



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Added To File: 09/22/2003 (Per: DAK)



 The 2003 drafting file for LRB 03-2697/2

has been copied/added to the 2003 drafting file for

# **LRB 03-3332**

 The attached 2003 draft was incorporated into the new 2003 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

 This cover sheet was added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.

**2003 DRAFTING REQUEST**

**Bill**

Received: 05/09/2003

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Leah Vukmir (608) 266-9180

By/Representing: Dean Cady

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Add. Drafters:

Subject: Health - miscellaneous

Extra Copies: DAK  
MDK

Submit via email: YES

Requester's email: Rep.Vukmir@legis.state.wi.us

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Federal registration numbers required for prescription of controlled substances

---

**Instructions:**

See Attached

---

**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>      | <u>Reviewed</u>     | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>       | <u>Jacketed</u>      | <u>Required</u> |
|--------------|---------------------|---------------------|------------------------|----------------|------------------------|----------------------|-----------------|
| /?           |                     |                     |                        |                |                        |                      |                 |
| /1           | rryan<br>07/11/2003 | jdyer<br>08/25/2003 | rschluet<br>08/25/2003 | _____          | sbasford<br>08/25/2003 |                      |                 |
| /2           | rryan<br>09/04/2003 | jdyer<br>09/04/2003 | rschluet<br>09/04/2003 | _____          | sbasford<br>09/04/2003 | lemery<br>09/19/2003 |                 |

FE Sent For:

<END>

**2003 DRAFTING REQUEST**

**Bill**

Received: **05/09/2003**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Leah Vukmir (608) 266-9180**

By/Representing: **Dean Cady**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **DAK  
MDK**

Submit via email: **YES**

Requester's email: **Rep.Vukmir@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Federal registration numbers required for prescription of controlled substances

**Instructions:**

See Attached

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| /?           |                     |                    |                        |                |                        |                 |                 |
| /1           | rryan<br>07/11/2003 | jdye<br>08/25/2003 | rschluet<br>08/25/2003 | _____          | sbasford<br>08/25/2003 |                 |                 |
| /2           | rryan<br>09/04/2003 | jdye<br>09/04/2003 | rschluet<br>09/04/2003 | _____          | sbasford<br>09/04/2003 |                 |                 |

09/04/2003 01:44:31 PM

Page 2

**LRB-2697**

**FE Sent For:**

**<END>**

**2003 DRAFTING REQUEST**

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Received: 05/09/2003

Received By: rryan

Wanted: As time permits

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By/Representing: Dean Cady

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Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies: DAK  
MDK

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Federal registration numbers required for prescription of controlled substances

**Instructions:**

See Attached

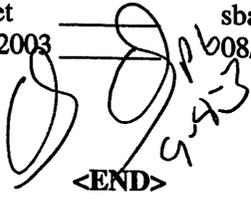
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|    |                     |                     |                        |  |                        |  |  |
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| /? |                     |                     |                        |  |                        |  |  |
| /1 | rryan<br>07/11/2003 | jdyer<br>08/25/2003 | rschluet<br>08/25/2003 |  | sbasford<br>08/25/2003 |  |  |

FE Sent For:

12/9/4 jld

  
<END>

**2003 DRAFTING REQUEST**

**Bill**

Received: 05/09/2003

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Leah Vukmir (608) 266-9180

By/Representing: Dean Cady

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies:

DAK  
MDK

Dick Sweet

Submit via email: YES

Requester's email: Rep.Vukmir@legis.state.wi.us

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Federal registration numbers required for prescription of controlled substances

**Instructions:**

See Attached

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1?           | rryan          | 1/8/03 jld      |              |                |                  |                 |                 |

8-25-03  
<END>

FE Sent For:

**Ryan, Robin**

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**From:** Dsida, Michael  
**Sent:** May 09, 2003 3:25 PM  
**To:** Ryan, Robin  
**Subject:** FW: Drafting Request

does it make sense for you to do this?

