

2003 SENATE BILL 276

October 8, 2003 – Introduced by Senators KANAVAS and DARLING, cosponsored by Representatives VUKMIR, UNDERHEIM, WASSERMAN, GIELOW, SCHNEIDER, HAHN, VAN ROY, M. LEHMAN, OWENS, POWERS, AINSWORTH, HUEBSCH, D. MEYER, GUNDRUM, WARD, BALOW, SUDER, MONTGOMERY, GOTTLIEB, NASS, CULLEN, GRONEMUS, HUNDERTMARK, PETROWSKI, PETTIS, STONE, HINES, FRISKE, TOWNS, LADWIG, BIES, TOWNSEND, ALBERS and GUNDERSON. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT** *to create* 146.87 of the statutes; **relating to:** use of federal registration
 2 numbers required for prescribers of controlled substances and providing a
 3 penalty.

Analysis by the Legislative Reference Bureau

Federal law requires certain people and entities that manufacture, distribute, prescribe, dispense, or administer controlled substance to register with the federal Drug Enforcement Administration (DEA) and obtain a DEA number. Controlled substances include opiates, hallucinogenic substances, depressants, stimulants, and narcotics. Under federal law, a person who prescribes a controlled substance must include his or her DEA number on the prescription. Federal law prohibits a pharmacist from dispensing a controlled substance if the prescriber's DEA number is not included on the prescription for the controlled substance.

Also under federal law, the U.S. Health Insurance Portability and Accountability Act, commonly known as "HIPAA," requires the U.S. Department of Health and Human Services to adopt a unique identifier that health care providers will be required to use.

This bill prohibits any person from requiring that a person authorized to prescribe drugs (practitioner) include his or her DEA number on a prescription for a drug or device that is not a controlled substance. The bill further prohibits any person from disclosing a practitioner's DEA number without the practitioner's consent for any purpose other than complying with or enforcing federal or state law related to controlled substances. Finally, the bill prohibits any person from using a

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practitioner's DEA number without the practitioner's consent to identify or monitor the practitioner's prescribing practices for purposes other than complying with or enforcing federal or state law related to controlled substances. Under the bill, these prohibitions are effective 12 months after the effective date of a U.S. Department of Health and Human Services HIPAA regulation that requires use of unique identifiers for health care providers.

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

1 **SECTION 1.** 146.87 of the statutes is created to read:

2 **146.87 Federal registration numbers for prescribers of controlled**
3 **substances. (1)** In this section:

4 (a) "Controlled substance" has the meaning given in s. 961.01 (4).

5 (b) "Federal registration number" means the registration number required
6 under 21 USC 822 for practitioners who prescribe controlled substances.

7 (c) "Health care provider" has the meaning given in 42 USC 1320d (3).

8 (d) "Practitioner" has the meaning given in s. 450.01 (17).

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

10 **(2)** Beginning on the first day of the 12th month beginning after the effective
11 date of a U.S. Department of Health and Human Services regulation under 42 USC
12 1320d-2 (b) that requires use of a unique identifier for health care providers, no
13 person may do any of the following:

14 (a) Require that a practitioner include his or her federal registration number
15 on a prescription order for a drug or device that is not a controlled substance.

16 (b) Disclose a practitioner's federal registration number without the
17 practitioner's consent for any purpose other than complying with or enforcing federal
18 or state law related to controlled substances.

