



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10/20/09
by 10/24 if possible

Reger

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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 also contain the words "expedited partner therapy" in bold-face capital letters. if known, and

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

must prepare an information sheet that includes

Under the bill, the

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:

INSERT 2-1

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 ^{g a} 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 ^g 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

INSERT 4-5

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

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 ^{an} this section ^{if expedited partner therapy is provided as specified under 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 practitioner's patient or an agent of the practitioner's patient for use by a person with
18 whom the patient has had sexual contact. ✓

19 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

in accordance with rules promulgated by the
examining board for the dispensing of a prescription

20

21

22

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24

25

1 with whom the ^{for} patient ^{antimicrobial drug} has ^{been prescribed} had sexual contact must not use or must 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 ^{person} patient who takes 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 ^{for that person}
 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)

INSERT 6-12

1 **INSERT 2-1**

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

3 46.03 (44) **SEXUALLY TRANSMITTED DISEASE TREATMENT INFORMATION.** Prepare and
4 keep current an information sheet to be distributed to a patient by a physician,
5 physician assistant, or certified advanced practice nurse prescriber providing
6 expedited partner therapy to that patient under s. 448.035. The information sheet
7 shall include information about sexually transmitted diseases and their treatment
8 and about the risk of drug allergies. The information sheet shall also include a
9 statement advising a person with questions about the information to contact his or
10 her physician, pharmacist, or local health department, as defined in s. 250.01 (4).

11 **INSERT 4-5**

12 (3) The physician, physician assistant, or certified advanced practice nurse
13 prescriber shall provide the patient with a copy of the information sheet prepared by
14 the department of health services under s. 46.03 (44) and shall request that the
15 patient give the information sheet to the person with whom the patient had sexual
16 contact.

17 **INSERT 6-12**

18 **SECTION 2.** 450.11 (4) (a) 5. of the statutes is renumbered 450.11 (4) (a) 5. a. and
19 amended to read:

20 450.11 (4) (a) 5. a. The Except as provided in subd. 5. b., the full name of the
21 patient.

22 History: 1985 a. 146; 1997 a. 27, 175, 283; 2001 a. 109; 2005 a. 187, 195, 196, 242; 2007 a. 97.

SECTION 3. 450.11 (4) (a) 5. b. of the statutes is created to read:

↓

INS 6-12
cont

1 450.11 (4) (a) 5. b. For an antimicrobial drug dispensed under sub. (1g)[✓], the full
2 name of the patient, if known, and the words,[✓] "expedited partner therapy" or the
3 letters "EPT."[✓]

(end ins)

November 10, 2009

T. conference w/ Marisa Stanley

p. 6, lines 4-7

clarify that pharmacist may dispense EPT to practitioner's patient or a person w/ whom the patient has had sexual contact.

→ eliminate reference to agent of patient



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3463/PZ

TKK:jld:rs

RMN12

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

11/10/09

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

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 a sexual partner of the patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without physical examination of the sexual partner. 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 must include the name and address of the patient's sexual partner, if known, and must also contain the words "expedited partner therapy" in bold-face capital letters.

Under the bill, the Department of Health Services must prepare an information sheet that includes 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.** 46.03 (44) of the statutes is created to read:

2 **46.03 (44) SEXUALLY TRANSMITTED DISEASE TREATMENT INFORMATION.** Prepare and
3 keep current an information sheet to be distributed to a patient by a physician,
4 physician assistant, or certified advanced practice nurse prescriber providing
5 expedited partner therapy to that patient under s. 448.035. The information sheet
6 shall include information about sexually transmitted diseases and their treatment
7 and about the risk of drug allergies. The information sheet shall also include a
8 statement advising a person with questions about the information to contact his or
9 her physician, pharmacist, or local health department, as defined in s. 250.01 (4).

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

11 441.07 (1) (d) Misconduct or unprofessional conduct. In this paragraph,
12 “misconduct” and “unprofessional conduct” do not include providing expedited
13 partner therapy as described in s. 448.035.

1 **SECTION 3.** 441.16 (2) of the statutes is amended to read:

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

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

9 448.015 (4) “Unprofessional conduct” means those acts or attempted acts of
10 commission or omission defined as unprofessional conduct by the board under the
11 authority delegated to the board by s. 15.08 (5) (b) and any act by a physician or
12 physician assistant in violation of ch. 450 or 961. “Unprofessional conduct” does not
13 include providing expedited partner therapy as described in s. 448.035.

