

2009 DRAFTING REQUEST

Bill

Received: **09/15/2009**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Sandy Pasch (608) 266-7671**

By/Representing: **Fred Ludwig**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pasch@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

prescriptions for certain antimicrobials

Instructions:

See attached

Drafting History:

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/?	tkuczens 10/08/2009	jdyer 10/12/2009		_____			State
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/P2	tkuczens 11/10/2009	jdyer 11/10/2009	rschluet 10/21/2009	_____	lparisi 10/21/2009		State
/1	chanaman	jdyer	rschluet	_____	mbarman		State

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/3			phenry 12/07/2009 _____		lparisi 12/07/2009	cduerst 01/12/2010	

FE Sent For: "1/3" @ intro. 1/13/10

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Handwritten notes and signatures: 1/3 12/7 JLD, 12/11 PH, 12/11 PH, 1/10

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11/09

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FE Sent For: 

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✓ kf

Kuczenski, Tracy

From: Ludwig, Frederic
Sent: Tuesday, September 15, 2009 3:42 PM
To: Kuczenski, Tracy
Subject: FW: Drafting Instructions for EPT Legislation

Attachments: Antibiotics and antimicrobials.doc; Intent cover page (2) (rcs).doc; Copy of ab_318_line(1) (rcs).xls



Antibiotics and
antimicrobials...



Intent cover page
(2) (rcs).do...



Copy of
_318_line(1) (rcs).x

Tracy,

Given that you drafted the 2007 version of this bill, I thought you would be a good place to start re: a draft for this session. Let me know if I should be contacting someone else.

Thanks,
Fred

--

Fred Ludwig
Office of Representative Sandy Pasch
608.266.7671 (Office)
888.534.0022 (Toll-free)
608.282.3622 (Fax)

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

From: Currans-Sheehan, Rachel H - DHS [mailto:Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Tuesday, September 15, 2009 3:30 PM
To: Ludwig, Frederic
Subject: Drafting Instructions for EPT Legislation

Fred:

Here are the drafting instructions for the EPT bill. Look forward to working with you on this. Thanks, Rachel

Rachel H. Currans-Sheehan
Legislative Liaison
Department of Health Services
Phone: (608) 266-3262
Email: rachel.curranssheehan@wisconsin.gov

Expedited Partner Therapy (EPT) Legislation in 2009

In May 2008, then Representative Sheldon Wasserman introduced A.B. 318, which revised numerous statutes to explicitly allow for expedited partner therapy (EPT). Representative Wasserman has since resigned his seat and no other legislator has introduced similar legislation.

The Department of Health Services supports the concept of EPT. However, the Department has identified language in A.B. 318 that should be revised.

Ideal EPT legislation would include:

- Definition of EPT according to CDC recommended language:
 - "To prescribe, dispense, furnish, or otherwise provide prescription drugs to the sexual partner or partners of persons diagnosed as infected with a sexually transmissible disease, without physical examination of the partner or partners."
- Assurance that a physician, physician assistant, advanced nurse prescriber, or pharmacist writing or filling a prescription for a patient without prior physical examination is not seen as "misconduct" or "unprofessional conduct" for Chlamydia, gonorrhea, and trichomoniasis.
- Limited liability to those who prescribe or dispense prescription drugs for the purpose of expedited partner therapy, when done consistent with the Act. The person prescribing or dispensing for the purpose of EPT would be immune from civil liability for injury or death of the individual for whom the drug is dispensed and may not be found guilty of unprofessional conduct for his or her acts or omissions, unless the person's conduct is reckless, wanton or intentional misconduct. See Wis. Stat. s. 255.056(6) for possible model language.
- Allow the prescribing and dispensing of prescriptions for EPT if the partner's name is not known or given. The Department recommends writing the prescription for "Expedited Partner Therapy."
- Physician, physician assistant, advanced nurse prescriber, or pharmacist would provide consultation about drug allergies and interactions to the patient or agent of the patient.
- Written materials developed by the Department of Health Services (DHS) would be included with EPT, but not require an administrative rule from DHS. *do these already exist?*
- Remain mute on designation of payer leaving the assumption that the standard payment mechanisms (patient & partner or their respective insurance) would pay.
- Clarify definitions of EPT and "antibiotic drug". EPT should allow for dispensing of necessary antimicrobial prescriptions to treat the disease. Some prescriptions used to treat these diseases are technically antifungals or antimicrobials, not antibiotics. Therefore, the definition of "antibiotic drugs" and cross reference throughout the bill should be changed to reflect prescribing of EPT antimicrobial prescriptions, not antibiotic drugs.

equal coverage for all

antimicrobial

*including in par.(a) for state, local and CC)
No, just (a) and (c)*

Contacts at the Division of Public Health for EPT Legislation

Dr. Jim Vergeront
(Ph) 608-266-9853
james.vergeront@wisconsin.gov

Marisa Stanley
(Ph) 608-266-0463
marisa.stanley@wisconsin.gov

A.B. 318 is a good base for new expedited partner therapy legislation. The attached table has the Department's suggested revisions for A.B. 318 that are consistent with the bullets noted above. Please feel free to contact us with any questions.

the prescriptions to the specific infection:

as per CDC guidelines published by the CDC

sexually transmitted disease treatment

generally published annually

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Antibiotic versus Antimicrobial


Technically, antibiotics are only those substances that are produced by one microorganism that kill, or prevent the growth, of another microorganism. Over time and in common usage, the term has been used more broadly and may include synthetically formed compounds as well and refers to almost any drug that cures bacterial infections.


