

CHAPTER 450

PHARMACY EXAMINING BOARD

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450.01 Pharmacy examining board. (1) In this chapter, "examining board" means pharmacy examining board.

(2) Meetings for examination shall be held at least semiannually. Thirty days' public notice shall be given of examinations.

(3) The executive secretary need not be a member. The department shall keep a record of the proceedings and a register of the names and places of business of persons registered under this chapter, and the books, registers and records of the examining board as made and kept by the executive secretary or under his supervision, subject to the direction of the examining board, shall be prima facie evidence of the matters therein recorded. The examining board may pay out of its own funds witness fees and such other expenses as are necessary and incidental to the carrying out of its functions.

(4) The examining board shall cause prosecution of violations of this chapter.

(5) If the amount of a fee for granting or renewing a license is to be fixed by the examining board, the examining board shall fix the fee by rule.

History: 1971 c 125.

450.02 Registration. (1) All candidates for entrance to examination for registration as pharmacists must submit an application to the examining board and pay an amount specified by the examining board but not to exceed \$60, at least 15 days before the date of examination. The fee for all subsequent examinations shall be an amount specified by the examining board but not to exceed \$50. All candidates must be at least 18 years of age; must be of good moral character and temperate in habits; and if not citizens of the United States must have filed and proven their intentions of becoming citizens; and must be graduates of a standard, recognized high school, or must have acquired the equivalent of a high school education in some other institution of equal rank or standing, or must have passed an

examination for the equivalent of high school given by a state university or by a state department or bureau of education, issuing a qualifying certificate for the necessary high school units recognized by the university of Wisconsin, or any other equivalent of a high school education recognized by the university of Wisconsin.

(2) Every such applicant for examination and registration as pharmacist must, in addition, submit proof satisfactory to the examining board, of having had at least 48 months of pharmaceutical training consisting of:

(a) Graduation from a school or college of pharmacy or a department of pharmacy of a university, which is recognized by the examining board and which requires for graduation at least a 4-year course. Credit for actual time of attendance at the school, college or department of pharmacy of a university shall be given on the required 48 months of pharmaceutical training; the remainder of the 48 months must be practice and experience in a retail pharmacy or drugstore under the direction and supervision of a registered pharmacist, which practice and experience shall be predominantly work directly related to the selling of drugs, preparing and compounding of pharmaceutical preparations and physicians' prescriptions, and keeping of records and making of reports required under state and federal statutes. The practice and experience shall include an aggregate of 12 calendar months commencing not earlier than the close of the sophomore college year. Credit for such periods of practice and experience shall be allowed in the discretion of the pharmacy internship board in accordance with such regulations as it adopts. The fee for registration of interns under this subsection shall be an amount specified by the pharmacy internship board but not to exceed \$10. The fee shall be set aside for use by the pharmacy internship board, shall be used exclusively for purposes of the internship program and shall be disbursed for the

purposes of the internship program upon certification of the director of internship or the pharmacy internship board. The examining board may upon satisfactory proof recognize and accept evidence of practice and experience performed in whole or in part in any other state provided the same is approved and verified by the pharmacy examining board or equivalent agency of such other state.

(b) Any candidate who was registered as an assistant pharmacist prior to the date of his application for examination, and for 4 years prior thereto was employed in a licensed drugstore, or personally operated a drugstore, shall be eligible to take the examination for registered pharmacist. In computing such 4-year period, service of the candidate in the armed forces of the United States shall not be deemed to have interrupted the required drugstore employment or operation.