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

15 **448.035 Expedited partner therapy. (1)** In this section:

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

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

24 (c) “Expedited partner therapy” means to prescribe, dispense, or furnish to a
25 patient an antimicrobial drug to be used by a sexual partner of the patient to treat

1 a chlamydial infection, gonorrhea, or trichomoniasis without physical examination
2 of the sexual partner.

3 (2) Notwithstanding the requirements of s. 448.30, a physician, physician
4 assistant, or certified advanced practice nurse prescriber may provide expedited
5 partner therapy if the patient is diagnosed as infected with a chlamydial infection,
6 gonorrhea, or trichomoniasis and the patient has had sexual contact with a sexual
7 partner during which the chlamydial infection, gonorrhea, or trichomoniasis may
8 have been transmitted to or from the sexual partner. A prescription order for an
9 antimicrobial drug prepared under this subsection shall include the name and
10 address of the patient's sexual partner, if known, and shall also include, in ordinary
11 bold-faced capital letters, the words, "expedited partner therapy" or the letters
12 "EPT."

13 (3) The physician, physician assistant, or certified advanced practice nurse
14 prescriber shall provide the patient with a copy of the information sheet prepared by
15 the department of health services under s. 46.03 (44) and shall request that the
16 patient give the information sheet to the person with whom the patient had sexual
17 contact.

18 (4) (a) Except as provided in par. (b), a physician, physician assistant, or
19 certified advanced practice nurse prescriber is immune from civil liability for injury
20 to or the death of a person who takes any antimicrobial drug if the antimicrobial drug
21 is provided to that person as expedited partner therapy under this section and if
22 expedited partner therapy is provided as specified under this section.

23 (b) The immunity under par. (a) does not extend to the donation, distribution,
24 furnishing, or dispensing of an antimicrobial drug by a physician, physician

1 assistant, or certified advanced practice nurse prescriber whose act or omission
2 involves reckless, wanton, or intentional misconduct.

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

4 448.04 (1) (a) *License to practice medicine and surgery.* A person holding a
5 license to practice medicine and surgery may practice as defined in s. 448.01 (9) and
6 as provided in s. 448.035.

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

8 450.10 (1) (a) (intro.) In this subsection, “unprofessional conduct” includes any
9 of the following, but is not limited to does not include the dispensing of an
10 antimicrobial drug for expedited partner therapy as described in s. 450.11 (1g):

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

12 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
13 except upon the prescription order of a practitioner. All prescription orders shall
14 specify the date of issue, ~~the name and address of the patient,~~ the name and address
15 of the practitioner, the name and quantity of the drug product or device prescribed,
16 directions for the use of the drug product or device, the symptom or purpose for which
17 the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is
18 written by the practitioner, the signature of the practitioner. Except as provided in
19 s. 448.035 (2), all prescription orders shall also specify the name and address of the
20 patient. Any oral prescription order shall be immediately reduced to writing by the
21 pharmacist and filed according to sub. (2).

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

23 450.11 (1g) DISPENSING CERTAIN ANTIMICROBIAL DRUGS FOR EXPEDITED PARTNER
24 THERAPY. (a) In this subsection:

25 1. “Antimicrobial drug” has the meaning given in s. 448.035 (1) (b).

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

2 (b) A pharmacist may, upon the prescription order of a practitioner providing
3 expedited partner therapy, as specified in s. 448.035, that complies with the
4 requirements of sub. (1), dispense an antimicrobial drug as a course of therapy for

5 treatment of chlamydial infections, gonorrhea, or trichomoniasis to the

6 practitioner's patient or ^{a person with whom the} ~~an agent of the practitioner's~~ patient ^{the} for use by ^{the} a person with ^{has had sexual contact} whom the patient has had sexual contact. The pharmacist shall provide a

7 consultation in accordance with rules promulgated by the board for the dispensing

8 of a prescription to the person to whom the antimicrobial drug is dispensed. A

9 pharmacist providing a consultation under this paragraph shall ask whether the

10 person for whom the antimicrobial drug has been prescribed is allergic to the

11 antimicrobial drug and advise that the person for whom the antimicrobial drug has

12 been prescribed must discontinue use of the antimicrobial drug if the person is

13 allergic to or develops signs of an allergic reaction to the antimicrobial drug.