A more accurate term to use is "antimicrobial". Antimicrobial is a general term given to substances including medicines that kill or slow the growth of microorganisms (bacterial, fungi, protozoans and viruses). Main classes of antimicrobials include a) antibiotics, 2) antivirals, 3) antifungals and 4) antiparasitics.


Trichomoniasis is actually caused by a single celled protozoan parasite. Metronidazole, the first line drug for Trichomoniasis is a synthetic antiprotozoal and antibacterial drug.


There are five places in the statute that use the term **antibiotic(s)**:

94.72(2)(a)10. 
10. Adequate directions for the safe and effective use of commercial feed containing drugs or **antibiotics**, or of any other feed as required under department rules;


250.042(2)(a) 
(a) Purchase, store, or distribute antitoxins, serums, vaccines, immunizing agents, **antibiotics**, and other pharmaceutical agents or medical supplies that the department determines are advisable to control a public health emergency.

252.11(11) 
(11) In each county with an incidence of gonorrhea, **antibiotic** resistant gonorrhea, chlamydia or syphilis that exceeds the statewide average, a program to diagnose and treat sexually transmitted diseases at no cost to the patient is required. The county board of supervisors is responsible for ensuring that the program exists, but is required to establish its own program only if no other public or private program is operating. The department shall compile statistics indicating the incidence of gonorrhea, **antibiotic** resistant gonorrhea, chlamydia and syphilis for each county in the state.

255.08(4)(d)3. 
3. Certain medications, including but not limited to tranquilizers, diuretics, **antibiotics**, high blood pressure medicines and birth control pills.

450.145(1)(b) 
(b) An unusual increase in the number of prescriptions dispensed by the pharmacist or pharmacy that are **antibiotic** drugs.

There is one place in the statute that uses the term **antimicrobial**:

252.07(1t) 

(1t) Any laboratory that identifies mycobacterium tuberculosis shall ensure that **antimicrobial** drug susceptibility tests are performed on the initial isolate. The laboratory shall report the results of these tests to the local health officer and the department.

None of the statute citations include a definition for the terms. My belief is that antibiotic was used as a common usage term without detailed thought to the specific science.

Conclusion

My suggestion is that we use the term “**antimicrobial**” and that we substitute it every place that the term “antibiotic” occurs.

**Expedited Partner Therapy (EPT):
STD & AIDS/HIV Program Recommendations to Revise A.B. 318 (2007)**

A.B. 318 SECTION	STATUTE NUMBER	SUMMARY OF CURRENT STATUTE	SUMMARY OF A.B. 318 REVISIONS	PROGRAM RECOMMENDATIONS
1	46.03 (44)	No current statute	Mandates an administrative rule specifying information provided with EPT	Remove this provision and maintain current statute. Language requiring provision of EPT information to partners is included in revised Section 5.
2	441.07 (1)(d)	The Board of Nursing can revoke, limit, suspend or deny renewal of a license of a registered nurse, a nurse-midwife or a licensed practical nurse for misconduct or unprofessional conduct	Removes the prescribing of a drug for EPT from misconduct and unprofessional conduct	Maintain A.B. 318 revision, but replace "the prescribing of an antibiotic drug" with "expedited partner therapy." The Department's intent is to provide limited liability to those who prescribe or dispense prescription drugs for the purpose of expedited partner therapy, when done consistent with the Act. The person prescribing or dispensing for the purpose of expedited partner therapy would be immune from civil liability for injury or death of the individual for whom the drug is dispensed and may not be found guilty of unprofessional conduct for his or her acts or omissions, unless the person's conduct is reckless, wanton or intentional misconduct. See Wis. Stat. s. 255.056(6) for possible model language.

3	441.16 (3m)	No current statute	Allows an advanced practice nurse to prescribe an antibiotic for EPT	<p>Maintain A.B. 318 revision, but replace "prescribe an antibiotic drug" with "provide expedited partner therapy"</p> <p>The Department's intent is to provide limited liability to those who prescribe or dispense prescription drugs for the purpose of expedited partner therapy, when done consistent with the Act. The person prescribing or dispensing for the purpose of expedited partner therapy would be immune from civil liability for injury or death of the individual for whom the drug is dispensed and may not be found guilty of unprofessional conduct for his or her acts or omissions, unless the person's conduct is reckless, wanton or intentional misconduct. See Wis. Stat. s. 255.056(6) for possible model language.</p>
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4	448.015 (4)	Definition of unprofessional conduct for physicians and physician assistants	Removes the prescribing of a drug for EPT from unprofessional conduct	Maintain A.B. 318 revision, but replace "the prescribing of an antibiotic drug" with "expedited partner therapy" The Department's intent is to provide limited liability to those who prescribe or dispense prescription drugs for the purpose of expedited partner therapy, when done consistent with the Act. The person prescribing or dispensing for the purpose of expedited partner therapy would be immune from civil liability for injury or death of the individual for whom the drug is dispensed and may not be found guilty of unprofessional conduct for his or her acts or omissions, unless the person's conduct is reckless, wanton or intentional misconduct. See Wis. Stat. s. 255.056(6) for possible model language.
5 (Pg. 3, Line 5)	448.035 (Title)	No current statute	Current title: "Prescribing certain antibiotic drugs."	Revise to: "Expedited Partner Therapy"
5 (Pg. 3, Lines 6-7)	448.035 (1) (a)	No current statute	Defines advanced practice nurse prescriber	Maintain A. B. 318 revision
5 (Pg. 3, Lines 8-11)	448.035 (1) (b)	No current statute	Defines antibiotic drug	Revise to "Expedited Partner Therapy" means to prescribe, dispense , furnish, or otherwise provide prescription drugs to the sexual partner or partners of persons clinically diagnosed as infected with chlamydia, gonorrhea, or trichomoniasis without physical examination of the partner or partners.

