

## 2005 ASSEMBLY BILL 197

1     **AN ACT** *to amend* 255.056 (title), 255.056 (1) (a), 255.056 (2), 255.056 (3), 255.056  
2           (4), 255.056 (6) and 255.056 (7) (a) (intro.) and 2. to 4., (b), (c), (d), (e), (f) and (g);  
3           and *to create* 255.056 (1) (am) and 255.056 (1) (h) of the statutes; **relating to:**  
4           expanding the cancer drug repository program to include prescription drugs  
5           and supplies for chronic disease and requiring the exercise of rule-making  
6           authority.

---

*Analysis by the Legislative Reference Bureau*

---

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

7           **SECTION 1.** 255.056 (title) of the statutes, as affected by 2003 Wisconsin Acts  
8           175 and 327, is amended to read:

9           **255.056** (title) **Cancer and chronic diseases drug repository.**

10          **SECTION 2.** 255.056 (1) (a) of the statutes, as affected by 2003 Wisconsin Acts  
11          175 and 327, is amended to read:

**ASSEMBLY BILL 197****SECTION 2**

1           255.056 (1) (a) “Cancer or chronic disease drug” means a prescription drug that  
2 is used to treat any of the following:

3           1. Cancer or chronic disease or side effects of cancer or chronic disease.

4           2. The side effects of any prescription drug ~~that is used to treat cancer or side~~  
5 ~~effects of cancer~~ under subd. 1.

6           **SECTION 3.** 255.056 (1) (am) of the statutes is created to read:

7           255.056 (1) (am) “Chronic disease” means any disease, illness, impairment, or  
8 other physical condition, other than cancer, that requires health care and treatment  
9 over a prolonged period and, although amenable to treatment, frequently progresses  
10 to increasing disability or death.

11           **SECTION 4.** 255.056 (1) (h) of the statutes is created to read:

12           255.056 (1) (h) “Supplies” means items that are necessary to administer a  
13 cancer or chronic disease drug.

14           **SECTION 5.** 255.056 (2) of the statutes, as affected by 2003 Wisconsin Acts 175  
15 and 327, is amended to read:

16           255.056 (2) The department shall establish and maintain a cancer and chronic  
17 diseases drug repository program, under which any person may donate a cancer or  
18 chronic disease drug or supplies ~~needed to administer a cancer drug~~ for use by an  
19 individual who meets eligibility criteria specified by rule by the department.  
20 Donation may be made on the premises of a medical facility or pharmacy that elects  
21 to participate in the program and meets requirements specified by rule by the  
22 department. The medical facility or pharmacy may charge an individual who  
23 receives a cancer or chronic disease drug or supplies ~~needed to administer a cancer~~  
24 ~~drug~~ under this subsection a handling fee that may not exceed the amount specified  
25 by rule by the department. A medical facility or pharmacy that receives a donated

**ASSEMBLY BILL 197**

1 cancer or chronic disease drug or supplies needed to administer a cancer drug under  
2 this subsection may distribute the cancer or chronic disease drug or supplies to  
3 another eligible medical facility or pharmacy for use under the program under this  
4 section.

5 **SECTION 6.** 255.056 (3) of the statutes, as affected by 2003 Wisconsin Acts 175  
6 and 327, is amended to read:

7 255.056 (3) A cancer or chronic disease drug or supplies needed to administer  
8 a cancer drug may be accepted and dispensed under the program specified in sub. (2)  
9 only if all of the following requirements are met:

10 (a) The cancer or chronic disease drug or supplies needed to administer a cancer  
11 drug ~~is~~ are in its their original, unopened, sealed, and tamper-evident unit dose  
12 packaging or, if packaged in single-unit doses, the single-unit-dose packaging is  
13 unopened.

14 (b) The cancer or chronic disease drug bears an expiration date that is later  
15 than 6 months after the date that the drug was donated.

16 (c) The cancer or chronic disease drug or supplies needed to administer a cancer  
17 drug ~~is~~ are not adulterated or misbranded, as determined by a pharmacist employed  
18 by, or under contract with, the medical facility or pharmacy, who shall inspect the  
19 drug or supplies needed to administer a cancer drug before the drug or supplies are  
20 dispensed.

21 (d) The cancer or chronic disease drug or supplies needed to administer a cancer  
22 drug are prescribed by a practitioner for use by an eligible individual and are  
23 dispensed by a pharmacist.

24 **SECTION 7.** 255.056 (4) of the statutes, as affected by 2003 Wisconsin Acts 175  
25 and 327, is amended to read:

**ASSEMBLY BILL 197****SECTION 7**

1           255.056 ~~(4)~~ No cancer or chronic disease drug or supplies ~~needed to administer~~  
2 a ~~cancer drug~~ that are donated for use under this section may be resold.