14
15 (c) 1. Except as provided in subd. 2., a pharmacist is immune from civil liability
16 for injury to or the death of a person who takes an antimicrobial drug dispensed for
17 that person under this subsection in connection with expedited partner therapy if the
18 antimicrobial drug is dispensed as provided under par. (b).

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

22 **SECTION 10.** 450.11 (4) (a) 5. of the statutes is renumbered 450.11 (4) (a) 5. a.
23 and amended to read:

24 450.11 (4) (a) 5. a. The Except as provided in subd. 5. b., the full name of the
25 patient.

1 **SECTION 11.** 450.11 (4) (a) 5. b. of the statutes is created to read:

2 450.11 (4) (a) 5. b. For an antimicrobial drug dispensed under sub. (1g), the full
3 name of the patient, if known, and the words, “expedited partner therapy” or the
4 letters “EPT.”

5

(END)

Hanaman, Cathlene

From: Kuczenski, Tracy
Sent: Wednesday, November 11, 2009 7:16 AM
To: Hanaman, Cathlene
Subject: FW: Draft review: LRB 09-3463/1 Topic: prescriptions for certain antimicrobials

Attachments: LRB-3463_1



09-34631.pdf (37
KB)

Hi C-

Did you get the last message? If not, there's an error on p. 5, line 11 (Of the statutes is repeated). Could you please correct this for me? We're off to the airport! see you soon...

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

From: Barman, Mike
Sent: Tue 11/10/2009 1:19 PM
To: Kuczenski, Tracy
Subject: Draft review: LRB 09-3463/1 Topic: prescriptions for certain antimicrobials

Draft Requester: Sandy Pasch

Following is the PDF version of draft LRB 09-3463/1.

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2009 BILL

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PAGE 5 ONLY

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2 441.16 (2), 448.015 (4), 448.04 (1) (a), 450.10 (1) (a) (intro.) and 450.11 (1); and
3 **to create** 46.03 (44), 448.035, 450.11 (1g) and 450.11 (4) (a) 5. b. of the statutes;
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BILL

Under the bill, the Department of Health Services must prepare an information sheet that includes 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.

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

2 46.03 (44) SEXUALLY TRANSMITTED DISEASE TREATMENT INFORMATION. Prepare and
3 keep current an information sheet to be distributed to a patient by a physician,
4 physician assistant, or certified advanced practice nurse prescriber providing
5 expedited partner therapy to that patient under s. 448.035. The information sheet
6 shall include information about sexually transmitted diseases and their treatment
7 and about the risk of drug allergies. The information sheet shall also include a
8 statement advising a person with questions about the information to contact his or
9 her physician, pharmacist, or local health department, as defined in s. 250.01 (4).

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

11 441.07 (1) (d) Misconduct or unprofessional conduct. In this paragraph,
12 “misconduct” and “unprofessional conduct” do not include providing expedited
13 partner therapy as described in s. 448.035.

BILL

1 **SECTION 3.** 441.16 (2) of the statutes is amended to read:

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

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

9 448.015 (4) “Unprofessional conduct” means those acts or attempted acts of
10 commission or omission defined as unprofessional conduct by the board under the
11 authority delegated to the board by s. 15.08 (5) (b) and any act by a physician or
12 physician assistant in violation of ch. 450 or 961. “Unprofessional conduct” does not
13 include providing expedited partner therapy as described in s. 448.035.

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

15 **448.035 Expedited partner therapy. (1)** In this section:

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

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

24 (c) “Expedited partner therapy” means to prescribe, dispense, or furnish to a
25 patient an antimicrobial drug to be used by a sexual partner of the patient to treat

BILL

1 a chlamydial infection, gonorrhea, or trichomoniasis without physical examination
2 of the sexual partner.

3 (2) Notwithstanding the requirements of s. 448.30, a physician, physician
4 assistant, or certified advanced practice nurse prescriber may provide expedited
5 partner therapy if the patient is diagnosed as infected with a chlamydial infection,
6 gonorrhea, or trichomoniasis and the patient has had sexual contact with a sexual
7 partner during which the chlamydial infection, gonorrhea, or trichomoniasis may
8 have been transmitted to or from the sexual partner. A prescription order for an
9 antimicrobial drug prepared under this subsection shall include the name and
10 address of the patient's sexual partner, if known, and shall also include, in ordinary
11 bold-faced capital letters, the words, "expedited partner therapy" or the letters
12 "EPT."