-----Original Message-----

**From:** LRB.Legal  
**Sent:** Friday, May 09, 2003 3:22 PM  
**To:** Dsida, Michael  
**Subject:** FW: Drafting Request

> -----Original Message-----

> **From:** Cady, Dean  
> **Sent:** Friday, May 09, 2003 3:19 PM  
> **To:** LRB.Legal  
> **Subject:** Drafting Request

- >
- > This is Dean from Representative Vukmir's office.
- > Representative Vukmir would like to have the attached Bill
- > she has been working with Dick Sweet from Legislative Council
- > drafted in final form. If the attached could find its way to
- > the appropriate person she would be most appreciative.
- > Thankx a bunch.
- > Dean S. Cady, Jr.
- >



05vukmir\_ms.doc



01354.pdf

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## WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

**TO:** REPRESENTATIVE LEAH VUKMIR  
**FROM:** Richard Sweet, Senior Staff Attorney  
**RE:** WLC: 0135/4 (Drug Enforcement Administration Numbers)  
**DATE:** May 2, 2003

Attached is WLC: 0135/4, relating to use of federal Drug Enforcement Administration (DEA) registration numbers and providing a penalty.

Feel free to contact me if I can be of further assistance.

RNS:rv:wu:ksm;jal

Attachment

1     **AN ACT** *to create* 146.87 of the statutes; relating to: use of federal drug enforcement  
2           administration registration numbers and providing a penalty.

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

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

4           **146.87 Restrictions on use of federal registration number.** (1) In this section:

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

6           (b) "Federal registration number" means the federal drug enforcement administration  
7           number that authorizes a practitioner to prescribe controlled substances.

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

9           (2) No person may require that a prescription bear a federal registration number if the  
10          drug prescribed is not a controlled substance.

11          (3) No person may offer for sale, sell, or lease a federal registration number for any  
12          reason.

13          (4) A person who violates this section is subject to a forfeiture of not more than \$10,000.

14

(END)

## Kennedy, Debora

---

**From:** Cady, Dean  
**Sent:** Thursday, July 03, 2003 10:35 AM  
**To:** Kennedy, Debora  
**Subject:** Bill Draft - DEA#s

Good morning Debora this is Dean Cady in Representative Vukmir's office. I realize that you are out of the office, but I thought I should send an Email regardless. A few weeks back I had requested that a Bill be drafted concerning the "regulation of identification numbers issued to health professionals by the US Drug Enforcement Administration for the dispensing of controlled substances."

I am not sure who exactly is drafting the Bill, but Representative Vukmir asked that the language in the latest bill draft prepared by Dick Sweet (July 3, 2003) at Leg. Council be used. I have attached the bill draft Dick has prepared and the memo. If you have any questions please feel free to give me or Dick a phone call. My phone number is 266.9180.

Thankx a lot Debora.



03vukmir\_ms.doc



01355.pdf



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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

**TO:** REPRESENTATIVE LEAH VUKMIR  
**FROM:** Richard Sweet, Senior Staff Attorney  
**RE:** WLC: 0135/5 (Drug Enforcement Administration Numbers)  
**DATE:** July 3, 2003

Attached is a draft prepared at your request--WLC: 0135/5, relating to use of federal Drug Enforcement Administration (DEA) registration numbers and providing a penalty. The draft is based on s. 152.11, subds. 2a., 2b., and 2c., Minn. Stats., a copy of which is attached.

Feel free to contact me if I can be of further assistance.

RNS:rv;jal;tlu

Attachments

1     **AN ACT** *to create* 146.87 of the statutes; **relating to:** use of federal drug enforcement  
2           administration registration numbers and providing a penalty.

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

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

4           **146.87 Restrictions on use of federal registration number. (1)** In this section:

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

6           (b) "Federal registration number" means the federal drug enforcement administration  
7           number that authorizes a practitioner to prescribe controlled substances.

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

9           (2) No person may require that a prescription bear a federal registration number if the  
10          drug prescribed is not a controlled substance.

11          (3) No person may offer for sale, sell, lease, or otherwise release a federal registration  
12          number for any reason, except for drug enforcement purposes authorized by ch. 961 or the  
13          federal controlled substances registration system.

14          (4) No person may use a federal registration number to identify or monitor the  
15          prescribing practices of a practitioner to whom that number has been assigned, except for drug  
16          enforcement purposes authorized by ch. 961 or the federal controlled substances registration  
17          system.

18          (5) A person who violates this section is subject to a forfeiture of not more than \$10,000.





State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-269714  
RLR:.....

In 7/11/03

JLD  
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

1 AN ACT ...; relating to: use of federal registration numbers required for  
2 prescribers of controlled substances and providing a penalty. ✓

Gen Cat.

**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 practitioner a person authorized to prescribe drugs 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 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

3015

enforcing federal or state law related to controlled substances. Under the bill, these prohibitions are effective 12 months after the U.S. Department of Health and Human Services requires use of unique identifiers for health care providers under HIPAA. ✓

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

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

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 <sup>or</sup> the first day of the 12th month beginning after the U.S.  
11 Department of Health and Human Services requires use of a unique identifier for  
12 health care providers ✓ under 42 USC 1320d-2 (b), no person may do any of the  
13 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.



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2697/1dn

RLR: x:...

JLD

Jul 11, 2003

Dean Cady:

1. As we discussed, the bill does not prohibit a practitioner for disclosing his or her own DEA number.
2. As we also discussed, the requirement that health care providers use the unique HIPAA identifiers will likely not be effective for several years. I therefore included the effective date provision for the bill in the text of proposed s. 146.87, ~~146.87~~, rather than \* in a nonstatutory effective date provision that is not printed in the published statutes.

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2697/1dn  
RLR:jld:rs

August 25, 2003

Dean Cady:

1. As we discussed, the bill does not prohibit a practitioner for disclosing his or her own DEA number.
2. As we also discussed, the requirement that health care providers use the unique HIPAA identifiers will likely not be effective for several years. I therefore included the effective date provision for the bill in the text of proposed s. 146.87 rather than in a nonstatutory effective date provision that is not printed in the published statutes.

Robin Ryan  
Legislative Attorney  
Phone: (608) 261-6927  
E-mail: robin.ryan@legis.state.wi.us

**Ryan, Robin**

---

**From:** Kite, Robin  
**Sent:** September 03, 2003 9:42 AM  
**To:** Ryan, Robin  
**Subject:** FW: DEA draft

Robin:

I think that this e-mail was intended for you.

Robin

-----Original Message-----

**From:** Cady, Dean  
**Sent:** Wednesday, September 03, 2003 8:47 AM  
**To:** Kite, Robin  
**Cc:** Sweet, Richard  
**Subject:** FW: DEA draft

Good morning Robin, this is Dean from representative Vukmir's office.

I have a question for you regarding LRB 2697/1, "use of federal registration numbers required for perscribers of controlled substances."

Specifically, my question concerns the bill's initial applicability, section (2), line 10. Would it be possible to have the initial applicability section refer to the date/time the federal regulation takes effect, rather (as Dick Sweet points out) than the time it is promulgated, thus building in a bit more time for those affected to switch identifiers? My question is borne out of a potential concern raised by a group of insurers worried about the amount of time the new identifiers will have been available for claims processors. If this is unrealistic, or the change would have zero impact, then just let me know, k. Dick and I feel that a slight change of this nature might be a simple way to address the insurers concerns. I am passing on this Email from Dick that has language reflecting my question, the insurers concern.

Thankx a bunch for the attention Robin. If you have any questions feel free to give me (6.9180) or Dick a jingle.  
cheers,  
dean

-----Original Message-----

**From:** Sweet, Richard  
**Sent:** Tuesday, September 02, 2003 4:13 PM  
**To:** Cady, Dean  
**Subject:** DEA draft

Dean,

As we discussed on the phone, you may want to clarify page 2, lines 10 to 13 of LRB-2697/1, so that the provision refers to the time the federal reg takes effect rather than the time it is promulgated (in case there is a lag time between the 2). Those lines could be modified to read:

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

*Dick Sweet*  
Senior Staff Attorney  
Wisconsin Legislative Council  
(608)266-2982  
richard.sweet@legis.state.wi.us



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2697A

RLR:jld:ra

In 9/4/03

2003 BILL

RMR

Regen

- 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

BILL regulation that  
HIPAA

effective date of a

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 U.S. Department of Health and Human Services requires use of unique identifiers for health care providers under HIPAA

*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 U.S.  
11 Department of Health and Human Services requires use of a unique identifier for  
12 health care providers under 42 USC 1320d-2 (b), no person may do any of the  
13 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.

effective date of a

regulation under 21 USC 1320d-2 (b) that

handwritten notes at the bottom of the page



**Emery, Lynn**

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**From:** Cady, Dean  
**Sent:** Friday, September 19, 2003 4:22 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-2697/2 Topic: Federal registration numbers required for prescription of controlled substances

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

Draft review: LRB 03-2697/2 Topic: Federal registration numbers required for prescription of controlled substances



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2697/2

RLR:jld:rs

2003 BILL

- 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***

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**BILL**

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:

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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.

