



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2015 Assembly Bill 364**

**Assembly Amendment 1**

*Memo published:* November 10, 2015

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### **2015 ASSEMBLY BILL 364**

2015 Assembly Bill 364 (the Bill) makes various changes to the Prescription Drug Monitoring Program (PDMP) administered by the Controlled Substances Board (CSB). Under the PDMP, the CSB collects certain information regarding the dispensing of monitored drugs, including the name of the person to whom the drug was prescribed. A monitored drug is a drug which has a substantial potential for abuse. Prescribers are authorized to check PDMP records prior to issuing prescriptions for monitored drugs, and PDMP records may be released to certain other persons as well.

### **ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 (AA 1) makes changes to several provisions of the Bill, as described below.

#### **Requirement to Consult PDMP Before Issuing a Prescription**

##### **Current Law**

Current law does not require any practitioner<sup>1</sup> to check the PDMP before issuing a prescription order.

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<sup>1</sup> A practitioner is a person licensed in Wisconsin or another state to prescribe and administer drugs.

## **The Bill**

The Bill requires a practitioner to review a patient's PDMP records before the practitioner issues a prescription order for a monitored drug. A pharmacist is not required to check the PDMP before dispensing a monitored drug. This requirement goes into effect on January 1, 2017.

## **Assembly Amendment 1**

Under AA 1, the requirement for a practitioner to review a patient's PDMP records before prescribing a monitored drug does not go into effect until the Secretary of the Department of Safety and Professional Services (DSPS) determines the PDMP is operational. In addition, the requirement sunsets three years after it goes into effect.

Specifically, under AA 1, the DSPS Secretary must provide a notice to the Legislative Reference Bureau (LRB) when the Secretary determines the PDMP is operational and capable of electronically transmitting records to practitioners, in accordance with standards determined by the Secretary. The DSPS Secretary must consult with the CSB when making the determination. When the LRB receives the notification from the DSPS Secretary, it must promptly publish the notice in the Wisconsin Administrative Register. The requirement for a practitioner to review a patient's PDMP records before prescribing a monitored drug takes effect on the 30th day after the date of publication of the notice, and sunsets three years after it goes into effect.

In addition, under AA 1, the requirement for a practitioner to review a patient's PDMP records before prescribing a monitored drug does not apply in the following circumstances:

- The patient is receiving hospice care.
- The prescription order is for a number of doses that is intended to last the patient three days or less and is not subject to refill.
- The drug is administered to the patient.
- Due to emergency, it is not possible for the practitioner to review the patient's PDMP records before issuing a prescription order for the patient.
- The practitioner is unable to review the patient's PDMP records because the PDMP digital platform is not operational or because of another technological failure, if the practitioner reports that failure to the CSB.

## **Disclosure of PDMP Records**

### **Current Law**

Current statutes require the CSB to promulgate rules to specify the persons to whom a PDMP record may be disclosed, and the circumstances under which the disclosure may occur. The rules must permit the CSB to disclose a PDMP record to relevant state boards and agencies, relevant agencies of other states, and relevant law enforcement agencies.

## **The Bill**

The Bill specifies that PDMP records may be disclosed to the following additional persons and entities, under certain conditions and with certain restrictions:

- Relevant prosecutorial units.
- An agent of a practitioner or pharmacist, if disclosure to the practitioner or pharmacist is authorized.
- A practitioner, pharmacist, registered nurse, or substance abuse counselor who is treating, rendering assistance to, or consulting about the patient for whom the record was generated.
- A person who is evaluating the job performance of a practitioner, pharmacist, registered nurse, or substance abuse counselor, or who is performing quality assessment and improvement activities.

The Bill also specifies that a record may be released to a state board or agency, agency of another state, law enforcement agency, or prosecutorial unit only if a written request is made, the requester is engaged in an active and specific investigation or prosecution of a drug violation, and the record being requested is reasonably related to that investigation or prosecution.

## **Assembly Amendment 1**

AA 1 authorizes disclosure of PDMP records to individuals authorized to treat alcohol or substance dependency or abuse as a specialty, in addition to those individuals specified in the Bill.

## **Applicability to Drugs Dispensed Pursuant to a Veterinarian's Prescription Order**

### **Current Law**

Pharmacists are authorized to dispense monitored drugs prescribed for an animal by a veterinarian. The law governing the PDMP, however, generally does not apply to veterinarians or to the dispensing of drugs prescribed by veterinarians. Specifically, under current law governing the PDMP, "patient" means an individual for whom a monitored prescription drug is prescribed or to whom a monitored prescription drug is dispensed or administered. "Practitioner" means a person licensed in Wisconsin or another state to prescribe and administer drugs, but does not include a veterinarian. "Prescription order" means an order transmitted orally, electronically, or in writing by a practitioner for a monitored prescription drug for a particular patient.

### **The Bill**

Under the Bill, "patient" includes an animal for whom a monitored prescription drug is prescribed or to whom a monitored prescription drug is dispensed or administered.

### **Assembly Amendment 1**

Under AA 1, "prescription order" includes an order for a monitored drug issued by a veterinarian.

### **BILL HISTORY**

AA 1 was offered by Representative Nygren on October 21, 2015. On October 22, 2015, the Assembly Committee on Health voted to recommend adoption of AA 1, and passage of the Bill, as amended, on successive votes of Ayes, 9; Noes, 0.

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