par. (a) 2.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3360/P2dn
MED:wlj:rs

Del

slv

This version incorporates the changes requested at the meeting with the ARCW representatives, including:

1. Eliminating the restriction under the bill that the naloxone be in a nasally administered form. Therefore, under the draft, anyone can possess naloxone and anyone other than a physician, physician assistant, advanced practice nurse prescriber (APRN prescriber), or pharmacist can lawfully transfer it to another person without restriction.
2. Adding physician assistants and APRN prescribers as professionals^{with} that can write standing orders to prescribe naloxone for use by third parties.
3. Adding a requirement that a physician, physician assistant, or APRN prescriber who writes a standing order to prescribe naloxone for use by third parties ensure that the persons to whom the naloxone will be given have the knowledge and training necessary to safely administer it and will ensure that anyone they pass it on to has or receives that training.

I also made some changes to the provisions relating to immunity to harmonize some of the various provisions and language. I would, however, like to discuss these provisions further when we meet with DSPS.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3360/P2dn
MED:wlj:jm

November 14, 2013

This version incorporates the changes requested at the meeting with the ARCW representatives, including:

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I also made some changes to the provisions relating to immunity to harmonize some of the various provisions and language. I would, however, like to discuss these provisions further when we meet with DSPS.

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-3360/P2
MED:wlj:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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.

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:

1 441.07 (1) (d) (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, 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) (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 (d) “Opioid-related drug overdose” has the meaning given in s. 448.037 (1) (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 to a person in a position to assist an individual at risk of experiencing an
17 opioid-related drug overdose and may deliver or dispense the drug to that person.
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, delivers, or dispenses the drug
22 naloxone under par. (a) shall ensure that the person to whom the drug 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

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.

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):

1 **SECTION 9.** 450.11 (1) of the statutes is amended to read:

2 450.11 (1) DISPENSING. ~~No~~ Except as provided in sub. (1i) (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.~~ 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. (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 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 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 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.

1 (b) *Possession, dispensing, and delivery.* 1. Any person may possess the drug
2 naloxone.

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

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

8 2. a. Except as provided in subd. 2. b. to d., any person who delivers or dispenses
9 the drug naloxone to another person shall be immune from civil or criminal liability
10 for any outcomes resulting from delivering or dispensing that drug.

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

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

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

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

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.

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 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 when delivered or dispensed under
14 sub. (1i), 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).

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.

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

1 (1g) The immunity described in sub. (1) and s. 450.11 (1i) (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)