✓
 ✓
 ✓
 Not dispense
 (see s. 450.01(7))
 advanced
 (see s. 450.01(1))
 dispense (s. 450.01(8))

5 (Pg. 3, Lines 12-21)	448.035 (2)	No current statute	Allows an physician, physician assistant, or advanced practice nurse to prescribe an antibiotic for EPT where the prescription is not required to include the name and address of the patient.	<p>Revise so if the prescription order does not have a name and address, then the prescription is required to have "Expedited Partner Therapy." and delete "if the patient states to the physician, physician assistant, or advanced practice nurse prescriber that the person is not allergic to the drug." Replace "sexual intercourse" with "sexual contact in which an STD may be transmitted"</p>
5 (Pg. 3, Lines 22 -25)	448.035 (3)	No current statute	Indicates materials, conversation, and recording procedures for a physician, physician assistant, or advanced nurse prescriber when prescribing antibiotics for EPT	<p>Maintain A. B. 318 revision.</p> <p><i>* per Tim Morin on 9/23/09 eliminate material regarding asking providing info about allergies. Move to pharmacist section.</i></p>

5 (Pg. 4 Lines 1-9)	448.035 (3)	No current statute	Indicates materials, conversation, and recording procedures for a physician, physician assistant, or advanced nurse prescriber when prescribing antibiotics for EPT	Intent is to require providers to issue materials consistent with those developed by the Department of Health Services.
6	448.04 (1) (a)	Defines how a person holding a license to practice medicine and surgery may practice	Includes EPT in the definition of how a person holding a license to practice medicine and surgery may practice	Maintain A. B. 318 revision.

7	450.10 (1) (a) (Intro.)	Defines unprofessional conduct for pharmacists	Removes dispensing of an antibiotic drug for EPT from unprofessional conduct of a pharmacist	The Department's intent is to provide limited liability to those who prescribe or dispense prescription drugs for the purpose of expedited partner therapy, when done consistent with the Act. The person prescribing or dispensing for the purpose of expedited partner therapy would be immune from civil liability for injury or death of the individual for whom the drug is dispensed and may not be found guilty of unprofessional conduct for his or her acts or omissions, unless the person's conduct is reckless, wanton or intentional misconduct. See Wis. Stat. s. 255.056(6) for possible model language.
8	450.11 (1)	Defines requirements for a pharmacist to dispense medication	Removes the need for the name and address of the patient in the case of EPT for dispensing a prescription	Revise so statute requires "Expedited Partner Therapy" be written in the case of expedited partner therapy if no name is given <i>Not necessary w/c s. 448.035(2) requires the order to contain "EPT"</i>
9	450.11 (1g) (a)	No current statute	Defines antibiotic drug	Clarify or remove definition and cross references with regard to definition of EPT vs. antibiotic drugs in 448.035 (1)(b)

10	450.11 (1g) (b)	No current statute	Allows a pharmacist to dispense antibiotics for EPT, and allows a pharmacist to dispense antibiotics for EPT without providing a consultation to the partner	Reword "without providing a consultation to the person with whom the patient has had sexual intercourse." and replace with "with providing a consultation to the patient or agent of the patient." The intent is to remain consistent with current pharmacy statutory regulations which require consult by pharmacist and patient/agent of patient.
11	450.11 (1g) c	No current statute	Specifies that the patient is responsible for paying for an antibiotic dispensed for EPT	Remove this provision and maintain current statute. The intent is for the bill to not address payment issues.
12	Nonstatutory provisions	No current statute	Requires administrative rule by the DHS	Remove this provision.
13	Nonstatutory provisions	No current statute	Specifies when the act takes effect	revise to: " This act takes effect on the day after publication. "

✓

✓

✓

not nec.

✓
KPS -
PWF
please

2009
2007 ASSEMBLY BILL 318

10/8/09

by 10/14/09

May 8, 2007 - Introduced by Representatives WASSERMAN, TOWNSEND, A, OTT, BERCEAU, GRIGSBY, HAHN, MOLEPSKE, POCAN, SHERIDAN, SINICKI, TOLES, TRAVIS and YOUNG, cosponsored by Senators RISSER, LASSA and LEHMAN. Referred to Committee on Health and Healthcare Reform.

Gen

- 1 AN ACT *to amend* 441.07 (1) (d), 448.015 (4), 448.04 (1) (a), 450.10 (1) (a) (intro.)
- 2 and 450.11 (1); and *to create* 46.03 (44), 441.16 (3m), 448.035 and 450.11 (1g)
- 3 of the statutes; **relating to:** prescriptions for antibiotic drugs ✓ for treatment of
- 4 chlamydial infections, gonorrhea, or trichomoniasis and requiring the exercise
- 5 of rule-making authority. ✓

INERT ANALYSIS
A

Analysis by the Legislative Reference Bureau

certified ✓

This bill allows a physician, physician assistant, or advanced practice nurse to prescribe to a patient an antibiotic drug as a course of therapy for the treatment of chlamydial infections, gonorrhea, or trichomoniasis for use by a person with whom the patient has had sexual intercourse if the patient states that the person is not allergic to the drug. Such a prescription may not be made for a controlled substance.

expedited
partner therapy
MUST

developed ✓

A physician, physician assistant, or advanced practice nurse who makes such a prescription may provide the patient with written information specified in rules promulgated by the Department of Health and Family Services. ✓ The information must include information about sexually transmitted diseases and their treatment and about the risk of drug allergies. ✓ In addition, the physician, physician assistant, or advanced practice nurse may request that the patient provide the written information to the person with whom he or she has had sexual intercourse.

