



2009 SENATE BILL 354

October 16, 2009 - Introduced by Senators ERPENBACH, LASSA, HANSEN, RISSER and TAYLOR, cosponsored by Representatives BENEDICT, PASCH, BERCEAU, BIES, PARISI, POPE-ROBERTS, SINICKI, TOWNSEND, TURNER, STEINBRINK, VAN AKKEREN and A. OTT. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT to renumber** 450.13 (2); **to amend** 448.02 (3) (a); **to repeal and**
2 **recreate** 450.13 (2) (title); and **to create** 450.13 (2) (b) of the statutes; **relating**
3 **to:** substitutions by pharmacists dispensing epilepsy drugs.

Analysis by the Legislative Reference Bureau

Under current law, a pharmacist must dispense a prescription using the drug prescribed or, if the price is lower, a drug product that the federal Food and Drug Administration has designated the therapeutic equivalent of the drug prescribed (drug product equivalent). Currently, a pharmacist may not substitute a drug product equivalent if a prescription indicates that no such substitution may be made.

This bill prohibits a pharmacist from substituting a drug product equivalent if the drug prescribed is a drug for treating epilepsy or for treating convulsions, unless the pharmacist obtains and documents the consent of the prescribing practitioner and the patient or the patient's parent, spouse, or legal guardian. Also, if a pharmacist is dispensing a refill of an epilepsy drug, the bill requires the pharmacist to dispense the same drug product, from the same manufacturer, that was previously dispensed, unless the pharmacist obtains and documents the consent of the prescribing practitioner and the patient or the patient's parent, spouse, or legal guardian.

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

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1 **SECTION 1.** 448.02 (3) (a) of the statutes is amended to read:

2 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
3 and negligence in treatment by persons holding a license, certificate, or limited
4 permit granted by the board. An allegation that a physician has violated s. 253.10
5 (3), 448.30, or 450.13 (2) (a) or has failed to mail or present a medical certification
6 required under s. 69.18 (2) within 21 days after the pronouncement of death of the
7 person who is the subject of the required certificate or that a physician has failed at
8 least 6 times within a 6-month period to mail or present a medical certificate
9 required under s. 69.18 (2) within 6 days after the pronouncement of death of the
10 person who is the subject of the required certificate is an allegation of unprofessional
11 conduct. Information contained in reports filed with the board under s. 49.45 (2) (a)
12 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall be
13 investigated by the board. Information contained in a report filed with the board
14 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of
15 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the
16 discretion of the board, be used as the basis of an investigation of a person named in
17 the report. The board may require a person holding a license, certificate, or limited
18 permit to undergo and may consider the results of one or more physical, mental, or
19 professional competency examinations if the board believes that the results of any
20 such examinations may be useful to the board in conducting its investigation.

21 **SECTION 2.** 450.13 (2) (title) of the statutes is repealed and recreated to read:

22 450.13 (2) (title) EXCEPTIONS.

23 **SECTION 3.** 450.13 (2) of the statutes is renumbered 450.13 (2) (a).

24 **SECTION 4.** 450.13 (2) (b) of the statutes is created to read:

25 450.13 (2) (b) 1. In this paragraph:

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1 a. "Epilepsy" means a neurological condition characterized by recurrent
2 seizures.

3 b. "Epilepsy drug" means a drug prescribed for the treatment of epilepsy or a
4 drug used to treat or prevent seizures.

5 c. "Seizure" means a disturbance in the electrical activity of the brain.

6 2. If a pharmacist dispenses an epilepsy drug, the pharmacist may not dispense
7 the drug product equivalent to the epilepsy drug that is prescribed unless the
8 pharmacist obtains and documents the consent of the practitioner who issued the
9 prescription order and the consent of the patient for whom the drug product is
10 prescribed or the patient's parent, spouse, or legal guardian.

11 3. If a pharmacist dispenses a refill of a prescription for an epilepsy drug for
12 a patient or fills a new prescription order for an epilepsy drug for a patient upon the
13 expiration of a prescription order for the same epilepsy drug, the pharmacist shall
14 dispense the same drug product, from the same manufacturer, that was last
15 dispensed, unless the pharmacist obtains and documents the consent of the
16 practitioner who issued the prescription order and the consent of the patient for
17 whom the drug product is prescribed or the patient's parent, spouse, or legal
18 guardian.

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(END)