(3) Applicants filing proofs, satisfactory to the examining board, of qualifications and training as outlined in sub. (2) shall, after having passed the examination by the examining board and upon payment of a \$5 certificate fee, be granted certificates as registered pharmacists. Proof satisfactory to the examining board covering experience, preliminary education, college of pharmacy graduation and character herein required shall be submitted to the examining board. Every registered pharmacist may continue to be such by annually, at such time as the examining board determines, renewing his certificate upon paying an amount specified by the examining board but not to exceed \$35. Of this fee, an amount specified by the internship board but not to exceed \$12.50 shall be set aside for use by the pharmacy internship board, shall be used exclusively for purposes of the internship program and shall be disbursed for the purposes of the internship program upon certification of the director of internship or the pharmacy internship board. The portion of each renewal fee required by the pharmacy internship board shall be specified annually by the internship board prior to the setting of the renewal fee by the examining board. Applications for renewal of registration as a pharmacist and payment of the required fee submitted after May 31 shall be accompanied by a penalty fee of \$10. Failure to obtain such renewal for 60 days after the department has given a 2nd notice of the expiration of his registration shall terminate the right of any person to be a registered pharmacist within the meaning of this section, and such right can only be acquired by compliance with the provisions concerning the original registration, again applying for and passing an examination satisfactory to the examining board.

(5) Every registered assistant pharmacist may continue to be such by annually, at such time as the examining board determines, making application thereto for the renewal of his certificate and paying the prescribed fee of \$4. Failure to obtain such renewal for 60 days after the department has given a 2nd notice of the expiration of his registration, shall terminate the right of any person to be a registered assistant pharmacist within the meaning of this section, and such right can only be acquired by compliance with the provisions concerning original registration, again applying for and passing an examination satisfactory to the examining board. The issuance of either of the certificates provided for in this section shall entitle the person to whom it is issued to be registered in the proper class.

(6) The examining board may register as a pharmacist, without examination, any person who is duly registered in some other state, if the person produces satisfactory evidence of having had the required secondary and professional education and training and is possessed of good character and habits demanded of applicants for registration as pharmacists under the laws of this state, and upon payment of \$100, but persons of good character and habits, who became registered pharmacists in some other state prior to July 31, 1927, shall be required to meet only the requirements which existed in this state at the time they became registered in such other state, and if the state from which the applicant applies, under like conditions, grants reciprocal registration as a pharmacist without examination to pharmacists duly registered in this state. Applicants denied reciprocal licensure shall be entitled to a \$50 refund of the \$100 fee. The fee for all subsequent reciprocal examinations shall be \$50 and is not subject to refund.

(7) The examining board, upon notice and hearing, may suspend or revoke the registration of one guilty of felony or gross immorality, or who is addicted to alcoholic liquors or controlled substances to an extent affecting his fitness as a pharmacist, or who is otherwise unfit to practice as a pharmacist, or whose registration was secured by fraud or mistake or the giving of misinformation in any of the applications submitted to the examining board or who has been guilty of a violation of this chapter or ch. 161 or of violations of any of the rules of the examining board, or who has been guilty of acts of unprofessional conduct as herein defined. No such revocation shall become effective until 20 days after notice of the decision of the examining board has been served upon the person accused. Decisions of the examining board under this section shall be subject to review as provided in ch. 227 and in case the provisions thereof are

invoked by the accused within such 20-day period, such order of revocation shall become effective only at such time as may be ordered by the court. Unprofessional conduct means:

(a) Sale of adulterated drugs.

(b) Compounding, dispensing or selling, or causing or permitting the compounding, dispensing or sale of any drug which contains more or less than the proportionate quantity of ingredient or ingredients specified by the person ordering or prescribing such drug, or which contains an ingredient or ingredients other than those specified by the person ordering or prescribing such drug, or which is of a brand or which contains an ingredient or ingredients of a brand other than that specified by the person ordering or prescribing such drug, unless, in the case of a drug dispensed pursuant to a prescription the consent of the prescriber is first obtained and recorded on the prescription. Nothing herein contained shall be construed to prohibit the addition of such inert ingredients such as emulsifiers, wetting agents, solvents, or like items as may be required in the art of compounding, preparing, mixing or otherwise producing drugs unless otherwise directed by the prescriber.

(c) Violation of such standards as may from time to time be established or approved by the examining board.