INERT ANALYSIS
B ✓

ASSEMBLY BILL 318

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

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

SECTION 1. 46.03 (44) of the statutes is created to read:

46.03 (44) SEXUALLY TRANSMITTED DISEASE TREATMENT INFORMATION. Promulgate a rule specifying the information that a physician, physician assistant, or advanced practice nurse prescriber may provide, in writing, to a patient under s. 448.035 (3) and encourage physicians, physician assistants, and advanced practice nurse prescribers to provide such information to a patient under s. 448.035 (3). The information shall consist of information about sexually transmitted diseases and their treatment and about the risk of drug allergies. The information shall also include a statement advising a person with questions about the information to contact his or her physician, pharmacist, or local health department, as defined in s. 250.01 (4).

SECTION 2. 441.07 (1) (d) of the statutes is amended to read:

441.07 (1) (d) Misconduct or unprofessional conduct. In this paragraph, "misconduct" and "unprofessional conduct" do not include the prescribing of an antibiotic drug as described in s. 448.035. providing expedited partner therapy

SECTION 3. 441.16 (3m) of the statutes is created to read:

441.16 (3m) An advanced practice nurse who is certified under sub. (2) may prescribe an antibiotic drug as described in s. 448.035.

SECTION 4. 448.015 (4) of the statutes is amended to read:

448.015 (4) "Unprofessional conduct" means those acts or attempted acts of commission or omission defined as unprofessional conduct by the board under the

INERT 2-16

ASSEMBLY BILL 318

1 authority delegated to the board by s. 15.08 (5) (b) and any act by a physician or
2 physician assistant in violation of ch. 450 or 961. "Unprofessional conduct" does not
3 include ~~the prescribing of an antibiotic drug~~ ^{providing expedited partner therapy} as described in s. 448.035.

4 SECTION 5. 448.035 of the statutes is created to read:

5 ^{Certified} ~~448.035 Prescribing certain antibiotic drugs~~ (1) In this section:

6 (a) ^{Expedited partner therapy} ~~Advanced practice nurse prescriber~~ means a nurse who is certified under
7 s. 441.16 (2).

INERT 3-8

8 (b) "Antibiotic drug" means an antibiotic drug recommended for treatment of
9 chlamydial infections, gonorrhea, or trichomoniasis in the most current guidelines
10 for the treatment of sexually transmitted diseases of the federal centers for disease
11 control and prevention.

12 (2) Notwithstanding the requirements of s. 448.30, a physician, physician
13 assistant, or advanced practice nurse prescriber may prescribe an antibiotic drug as
14 a course of therapy for treatment of chlamydial infections, gonorrhea, or
15 trichomoniasis to a patient for use by a person with whom the patient has had sexual
16 intercourse if the patient states to the physician, physician assistant, or advanced
17 practice nurse prescriber that the person is not allergic to the drug. The prescription
18 order is not required to include the name and address of the patient. This subsection
19 does not apply to the prescribing of a substance listed in the schedules in ss. 961.14,
20 961.16, 961.18, 961.20, and 961.22 or substances added by the controlled substances
21 board acting under s. 961.11 (1).

22 (3) At the time of issuing the prescription under sub. (2), the physician,
23 physician assistant, or advanced practice nurse prescriber shall direct the patient to
24 ask the person with whom the patient has had sexual intercourse whether that
25 person is allergic to the antibiotic drug, and shall inform the patient that the person

ASSEMBLY BILL 318

SECTION 5

1 with whom the patient has had sexual intercourse must not use or must discontinue
 2 use of the antibiotic drug if the person is allergic to or develops signs of an allergic
 3 reaction to the antibiotic drug. The physician, physician assistant, or advanced
 4 practice nurse prescriber may also provide the patient, in writing, with information
 5 specified by the department of health and family services under s. 46.03 (44) and
 6 request that the patient give the information to the person with whom the patient
 7 has had sexual intercourse. The prescriber shall include in the patient's medical
 8 record a statement indicating that the prescriber has discussed with the patient the
 9 risk of allergies to the antibiotic drug.

10 SECTION 6. 448.04 (1) (a) of the statutes is amended to read:

11 448.04 (1) (a) *License to practice medicine and surgery.* A person holding a
 12 license to practice medicine and surgery may practice as defined in s. 448.01 (9) and
 13 as provided in s. 448.035. ✓

14 SECTION 7. 450.10 (1) (a) (intro.) of the statutes is amended to read:

15 450.10 (1) (a) (intro.) In this subsection, "unprofessional conduct" includes any
 16 of the following, but is not limited to does not include the dispensing of an antibiotic
 17 drug for expedited partner therapy ✓ antimicrobial
 18 as described in s. 450.11 (1g):

18 SECTION 8. 450.11 (1) of the statutes of the statutes is amended to read:

19 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
 20 except upon the prescription order of a practitioner. All prescription orders shall
 21 specify the date of issue, the name and address of the patient, the name and address
 22 of the practitioner, the name and quantity of the drug product or device prescribed,
 23 directions for the use of the drug product or device, the symptom or purpose for which
 24 the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is
 25 written by the practitioner, the signature of the practitioner. Except as provided in

ASSEMBLY BILL 318

1 s. 448.035 (2) all prescription orders shall also specify the name and address of the
2 patient. Any oral prescription order shall be immediately reduced to writing by the
3 pharmacist and filed according to sub. (2).

SECTION 9. 450.11 (1g) of the statutes is created to read:

450.11 (1g) DISPENSING CERTAIN ANTIMICROBIAL ANTIBIOTIC DRUGS (a) In this subsection

(b) "antibiotic drug" has the meaning given in s. 448.035 (1) (b).

(b) A pharmacist may, upon the prescription order of a practitioner as specified
in s. 448.035, and under all other requirements of sub. (1), dispense an antibiotic
drug as a course of therapy for treatment of chlamydial infections, gonorrhea, or
trichomoniasis to a patient or an agent of the patient for use by a person with whom
the patient has had sexual intercourse. A pharmacist may dispense an antibiotic
drug under this paragraph without providing a consultation to the person with
whom the patient has had sexual intercourse.

(c) A patient or an agent of the patient specified in par. (b) is responsible for
paying for an antibiotic drug that is dispensed under par. (b).

SECTION 10. Nonstatutory provisions.

(1) SEXUALLY TRANSMITTED DISEASE TREATMENT INFORMATION. The department of
health and family services shall submit in proposed form the rules required under
section 46.03 (44) of the statutes, as created by this act, to the legislative council staff
under section 227.15 (1) of the statutes no later than the first day of the 7th month
beginning after the effective date of this subsection.

SECTION 11. Effective dates. This act takes effect on the first day of the 13th
month beginning after publication, except as follows:

(1) SECTION 10 (1) of this act takes effect on the day after publication.

Antimicrobial
INERT 5-7
INERT 5-13

ANTIMICROBIAL (S) FOR EXPEDITED PARTNER THERAPY
providing expedited partner therapy
antimicrobial
antimicrobial

d-note
↓

1 **INSERT ANALYSIS A**

~~NO~~ provide expedited partner therapy. The bill defines "expedited partner therapy" as prescribing, dispensing, or furnishing to a patient an antimicrobial drug to be used by the sexual partner or partners of the patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without physical examination of the sexual partner or partners. The bill defines "antimicrobial drug" as a drug recommended for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis in the most current guidelines for the treatment of sexually transmitted diseases of the federal centers for disease control and prevention. Controlled substances are explicitly excluded from the definition of "antimicrobial drug." A prescription order for an antimicrobial drug prescribed as expedited partner therapy for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis need not bear the name of the patient's sexual partner, but must contain the words "expedited partner therapy" in bold-face capital letters.

2 **INSERT ANALYSIS B**

~~NO~~ The bill also permits a pharmacist to dispense an antimicrobial drug to a patient upon receipt of a prescription order from a practitioner providing expedited partner therapy. The bill exempts a physician, physician's assistant, or advanced practice nurse prescriber who provides expedited partner therapy from civil liability for injury to or the death of a patient's sexual partner unless an act or omission of the physician, physician's assistant, or advanced practice nurse prescriber involves reckless, wanton, or intentional misconduct. The bill also exempts a pharmacist who dispenses an antimicrobial drug for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis from civil liability for injury to or the death of a patient's sexual partner unless an act or omission of the pharmacist involves reckless, wanton, or intentional misconduct.

certified

3 **INSERT 2-16**

4 **SECTION 1.** 441.16 (2) of the statutes is amended to read:

5 441.16 (2) The board shall grant a certificate to issue prescription orders to an
6 advanced practice nurse who meets the education, training and examination
7 requirements established by the board for a certificate to issue prescription orders,
8 and who pays the fee specified under s. 440.05 (1). An advanced practice nurse
9 certified under this section may provide expedited partner therapy in the manner
10 described in s. 448.035.

INSERT 3-8

(b) "Antimicrobial drug" means a drug recommended for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis in the most current guidelines for the treatment of sexually transmitted diseases of the federal centers for disease control and prevention. "Antimicrobial drug" does not include a substance listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20, and 961.22 or substances added to these schedules by the controlled substances board acting under s. 961.11 (1).

(c) "Expedited partner therapy" means to prescribe, dispense, or furnish to a patient an antimicrobial drug to be used by the sexual partner or partners of the patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without physical examination of the sexual partner or partners.

(2) Notwithstanding the requirements of s. 448.30, a physician, physician assistant, or certified advanced practice nurse prescriber may provide expedited partner therapy to a patient if the patient is diagnosed as infected with a chlamydial infection, gonorrhea, or trichomoniasis and the patient has had sexual contact with a sexual partner or ~~sexual~~^{STET} partners during which the chlamydial infection, gonorrhea, or trichomoniasis may have been transmitted to or from the sexual partner or partners. A prescription order for an antimicrobial drug prepared under this subsection does not need to show the name and address of the patient's sexual partner but shall include in ordinary bold-faced capital letters the words, "Expedited partner therapy."

(3) (a) Except as provided in par. (b), a physician, physician assistant, or certified advanced practice nurse prescriber is immune from civil liability for injury to or the death of the sexual partner or partners of a patient who takes or take



16

1 antimicrobial drugs in connection with expedited partner therapy provided under
2 this section if expedited partner therapy is provided as specified under this section.

3 (b) The immunity under par. (a) does not extend to the donation, distribution,
4 furnishing, or dispensing of an antimicrobial drug by a physician, physician
5 assistant, or certified advanced practice nurse prescriber whose act or omission
6 involves reckless, wanton, or intentional misconduct.

7 **INSERT 5-7**

8 2. "Expedited partner therapy" has the meaning given in s. 448.035 (1) (c).

9 **INSERT 5-13**

10 contact, but the pharmacist shall provide a consultation to the practitioner's patient
11 or agent of the practitioner's patient. A pharmacist providing a consultation under
12 this paragraph shall ask the practitioner's patient or the agent of the practitioner's
13 patient whether the person with whom the practitioner's patient has had sexual
14 contact is allergic to the antimicrobial drug. The pharmacist shall inform the patient
15 or agent that the person with whom the patient has had sexual contact must not use
16 or must discontinue use of the antimicrobial drug if the person is allergic to or
17 develops signs of an allergic reaction to the antimicrobial drug.

18 (c) 1. Except as provided in subd. 2., a pharmacist is immune from civil liability
19 for injury to or the death of the sexual partner or partners who takes an antimicrobial
20 drug dispensed under this subsection in connection with expedited partner therapy
21 if the antimicrobial drug is dispensed as provided under par. (b).

22 2. The immunity under subd. 1. does not extend to the distribution or
23 dispensing of an antimicrobial drug by a pharmacist whose act or omission involves
24 reckless, wanton, or intentional misconduct.

(end ins 5-13)

20
#

of a patient who takes,

sexual of a patient

to take

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

PI
LRB-3463/4dn

TKK:.....

date

JKL

Rep. Pasch: ✓

* This is a redraft of 2007 AB318. Please review the draft ✓ carefully to ensure that it accomplishes your intent. ✓

* 1. Information sheet regarding sexually transmitted diseases. The drafting instructions directed me to eliminate the requirement, found under proposed s. ✓ 46.03 (44) in 2007 AB318, that the Department of Health Services (DHS) ✓ promulgate a rule specifying the information about sexually transmitted diseases that a practitioner may provide to a patient, but implied that the information would still be provided by ✓ DHS. The instructions were not clear about how this information would be developed and provided to a patient. ✓

* In the absence of a rule-making requirement in the statute, the agency need not develop the sexually transmitted disease treatment information sheet described in proposed s. ✓ 46.03 (44) in 2007 AB318. Further, the statutes cannot require that this information sheet be distributed to patients under s. 448.035 (3) ✓ if there is no requirement that the sheet be prepared. ✓ For these reasons, I eliminated all references to the information sheet, and will wait for additional instructions from your office as to how to proceed. ✓

2. Immunity from civil liability for death or injury to patient's sexual partner(s). ✓ The drafting instructions directed me to provide immunity to pharmacists who dispense certain antimicrobials, and to the practitioners authorized to provide expedited partner therapy, for death or injury resulting to the patient's sexual partner from taking an antimicrobial drug in connection with the provision of expedited partner therapy. ✓ Should this immunity extend to pharmacists who do not dispense the antimicrobials? To practitioners who will not provide expedited partner therapy? ✓

Please let me know if you have any questions or wish to make any changes to the bill.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

bill
draft

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3463/P1dn
TKK:jld:ph

October 13, 2009

Rep. Pasch:

This is a redraft of 2007 AB-318. Please review the draft carefully to ensure that it accomplishes your intent.

1. Information sheet regarding sexually transmitted diseases. The drafting instructions directed me to eliminate the requirement, found under proposed s. 46.03 (44) in 2007 AB-318, that the Department of Health Services (DHS) promulgate a rule specifying the information about sexually transmitted diseases that a practitioner may provide to a patient, but implied that the information would still be provided by DHS. The instructions were not clear about how this information would be developed and provided to a patient.

In the absence of a rule-making requirement in the statute, the agency need not develop the sexually transmitted disease treatment information sheet described in proposed s. 46.03 (44) in 2007 AB-318. Further, the statutes cannot require that this information sheet be distributed to patients under s. 448.035 (3) if there is no requirement that the sheet be prepared. For these reasons, I eliminated all references to the information sheet, and will wait for additional instructions from your office as to how to proceed.

2. Immunity from civil liability for death or injury to patient's sexual partner(s). The drafting instructions directed me to provide immunity to pharmacists who dispense certain antimicrobials, and to the practitioners authorized to provide expedited partner therapy, for death or injury resulting to the patient's sexual partner from taking an antimicrobial drug in connection with the provision of expedited partner therapy. Should this immunity extend to pharmacists who do not dispense the antimicrobials? To practitioners who will not provide expedited partner therapy?

Please let me know if you have any questions or wish to make any changes to the draft.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Currans-Sheehan, Rachel H - DHS [Rachel.CurransSheehan@dhs.wisconsin.gov]
Sent: Monday, October 19, 2009 10:08 AM
To: Ludwig, Frederic
Cc: Kuczenski, Tracy; Vergeront, James M - DHS; Stanley, Marisa M - DHS
Subject: Edits to Draft of EPT Bill
Attachments: drafting edits.PDF; Suggested Changes to the Draft Bill for EPT Legislation(2) (3).doc

Fred:

We have had a chance to review the first draft of the EPT bill and address the drafter's questions. We have included our comments and suggestions for edits in this document. Please let us know if you have any questions.

Thanks,

Rachel H. Currans-Sheehan
Legislative Liaison
Department of Health Services
Phone: (608) 266-3262
Email: rachel.curranssheehan@wisconsin.gov



Jim Doyle
Governor

Karen E. Timberlake
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dhs.wisconsin.gov

To: Fred Ludwig

From: Rachel Currans-Sheehan, Jim Vergeront & Marisa Stanley

Date: October 19, 2009

Subject: Redraft of 2007 AB-318

To address the Drafter's questions for Rep Pasch:

1. The Department of Health Services will develop guidance which will provide the materials and information sheet(s) to be included with expedited partner therapy. The distribution of these materials and information sheet(s) will be recommended in the guidance and made available for practitioners and pharmacists. Therefore, we suggest adding in language which would require DHS to create and maintain an information sheet about STDs and their treatment which would also include information about the risk of drug allergies. We would also suggest eliminating "and requiring the exercise of rule-making authority" from p. 1 lines 4-5.
2. We do not think the legislation should speak to the refusal of a pharmacist to dispense antimicrobials for EPT or a practitioner to refuse to provide EPT nor provide immunity for those who refuse. Therefore, we recommend remaining mute on this subject in the legislation.

