

2007 SENATE BILL 71

February 26, 2007 – Introduced by Senators ERPENBACH, HANSEN, KREITLOW, BRESKE, GROTHMAN, S. FITZGERALD, PLALE, LASSA, DARLING, RISSER, LEIBHAM and COGGS, cosponsored by Representatives MUSSER, TURNER, TRAVIS, GRONEMUS, BERCEAU, VAN AKKEREN, A. OTT, HINES, BENEDICT, PARISI, HEBL, HAHN, BOYLE, SHERIDAN, ALBERS, BIES, TOWNSEND, PETROWSKI, RICHARDS, SEIDEL, MOULTON, NEWCOMER, HRAYCHUCK, SMITH and GUNDERSON. Referred to Committee on Health and Human Services.

1 **AN ACT** *to renumber* 450.13 (2); *to amend* 448.02 (3) (a); *to repeal and*
 2 *recreate* 450.13 (2) (title); and *to create* 450.13 (2) (b) of the statutes; **relating**
 3 **to:** substitutions by pharmacists dispensing epilepsy drugs.

Analysis by the Legislative Reference Bureau

Under current law, a pharmacist is required to dispense a prescription using the drug prescribed or, if the price is lower, a drug product that the federal Food and Drug Administration has designated the therapeutic equivalent of the drug prescribed (drug product equivalent). Currently, a pharmacist may not substitute a drug product equivalent if a prescription indicates that no such substitution may be made.

This bill prohibits a pharmacist from substituting a drug product equivalent if the drug prescribed is a drug for treating epilepsy or for treating convulsions, unless the pharmacist obtains and documents the consent of the prescribing practitioner and the patient or the patient's parent, spouse, or legal guardian. Also, if a pharmacist is dispensing a refill of an epilepsy drug, the bill requires the pharmacist to dispense the same drug product, from the same manufacturer, that was previously dispensed, unless the pharmacist obtains and documents the consent of the prescribing practitioner and the patient or the patient's parent, spouse, or legal guardian.

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

SENATE BILL 71

1 **SECTION 1.** 448.02 (3) (a) of the statutes is amended to read:

2 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
3 and negligence in treatment by persons holding a license, certificate, or limited
4 permit granted by the board. An allegation that a physician has violated s. 253.10
5 (3), 448.30, or 450.13 (2) (a) or has failed to mail or present a medical certification
6 required under s. 69.18 (2) within 21 days after the pronouncement of death of the
7 person who is the subject of the required certificate or that a physician has failed at
8 least 6 times within a 6-month period to mail or present a medical certificate
9 required under s. 69.18 (2) within 6 days after the pronouncement of death of the
10 person who is the subject of the required certificate is an allegation of unprofessional
11 conduct. Information contained in reports filed with the board under s. 49.45 (2) (a)
12 12r., 50.36 (3) (b), 609.17, or 632.715, or under 42 CFR 1001.2005, shall be
13 investigated by the board. Information contained in a report filed with the board
14 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of
15 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the
16 discretion of the board, be used as the basis of an investigation of a person named in
17 the report. The board may require a person holding a license, certificate, or limited
18 permit to undergo and may consider the results of one or more physical, mental, or
19 professional competency examinations if the board believes that the results of any
20 such examinations may be useful to the board in conducting its investigation.

21 **SECTION 2.** 450.13 (2) (title) of the statutes is repealed and recreated to read:

22 450.13 (2) (title) EXCEPTIONS.

23 **SECTION 3.** 450.13 (2) of the statutes is renumbered 450.13 (2) (a).

24 **SECTION 4.** 450.13 (2) (b) of the statutes is created to read:

25 450.13 (2) (b) 1. In this paragraph:

