



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1270/P2

RLR:wlj:pg

By Tues 5/13/03

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

LPS:  
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providing an exemption from  
emergency rule procedures

REGEN

1 AN ACT to renumber and amend 450.02 (2); to amend 20.435 (8) (mb), 20.435  
 2 (8) (mb), 49.68 (3) (b), 49.683 (2), 49.685 (2), 49.688 (7) (a), 49.692 (6) (a), 146.93  
 3 (1) (a) and 149.143 (1) (a); to repeal and recreate 49.45 (49); and to create  
 4 20.435 (4) (jg), 20.435 (4) (jh), 20.435 (4) (jt), 20.435 (4) (jx), 40.03 (6) (k), 49.69,  
 5 49.692, 149.14 (4c) (c), 441.16 (7), 447.08, 448.075, 450.02 (2) (b) and 450.075  
 6 of the statutes; **relating to:** prescription drugs, granting rule-making  
 7 authority, providing penalties, and making appropriations.

*Analysis by the Legislative Reference Bureau*

Insert /an lines → This is a preliminary draft. An analysis will be provided in a later version.

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

8 SECTION 1. 20.435 (4) (jg) of the statutes is created to read:  
 9 20.435 (4) (jg) *Prescription drug assistance; enrollment fees.* All moneys  
 10 received from the payment of enrollment fees under s. 49.692 (3), to be used for  
 11 administration of the program under s. 49.692.

1           **SECTION 2.** 20.435 (4) (jh) of the statutes is created to read:

2           20.435 (4) (jh) *Health insurance risk-sharing plan; drug manufacturer rebates.*

3           All moneys received from rebate payments by manufacturers under s. 149.14 (4c) (c),  
4           to pay a portion of the operating costs of the health insurance risk-sharing plan  
5           under ch. 149.

6           **SECTION 3.** 20.435 (4) (jt) of the statutes is created to read:

7           20.435 (4) (jt) *Preferred drug lists.* All moneys received from the payment of  
8           fees under ss. 49.69 (6) (d) and 448.075 (2), and all moneys received from the payment  
9           of prescription drug assessments under ss. 441.16 (7), 447.08, and 448.075 (1), to be  
10          used for administration of the preferred drug lists created under s. 49.69 (4).

11          **SECTION 4.** 20.435 (4) (jx) of the statutes is created to read:

12          20.435 (4) (jx) *Supplemental rebates on prescription drugs.* All moneys  
13          received from rebate payments by manufacturers and labelers under s. 49.69 (5) and  
14          (6) to provide Medical Assistance program benefits administered under s. 49.45; to  
15          be used for the Badger Care health care program for low-income families under s.  
16          49.665; to pay pharmacies and pharmacists under s. 49.688 (7) for prescription drug  
17          assistance for elderly persons; to assist victims of disease, as provided in ss. 49.68,  
18          49.683, and 49.685; to pay a portion of the operating costs of the health insurance  
19          risk-sharing plan under ch. 149; to purchase primary health care services under s.  
20          146.93; to reimburse pharmacies and pharmacists under s. 49.692 (6); and to be  
21          credited to the public employee trust fund. The amounts expended under this  
22          paragraph shall be allocated as provided under s. 49.69 (7).

23          **SECTION 5.** 20.435 (8) (mb) of the statutes, as affected by 2001 Wisconsin Act  
24          16, is amended to read:

1           20.435 (8) (mb) *Income augmentation services receipts*. All moneys that are  
 2 received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd, and 42 USC 1396 to  
 3 1396v as the result of income augmentation activities for which the state has  
 4 contracted and all moneys that are received under 42 USC 1396 to 1396v in  
 5 reimbursement of the cost of providing targeted case management services to  
 6 children whose care is not eligible for reimbursement under 42 USC 670 to 679a, to  
 7 be used as provided in s. 46.46 and 2003 Wisconsin Act .... (this act), section 25. All  
 8 moneys received under this paragraph in excess of the moneys necessary to support  
 9 the costs specified in s. 46.46 and 2003 Wisconsin Act .... (this act), section 3 shall  
 10 be deposited in the general fund as a nonappropriated receipt.

A.R. 1A  
 (3)  
 A.R. 1A  
 A.R. 1A  
 25(3)

11           **SECTION 6.** 20.435 (8) (mb) of the statutes, as affected by 2001 Wisconsin Act  
 12 16 and 2003 Wisconsin Act .... (this act), is amended to read:

13           20.435 (8) (mb) *Income augmentation services receipts*. All moneys that are  
 14 received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd, and 42 USC 1396 to  
 15 1396v as the result of income augmentation activities for which the state has  
 16 contracted and all moneys that are received under 42 USC 1396 to 1396v in  
 17 reimbursement of the cost of providing targeted case management services to  
 18 children whose care is not eligible for reimbursement under 42 USC 670 to 679a, to  
 19 be used as provided in s. 46.46 and 2003 Wisconsin Act .... (this act), section 25. All  
 20 moneys received under this paragraph in excess of the moneys necessary to support  
 21 the costs specified in s. 46.46 and 2003 Wisconsin Act .... (this act), section 3 shall  
 22 be deposited in the general fund as a nonappropriated receipt.

A.R. 1A  
 (3)  
 A.R. 1A  
 A.R. 1A  
 25(3)

23           **SECTION 7.** 40.03 (6) (k) of the statutes is created to read:

24           40.03 (6) (k) Upon request of the secretary of the department of health and  
 25 family services, shall adopt policies that encourage use of the preferred drug list

1 created under s. 49.69 (4) (a) 2. for group health insurance plans offered to state  
 2 employccs, exccpt that for state employees covered by a collective bargaining  
 3 agreement under subch. I or V of ch. 111 the board may adopt such policies that  
 4 encourage use of the preferred drug list only if permitted under the collective  
 5 bargaining agreement.

6 SECTION 8. 49.45 (49) of the statutes is repealed and recreated to read:

7 49.45 (49) PRESCRIPTION DRUG PRIOR AUTHORIZATION COMMITTEE. (a) The  
 8 secretary shall exercise his or her authority under s. 15.04 (1) (c) to create a  
 9 prescription drug prior authorization committee to do all of the following:

10 1. Advise the department on issues related to prior authorization decisions  
 11 made concerning prescription drugs on behalf of Medical Assistance recipients.

12 2. Determine the safety and clinical efficacy of prescription drugs for the  
 13 purpose of creating preferred drug lists as required under s. 49.69 (2).

14 (b) The secretary shall appoint as members of the prescription drug prior  
 15 authorization committee at least the following:

16 1. Two physicians, as defined in s. 448.01 (5), who are currently in practice.

17 2. Two pharmacists, as defined in s. 450.01 (15).

18 3. One advocate for recipients of Medical Assistance who has sufficient medical  
 19 background, as determined by the department, to evaluate the safety and clinical  
 20 efficacy of a prescription drug.

21 4. For the purpose of making determinations under s. 49.69 (2) regarding the  
 22 safety and clinical efficacy of prescription drugs within a particular therapeutic  
 23 class, persons who have medical expertise with respect to the disease or medical  
 24 condition that the prescription drugs are intended to treat.

*relative*

*and safety*

*relative*

*and safety*

*relative*

*and safety*

1 (c) A member of the prescription drug prior authorization committee may not  
 2 be employed by or be a party to a contract with a manufacturer, as defined in s. 450.01  
 3 (12), a distributor, as defined in s. 450.01 (9), or a labeler, as defined in s. 49.69 (1)  
 4 (d) (b) Each committee member shall disclose any potential conflicts of interest related  
 5 to an issue on which the committee acts and shall disclose the receipt of grant funding  
 6 within the previous 36 months from a manufacturer, distributor, or labeler or  
 7 ownership of stock in a manufacturer, distributor, or labeler. A member may not vote  
 8 on an item if the member or the member's employer has a conflict of interest in the  
 9 outcome of the vote. A member who may not vote on an item due to conflict of interest  
 10 may participate in discussions related to the item.

11 (d) Notwithstanding the requirement under s. 15.04 (1) (c) that members of  
 12 committees serve without compensation, members of the prescription drug prior  
 13 authorization committee who are not officers or employees of this state shall be paid  
 14 \$100 for each day on which they are actually and necessarily engaged in performance  
 15 of their duties, ~~but not to exceed \$1,500 per year.~~

16 (e) The prescription drug prior authorization committee shall accept  
 17 information or commentary from representatives of the pharmaceutical  
 18 manufacturing industry and from consumer advocates in the committee's review of  
 19 prior authorization policies and in its determinations regarding the ~~safety and~~  
 20 *relative* clinical efficacy *and safety* of prescription drugs.

21 **SECTION 9.** 49.68 (3) (b) of the statutes is amended to read:

22 49.68 (3) (b) From the appropriation accounts under ss. 20.435 (4) (e) ~~and~~, (je),  
 23 and (jx) the state shall pay the cost of medical treatment required as a direct result  
 24 of chronic renal disease of certified patients from the date of certification, including  
 25 the cost of administering recombinant human erythropoietin to appropriate

1 patients, whether the treatment is rendered in an approved facility in the state or  
2 in a dialysis or transplantation center which is approved as such by a contiguous  
3 state, subject to the conditions specified under par. (d). Approved facilities may  
4 include a hospital in-center dialysis unit or a nonhospital dialysis center which is  
5 closely affiliated with a home dialysis program supervised by an approved facility.  
6 Aid shall also be provided for all reasonable expenses incurred by a potential  
7 living-related donor, including evaluation, hospitalization, surgical costs and  
8 postoperative follow-up to the extent that these costs are not reimbursable under the  
9 federal medicare program or other insurance. In addition, all expenses incurred in  
10 the procurement, transportation, and preservation of cadaveric donor kidneys shall  
11 be covered to the extent that these costs are not otherwise reimbursable. All  
12 donor-related costs are chargeable to the recipient and reimbursable under this  
13 subsection.

14 **SECTION 10.** 49.683 (2) of the statutes is amended to read:

15 49.683 (2) Approved costs for medical care under sub. (1) shall be paid from the  
16 appropriation accounts under s. 20.435 (4) (e) ~~and, (je), and (jx)~~.

17 **SECTION 11.** 49.685 (2) of the statutes is amended to read:

18 49.685 (2) ASSISTANCE PROGRAM. From the appropriation accounts under s.  
19 20.435 (4) (e) ~~and, (je), and (jx)~~ the department shall establish a program of financial  
20 assistance to persons suffering from hemophilia and other related congenital  
21 bleeding disorders. The program shall assist such persons to purchase the blood  
22 derivatives and supplies necessary for home care. The program shall be  
23 administered through the comprehensive hemophilia treatment centers.

24 **SECTION 12.** 49.688 (7) (a) of the statutes is amended to read:

1           49.688 (7) (a) Except as provided in par. (b), from the appropriation accounts  
2           under s. 20.135 (4) (bv) and, (j), ~~beginning on September 1, 2002, and (jx)~~ the  
3           department shall, under a schedule that is identical to that used by the department  
4           for payment of pharmacy provider claims under medical assistance, provide to  
5           pharmacies and pharmacists payments for prescription drugs sold by the  
6           pharmacies or pharmacists to persons eligible under sub. (2) who have paid the  
7           deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not  
8           required to pay a deductible. The payment for each prescription drug under this  
9           paragraph shall be at the program payment rate, minus any copayment paid by the  
10          person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that are  
11          similar to those provided under s. 49.45 (8v). The department shall devise and  
12          distribute a claim form for use by pharmacies and pharmacists under this paragraph  
13          and may limit payment under this paragraph to those prescription drugs for which  
14          payment claims are submitted by pharmacists or pharmacies directly to the  
15          department. The department may apply to the program under this section the same  
16          utilization and cost control procedures that apply under rules promulgated by the  
17          department to medical assistance under subch. IV of ch. 49.

18           **SECTION 13.** 49.69 of the statutes is created to read:

19           **49.69 Preferred drug lists; prescription drug cost containment.** (1) In  
20          this section:

21           (a) "Committee" means the prescription drug prior authorization committee  
22          created under s. 49.45 (49).

23          (23) (a) (b) "Labeler" means a person that receives prescription drugs from a  
24          manufacturer or wholesaler and repackages those drugs for later retail sale, and has

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1 a labeler code issued by the federal food and drug administration under 21 CFR  
2 207.20 (b).

3 (e) (c) "Local governmental unit" means a political subdivision of this state, a  
4 special purpose district in this state, an instrumentality or corporation of the  
5 political subdivision or special purpose district or a combination or subunit of any of  
6 the foregoing.

7 (f) (d) "Manufacturer" means a person engaged in the production, preparation,  
8 propagation, compounding, conversion, or processing of prescription drugs.

9 (g) (e) "Off-list prescription drug" means a prescription drug that is not included  
10 on the applicable preferred drug list created under sub. (4).

11 (h) (f) "Practitioner" has the meaning given in s. 450.01 (17).

12 (i) (g) "Prescription drug" has the meaning given in s. 450.01 (20).

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13 (L) (h) "Single-source prescription drug" means a prescription drug that is  
14 produced or distributed under an original new drug application approved by the  
15 federal food and drug administration under 21 USC 355.

16 (m) (i) "State-supported health care assistance program" means the Medical  
17 Assistance Program or the program under s. 49.665, 49.68, 49.683, 49.685, 49.688,  
18 or 146.93 or ch. 149.

19 (n) (j) "Therapeutic class" means a class of prescription drugs that are intended to  
20 treat the same disease or medical condition by substantially similar biochemical and  
21 physiological mechanisms.

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22 (2) (a) By January 1, 2004, the committee shall classify prescription drugs by  
23 therapeutic class. The committee may include a prescription drug in a therapeutic  
24 class only upon finding that the prescription drug is safe and clinically effective in  
25 treating the disease or medical condition that the therapeutic class is intended to

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1 ~~treat.~~ The committee shall conduct an evidence-based analysis to determine the  
2 ~~safety and clinical efficacy of prescription drugs~~, including a review of relevant  
3 literature. The committee shall periodically review and amend its ~~classification of~~  
4 ~~prescription drugs.~~

5 (b) Notwithstanding par. (a), the committee may adopt ~~safety and clinical~~  
6 ~~efficacy~~ determinations made by a similar government entity in another state, if the  
7 other entity uses standards for determining ~~safety and~~ clinical efficacy that are  
8 similar to the standards adopted by the committee.

9 (c) The committee shall make a determination regarding the ~~safety and~~ clinical  
10 efficacy of a new single-source prescription drug within 60 days after it is approved  
11 by the federal food and drug administration or, if the committee does not receive  
12 sufficient information to make a determination within 60 days after approval, within  
13 60 days after receiving such information.

14 (3) (a) The department shall solicit bids or proposals from manufacturers and  
15 labelers to provide rebates on prescription drugs that the committee has included in  
16 therapeutic classes under sub. (2) and that are purchased under the following  
17 programs or plans:

18 One solicitation shall be for rebates on drugs purchased under  
19 state-supported health care assistance programs.

20 2. Subject to sub. (8), a 2nd solicitation shall be for rebates on prescription  
21 drugs that are purchased under the prescription drug assistance program under s.  
22 49.692 or under a health care coverage plan offered by the state, a local governmental  
23 unit, or a private employer to its employees.

24 (b) Any rebate offered by a manufacturer or labeler in response to a solicitation  
25 under par. (a) shall be in addition to any rebate that the manufacturer or labeler

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INS 9-6  
and safety

this paragraph

relative

and safety

relative

and safety

1 provides under 42 USC 1396r-8 and in addition to any rebate required under state  
2 law or provided under an agreement between the state and a manufacturer or labeler  
3 that is in effect on the effective date of (this paragraph .... [revisor inserts date])

4 (c) Any rebate offered by a manufacturer or labeler in response to a solicitation  
5 under par. (a) 2. shall be at least equal to the rebate that is required under 42 USC  
6 1396r-8, if any.

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7 (c) (d) The department may join with similar governmental entities in other states  
8 to solicit rebates under this subsection.

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9 (4) (a) Using the method prescribed under pars. (b) and (c), the department  
10 shall create preferred drug lists for the following programs or plans:

- 11 1. One preferred drug list for state-supported health care assistance programs.
- 12 2. A 2nd preferred drug list for the prescription drug assistance program under
- 13 s. 49.692 and for health care coverage plans offered by the state, a local governmental
- 14 unit, or a private employer to its employees.

15 (b) The department shall identify the lowest-cost drug in each therapeutic  
16 class and place it on a preferred drug list. The department may include one or more  
17 additional prescription drugs within a therapeutic class on that preferred drug list  
18 if the cost of the additional prescription drug is not significantly greater than the cost  
19 of the lowest-cost prescription drug within the class.

no #

20 (c) In determining cost under this subsection, the department shall consider  
21 any rebate offered under sub. (3) (a) 1 or 2, whichever is applicable, any existing  
22 rebate agreement or requirement, dosing practices, and any other relevant cost  
23 information.

24 (c) (d) Notwithstanding pars. (b) and (c), the department shall include all  
25 prescription drugs that the committee determines are safe and clinically effective for

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or (b)

para (b)

and safe

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SECTION 13  
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1 treating acquired immunodeficiency syndrome or the human immunodeficiency  
2 virus on both preferred drug lists created under this subsection.

3 (5) By July 1, 2004, the department shall enter into agreements with the  
4 manufacturers or labelers of the prescription drugs on the preferred drug list under  
5 sub. (4) (a) 1. to pay the state the rebates proposed under sub. (3) (a) 1. on prescription  
6 drugs that are purchased under state-supported health care assistance programs on  
7 or after July 1, 2004.

8 (6) (a) Subject to sub. (8), the department shall enter into agreements with the  
9 manufacturers or labelers of prescription drugs on the preferred drug list under sub.  
10 (4) (a) 2. to pay the rebates proposed under sub. (3) (a) 2. on prescription drugs that  
11 are purchased under the following programs or plans:

- 12 1. The prescription drug assistance program under s. 49.692.
- 13 2. Health care coverage plans offered by the state to state employees who are
- 14 not subject to collective bargaining.
- 15 3. Health care coverage plans offered by the state to state employees who are

16 subject to collective bargaining, if the employees agree through collective bargaining  
17 to subject their health care coverage to policies that encourage use of the preferred

18 drug list under sub. (4) (a) 2.  
19 S. 49.692 Health care coverage plans offered by a local governmental unit or private  
20 employer to its employees, if the department approves the plan, or the employment  
21 contract that provides for the plan under par. (b).

22 (b) An entity that provides, purchases, or negotiates health insurance coverage  
23 for employees of a local governmental unit or private employer may apply to the  
24 department to approve a health care coverage plan, or an employment contract that

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INS 11-22

health care coverage plans

1 provides for health care coverage. The department shall approve the plan or contract  
2 if it includes policies to encourage use of the preferred drug list under sub. (4) (a) 2.

3 (c) For purposes of this section, all of the following constitute policies to  
4 encourage use of the preferred drug list under sub. (4) (a) 2.:

5 1. Prior authorization for off-list prescription drugs.

6 2. Higher copayments for off-list prescription drugs than for drugs that are on  
7 the preferred drug list.

8 3. Discipline or penalties for practitioners who prescribe off-list prescription  
9 drugs without medical justification. *Education*

10 (d) The department shall charge entities that receive rebates under par. (a) 4.  
11 a fee to support the administrative costs of creating and maintaining the preferred  
12 drug lists under sub. (4). The department shall promulgate rules establishing the  
13 method for determining the amount of the fee. All fees collected under this  
14 paragraph shall be credited to the appropriation account under s. 20.435 (4) (jt).<sup>✓</sup>

15 (e) Manufacturers and labelers shall pay rebates under par. (a) 1., 2., and 3.,  
16 to the state, and shall pay rebates under par. (a) 4. *and 5* to the entity designated by the  
17 department.