Other changes to be made:

1. We would like the words "Expedited Partner Therapy" or "EPT" to be on the prescription whether or not the partner's name is known. We also want the idea that it would be best to have the partner's name on the prescription to be clearer in the legislation. Therefore, we propose deleting from p.4 lines 2-3 "does not need to show the name and address of the patient's sexual partner but" and adding "and name and address of sexual partner(s) when known" to the end of p.4 line 5. This change should also be reflected in the analysis by the LRB.
2. DHS suggested changes with regard to consultation and dispensing of antimicrobial drugs to reference existing pharmacy consultation policies.
3. Although changes to the labeling statutes were not included in the original drafting instructions, we have decided that they need to be included in the bill to ensure prescriptions can be dispensed and labeled for "Expedited Partner Therapy" when the partner's name is unknown. We suggest including changes to the labeling requirements for prescription drugs in 450.11 (4) 5. to allow for antimicrobials dispensed for EPT to be labeled "Expedited Partner Therapy" when the partner's name is unknown.

Please review the attachment which highlights all suggested changes for the draft, and feel free to contact us with any questions.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to amend** 441.07 (1) (d), 441.16 (2), 448.015 (4), 448.04 (1) (a), 450.10 (1)
 2 (a) (intro.) and 450.11 (1); and **to create** 448.035 and 450.11 (1g) of the statutes;
 3 **relating to:** prescriptions for antimicrobial drugs for treatment of chlamydial
 4 infections, gonorrhea, or trichomoniasis, ~~and requiring the exercise of~~
 5 ~~rule-making authority.~~

Analysis by the Legislative Reference Bureau

This bill allows a physician, physician assistant, or certified advanced practice nurse to provide expedited partner therapy. The bill defines "expedited partner therapy" as prescribing, dispensing, or furnishing to a patient an antimicrobial drug to be used by the sexual partner or partners of the patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without physical examination of the sexual partner or partners. The bill defines "antimicrobial drug" as a drug recommended for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis in the most current guidelines for the treatment of sexually transmitted diseases of the federal Centers for Disease Control and Prevention. Controlled substances are explicitly excluded from the definition of "antimicrobial drug." A prescription order for an antimicrobial drug prescribed as expedited partner therapy for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis ~~need not bear the name of the patient's sexual partner, but~~ must contain the words "expedited partner therapy" in bold-face capital letters, ~~and the name and address of the partner when known~~ or "EPT"

→ A physician, physician assistant, or certified advanced practice nurse who provides expedited partner therapy must provide the patient with ~~written~~ ^{the}

↳ The Department of Health Services will create and maintain an information sheet about STDs & their treatment and about the risk of drug allergies. (This needs to be added to bill as well)

information developed by the Department of Health and Family Services. ~~The information must include information about sexually transmitted diseases and their treatment and about the risk of drug allergies.~~

The bill permits a pharmacist to dispense an antimicrobial drug to a patient upon receipt of a prescription order from a practitioner providing expedited partner therapy. The bill exempts a physician, physician's assistant, or certified advanced practice nurse prescriber who provides expedited partner therapy from civil liability for injury to or the death of a patient's sexual partner unless an act or omission of the physician, physician's assistant, or certified advanced practice nurse prescriber involves reckless, wanton, or intentional misconduct. The bill also exempts a pharmacist who dispenses an antimicrobial drug for the treatment of a chlamydial infection, gonorrhea, or trichomoniasis from civil liability for injury to or the death of a patient's sexual partner unless an act or omission of the pharmacist involves reckless, wanton, or intentional misconduct.

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

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

1 SECTION 1. 441.07 (1) (d) of the statutes is amended to read:

2 441.07 (1) (d) Misconduct or unprofessional conduct. In this paragraph,
3 “misconduct” and “unprofessional conduct” do not include providing expedited
4 partner therapy as described in s. 448.035.

5 SECTION 2. 441.16 (2) of the statutes is amended to read:

6 441.16 (2) The board shall grant a certificate to issue prescription orders to an
7 advanced practice nurse who meets the education, training and examination
8 requirements established by the board for a certificate to issue prescription orders,
9 and who pays the fee specified under s. 440.05 (1). An advanced practice nurse
10 certified under this section may provide expedited partner therapy in the manner
11 described in s. 448.035.

12 SECTION 3. 448.015 (4) of the statutes is amended to read:

1 448.015 (4) “Unprofessional conduct” means those acts or attempted acts of
2 commission or omission defined as unprofessional conduct by the board under the
3 authority delegated to the board by s. 15.08 (5) (b) and any act by a physician or
4 physician assistant in violation of ch. 450 or 961. “Unprofessional conduct” does not
5 include providing expedited partner therapy as described in s. 448.035.

6 **SECTION 4.** 448.035 of the statutes is created to read:

7 **448.035 Expedited partner therapy. (1)** In this section:

8 (a) “Certified advanced practice nurse prescriber” means a nurse who is
9 certified under s. 441.16 (2).

10 (b) “Antimicrobial drug” means a drug recommended for the treatment of a
11 chlamydial infection, gonorrhea, or trichomoniasis in the most current guidelines for
12 the treatment of sexually transmitted diseases of the federal centers for disease
13 control and prevention. “Antimicrobial drug” does not include a substance listed in
14 the schedules in ss. 961.14, 961.16, 961.18, 961.20, and 961.22 or substances added
15 to these schedules by the controlled substances board acting under s. 961.11 (1).