3           **SECTION 8.** 255.056 (6) of the statutes, as affected by 2003 Wisconsin Acts 175  
4 and 327, is amended to read:

5           255.056 **(6)** (a) Unless the manufacturer of a drug or supply exercises bad faith,  
6 the manufacturer is not subject to criminal or civil liability for injury, death, or loss  
7 to a person or property for matters related to the donation, acceptance, or dispensing  
8 of a cancer or chronic disease drug or supply manufactured by the manufacturer that  
9 is donated by any person under this section, including liability for failure to transfer  
10 or communicate product or consumer information or the expiration date of the  
11 donated cancer or chronic disease drug or supply.

12           (b) Except as provided in par. (c), any person, except the manufacturer of a drug  
13 or supply, is immune from civil liability for injury to or the death of the individual  
14 to whom the cancer or chronic disease drug or supply is dispensed and may not be  
15 found guilty of unprofessional conduct for his or her acts or omissions related to  
16 donating, accepting, distributing, or dispensing a cancer or chronic disease drug or  
17 supply under this section.

18           (c) The immunity or the prohibition on a finding of guilty of unprofessional  
19 conduct under par. (b) does not extend to donation, acceptance, distribution, or  
20 dispensation of a cancer or chronic disease drug or supply by a person whose act or  
21 omission involves reckless, wanton, or intentional misconduct.

22           **SECTION 9.** 255.056 (7) (a) (intro.) and 2. to 4., (b), (c), (d), (e), (f) and (g) of the  
23 statutes, as affected by 2003 Wisconsin Acts 175 and 327, are amended to read:

**ASSEMBLY BILL 197**

1           255.056 (7) (a) (intro.) Requirements for medical facilities and pharmacies to  
2 accept and dispense donated cancer or chronic disease drugs or supplies needed to  
3 ~~administer cancer drugs~~ under this section, including all of the following:

4           2. Standards and procedures for accepting, safely storing, and dispensing  
5 donated cancer or chronic disease drugs or supplies needed to ~~administer cancer~~  
6 ~~drugs~~.

7           3. Standards and procedures for inspecting donated cancer or chronic disease  
8 drugs or supplies needed to ~~administer cancer drugs~~ to determine if the cancer drug  
9 or supplies needed to ~~administer a cancer drug~~ are in its their original, unopened,  
10 sealed, and tamper-evident unit dose packaging or, if packaged in single-unit doses,  
11 the single-unit-dose packaging is unopened.

12           4. Standards and procedures for inspecting donated cancer or chronic disease  
13 drugs or supplies needed to ~~administer cancer drugs~~ to determine that the cancer  
14 drug or supplies needed to ~~administer a cancer drug~~ are not adulterated or  
15 misbranded.

16           (b) Eligibility criteria for individuals to receive donated cancer or chronic  
17 disease drugs or supplies needed to ~~administer cancer drugs~~ dispensed under the  
18 program. The standards shall prioritize dispensation to individuals who are  
19 uninsured or indigent, but will permit dispensation to others if an uninsured or  
20 indigent individual is unavailable.

21           (c) A means, such as an identification card, by which an individual who is  
22 eligible to receive a donated cancer or chronic disease drug or supplies needed to  
23 ~~administer a cancer drug~~ may indicate that eligibility.

24           (d) Necessary forms for administration of the cancer and chronic diseases drug  
25 repository program, including forms for use by persons that donate, accept,

**ASSEMBLY BILL 197****SECTION 9**

1 distribute, or dispense cancer or chronic disease drugs or supplies needed to  
2 administer cancer drugs under the program.

3 (e) The maximum handling fee that a medical facility or pharmacy may charge  
4 for accepting, distributing, or dispensing donated cancer or chronic disease drugs or  
5 supplies needed to administer cancer drugs. The fee under this paragraph may not  
6 be less than 300 percent of the dispensing fee permitted to be charged for prescription  
7 drugs for which coverage is provided under s. 49.46 (2) (b) 6. h.

8 (f) A list of cancer or chronic disease drugs and supplies needed to administer  
9 cancer drugs, arranged by category or by individual cancer drug or supply, that the  
10 cancer and chronic diseases drug repository program will accept for dispensing.

11 (g) A list of cancer or chronic disease drugs and supplies needed to administer  
12 cancer drugs, arranged by category or by individual cancer drug or supply, that the  
13 cancer and chronic diseases drug repository program will not accept for dispensing.  
14 The list shall include a statement that specifies the reason that the cancer drug or  
15 supplies needed to administer a cancer drug are ineligible for donation.

16 **SECTION 10. Nonstatutory provisions.**

17 (1) CANCER AND CHRONIC DISEASES DRUG REPOSITORY PROGRAM; RULES. The  
18 department of health and family services shall submit in proposed form the rules  
19 required under section 255.056 (7) (a) (intro.) and 2. to 4., (b), (c), (d), (e), (f), and (g)  
20 of the statutes, as affected by this act, to the legislative council staff under section  
21 227.15 (1) of the statutes no later than the first day of the 5th month beginning after  
22 the effective date of this subsection.

23 **SECTION 11. Effective date.**