18 (7) All rebates paid to the state under subs. (5) and (6) (a) 1., 2., and 3. shall  
19 be credited to the appropriation account under s. 20.435 (4) (jx). The department  
20 shall calculate the amount of rebates earned on prescription drugs purchased under  
21 each of the state-supported health care assistance programs, under the program  
22 under s. 49.692 and under health care coverage plans for state employees, and shall  
23 allocate the amount earned under each program or plan for that program or plan.

prescription drug assistance program

*or 50*

1 (8) The department shall determine when to cover each of the programs or  
2 plans under sub. (6) (a) 1., 2., 3., and 4. in solicitations under sub. (3) (a) 2) and in  
3 agreements under sub. (6) (a).

4 (9) By July 1, 2004, the department shall implement at least one of the  
5 following prescription drug cost containment measures using the preferred drug lists  
6 created under sub. (4):

7 (a) The department may require practitioners to obtain prior authorization  
8 from the department or its fiscal agent for any off-list prescription drug purchased  
9 under a state-supported health care assistance program and may prohibit  
10 reimbursement of pharmacists, pharmacies, or any other provider for any off-list  
11 prescription drug purchased under a state-supported health care assistance  
12 program for which prior authorization is not obtained. If the department requires  
13 prior authorization under this <sup>subdivision</sup> ~~paragraph~~, and a practitioner requests prior  
14 authorization for an off-list prescription drug, the department or its fiscal agent  
15 shall respond to the request by telephone or other telecommunication means within  
16 24 hours after the request is received. In an emergency situation, the department  
17 shall reimburse a pharmacy or pharmacist for at least a 7-day supply of a  
18 prescription without prior authorization.

19 (b) The department may monitor the purchase of prescription drugs under  
20 state-supported health care assistance programs and the program under s. 49.692  
21 to identify practitioners who routinely prescribe off-list prescription drugs without  
22 medical justification and request that the medical examining board, board of  
23 nursing, or dentistry examining board, whichever is applicable, investigate and, if  
24 appropriate, sanction such practitioners under s. 441.16 (7), 447.08, or 448.075,  
25 whichever is applicable.

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required education for

prescription drugs

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*other than promulgation of rules*

1 (10) (a) The department may enter into a contract with an entity to perform  
2 the duties and exercise the powers of the department under subs. (3), (4), (5), and (6).

3 (b) The department may not contract under this subsection with an entity if the  
4 entity, its parent company, or its subsidiary has any direct or indirect financial  
5 interest in sales of a particular prescription drug. The department shall require an  
6 entity to disclose all such financial interests before the department contracts with  
7 the entity under this subsection.

8 (c) An entity that enters into a contract with the department under this  
9 subsection, or a parent company or subsidiary of that entity, may not incur a financial  
10 interest in sales of a particular prescription drug during the term of the contract.

11 (d) The department shall periodically audit any entity with which it contracts  
12 under this subsection to determine whether the entity, its parent company, or a  
13 subsidiary has any financial interests that are prohibited under this subsection.

14 SECTION 14. 49.692 of the statutes is created to read:

15 49.692 Prescription drug assistance. (1) In this section:

16

(a) "Labeler" has the meaning given in s. 49.69 (1) (b)

17

(b) "Manufacturer" has the meaning given in s. 49.69 (1) (d)

18

(c) "Participating pharmacy or pharmacist" means a pharmacy or pharmacist

19

that agrees to sell prescription drugs to a person who has a prescription drug card  
20 issued under sub. (3) for the amount provided under sub. (5).

21

(d) "Prescription drug" has the meaning given in s. 450.01 (20).

22

(e) "Prescription order" has the meaning given in s. 450.01 (21).

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24

(2) (a) A person to whom all of the following applies is eligible to purchase  
prescription drugs from a participating pharmacy or pharmacist for the amount

25

provided under sub. (5):

*(f) person who is licensed as a*

*in any state and who*

1           1. The person is a resident, as defined in s. 27.01 (10) (a), of this state.

2           2. The person is not a recipient of Medical Assistance, does not have health care  
3 coverage under s. 49.665, does not have a policy issued under ch. 149, is not enrolled  
4 in the program under s. 49.688, and does not have insurance coverage for  
5 prescription drugs for outpatient care, except that a person who receives benefits  
6 under 42 USC 1395 to 1395ccc may have supplemental health insurance that covers  
7 prescription drugs for outpatient care.

8           (b) A person may apply to the department, on a form provided by the  
9 department, for a determination of eligibility and issuance of a prescription drug  
10 card for purchase of prescription drugs under this section.

11           (3) The department shall devise and distribute a form for applying for the  
12 program under sub. (2), shall determine eligibility for each 12-month benefit period  
13 of applicants, and, after payment by the applicant of a program enrollment fee for  
14 each 12-month benefit period, shall issue to eligible persons a prescription drug card  
15 for use in purchasing prescription drugs, as provided under this section.

16           (4) The department shall set maximum prices and a maximum dispensing fee  
17 for prescription drugs purchased under this section.

18           (5) Beginning January 1, 2004, a participating pharmacy or pharmacist may  
19 not charge a person who presents a valid prescription order and a prescription drug  
20 card issued under sub. (3) more than the maximum price established by the  
21 department under sub. (4) for a prescription drug, less any rebate amount agreed to  
22 under s. 49.69 (6) (a) 1., plus the maximum dispensing fee established by the  
23 department under sub. (4).

24           (6) (a) From the appropriation account under s. 20.435 (4) (jx) and (8) (mb), the  
25 department shall reimburse participating pharmacies and pharmacists the

*or pharmacist*

1 applicable rebate amounts specified in agreements under s. 49.69 (6) (a) 1., if any, for  
2 each prescription drug that the pharmacy sells to a person who has a prescription  
3 drug card issued under sub. (3).

4 ~~(b) 1. If a discrepancy exists between a rebate amount claimed by a pharmacy  
5 or pharmacist and the amount paid by a manufacturer or labeler, the party claiming  
6 a loss as a result of the discrepancy may hire an independent auditor who is agreed  
7 on by the parties to review the discrepancy. If the discrepancy is not resolved by the  
8 audit, the party advantaged by the discrepancy shall justify the reason for the  
9 discrepancy or pay the amount necessary to resolve the discrepancy.  
10 2. If the controversy continues after the procedures under subd. 1. have been  
11 carried out, the department or the manufacturer or labeler may request a hearing  
12 before the division of hearing and appeals of the department of administration as a  
13 contested case under ch. 227.~~

14 (7) The department shall promulgate rules establishing the following:

15 (a) The method for determining the maximum retail price for a prescription  
16 drug.

17 (b) The method for determining the maximum dispensing fee.

18 (c) The method for informing participating pharmacies and pharmacists of the  
19 maximum prices, dispensing fees, and rebate amounts for prescription drugs.

20 (d) The process by which a participating pharmacy or pharmacist may claim  
21 reimbursement for rebates.

*INS/*  
*10-21*

22 SECTION 15. 49.692 (6) (a) of the statutes, as created by 2003 Wisconsin Act ...

23 (this act), is amended to read:

24 49.692 (6) (a) From the appropriation account under s. 20.435 (4) (jx) and (8)

25 (mb), the department shall reimburse participating pharmacies and pharmacists the

1 applicable rebate amounts specified in agreements under s. 49.69 (6) (a) 1., if any, for  
2 each prescription drug that the pharmacy sells to a person who has a prescription  
3 drug card issued under sub. (3).

4 **SECTION 16.** 146.93 (1) (a) of the statutes is amended to read:

5 146.93 (1) (a) From the ~~appropriation~~ appropriation accounts under s. 20.435  
6 (4) (gp) and (jx), the department shall maintain a program for the provision of  
7 primary health care services based on the primary health care program in existence  
8 on June 30, 1987. The department may promulgate rules necessary to implement  
9 the program.

10 **SECTION 17.** 149.14 (4c) (c) of the statutes is created to read:

11 149.14 (4c) (c) The department or an entity with which the department  
12 contracts shall provide to a drug manufacturer that sells drugs for prescribed use in  
13 this state documents designed for use by the manufacturer in entering into a rebate  
14 agreement with the department or entity that is modeled on the rebate agreement  
15 specified under 42 USC 1396r-8. The department or entity may enter into a rebate  
16 agreement under this paragraph that shall include all of the following as  
17 requirements:

18 1. That, as a condition of coverage for prescription drugs of a manufacturer  
19 under this section other than prescription drugs that are prescribed for the  
20 treatment of acquired immunodeficiency syndrome or human immunodeficiency  
21 virus, the manufacturer shall make rebate payments for each prescription drug of  
22 the manufacturer, that is prescribed for and purchased by an eligible person, to the  
23 state treasurer to be credited to the appropriation account under s. 20.435 (4) (jh),  
24 each calendar quarter or according to a schedule established by the department.

1 2. That the amount of the rebate payment shall be determined by a method  
2 specified in 42 USC 1396r-8 (c).

3 SECTION 18. 149.143 (1) (a) of the statutes is amended to read:

4 149.143 (1) (a) First from the moneys transferred to the fund from the  
5 appropriation account under s. 20.435 (4) (af) and from the moneys appropriated for  
6 the health insurance risk-sharing plan under s. 20.435 (4) (jh) and (jx).

7 SECTION 19. 441.16 (7) of the statutes is created to read:

8 441.16 (7) Upon the request of the department of health and family services,  
9 the board shall investigate an advanced practice nurse to determine whether the  
10 advanced practice nurse routinely prescribes prescription drugs that are not on the  
11 applicable preferred drug list established under s. 49.69 to beneficiaries of  
12 state-supported health care assistance programs, as defined in s. 49.69 (1) (1), or to  
13 persons enrolled in the prescription drug assistance program under s. 49.692,  
14 without medical justification. If the board determines that an advanced practice  
15 nurse routinely prescribes drugs that are not on the applicable preferred drug list  
16 without medical justification, the board shall require the advanced practice nurse to  
17 complete <sup>the</sup> a preferred drug list <sup>class</sup> under s. 448.075 (2) at the earliest possible  
18 opportunity shall reprimand the advanced practice nurse, and may require the  
19 advanced practice nurse to pay a forfeiture not to exceed \$50. If the board imposes  
20 a forfeiture under this subsection, it shall also impose a prescription drug  
21 assessment of \$200. All prescription drug assessments paid under this subsection  
22 shall be credited to the appropriation account under s. 20.435 (4) (jt).

(m)  
education program

the

[Handwritten circle around lines 19-22]

23 SECTION 20. 447.08 of the statutes is created to read:

24 447.08 Preferred drug list compliance. Upon the request of the  
25 department of health and family services, the board shall investigate a dentist to

*education program*

*(m)*

1 determine whether the dentist routinely prescribes prescription drugs that are not  
 2 on the applicable preferred drug list established under s. 49.69 to beneficiaries of  
 3 state-supported health care assistance programs, as defined in s. 49.69 (1) (i) or to  
 4 persons enrolled in the prescription drug assistance program under s. 49.692,  
 5 without medical justification. If the board determines that a dentist routinely  
 6 prescribes drugs that are not on the applicable preferred drug list without medical  
 7 justification, the board shall require the dentist to complete a preferred drug list  
 8 class under s. 448.075 (2) at the earliest possible opportunity, shall reprimand the  
 9 dentist, and may require the dentist to pay a forfeiture not to exceed \$50. If the board  
 10 imposes a forfeiture under this section, it shall also impose a prescription drug  
 11 assessment of \$200. All prescription drug assessments paid under this section shall  
 12 be credited to the appropriation account under s. 20.435 (4) (j).

**SECTION 21.** 448.075 of the statutes is created to read:

14 448.075 **Preferred drug list compliance.** (1) Upon the request of the  
 15 department of health and family services, the board shall investigate a physician or  
 16 physician assistant to determine whether the physician or physician assistant  
 17 routinely prescribes prescription drugs that are not on the applicable preferred drug  
 18 list established under s. 49.69 to beneficiaries of state-supported health care  
 19 assistance programs, as defined in s. 49.69 (1) (i) or to persons enrolled in the  
 20 prescription drug assistance program under s. 49.692, without medical justification.  
 21 If the board determines that a physician or physician assistant routinely prescribes  
 22 drugs that are not on the applicable preferred drug list without medical justification,  
 23 the board shall require the physician or physician assistant to complete a preferred  
 24 drug list class under sub. (2) at the earliest possible opportunity, shall reprimand the  
 25 physician or physician assistant, and may require the physician or physician

*education program*

*(m)*

*the*

1 assistant to pay a forfeiture not to exceed \$50. If the board imposes a forfeiture under  
2 this subsection, it shall also impose a prescription drug assessment of \$200. All  
3 prescription drug assessments paid under this subsection shall be credited to the  
4 appropriation account under s. 20.435 (4) (jt).

INS 20-5  
5 (2) The department of regulation and licensing shall offer a class on preferred  
6 drug lists at least once every 3 months. The department of regulation and licensing  
7 shall consult with the department of health and family services in developing the  
8 curriculum for the class and the curriculum shall include instruction on the contents  
9 of the preferred drug lists created under s. 49.69 (4). The department of regulation  
10 and licensing shall charge practitioners who are required under sub. (1) or s. 441.16  
11 (7) or 447.08 to attend the class to pay a fee for the class. All fees collected under this  
12 subsection shall be credited to the appropriation account under s. 20.435 (4) (jt).

13 SECTION 22. 450.02 (2) of the statutes is renumbered 450.02 (2) (intro.) and  
14 amended to read:

15 450.02 (2) (intro.) The board shall ~~adopt rules defining~~ promulgate all of the  
16 following rules, which apply to all applicants for licensure under s. 450.05:

17 (a) Defining the active practice of pharmacy. ~~The rules shall apply to all~~  
18 ~~applicants for licensure under s. 450.05.~~

19 SECTION 23. 450.02 (2) (b) of the statutes is created to read:

20 450.02 (2) (b) Requiring disclosure by a pharmacist to a prescription drug  
21 purchaser who has a card issued under s. 49.692 (3) of the amount of the discount  
22 on the retail price of the prescription drug that is provided to the purchaser as a  
23 result of the program under s. 49.692.