(8) No person shall use the title "pharmacist" or "assistant pharmacist" unless duly registered as such under this chapter, nor shall any person use or display the title "drugstore", "pharmacy", "apothecary", or any other title, symbol, insignia (including without limitation because of enumeration, mortar and pestle, colored show globes, the sign Rx and the like) having the same or similar meaning for such place of business unless such place of business is one where drugs are sold in accordance with s. 450.04.

(9) No drugstore, pharmacy, apothecary shop or any similar place of business shall be opened or kept open for the transaction of business until it has been registered with and a permit therefor has been granted by the examining board. This section shall not be construed to apply to any stores opened for the sale of proprietary or so-called patent medicines which conform to state and federal laws.

(a) Every pharmacy and store conducted under the supervision of a registered pharmacist shall be annually registered on June 1 with the examining board on application forms prescribed by the examining board and provided for that purpose by the department, on request, and the department shall thereupon issue a suitable certificate of registration to such persons which

permit shall be conspicuously displayed in a front window or door of such place of business. Applications for registration as a pharmacy or drugstore shall include information regarding the names of all pharmacists, assistant pharmacists and registered apprentices who are employed therein. Only places in charge of a registered pharmacist and holding a permit as a pharmacy may use the title "pharmacy", "pharmacists", "apothecary" or "drugstore", or use customary titles, symbols or insignia and each shall be under the separate management of a registered pharmacist who shall not engage to manage or supervise more than one such place, except that a registered pharmacist may be in charge of not more than 2 hospital pharmacies which provide only pharmaceutical services to patients registered by a hospital having 100 beds or less. This section does not prevent a person from owning and conducting more than one pharmacy if each is under the separate supervision of a registered pharmacist.

(b) For the registration of every new drugstore or any drugstore upon a change of ownership herein required to be registered, there shall be paid an inspection fee of \$15 together with a registration fee of \$85. For the reinspection of premises considered to be unsatisfactory at the time of the original inspection for the registration of a new drugstore or any drugstore upon a change of ownership herein required to be registered, there shall be paid a reinspection fee of \$15. Upon annual renewal of registration all places shall pay an amount specified by the examining board but not to exceed \$75 payable on June 1 of each year. Duplicate permits for the operation of a drugstore, pharmacy or any similar place of business shall be granted by the examining board and issued by the department on receipt of a fee of \$5.

(c) Any person failing to register his place of business as herein required, failing to have in charge of each pharmacy a registered pharmacist who does not manage or supervise more than one pharmacy or otherwise failing to comply with this section may be fined not less than \$25 nor more than \$50 for each separate offense. Each day's violation is deemed a separate offense. Issuance or continuation of the permit for the conduct of a drugstore, pharmacy or any similar place of business may be refused when the applicant for the registration thereof has been found to be in violation of this chapter or ch. 161. No refusal to continue the permit shall become effective until 20 days after notice of the decision of the examining board to refuse the continuation has been served upon the applicant.

(10) Every pharmacy shall be equipped with proper pharmaceutical utensils so that compounding of prescriptions and dispensing of medicaments can be properly performed. The examining board, with the advice and consent of the faculty of the university of Wisconsin school of pharmacy, shall prescribe the minimum standards of such professional and technical equipment, which shall include copies of the latest revisions of the U.S. Pharmacopoeia and the National Formulary and any supplement to either of them. No permit shall be issued or continued for the conduct of a pharmacy unless this subsection has been complied with. Failure to maintain a pharmacy equipped with proper sanitary appliances or in a clean and orderly manner constitute grounds for denial, suspension or revocation of a pharmacy permit. There shall be kept in every pharmacy a suitable book or file, in which every prescription compounded or dispensed shall be preserved for a period of not less than 5 years.

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 219; 1973 c. 90, 243.

The pharmacy examining board lacks power to regulate or prohibit advertising of prescription prices. *Osco Drug, Inc. v. Pharmacy Examining Bd.* 61 W. (2d) 689, 214 N.W. (2d) 47.

