

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB227)

Received: 07/13/2009

Received By: csundber

Wanted: As time permits

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: Eleanora Tribys

This file may be shown to any legislator: NO

Drafter: csundber

May Contact:

Addl. Drafters:

Subject: Occupational Reg. - misc

Extra Copies:

Submit via email: YES

Requester's email: Rep.Sherman@legis.wisconsin.gov

Carbon copy (CC:) to: christopher.sundberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Eliminate specific prescribers, add practitioner civil immunity

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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	07/14/2009	07/16/2009		_____			
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	07/16/2009	07/24/2009		_____			
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			07/24/2009	_____	07/24/2009	07/24/2009	

FE Sent For:

<END>

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/?	csundber	1 9/3 7/24 09					

FE Sent For:

<END>

Sundberg, Christopher

From: Tribys, Eleanora
Sent: Monday, July 13, 2009 10:05 AM
To: Sundberg, Christopher
Subject: AB 227 Rx Monitoring

Attachments: Pharm Board amendment 7-10-09.pdf

Good Morning!

Attached please find a copy of a letter from the Pharmacy Examining Board. Would you please draft an amendment in accordance therewith?



Pharm Board
amendment 7-10-09..

Also, while we are at it, the issue of protection from civil liability was raised. Most if not all other state PMPs contain a provision that practitioners will not be held liable if they fail to access the database prior to prescribing or dispensing a medication. Please include such a provision as well.

Thanks!

Nora Tribys
Office of Rep. Gary Sherman
74th Assembly District

Jim Doyle
Governor

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

1400 E Washington Ave
PO Box 8935
Madison WI 53708-8935
Email: web@drf.state.wi.us
Voice: 608-266-2112
FAX: 608-267-0644
TTY: 608-267-2416

Celia M. Jackson
Secretary



July 9, 2009

THE HONORABLE GARY SHERMAN
STATE REPRESENTATIVE
ROOM 304 EAST
STATE CAPITOL
P.O. BOX 8953
MADISON WI 53708


THE HONORABLE JOHN TOWNSEND
STATE REPRESENTATIVE
ROOM 22 WEST
STATE CAPITOL
P.O. BOX 8953
MADISON WI 53708

Re: Assembly Bill 227, relating to directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority

Dear Representative Sherman:

The Wisconsin Pharmacy Examining Board reviewed 2009 Assembly Bill 227 at its meeting on June 24. By unanimous motion, the Board agreed to suggest an amendment to Section 1, 450.19 (2) (a), which lists practitioners who would be required to comply with the documentation and delivery requirements in the bill. The Board believes that instead of a listing of specific practitioner categories, more general language would be preferable in view of the possibility of the list of practitioners changing or expanding over time. If listed specifically, each time there might be a change in types of practitioners included, separate legislation would be required. For example Assembly Bill 180 proposes to grant dispensing authority to psychologists and, if enacted, AB 227 in its present form would not include psychologists. The use of the alternative language suggested would make it certain that all categories of practitioners authorized to dispense a prescription drug would be included in the present and future provisions of AB 227.

Sincerely,


Gregory C. Weber, R.Ph.
Chair, Pharmacy Examining Board

c: Representative John Townsend

RECEIVED
JUL 10 2009

BY:.....

Sundberg, Christopher

To: Tribys, Eleanora
Subject: RE: AB 227 Rx Monitoring

I wasn't sure how to draft the immunity provision given that the bill doesn't use the term "database" or even require the compilation of a database. Per the bill, the PEB is only required to promulgate rules that specify who gets to see the electronic records and under what circumstances. What I've drafted is based on the immunity provisions under Minn. Stat. § 152.126, subd. 9.

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Thanks!

Nora Tribys
Office of Rep. Gary Sherman
74th Assembly District

Sundberg, Christopher

From: Tribys, Eleanora
Sent: Thursday, July 16, 2009 2:20 PM
To: Sundberg, Christopher
Subject: RE: AB 227 Rx Monitoring

Thanks for waiting to hear back from us.

Immunity: My mistake to referring to a database, but in any event, we looked at the MN statute model you referred to and that is just fine.

The other issue that was raised was warrant language. 450.19(2)(c) requires that the program specify who may obtain an electronic record and under what circumstances. Please add a clause that the disclosure must be in accordance with 146.82(2).

We have a public hearing scheduled on this for Tuesday, July 28th. It would be great if we could have this in hand prior to that time.

Thank You!

Nora Tribys

Office of Rep. Gary Sherman
74th Assembly District

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

From: Sundberg, Christopher
Sent: Tuesday, July 14, 2009 5:00 PM
To: Tribys, Eleanora
Subject: RE: AB 227 Rx Monitoring

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Today - A.M. if possible

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L
CJS
CTS

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

**ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 227**

Fuller

INSERT
1-1

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At the locations indicated, amend the bill as follows:

1. Page 2, line 7: delete the material beginning with “pharmacist” and ending with “dentist” on line 8 and substitute “pharmacist or practitioner”.

2. Page 3, line 6: after that line insert:

“(3) (a) A practitioner or pharmacist is immune from civil liability arising from the practitioner^{vs} or pharmacist’s compliance in good faith with this section or with rules promulgated under this section. ✓

(b) Nothing in this section may be construed to require a pharmacist or practitioner to obtain, before prescribing or dispensing a prescription to a patient, information about the patient that has been collected pursuant to the program described under sub. (2).” ✓

(END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0562/lins
CTS:.....

1 **Insert 1-1:**

2 **1.** Page 2, line 1: delete that line and substitute:

3 “**SECTION 1.** [ⓐ]146.82 (1) of the statutes is amended to read: ✓

4 146.82 (1) CONFIDENTIALITY. All patient health care records shall remain
5 confidential. Patient health care records may be released only to the persons
6 designated in this section or to other persons with the informed consent of the patient
7 or of a person authorized by the patient. This subsection does not prohibit reports
8 made in compliance with s. 253.12 (2), 255.40, or 979.01; electronic records generated
9 or disclosed pursuant to rules promulgated under s. 450.19; [✓]testimony authorized
10 under s. 905.04 (4) (h); or releases made for purposes of health care operations, as
11 defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 83, 114, 151; 2001 a. 38, 59, 69, 105; 2003 a. 281; 2005 a. 187, 344, 387, 388, 434; 2007 a. 20 s. 9121 (6) (a); 2007 a. 45, 106, 108, 130.

12 **SECTION 1m.** 450.19 of the statutes is created to read:”.