24 SECTION 24. 450.075 of the statutes is created to read:

25 450.075 **Manufacturer gift reporting.** (1) In this section:

*JWS  
2-4*

1 (a) "Health benefit plan" has the meaning given in s. 632.745 (11).

2 (b) "Hospital" means a facility approved as a hospital under s. 50.35.

3 (c) "Nursing home" has the meaning given in s. 50.01 (3).

4 (2) (a) Except as provided in par. (c), each manufacturer shall annually report  
5 to the board the value, nature, and purpose of any gift, payment, subsidy, or other  
6 economic benefit valued at \$25 or more that the manufacturer, directly or indirectly  
7 provides to any of the following in connection with the manufacturer's promotional  
8 or marketing activities:

*person*

*person's*

9 1. A practitioner.

10 2. A pharmacist or an owner or operator of a pharmacy.

11 3. A hospital, nursing home, or organization that offers a health benefit plan,  
12 or an employee of a hospital, nursing home, or organization that offers a health  
13 benefit plan.

14 4. Any other person authorized to purchase prescription drugs for retail or  
15 wholesale resale.

*person who engages in manufacturing*

16 (b) A manufacturer shall submit the report required under par. (a) by January  
17 1 of each year for the 12-month period ending on the previous June 30.

18 (c) A manufacturer is not required to report under par. (a) any free sample of  
19 a prescription drug that is intended to be distributed to a patient.

20 (3) Each manufacturer shall report to the board the name and address of the  
21 person responsible for making reports under sub. (2) and shall notify the board of any  
22 change in the information required under this subsection.

23 (4) A manufacturer who violates sub. (2) may be required to forfeit not more  
24 than \$10,000 for each violation and, notwithstanding s. 814.04, to pay all actual costs

*individual*

1 incurred by the state in prosecuting the violation, including reasonable attorney  
2 fees.

3 (5) The board shall develop a form that manufacturers shall use to submit  
4 reports under sub. (2). *persons who engage in manufacturing*

5 (6) Any information reported by a manufacturer under this section that  
6 constitutes a trade secret, as defined in s. 134.90 (1) (c), shall remain confidential.

7 The board may not release trade secret information obtained under this section,  
8 except to the department of justice for the purpose of prosecuting a violation under

9 sub. (4). The form prescribed by the board under sub. (5) shall direct a manufacturer  
10 to identify any information that is a trade secret. *person who engages in manufacturing*

11 (7) Annually, by March 1, the board shall submit to the legislature under s.  
12 13.172 (2) and to the governor a report describing the disclosures made by

13 manufacturers under sub. (2). *A.R. ①*

14 **SECTION 25. Nonstatutory provisions.**

15 (1) ENROLLMENT FEE FOR PRESCRIPTION DRUG ASSISTANCE PROGRAM. The  
16 enrollment fee for the prescription drug assistance program under section 49.692 (3)  
17 of the statutes, as created by this act, shall be \$20, except that the department of  
18 health and family services shall review the costs to administer the prescription drug  
19 assistance program after it has been implemented for 12 months and shall reduce  
20 the program enrollment fee if the earnings from the fee are greater than the costs  
21 incurred by the department in administering the program.

22 (2) REPORT TO LEGISLATURE. By July 1, 2006, the department of health and  
23 family services shall report to the appropriate standing committees of the  
24 legislature, in the manner provided under section 13.172 (3) of the statutes, on the  
25 creation of preferred drug lists, the status of supplemental prescription drug rebate

1 agreements, and the implementation of prescription drug cost controls under section  
2 49.69 of the statutes, as created by this act.

3 A.R. (1A) (3) USE OF INCOME AUGMENTATION RECEIPTS FOR INITIAL REIMBURSEMENT TO  
4 PHARMACISTS AND PHARMACIES. If after supporting the costs specified in section 46.46  
5 of the statutes, there remain any moneys in the appropriation account under section  
6 20.435 (8) (mb) of the statutes, as affected by this act, those remaining moneys are  
7 allocated to the department of health and family services to reimburse pharmacies  
8 and pharmacists under section 49.692 (6) of the statutes, as created by this act, until  
9 such time as there is enough money in the account under section 20.435 (4) (jx) of the  
10 statutes, as created by this act, to make timely reimbursement payments to  
11 pharmacies and pharmacists under section 49.692 (6) (a) of the statutes, as created  
12 by this act. The department of health and family services may not expend or  
13 encumber any moneys allocated under this subsection unless the department  
14 submits a plan for the proposed use of those moneys to the secretary of  
15 administration. If the secretary of administration approves the plan, he or she shall  
16 submit the plan to the joint committee on finance. If the cochairpersons of the  
17 committee do not notify the secretary of administration within 14 working days after  
18 the date of the secretary's submittal of the plan that the committee has scheduled a  
19 meeting for the purpose of reviewing the plan, the department of health and family  
20 services may implement the plan as proposed by the department of health and family  
21 services and approved by the secretary of administration. If, within 14 working days  
22 after the date of the secretary's submittal, the cochairpersons of the committee notify  
23 the secretary that the committee has scheduled a meeting for the purpose of  
24 reviewing the plan, the department of health and family services may implement the  
25 plan only upon the approval of the committee.

JNS  
23-25 →



Currently, prescription drugs are a covered benefit under the Medical Assistance Program and Badger Care and under the Health Insurance Risk-Sharing Program (HIRSP). Certain elderly persons are eligible to receive state assistance in purchasing prescription drugs under the program commonly known as Senior Care. Also, the state provides assistance to certain persons who have kidney disease, cystic fibrosis, or hemophilia to cover health care costs, which may include the cost of prescription drugs, under what are commonly referred to as "disease aids programs."

Drug manufacturers are required under federal law to pay rebates on prescription drugs that are purchased under state medical assistance programs. Federal law further requires that, with several exceptions, the price for prescription drugs purchased under state medical assistance programs, after the rebate, must be the lowest price for which the manufacturer sells its prescription drugs. Manufacturers must also pay rebates on prescription drugs purchased under Badger Care and Senior Care, and in some cases, under the disease aids programs.

Also under current law, the Secretary of Health and Family Services is required to appoint a Prescription Drug Prior Authorization Committee that is responsible for advising the Department of Health and Family Services (DHFS) on prior Medical Assistance authorization policies for prescription drugs.