13 (3) The physician, physician assistant, or certified advanced practice nurse
14 prescriber shall provide the patient with a copy of the information sheet prepared by
15 the department of health services under s. 46.03 (44) and shall request that the
16 patient give the information sheet to the person with whom the patient had sexual
17 contact.

18 (4) (a) Except as provided in par. (b), a physician, physician assistant, or
19 certified advanced practice nurse prescriber is immune from civil liability for injury
20 to or the death of a person who takes any antimicrobial drug if the antimicrobial drug
21 is provided to that person as expedited partner therapy under this section and if
22 expedited partner therapy is provided as specified under this section.

23 (b) The immunity under par. (a) does not extend to the donation, distribution,
24 furnishing, or dispensing of an antimicrobial drug by a physician, physician

BILL

1 assistant, or certified advanced practice nurse prescriber whose act or omission
2 involves reckless, wanton, or intentional misconduct.

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

4 448.04 (1) (a) *License to practice medicine and surgery.* A person holding a
5 license to practice medicine and surgery may practice as defined in s. 448.01 (9) and
6 as provided in s. 448.035.

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

8 450.10 (1) (a) (intro.) In this subsection, “unprofessional conduct” includes any
9 of the following, but ~~is not limited to~~ does not include the dispensing of an
10 antimicrobial drug for expedited partner therapy as described in s. 450.11 (1g):

11 **SECTION 8.** 450.11 (1) of the statutes [✓] of the statutes is amended to read:

12 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
13 except upon the prescription order of a practitioner. All prescription orders shall
14 specify the date of issue, ~~the name and address of the patient,~~ the name and address
15 of the practitioner, the name and quantity of the drug product or device prescribed,
16 directions for the use of the drug product or device, the symptom or purpose for which
17 the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is
18 written by the practitioner, the signature of the practitioner. Except as provided in
19 s. 448.035 (2), all prescription orders shall also specify the name and address of the
20 patient. Any oral prescription order shall be immediately reduced to writing by the
21 pharmacist and filed according to sub. (2).

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

23 450.11 (1g) DISPENSING CERTAIN ANTIMICROBIAL DRUGS FOR EXPEDITED PARTNER
24 THERAPY. (a) In this subsection:

25 1. “Antimicrobial drug” has the meaning given in s. 448.035 (1) (b).

BILL

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

2 (b) A pharmacist may, upon the prescription order of a practitioner providing
3 expedited partner therapy, as specified in s. 448.035, that complies with the
4 requirements of sub. (1), dispense an antimicrobial drug as a course of therapy for
5 treatment of chlamydial infections, gonorrhea, or trichomoniasis to the
6 practitioner's patient or a person with whom the patient has had sexual contact for
7 use by the person with whom the patient has had sexual contact. The pharmacist
8 shall provide a consultation in accordance with rules promulgated by the board for
9 the dispensing of a prescription to the person to whom the antimicrobial drug is
10 dispensed. A pharmacist providing a consultation under this paragraph shall ask
11 whether the person for whom the antimicrobial drug has been prescribed is allergic
12 to the antimicrobial drug and advise that the person for whom the antimicrobial drug
13 has been prescribed must discontinue use of the antimicrobial drug if the person is
14 allergic to or develops signs of an allergic reaction to the antimicrobial drug.

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

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

22 **SECTION 10.** 450.11 (4) (a) 5. of the statutes is renumbered 450.11 (4) (a) 5. a.
23 and amended to read:

24 450.11 (4) (a) 5. a. The Except as provided in subd. 5. b., the full name of the
25 patient.

Kuczenski, Tracy

From: Ludwig, Frederic
Sent: Thursday, December 03, 2009 1:19 PM
To: Kuczenski, Tracy
Subject: RE: Edits for LRB-3463/2

You bet. Thanks Tracy!

--

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

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

From: Kuczenski, Tracy
Sent: Thursday, December 03, 2009 12:22 PM
To: Ludwig, Frederic
Subject: FW: Edits for LRB-3463/2

Hi Fred -

Just keeping you in the loop; I spoke with Marisa today and she explained that Rep. Pasch has authorized her to provide the following drafting instructions regarding changes to LRB-3463/2. Shall I proceed as instructed below?

Thanks,
Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

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

From: Stanley, Marisa M - DHS [mailto:Marisa.Stanley@dhs.wisconsin.gov]
Sent: Thursday, December 03, 2009 10:59 AM
To: Kuczenski, Tracy
Subject: Edits for LRB-3463/2

Hi Tracy,

We sent the EPT draft bill out to various groups for feedback such as the Pharmacy Society of WI, the Pharmacy Examining Board, and the Wisconsin Medical Society. The following edits are in response to their comments or suggestions.