450.03 Permit. In rural districts with no registered pharmacist or assistant pharmacist within 3 miles, the examining board may grant a permit to sell on certain premises for one year, drugs and medicines specified therein, upon payment of the fee fixed by the examining board, not exceeding \$15. The premises for which the permit is issued must be an establishment where merchandise is sold and shall be specified in the permit. An applicant for a permit for a new rural store or for a permit upon change of ownership of an existing rural store shall pay an inspection fee of \$15 in addition to the annual permit fee.

History: 1971 c. 125

450.04 Practice. (1) Certificates of registration, renewals, and permits shall be conspicuously exposed to public view in the place of business.

(2) No person shall sell, give away, barter, compound or dispense drugs, medicines or poisons, nor permit it, in a town, village or city having a population of 500 or more unless he be a registered pharmacist, nor institute nor conduct a place therefor without a registered pharmacist in charge, except that a registered assistant pharmacist may do so under the personal supervision of a registered pharmacist, and may have charge during the pharmacist's necessary absence, not to exceed 10 days. If the population is less than 500, only a registered assistant pharmacist is required and in such case a registered assistant pharmacist, if otherwise qualified, may continue to operate his drug store,

until death or retirement, even though the population increase beyond 500.

(3) This shall not interfere with the dispensing of drugs, medicines or other articles by physicians, nor with the sale of proprietary medicines in sealed packages, labeled to comply with the federal and state pure food and drug law, with directions for using, and the name and location of the manufacturer, nor with the sale of economic poisons for use in industrial arts, nor with the sale of economic poisons which comply with ss. 94.67 to 94.71, nor with the sale of alum, ammonia, borax, bay rum, bicarbonate of soda, cream of tartar, concentrated lye, olive oil, sal ammoniac, sal soda, sulphur, copperas, epsom salts, glauber salts, castor oil, glycerine, senna leaves, indigo, blue vitriol, turpentine, wood alcohol and denatured alcohol.

(4) No person shall manufacture, package or prepare within this state any drugs or medicines except under the personal and immediate supervision of a registered pharmacist or such other person as is approved by the examining board after an investigation and a determination that such other person is qualified by scientific training and education to perform such supervision in a manner adequate to protect the public health and safety. No person shall manufacture, package or prepare any drugs or medicines within this state without first obtaining a permit from the examining board.

(a) For the issuance of such permit there shall be paid an inspection fee of \$15 together with a registration fee in an amount specified by the examining board but not to exceed \$50. Upon annual renewal of registration all permit holders shall pay an amount specified by the examining board but not to exceed \$50, payable on May 31 of each year.

(b) The issuance of such permit shall be subject to such rules as the examining board adopts for the protection of the public health and safety.

(5) No person shall engage in the sale or distribution at wholesale of a prescription drug, as defined in s. 450.07 (1) (a) 1, to any of the classes of persons enumerated in s. 450.07 (8) without first obtaining a license for such purpose from the examining board. The annual fee shall be an amount specified by the examining board but not to exceed \$50. Licenses expire on May 31. Such license or renewals thereof shall be issued in the discretion of the examining board to responsible applicants of good reputation.

(6) No person shall wilfully make a false statement in any prescription, order, report or record, required by this chapter, nor make or utter any false or forged prescription or written order.

History: 1971 c. 40 s. 93; 1971 c. 125, 219; 307.

450.05 Penalty. (1) Anyone who violates s. 450.04 (1) shall forfeit \$10 for each failure, and anyone who wilfully makes a false representation to procure registration or permit for himself or another, or who violates this chapter may be fined not less than \$50 nor more than \$100, or imprisoned for not less than 30 days nor more than 90 days or both.

(2) Each member and officer of the examining board shall investigate and institute actions for violations of this chapter and ch. 161 and the district attorney shall promptly prosecute upon notice from any source.

450.06 Definition of drug. The term "drug", as used in this chapter, means:

(1) Articles recognized in the official U.S. Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(2) All other articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(3) Articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(4) Articles intended for use as a component of any articles specified in subs. (1), (2) or (3); but does not include surgical, dental or laboratory instruments, gases, oxygen therapy equipment, X-ray apparatus, or therapeutic lamps; their components, parts or accessories; or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical or dental treatment; or articles intended for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes.

450.07 Prescription drugs. (1) In this section, unless the context requires otherwise:

(a) "Prescription drug" means any of the following:

1. Any drug or drug-containing preparation which is subject to 21 USC 353 (b).

2. Any controlled substance, as defined in s. 161.01 (4), listed in schedules II to V in ch. 161, whether by statute or administrative action, except substances which by federal law may be dispensed without the prescription of a physician. Controlled substances are included within this definition for purposes of subs. (3), (4), (8) and (11) only and for violations thereof punishable under sub. (12).

3. Paregoric.

(b) "Delivery" has the meaning designated in s. 161.01 (6).

(c) "Patient" means the individual for whom prescription drugs are prescribed or to whom prescription drugs are administered.

(d) "Practitioner" means a person licensed by law to prescribe and administer prescription drugs.

(e) "Pharmacist" means a person duly registered with the examining board as a compounder, dispenser and supplier of drugs.

(f) "Prescription" means a written order (or an oral order later reduced to writing) by a practitioner for a prescription drug for a particular patient, which specifies the date of its issue, the name and address of such practitioner, the name and address of the patient, the name and quantity of the prescription drug prescribed, directions for use of the drug and in case of a written order the signature of the practitioner.

(g) "Manufacturer" means persons other than pharmacists who manufacture prescription drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process.

(h) "Wholesaler" means persons engaged in the business of distributing prescription drugs to persons included in any of the classes named in sub. (8).

(j) "Warehouseman" means persons who store prescription drugs for others and who have no control over the disposition of such drugs except for the purpose of such storage.

(2) No person except a practitioner shall deliver any prescription drug except upon the prescription of a practitioner. An oral prescription, by telephone or otherwise, shall be promptly reduced to writing and filed by the pharmacist.

(3) No person, except a registered pharmacist or a practitioner, shall prepare, compound, dispense or prepare for delivery for a patient any prescription drug.

(4) No prescription drug shall be delivered unless there is affixed to the immediate container a label disclosing:

(a) The name and address of the owner of the establishment from which such drug was delivered.

(b) The date on which the prescription for such drug was filled.

(c) The number of such prescription as filed in the prescription file of the pharmacist who filled such prescription.

(d) The name of the practitioner who prescribed such drug.

(e) The name and address of the patient.

(f) Directions for use of the drug as contained in the prescription.

(5) No prescription for a prescription drug shall be refilled except as designated on such prescription, and unless accurate record of such

refilling is entered on such prescription showing the date and amount thereof. No oral or written prescription shall be refilled unless the requirements of sub. (2) have been met first and unless either written or oral authority has been given by the prescriber.

(6) In the event of any sale in bankruptcy, at public auction or any other sale except in the normal course of business, the seller shall give written notice of such sale to the examining board at least one week prior to the date of sale and a complete and accurate report must be made in writing to the examining board by the seller within 10 days after such sale, showing the name and address of the parties to whom any prescription drugs have been sold together with an itemized inventory thereof. This does not apply to the bona fide sale of a pharmacy as a business, if the parties first notify the examining board of such impending sale.

(7) It is unlawful for any person to have any prescription drug in his possession unless such drug was obtained in compliance with this section.

(8) Subsections (2), (3), (4) and (7) do not apply to the wholesale delivery of prescription drugs to persons included in any of the classes named in this subsection; nor to the agents or employes of such persons for use in the usual course of their business or practice or in the performance of their official duties, as the case may be; nor to the possession of prescription drugs by such persons or their agents or employes for such use:

(a) Pharmacists.

(b) Practitioners.

(c) Persons who procure prescription drugs for the purpose of lawful research, teaching or testing and not for resale.

(d) Hospitals and other institutions which procure prescription drugs for lawful administration by practitioners.

(e) Officers or employes of the federal government.

(f) Manufacturers and wholesalers.

(9) (a) No person shall obtain or attempt to obtain a prescription drug, or procure or attempt to procure the administration of a prescription drug by fraud, deceit, wilful misrepresentation or subterfuge; or by the forgery or alteration of a prescription or of any written order; or by the wilful concealment of a material fact; or by the use of a false name or the giving of a false address.

(b) Information communicated to a physician in an effort unlawfully to procure a prescription drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(c) No person shall wilfully make a false statement in any prescription, order, report or record required by this section.

(d) No person shall, for the purpose of obtaining a prescription drug, falsely assume the title of, or represent himself to be, a licensed drug manufacturer, a licensed drug wholesaler, pharmacist, physician, dentist, veterinarian or other authorized practitioner.

(e) No person shall make or utter any false or forged prescription or false or forged written order.

(f) No person shall wilfully affix any false or forged label to a package or receptacle containing prescription drugs.

(11) The pharmacy examining board may promulgate necessary rules for the administration of this section. The department of justice and the pharmacy examining board each may promulgate necessary rules for the enforcement of this section. In addition to all law enforcement officers and agencies, the department and the examining board shall be responsible for the enforcement of this section.

(12) (a) Any person who violates this section, except as provided in par. (b), may be fined not more than \$500 or imprisoned not more than 6 months or both.

(b) Any person who delivers a prescription drug in violation of this section may be fined not more than \$5,000 or imprisoned not more than one year in county jail or both.

(13) In any complaint, information or indictment, and in any action or proceeding brought for the enforcement of this section, it shall not be necessary to negative any exception, excuse, proviso or exemption, contained in this section and the burden of proof of any such exception, excuse, proviso or exemption, shall be upon the defendant.

History: 1971 c 219.

450.08 Poisons, dispensing regulated.

(1) No person shall sell or deliver any of the poisonous salts or compounds of antimony, arsenic, chromium, lead, mercury, silver, tin or zinc, the concentrated mineral acids; oxalic, carbolic or hydrocyanic acids or their salts, formaldehyde, yellow phosphorus, the essential oils of almonds, pennyroyal, rue, savin or tansy; croton oil, creosote, chloroform, cantharides, aconite, belladonna, bitter almonds, colchicum, cotton root, digitalis, ergot, hyoscyamus, lobelia, nux vomica, physostigma, strophanthus, stramonium, veratrum viride, or any of the poisonous alkaloids or glucosides derived from the foregoing or in any other virulent poison, unless it be upon the prescription of authorized practitioners of medicine, dentistry or veterinary medicine, except as follows:

(a) The dispenser shall ascertain that the applicant is aware of the poisonous character and desires it for a lawful purpose.

(b) He shall plainly label the container with the name of the substance, the word "Poison," and the name and address of the dispenser.

(c) Before delivery he shall record in a book kept for that purpose the name of the article, the quantity, the purpose, the date, the name and address of the person for whom procured, and the name of the individual personally dispensing the same, such record to be signed by the person to whom the poison is delivered; and said book shall be preserved by the owner thereof for at least 3 years after the date of the last entry therein, and shall be open to inspection by authorized officers.

(d) If the applicant is under 18 years of age, he must have the written order of an adult person.

(2) This section does not apply to manufacturers and wholesalers selling at wholesale, nor to economic poisons which comply with ss. 94.67 to 94.71, but containers other than for economic poisons shall be labeled with the name of the substance, the word "Poison," and the name and address of the manufacturer or wholesaler.

(3) A "Poison" label is not required when a single container or when one-half ounce fluid or avoirdupois does not contain more than an adult medicinal dose nor in the case of liniments, ointments or other external preparations sold in good faith as such, and plainly labeled "for external use only," nor in the case of pills, tablets or lozenges, when the dose recommended does not contain more than one-quarter of an adult medicinal dose.

History: 1971 c. 42

450.09 Placing drugs forbidden. Except as authorized by law, no person shall put any drug, medicine or chemical, or any compound or combination thereof in any public place, or, without the consent of the owner or occupant upon any private premises, nor cause it to be done.

450.10 Penalties. Any person who violates s. 450.08 or 450.09 may be fined not less than \$100 nor more than \$1,000, or imprisoned not less than one year nor more than 5 years.

450.11 Advertising or display of indecent articles, sale in certain cases prohibited.

(1) As used in this chapter, the term "indecent articles" means any drug, medicine, mixture, preparation, instrument, article or device of whatsoever nature used or intended or represented to be used to procure a miscarriage or prevent pregnancy.

(2) No person, firm or corporation shall publish, distribute or circulate any circular, card, advertisement or notice of any kind offering or advertising any indecent article for sale, nor shall exhibit or display any indecent article to the public.

(3) No person, firm or corporation shall manufacture, purchase, or rent, or have in his or its possession or under his or its control, any slot machine, or other mechanism or means so designed and constructed as to contain and hold indecent articles and to release the same upon the deposit therein of a coin or other thing of value.

(4) No person shall sell or dispose of or attempt or offer to sell or dispose of any indecent articles to or for any unmarried person; and no sale in any case of any indecent articles shall be made except by a pharmacist registered under this chapter or a physician or surgeon duly licensed under the laws of this state.

(5) Any person, firm or corporation violating this section shall be fined not less than \$100 nor more than \$500 or imprisoned for not to exceed 6 months, or both.

This section would not prohibit the operation in Wisconsin of a federally-funded program in which licensed physicians or pharmacists gave out to married persons information regarding articles used to prevent pregnancy, and made such articles available to them. 59 Atty Gen 52

Legality of advertising an abortion referral service in student (campus) newspaper discussed. 60 Atty Gen 26.

A bill which totally prohibits sale of indecent articles probably is unconstitutional as applied to physicians and is in conflict with statutes relating to therapeutic abortions. The remainder of the bill relating to regulation of sale and advertisement of indecent articles and contraceptives probably would be constitutional. 60 Atty Gen 193

450.12 Wisconsin pharmaceutical association. The Wisconsin pharmaceutical association is continued with the general powers of a domestic nonstock corporation. It may take by purchase or gift and hold real and personal property. It may adopt, alter and enforce bylaws and rules for the admission and expulsion of members, the election of officers and the management of its affairs.

450.13 Prepaid prescription plans authorized. (1) The Wisconsin pharmaceutical association may establish in the state a nonprofit plan on a prepayment or other basis for the pharmaceutical services of the general population, or any segment of it, through contracts with pharmacists, members of the public, any branch of government, and others; provided only that free choice of the public in the selection of a pharmacist shall be retained in such contracts, and that the responsibility of the pharmacist to the individual patient together with all other contract and tort relationships between pharmacist and patient, shall remain the same as if contractual arrangements between them were

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direct. Any person covered by or insured under such plan, or someone acting for him, shall be free to choose for pharmaceutical services any pharmacist licensed to practice in this state who has agreed to abide by the terms of such plan. No such pharmacist shall be required to participate exclusively in any such plan.

(2) Any such plan shall be subject to all applicable provisions of ss. 200.26 and 209.04 (11).

(3) This section shall apply exclusively to a corporation or other organization organized, recognized or operated under s. 450.12 or this section.

(4) The Wisconsin pharmaceutical association may:

(a) Establish a nonprofit pharmaceutical service plan within its corporate structure;

(b) Approve for itself and its members a pharmaceutical service plan established by a nonpharmaceutical organization, when the association finds a plan of the latter type to be in the public health interest; or

(c) Organize a corporation with authority to establish a nonprofit pharmaceutical service plan, which corporation shall be subject to subs. (1) and (2).

(5) So as to encourage experimentation in the health and economic interests of the general public, any plan organized or approved under this section may operate on a service, indemnity or a combined service and indemnity basis.