### ***Preferred Drug Lists***

This bill requires DHFS to create two preferred drug lists (PDLs). PDL I is for state-supported health care assistance programs (Medical Assistance, Badger Care, Senior Care, <sup>HIRSP</sup> ~~the Health Insurance Risk-Sharing Program~~, <sup>all caps</sup> Wisconcare, and several disease aids programs). PDL II is for health care plans provided to state and local government employees, health care plans provided by private employers to their employees, health care plans negotiated on the behalf of a group of persons who purchase their own health insurance, for example through a trade association, and for the prescription drug assistance program created under the bill (described below).

② No 11 → ***Creation of the PDLs.*** DHFS must use the following process to create the PDLs:

1. The ~~Prescription Drug Prior Authorization Committee~~ **(the Committee)** must determine the relative clinical efficacy and safety of prescription drugs within a therapeutic class (a group of drugs that are used to treat the same disease or medical condition).

2. DHFS must solicit offers from drug manufacturers to pay a rebate on a prescription drug if it is included on a PDL. Manufacturers may offer a different rebate amount for the two PDLs. The rebate amount for PDL I must be in addition to any rebate amount currently paid under the Medical Assistance Program.

3. DHFS must identify one or more prescription drugs within each therapeutic class that are the most cost-effective and place them on a PDL. DHFS must consider the Committee's determinations of relative clinical efficacy and safety and the cost of each prescription drug in determining cost-effectiveness. In assessing cost, DHFS must consider any manufacturer rebates that are paid under current law or current rebate agreements and any additional rebates offered in response to DHFS

one word  
←

solicitations under this bill. Although the determinations regarding relative clinical efficacy and safety of drugs will be the same for the creation of both PDLs, the current and additional rebate amounts may differ, so the drugs identified as most cost-effective may differ between the two PDLs.

4. The bill requires DHFS to enter into agreements with manufacturers to pay the rebates offered under the bill on those drugs that are placed on a PDL and purchased under a program or health insurance plan for which the PDL is used.

5. The bill requires DHFS to place all prescription drugs that are safe and clinically effective for treating acquired immunodeficiency syndrome or the human immunodeficiency virus as well as all reasonably priced generic prescription drugs on both PDLs.

(B) No (U)

*again step*  
→ PDL I The bill requires DHFS to enter into rebate agreements with drug manufacturers by July 1, 2004, under which the manufacturers pay the supplemental rebates offered in response to DHFS solicitations on drugs that are included on PDL I and purchased under the state-supported health care assistance programs. Also by July 1, 2004, DHFS must implement at least one of the following policies to encourage use of PDL I under the state-supported health care assistance programs:

1. DHFS may require prior authorization for the purchase of any prescription drug that is not on PDL I; or

2. DHFS may monitor the prescribing practices of doctors, advance<sup>d</sup> practice nurses, and dentists to identify those practitioners who routinely prescribe drugs that are not on ~~the~~ PDL I without medical justification and request that the applicable examining board, such as the medical examining board, require the practitioner to participate in an education program on using the PDL.

Under the bill, manufacturers pay the supplemental rebates on drugs purchased under the state-supported health care assistance programs to DHFS. DHFS must allocate the supplemental rebate receipts to each of the state-supported health care assistance programs in the proportion in which they were earned.

(B) No (U)

→ PDL II *again step*  
The bill allows DHFS to phase in use of PDL II by enrollees in the prescription drug assistance program and beneficiaries of health care plans for government employees, private employees, and persons who purchase health insurance coverage individually. In order to earn the rebates offered by manufacturers whose drugs are included on PDL II, the provider or purchaser of a health care plan must adopt policies that encourage use of the PDL, such as prior authorization requirements or higher copayments for drugs that are not on the PDL, or mandatory PDL education for practitioners who prescribe drugs that are not on the PDL without medical justification.

The state may adopt policies to encourage use of PDL II by non<sup>g</sup>represented state employees at any time. The state may not require represented state employees to adhere to policies to encourage use of ~~the~~ PDL II unless the employees agree to such policies through collective bargaining.

A local government, private employer, or entity that negotiates health care coverage for a group of individuals is not eligible to earn the rebates under PDL II unless DHFS approves the policies that the local government, private employer, or

entity has adopted to encourage use of the PDL. A local governmental unit may not adopt policies that encourage use of the PDL by represented employees, unless those employees agree to the policies through collective bargaining.

Under the bill, manufacturers pay the supplemental rebates on drugs purchased under health care plans for state employees and under the prescription drug assistance program to the state. DHFS must designate the recipients of rebates paid under health care plans for local government employees, employees of private employers, and other private group plans.

**Prescription drug assistance program**

The bill creates a program under which Wisconsin residents who do not have health insurance that covers prescription drugs (except a Medigap policy) may purchase prescription drugs for prices that are established by DHFS. DHFS must issue a prescription drug assistance program enrollment card to each person who applies for the program, meets the eligibility requirements, and pays an annual enrollment fee. A person who has a prescription drug card and a prescription order written by a practitioner who is licensed in Wisconsin is entitled to purchase prescription drugs from a participating pharmacy or pharmacist for the amounts established by DHFS. *Any* pharmacy or pharmacist that is licensed in any state within the United States and <sup>that</sup> agrees to sell drugs to program enrollees for the amounts established by DHFS may participate in the prescription drug assistance program.

*NET*

If a program enrollee purchases a prescription drug that is included on PDL II (described above) and for which the manufacturer has entered into a rebate agreement with DHFS, a participating pharmacy or pharmacist may not charge the person an amount that is greater than the maximum price and dispensing fee established by DHFS minus the rebate. The drug manufacturer must pay DHFS the rebate amount on the drug, and DHFS must reimburse the pharmacy or pharmacist the rebate amount.

The bill appropriates child welfare income augmentation funds, subject to the approval of the joint committee on finance, to make initial drug rebate reimbursements to participating pharmacies and pharmacists.

**Prescription drug manufacturer gift reporting**

The bill requires drug manufacturers to annually report to the Pharmacy Examining Board gifts that the manufacturers make to the following people in connection with marketing or promotional activities: practitioners who may prescribe drugs in Wisconsin; pharmacists; owners and operators of pharmacies; hospitals, nursing homes, or organizations that offer health benefit plans, or employees of hospitals, nursing homes, or such organizations. Manufacturers must report the value, nature, and purpose of any gift that is valued at \$25 or more, except that manufacturers are not required to report the provision of free drug samples that are intended to be distributed to patients. A manufacturer who violates the reporting requirements is subject to a \$10,000 forfeiture for each violation. The Pharmacy Examining Board must annually report to the Legislature on gift disclosures made by drug manufacturers.

\*

**HIRSP**

The bill also grants DHFS authority, independent of the <sup>PDL</sup> ~~preferred drug list~~ provisions, to negotiate rebate agreements with drug manufacturers on prescription drugs that are purchased under HIRSP.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1270/1ins  
RLR:.....

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**Ins 7-22:**

(b) "Generic name" has the meaning given in s. 450.12 (1) (b).<sup>✓</sup>

(c) "Health care coverage plan for government employees" means a health care coverage plan offered by the state or by a local governmental unit to its employees.