16 (c) “Expedited partner therapy” means to prescribe, dispense, or furnish to a
17 patient an antimicrobial drug to be used by the sexual partner or partners of the
18 patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without
19 physical examination of the sexual partner or partners.

20 (2) Notwithstanding the requirements of s. 448.30, a physician, physician
21 assistant, or certified advanced practice nurse prescriber may provide expedited
22 partner therapy to a patient if the patient is diagnosed as infected with a chlamydial
23 infection, gonorrhea, or trichomoniasis and the patient has had sexual contact with
24 a sexual partner or sexual partners during which the chlamydial infection,
25 gonorrhea, or trichomoniasis may have been transmitted to or from the sexual

1 partner or partners. A prescription order for an antimicrobial drug prepared under
 2 this subsection ~~does not need to show the name and address of the patient's sexual~~
 3 ~~partner but~~ shall include in ordinary bold-faced capital letters the words, "Expedited
 4 partner therapy" ^{or "EPT" and the name and address of the partner}
 when known.

5 (3) (a) Except as provided in par. (b), a physician, physician assistant, or
 6 certified advanced practice nurse prescriber is immune from civil liability for injury
 7 to or the death of ~~the sexual partner or partners~~ of a ^{person} ~~patient~~ who takes ~~or take~~
 8 antimicrobial drugs in connection with expedited partner therapy provided under
 9 this section if expedited partner therapy is provided as specified under this section.

10 (b) The immunity under par. (a) does not extend to the donation, distribution,
 11 furnishing, or dispensing of an antimicrobial drug by a physician, physician
 12 assistant; or certified advanced practice nurse prescriber whose act or omission
 13 involves reckless, wanton, or intentional misconduct.

14 SECTION 5. 448.04 (1) (a) of the statutes is amended to read:

15 448.04 (1) (a) *License to practice medicine and surgery.* A person holding a
 16 license to practice medicine and surgery may practice as defined in s. 448.01 (9) and
 17 as provided in s. 448.035.

18 SECTION 6. 450.10 (1) (a) (intro.) of the statutes is amended to read:

19 450.10 (1) (a) (intro.) In this subsection, "unprofessional conduct" includes any
 20 of the following, but ~~is not limited to~~ does not include the dispensing of an
 21 antimicrobial drug for expedited partner therapy as described in s. 450.11 (1g):

22 SECTION 7. 450.11 (1) of the statutes of the statutes is amended to read:

23 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
 24 except upon the prescription order of a practitioner. All prescription orders shall
 25 specify the date of issue, ~~the name and address of the patient~~, the name and address

1 of the practitioner, the name and quantity of the drug product or device prescribed,
 2 directions for the use of the drug product or device, the symptom or purpose for which
 3 the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is
 4 written by the practitioner, the signature of the practitioner. Except as provided in
 5 s. 448.035 (2), all prescription orders shall also specify the name and address of the
 6 patient. Any oral prescription order shall be immediately reduced to writing by the
 7 pharmacist and filed according to sub. (2).

8 SECTION 8. 450.11 (1g) of the statutes is created to read:

9 450.11 (1g) DISPENSING CERTAIN ANTIMICROBIAL DRUGS FOR EXPEDITED PARTNER
 10 THERAPY. (a) In this subsection:

- 11 1. "Antimicrobial drug" has the meaning given in s. 448.035 (1) (b).
 12 2. "Expedited partner therapy" has the meaning given in s. 448.035 (1) (c).

13 (b) A pharmacist may, upon the prescription order of a practitioner providing
 14 expedited partner therapy, as specified in s. 448.035, that complies with the
 15 requirements of sub. (1), dispense an antimicrobial drug as a course of therapy for
 16 treatment of chlamydial infections, gonorrhea, or trichomoniasis to the
 17 patient, ~~Sexual Partner or an agent of the Sexual Partner,~~
 18 ~~practitioner's patient or an agent of the practitioner's patient for use by a person with~~
 19 ~~whom the patient has had sexual contact. A pharmacist may dispense an~~
 20 ~~antimicrobial drug under this paragraph without providing a consultation to the~~
 21 ~~person with whom the patient has had sexual contact, but the pharmacist shall~~
 22 ~~provide a consultation to the practitioner's patient or agent of the practitioner's~~
 23 ~~patient. A pharmacist providing a consultation under this paragraph shall ask the~~
 24 ~~practitioner's patient or the agent of the practitioner's patient whether the person~~
 25 ~~with whom the practitioner's patient has had sexual contact is allergic to the~~
 antimicrobial drug, ~~The pharmacist shall inform the patient or agent that the person~~
 and advise

1 ~~with whom the patient has had sexual contact must not use or must~~ ¹⁰⁹ discontinue use
2 of the antimicrobial drug if the person is allergic to or develops signs of an allergic
3 reaction to the antimicrobial drug.

4 (c) 1. Except as provided in subd. 2., a pharmacist is immune from civil liability
5 for injury to or the death of ~~the sexual partner of a patient who takes~~ ^{a person} ~~or sexual~~
6 ~~partners of a patient who take~~, an antimicrobial drug dispensed under this
7 subsection in connection with expedited partner therapy if the antimicrobial drug is
8 dispensed as provided under par. (b).

9 2. The immunity under subd. 1. does not extend to the distribution or
10 dispensing of an antimicrobial drug by a pharmacist whose act or omission involves
11 reckless, wanton, or intentional misconduct.

12

~~(END)~~

Amend 450.11(4)5, so an exception is made
for EPT and antimicrobials dispensed for EPT
can be labeled "Expedited Partner Therapy" or
"EPT" when the partner's name is unknown.