



2009 ASSEMBLY BILL 227

April 23, 2009 – Introduced by Representatives SHERMAN, TOWNSEND, BENEDICT, BERCEAU and HEBL, cosponsored by Senators JAUCH, RISSER, OLSEN, DARLING, CARPENTER and TAYLOR. Referred to Committee on Public Health.

- 1 **AN ACT to create** 450.19 of the statutes; **relating to:** directing the Pharmacy
2 Examining Board to create a program to monitor the dispensing of prescription
3 drugs and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

This bill directs the Pharmacy Examining Board (board) to establish by rule a program for monitoring the dispensing of certain drugs (generally, controlled substances that current law permits certain licensed practitioners to prescribe). The program must do all of the following: 1) require a pharmacist, physician, advanced practice nurse, dentist, or optometrist to generate an electronic record documenting each dispensing of a covered prescription and to deliver the record to the board, unless the prescription is administered directly to a patient; 2) identify data elements to be contained in such a record; 3) specify to whom and under what circumstances such a record may be disclosed; 4) specify a format and a deadline for delivery of such a record to the board; and 5) specify a penalty for a failure to comply with program requirements.

The bill requires the Department of Regulation and Licensing to apply for certain federal grants to establish and operate the program. If the department fails to obtain federal funding before January 1, 2015, the bill is void.

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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.** 450.19 of the statutes is created to read:

2 **450.19 Prescription drug monitoring program. (1)** In this section,
3 “prescription drug” means a substance identified in s. 961.16 or 961.18 or a drug
4 identified by the board by rule as having a substantial potential for abuse.

5 **(2)** The board shall establish by rule a program for monitoring the dispensing
6 of prescription drugs. The program shall do all of the following:

7 (a) Require a pharmacist, physician, advanced practice nurse certified under
8 s. 441.16 (2), optometrist, or dentist authorized to dispense a prescription drug to
9 generate an electronic record documenting each dispensing of a prescription drug
10 and to deliver the electronic record to the board, except that the program may not
11 require the generation of an electronic record when a drug is administered directly
12 to a patient.

13 (b) Identify specific data elements to be contained in an electronic record
14 documenting the dispensing of a prescription drug. In identifying specific data
15 elements, the board shall consider data elements identified by similar programs in
16 other states and shall ensure, to the extent possible, that electronic records
17 generated by the program are easily shared with other states.

18 (c) Specify the persons to whom an electronic record may be disclosed and the
19 circumstances under which the disclosure may occur. The rule promulgated under
20 this paragraph shall permit the board to share an electronic record generated by the
21 program with relevant agencies of other states.

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- 1 (d) Specify a format for an electronic record generated under the program.
- 2 (e) Specify a deadline for the delivery of an electronic record to the board.
- 3 (f) Specify a penalty for failure to comply with rules promulgated under this
- 4 subsection.
- 5 (g) Maximize the potential for funding the operation of the program with
- 6 available federal funding sources.

7 **SECTION 2. Nonstatutory provisions.**

- 8 (1) The department of regulation and licensing shall submit a timely
- 9 application for a federal grant under 42 USC 280g-3 and under the Harold Rogers
- 10 Prescription Drug Monitoring Program to fund the establishment and operation of
- 11 the prescription drug monitoring program under section 450.19 of the statutes, as
- 12 created by this act. If the department of regulation and licensing fails to obtain
- 13 federal funding before January 1, 2015, section 450.19 of the statutes, as created by
- 14 this act, is void.

15 (END)