**Ins 8-12:**

⑦

(j) "Prescription drug assistance program" means the program under s. 49.692.<sup>✓</sup>

(k) "Private health care coverage plan" means a health care coverage plan offered by a private employer to its employees or a health care coverage plan, other than a health care coverage plan for government employees, that is negotiated on behalf of a group of individuals who individually purchase coverage under the plan.

no \$

**Ins 8-22:**

By January 1, 2004, the committee shall determine the relative clinical efficacy and safety of the prescription drugs within each therapeutic class.

no \$

**Ins 9-3:**

determinations of relative clinical efficacy and safety

no \$

**Ins 9-6:**

of relative clinical efficacy and safety

**Ins 10-6:**

1 (b) Subject to sub. (8),<sup>✓</sup> the department shall solicit bids or proposals from  
 2 manufacturers and labelers to provide rebates on prescription drugs that are  
 3 purchased under the prescription drug assistance program, under health care  
 4 coverage plans for government employees, or under private health care coverage  
 5 plans.

6  
 7

**Ins 10-8:**

8 (4) (a) Using the method prescribed under par. (b),<sup>✓</sup> the department shall create  
 9 the following <sup>2</sup>two preferred drug lists:

- 10 1. One preferred drug list for state-supported health care assistance programs.
- 11 2. A 2nd preferred drug list for the prescription drug assistance program,
- 12 health care coverage plans for government employees, and private health care
- 13 coverage plans.

14 (b) The department shall consider the relative clinical efficacy and safety and  
 15 the cost of each prescription drug in a therapeutic class,<sup>✓</sup> and place the most  
 16 cost-effective prescription drug or drugs in the class on a preferred drug list.

17  
 18

**Ins 11-2:**

19 <sup>not</sup>The department shall also include all prescription drugs that bear <sup>g</sup>a generic  
 20 name<sup>s</sup> on the preferred drug lists unless the prescription drugs that bear <sup>g</sup>a generic  
 21 name<sup>s</sup> are unreasonably priced compared to other prescription drugs within a  
 22 therapeutic class that are selected for a preferred drug list.

23  
 24

**Ins 11-18:**

1           4. Health care coverage plans offered by a local governmental unit to employees  
 2 of the local governmental unit who are subject to collective bargaining, if the  
 3 employees agree through collective bargaining to subject their health care coverage  
 ④ to policies that encourage use of the preferred drug list under sub. (4) (a) 2.0

5

6           **Ins 11-19:**

7           ① to its employees who are not subject to collective bargaining  
 8

9           **Ins 11-22:**

10          ① that purchases or negotiates a private health care coverage plan  
 11

12          **Ins 13-25:**

13          (b) The department may monitor the purchase of prescription drugs under the  
 14 prescription drug assistance program to identify practitioners who routinely  
 15 prescribe off-list prescription drugs without medical justification and request that  
 16 the medical examining board, board of nursing, or dentistry examining board,  
 ①⑦ whichever is applicable, investigate and, if appropriate, require education for such  
 ①⑧ practitioners under s. 441.16 (7), 447.08 or 448.075, whichever is applicable.  
 19

20          **Ins 14-22:**

21          (f) "State" has the meaning given in s. 441.50 (2) (m).<sup>✓</sup>  
 22

23          **Ins 16-21:**

1 (e) The process for resolving discrepancies <sup>between</sup> ~~in~~ the rebate amount claimed by a  
 2 participating pharmacy or pharmacist and the amount paid by a manufacturer or  
 3 labeler.

**Ins 20-5:**

4  
 5  
 6 ~~no \$~~ The department of regulation and licensing shall develop an education program  
 7 on the preferred drug lists created under s. 49.69 for practitioners, as defined in s.  
 8 450.01 (17). The department of regulation and licensing shall consult with the  
 9 department of health and family services in developing the education program and  
 10 shall present the education program both as a class and in visits to practitioners'  
 11 offices.

**Ins 20-11:**

12  
 13  
 14 ~~no \$~~ participate in the education program to pay a fee to cover the cost of the class  
 15 or office visit.

**Ins 21-4:**

16  
 17  
 18 ~~no \$~~ person who engages in manufacturing

**Ins 23-25:**

19  
 20  
 21 (4) EMERGENCY ~~R~~ULES. The department of health and family services shall,  
 22 using the procedure under section 227.24<sup>✓</sup> of the statutes, promulgate the rules  
 23 required under section 49.692 (7)<sup>✓</sup> of the statutes, as created by this act, for the period  
 24 before permanent rules become effective, but not to exceed the period authorized  
 25 under section 227.24 (1) (c)<sup>✓</sup> and (2)<sup>✓</sup> of the statutes. Notwithstanding section 227.24

1 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide  
2 evidence that promulgating a rule under this subsection as an emergency rule is  
3 necessary for the preservation of the public peace, health, safety, or welfare and is  
4 not required to provide a finding of emergency for a rule promulgated under this  
5 subsection.

**Mentkowski, Annie**

---

**From:** Wischnewski, Marne  
**Sent:** Tuesday, May 13, 2003 4:55 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-1270/1 Topic: Prescription drug preferred drug list; prescription drug assistance; gifts to pharmacists

It has been requested by <Wischnewski, Marne> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-1270/1 Topic: Prescription drug preferred drug list; prescription drug assistance; gifts to pharmacists

# Memo

To: Senator

Representative

**X Underheim**

(The Draft's Requester)

Per your request: ... the attached fiscal estimate was prepared for your unIntroduced 2003 draft.

LRB Number: LRB - 1270

Version: " / 1 "

Fiscal Estimate Prepared By: (agency abbr.) OCI

If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.

Entered In Computer And Copy Sent To Requester Via E-Mail: 05 / 23 / 2003

\* \* \* \* \*

To: LRB - Legal Section PA's

Subject: *Fiscal Estimate Received For An Unintroduced Draft*

- > **If redrafted** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version.
- > **If introduced** ... and the version of the attached fiscal estimate is for a **previous version** ... please insert this cover sheet and attached early fiscal estimate into the drafting file ... after the draft's old version (the version that this fiscal estimate was based on), and before the markup of the draft on the updated version. Have Mike (or Lynn) get the ball rolling on getting a fiscal estimate prepared for the introduced version.
- > **If introduced** ... and the version of the attached fiscal estimate is for the **current version** ... please write the draft's introduction number below and give to Mike (or Lynn) to process.

THIS DRAFT WAS INTRODUCED AS: 2003 \_\_\_\_\_

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Friday, May 23, 2003 8:25 AM  
**To:** Rep.Underheim  
**Cc:** Wischnewski, Marne  
**Subject:** LRB 03-1270/1 (FE by OCI - attached - for your review)



FE\_Underheim.pdf