We have one major and a couple of minor edits for EPT draft bill 3463/2:

On Page 3, Section 5 (b), line 18 we want to revise "recommended" to "identified"

The major edit is on Page 4, section 2, lines 8-12

We suggest revising these lines to read: A prescription order for an antimicrobial drug prepared under this subsection shall include the name and address of the patient's sexual partner if known. If the sexual partner's name is unknown and an attempt to obtain the sexual partner's name was made, the prescription order may include in ordinary bold-faced capital letters, the words, "expedited partner therapy" or the letters "EPT." The sexual partner's prescription shall be separate from the practitioner's patient's prescription.

The intent is to not include "expedited partner therapy" or "EPT" on the prescription if

Kuczenski, Tracy

From: Stanley, Marisa M - DHS [Marisa.Stanley@dhs.wisconsin.gov]
Sent: Thursday, December 03, 2009 10:59 AM
To: Kuczenski, Tracy
Subject: Edits for LRB-3463/2

Hi Tracy,

We sent the EPT draft bill out to various groups for feedback such as the Pharmacy Society of WI, the Pharmacy Examining Board, and the Wisconsin Medical Society. The following edits are in response to their comments or suggestions.

We have one major and a couple of minor edits for EPT draft bill 3463/2:

- ✓ On Page 3, Section 5 (b), line 18 we want to revise "recommended" to "identified"
- ✓ The major edit is on Page 4, section 2, lines 8-12

We suggest revising these lines to read: A prescription order for an antimicrobial drug prepared under this subsection shall include the name and address of the patient's sexual partner if known. If the sexual partner's name is unknown and an attempt to obtain the sexual partner's name was made, the prescription order may include in ordinary bold-faced capital letters, the words, "expedited partner therapy" or the letters "EPT." The sexual partner's prescription shall be separate from the practitioner's patient's prescription.

- ✓ The intent is to not include "expedited partner therapy" or "EPT" on the prescription if the partner's name is known, and highlight that the partner's name on the prescription is preferred. Also, we intend to make it clear that the patient's prescription order and the sexual partner's prescription order are two separate orders and not on the same prescription.
- ✓ Page 5, section 7, lines 8-10, there was a question as to whether the way this is worded would limit the Pharmacy Examining Board so that the only thing not included as "unprofessional conduct" is EPT. They are concerned the way it is currently written might unintentionally limit their decision making authority. They suggested creating a new subsection rather than crossing out "is not limited to."
- ✓ Page 7, section 11, line 3 we want to revise "if known, and the words" to "if known, or the words"

There were also a few edits to the analysis which include changes to reflect the suggestions above.

- ✓ In the first sentence, "or certified advanced practice nurse" should be "or certified advanced practice nurse prescriber"
- ✓ "Recommended" should be revised to "identified" in the third sentence.

The last sentence of the first paragraph should be revised to ". . . if, known, or the words "expedited partner therapy" or the letters "EPT" in bold-faced capital letters if the name is unknown."

I will call to follow up with you regarding these edits to include in the next draft of LRB 3463.

Thank you again for all of your help with this!

Marisa Stanley, MPH
Wisconsin Population Health Fellow
Bureau of Communicable Diseases
Wisconsin Division of Public Health
1 W. Wilson St., Room 318
PO Box 2659

Madison, WI 53701
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TKK:jld:rs
insert
d note
RMNR

2009 BILL

12/4/09
by 12/7/09 a.m.

Regen

✓

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

✓ prescriber

Analysis by the Legislative Reference Bureau

- x 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 a sexual partner of the patient to treat a chlamydial infection, gonorrhea, or trichomoniasis without physical examination of the sexual partner. ✓ identify
- x 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 must include the name and address of the patient's sexual partner, if known, and must also contain the words "expedited partner therapy" in bold-face capital letters. ✓ or
- x or "EPT" ✓
==

BILL

Under the bill, the Department of Health Services must prepare an information sheet that includes 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.** 46.03 (44) of the statutes is created to read:

2 **46.03 (44) SEXUALLY TRANSMITTED DISEASE TREATMENT INFORMATION.** Prepare and
3 keep current an information sheet to be distributed to a patient by a physician,
4 physician assistant, or certified advanced practice nurse prescriber providing
5 expedited partner therapy to that patient under s. 448.035. The information sheet
6 shall include information about sexually transmitted diseases and their treatment
7 and about the risk of drug allergies. The information sheet shall also include a
8 statement advising a person with questions about the information to contact his or
9 her physician, pharmacist, or local health department, as defined in s. 250.01 (4).

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

11 **441.07 (1) (d) Misconduct or unprofessional conduct.** In this paragraph,
12 “misconduct” and “unprofessional conduct” do not include providing expedited
13 partner therapy as described in s. 448.035.

BILL

1 **SECTION 3.** 441.16 (2) of the statutes is amended to read:

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

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

9 448.015 (4) “Unprofessional conduct” means those acts or attempted acts of
10 commission or omission defined as unprofessional conduct by the board under the
11 authority delegated to the board by s. 15.08 (5) (b) and any act by a physician or
12 physician assistant in violation of ch. 450 or 961. “Unprofessional conduct” does not
13 include providing expedited partner therapy as described in s. 448.035.

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

15 **448.035 Expedited partner therapy. (1)** In this section:

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

18 (b) “Antimicrobial drug” means a drug ^{g identified} recommended ✓ for the treatment of a
19 chlamydial infection, gonorrhea, or trichomoniasis in the most current guidelines for
20 the treatment of sexually transmitted diseases of the federal centers for disease
21 control and prevention. “Antimicrobial drug” does not include a substance listed in
22 the schedules in ss. 961.14, 961.16, 961.18, 961.20, and 961.22 or substances added
23 to these schedules by the controlled substances board acting under s. 961.11 (1).

24 (c) “Expedited partner therapy” means to prescribe, dispense, or furnish to a
25 patient an antimicrobial drug to be used by a sexual partner of the patient to treat

BILL

1 a chlamydial infection, gonorrhea, or trichomoniasis without physical examination
2 of the sexual partner.

3 (2) Notwithstanding the requirements of s. 448.30, a physician, physician
4 assistant, or certified advanced practice nurse prescriber ✓ may provide expedited
5 partner therapy if the patient is diagnosed as infected with a chlamydial infection,
6 gonorrhea, or trichomoniasis and the patient has had sexual contact with a sexual ✓
7 partner during which the chlamydial infection, gonorrhea, or trichomoniasis may

INSERT
4-8

8 have been transmitted to or from the sexual partner. ✓ A prescription order for an
9 antimicrobial drug prepared under this subsection shall include the name and ✓
10 address of the patient's sexual partner, ✓ if known, and shall also include, in ordinary
11 bold-faced capital letters, the words, "expedited partner therapy" or the letters
12 "EPT." ✓

INSERT
4-10

13 (3) The physician, physician assistant, or certified advanced practice nurse
14 prescriber shall provide the patient with a copy of the information sheet prepared by
15 the department of health services under s. 46.03 (44) and shall request that the
16 patient give the information sheet to the person with whom the patient had sexual
17 contact.

18 (4) (a) Except as provided in par. (b), a physician, physician assistant, or
19 certified advanced practice nurse prescriber is immune from civil liability for injury
20 to or the death of a person who takes any antimicrobial drug if the antimicrobial drug ✓
21 is provided to that person as expedited partner therapy ✓ prescribed, dispensed, or furnished
22 expedited partner therapy is provided as specified under this section.

23 (b) The immunity under par. (a) does not extend to the donation, distribution,
24 furnishing, or dispensing of an antimicrobial drug by a physician, physician

BILL

1 assistant, or certified advanced practice nurse prescriber whose act or omission
2 involves reckless, wanton, or intentional misconduct.✓

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

4 448.04 (1) (a) *License to practice medicine and surgery.* A person holding a
5 license to practice medicine and surgery may practice as defined in s. 448.01 (9) and
6 as provided in s. 448.035.

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

8 450.10 (1) (a) (intro.) In this subsection, “unprofessional conduct” includes any
9 of the following, but ~~is not limited to~~ does not include the dispensing of an
10 antimicrobial drug for expedited partner therapy as described in s. 450.11 (1g):

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

12 450.11 (1) DISPENSING. No person may dispense any prescribed drug or device
13 except upon the prescription order of a practitioner. All prescription orders shall
14 specify the date of issue, ~~the name and address of the patient~~, the name and address
15 of the practitioner, the name and quantity of the drug product or device prescribed,
16 directions for the use of the drug product or device, the symptom or purpose for which
17 the drug is being prescribed if required under sub. (4) (a) 8., and, if the order is
18 written by the practitioner, the signature of the practitioner. Except as provided in
19 s. 448.035 (2), all prescription orders shall also specify the name and address of the
20 patient. Any oral prescription order shall be immediately reduced to writing by the
21 pharmacist and filed according to sub. (2).

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

23 450.11 (1g) DISPENSING CERTAIN ANTIMICROBIAL DRUGS FOR EXPEDITED PARTNER
24 THERAPY. (a) In this subsection:

25 1. “Antimicrobial drug” has the meaning given in s. 448.035 (1) (b).

BILL

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

2 (b) A pharmacist may, upon the prescription order of a practitioner providing
3 expedited partner therapy, as specified in s. 448.035, that complies with the
4 requirements of sub. (1), dispense an antimicrobial drug as a course of therapy for
5 treatment of chlamydial infections, gonorrhea, or trichomoniasis to the
6 practitioner's patient or a person with whom the patient has had sexual contact for
7 use by the person with whom the patient has had sexual contact. The pharmacist
8 shall provide a consultation in accordance with rules promulgated by the board for
9 the dispensing of a prescription to the person to whom the antimicrobial drug is
10 dispensed. A pharmacist providing a consultation under this paragraph shall ask
11 whether the person for whom the antimicrobial drug has been prescribed is allergic
12 to the antimicrobial drug and advise that the person for whom the antimicrobial drug
13 has been prescribed must discontinue use of the antimicrobial drug if the person is
14 allergic to or develops signs of an allergic reaction to the antimicrobial drug.

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

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

22 **SECTION 10.** 450.11 (4) (a) 5. of the statutes is renumbered 450.11 (4) (a) 5. a.
23 and amended to read:

24 450.11 (4) (a) 5. a. The Except as provided in subd. 5. b., the full name of the
25 patient.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3463/3dn
TKK:jld:rs

date

Rep. Pasch: ✓

This draft incorporates changes proposed in an e-mail from Marisa Stanley, ✓ at the Wisconsin Division of Public Health, to me. I forwarded this e-mail, dated December 3, 2009, ✓ to your office. I have the following comments for your consideration:

1. Definition of unprofessional conduct.

In her e-mail, ✓ Ms. Stanley includes the following comment about LRB-3463/2: ✓

Page 5, section 7, lines 8-10, there was a question as to whether the way this is worded would limit the Pharmacy Examining Board so that the only thing not included as "unprofessional conduct" is EPT. They are concerned the way it is currently written might unintentionally limit their decision making authority. They suggested creating a new subsection rather than crossing out "is not limited to."

Section 450.10 (1) (a) (intro.), ✓ as revised in LRB-3463/2, reads as follows: ✓

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

I don't believe any additional revisions to this section are necessary for the following reasons:

a. Current LRB drafting conventions discourage the use of "is not limited to" after the word, "includes," as the phrase is redundant. ✓

b. The use of "includes any of the following" rather than "means" ✓ in the definition of "unprofessional conduct" indicates that the list that follows the colon is partial, rather than complete.

c. Although the amendment to s. 450.10 (1) (a) (intro.), ✓ stats., does expressly affect the scope of the examining board's authority to determine what does and does not constitute "unprofessional conduct," the change in scope is both very narrow and very specific: the examining board may not determine that the dispensing of antimicrobial drugs for EPT constitutes unprofessional conduct. ✓ The amendment does not otherwise

limit the authority of the examining board to determine what does or does not constitute unprofessional conduct. In fact, each time the examining board determines what does constitute unprofessional conduct, the examining board is also determining by its silence, or by omission, what does not constitute unprofessional conduct.

Okay?

2. Prescription orders.

Ms. Stanley's e-mail also directs me to add the following sentence to proposed s. 448.035 (2):

"The sexual partner's prescription shall be separate from the practitioner's patient's prescription."

Ms. Stanley indicates that "we intend to make it clear that the patient's prescription order and the sexual partner's prescription order are two separate orders and not on the same prescription."

I don't believe this addition is necessary. Proposed s. 448.035 does not authorize a practitioner to combine the prescription order of a patient with that of the patient's sexual partner. Proposed s. 448.035, by its terms, is limited to and authorizes a practitioner to provide "expedited partner therapy." "Expedited partner therapy" is defined in proposed s. 448.035 (1) (c) as:

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

That is, proposed s. 448.035 does not apply to a practitioner prescribing an antimicrobial drug to the patient for use by the patient; presumably, a practitioner is already authorized to prescribe an antimicrobial drug to a patient?

However, perhaps I am not familiar with common practice of practitioners. Is it acceptable or common practice for a practitioner to combine the prescription orders of two patients for antimicrobial drugs when the sexual partner of the patient is present for examination? For that matter, is it acceptable or common practice for a practitioner to ever combine the prescription orders of two patients?

Please advise.

3. Changes to liability provision.

Note that I adjusted the language of proposed s. 448.035 (4) (a) to eliminate an inappropriate use of the defined term, "expedited partner therapy" on p. 4, line 21, of LRB-3463/2. Specifically, I replaced "provided to that person as expedited partner therapy" with "prescribed, dispensed, or furnished." Let me know if you have any concerns about this change. *

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

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3463/3ins
TKK:jld:rs

1 **INSERT 4-8**

2 ~~NO~~ The physician, physician assistant, or [✓]certified advanced practice nurse prescriber
3 shall attempt to obtain the name of the patient's sexual partner. [✓]

4 **INSERT 4-10**

5 ~~NO~~ If the physician, physician assistant, or certified advanced practice nurse prescriber
6 is unable to obtain the name of the patient's sexual partner, [✓]the prescription order
7 shall ~~NO~~

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3463/3dn
TKK:jld:ph

December 7, 2009

Rep. Pasch:

This draft incorporates changes proposed in an e-mail from Marisa Stanley, at the Wisconsin Division of Public Health, to me. I forwarded this e-mail, dated December 3, 2009, to your office. I have the following comments for your consideration:

1. Definition of unprofessional conduct.

In her e-mail, Ms. Stanley includes the following comment about LRB-3463/2:

Page 5, section 7, lines 8-10, there was a question as to whether the way this is worded would limit the Pharmacy Examining Board so that the only thing not included as "unprofessional conduct" is EPT. They are concerned the way it is currently written might unintentionally limit their decision making authority. They suggested creating a new subsection rather than crossing out "is not limited to."

Section 450.10 (1) (a) (intro.), as revised in LRB-3463/2, reads as follows:

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

I don't believe any additional revisions to this section are necessary for the following reasons:

a. Current LRB drafting conventions discourage the use of "is not limited to" after the word, "includes," as the phrase is redundant.

b. The use of "includes any of the following" rather than "means" in the definition of "unprofessional conduct" indicates that the list that follows the colon is partial, rather than complete.

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limit the authority of the examining board to determine what does or does not constitute unprofessional conduct. In fact, each time the examining board determines what does constitute unprofessional conduct, the examining board is also determining by its silence, or by omission, what does not constitute unprofessional conduct.

Okay?

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"The sexual partner's prescription shall be separate from the practitioner's patient's prescription."

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Please advise.

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Note that I adjusted the language of proposed s. 448.035 (4) (a) to eliminate an inappropriate use of the defined term, "expedited partner therapy" on p. 4, line 21, of LRB-3463/2. Specifically, I replaced "provided to that person as expedited partner therapy" with "prescribed, dispensed, or furnished." Let me know if you have any concerns about this change.

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

Kuczenski, Tracy

From: Ludwig, Frederic
Sent: Monday, December 07, 2009 5:22 PM
To: Kuczenski, Tracy
Subject: re: EPT
Attachments: 09-34633dn.pdf

Hi Tracy,

Touched base with DHS, and here's our thoughts/answers to your questions:

1. We agree that no additional revisions are necessary, and appreciate the reasoning which we will pass along to the Pharmacy Examining Board.
2. We agree that this addition is not necessary and will address this clarification in the guidance provided to prescribers. There is anecdotal information that some prescribers do combine the prescription order for the two patients by prescribing a double dose to the patient who is present for the examination. However, this is not acceptable practice and this legislation would prevent providers from writing a double dose prescription to treat the partner in the future by allowing them to write a prescription for the partner.
3. We have no concerns about this change.

So...basically you're right on everything! ☺

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Duerst, Christina

From: Ludwig, Frederic

Sent: Tuesday, January 12, 2010 9:24 AM

To: LRB.Legal

Subject: Draft Review: LRB 09-3463/3 Topic: prescriptions for certain antimicrobials

Please Jacket LRB 09-3463/3 for the ASSEMBLY.

1/12/2010