

2013 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB353)

Received: 1/14/2014 Received By: mgallagh
Wanted: As time permits Same as LRB: s0235
For: Sheila Harsdorf (608) 266-7745 By/Representing: Jennifer Malcore
May Contact: Drafter: mgallagh
Subject: Criminal Law - drugs Addl. Drafters:
Occupational Reg. - misc Extra Copies:

Submit via email: YES
Requester's email: Sen.Harsdorf@legis.wisconsin.gov
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Incorporate SS 1 & 2; address technical issues

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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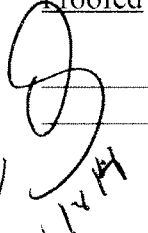
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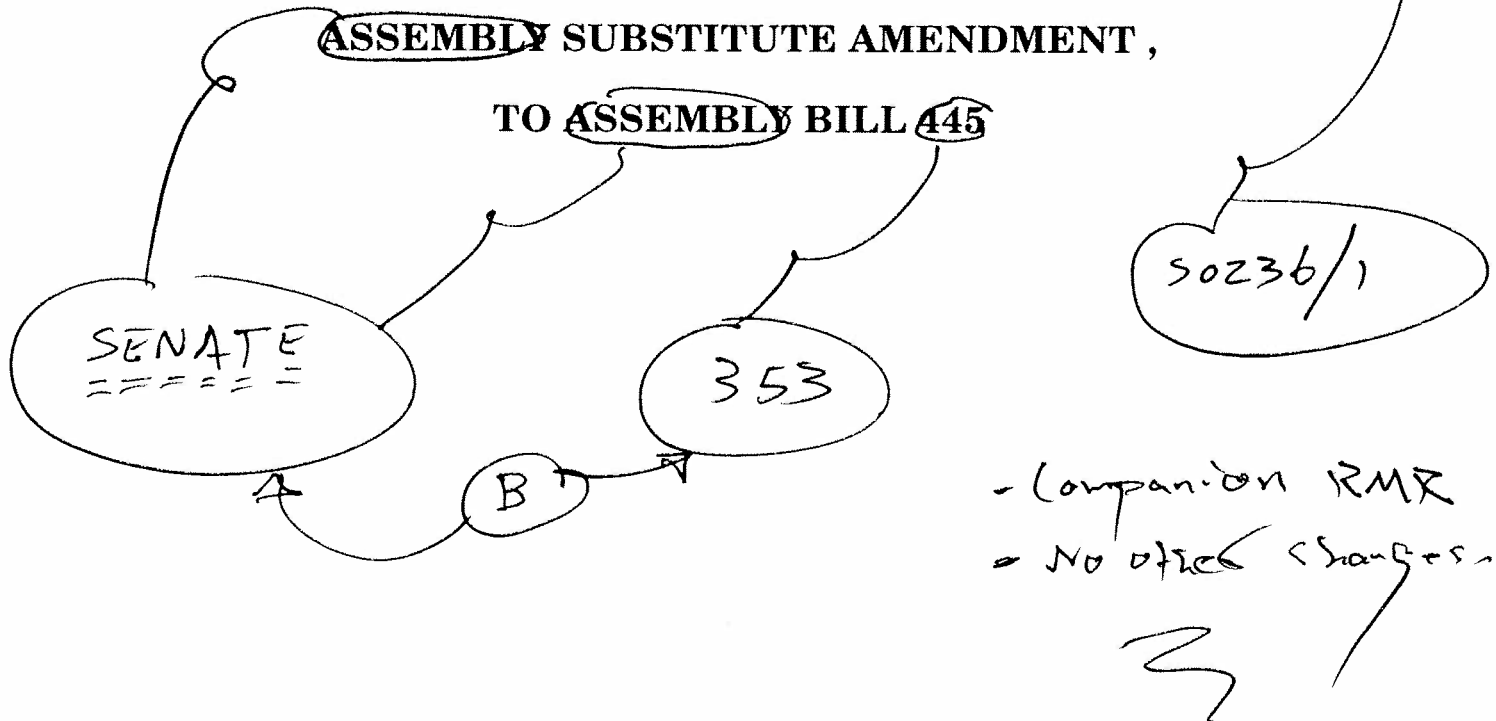
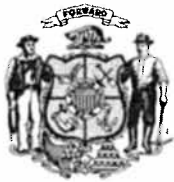
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1 **AN ACT to amend** 450.19 (2) (b); and **to create** 450.11 (1b), 450.11 (9) (bm) and
 2 450.19 (2m) of the statutes; **relating to:** identification presentation, name
 3 recording, monitoring for certain prescription drugs, and authorizing the
 4 exercise of rule-making authority.

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

5 **SECTION 1.** 450.11 (1b) of the statutes is created to read:
 6 450.11 (1b) IDENTIFICATION CARD REQUIRED FOR CERTAIN CONTROLLED SUBSTANCES.
 7 (a) In this subsection:
 8 1. "Health care facility" means a facility, as defined in s. 647.01 (4); any
 9 hospital, nursing home, community-based residential facility, county home, county
 10 infirmary, county hospital, county mental health complex, or other place licensed or
 11 approved by the department of health services under s. 49.70, 49.71, 49.72, 50.03,

1 50.032, 50.033, 50.034, 50.35, 51.08, or 51.09; a facility under s. 45.50, 51.05, 51.06,
2 233.40, 233.41, 233.42, or 252.10; and any other facility identified by the board by
3 rule.

4 2. “Identification card” means any of the following:

5 a. An operator’s license issued under ch. 343 or under a comparable law of
6 another state.

7 b. An identification card issued under s. 343.50 or under a comparable law of
8 another state.

9 c. An identification card issued by a U.S. uniformed service.

10 d. A U.S. or foreign passport.

11 (b) Except as provided under par. (e), a controlled substance included in
12 schedule II or III of ch. 961 may not be dispensed, and may not be delivered to a
13 representative of the ultimate user, without an identification card belonging to the
14 person to whom the drug is being dispensed or delivered.

15 (bm) A pharmacist or other person dispensing or delivering a drug shall legibly
16 record the name on each identification card presented under par. (b) to the
17 pharmacist or other person, and the name of each person to whom a drug is dispensed
18 or delivered subject to par. (e) 2., and shall maintain that record for a time established
19 by the board by rule or, for a record that is subject to s. 450.19, until the name is
20 delivered to the board under s. 450.19, whichever is sooner.

21 (c) If the person to whom a drug subject to par. (b) is being delivered is not the
22 ultimate user of the drug, the person delivering the drug may ask the ultimate user
23 of the drug to designate a person who is authorized to pick up the drug on behalf of
24 the ultimate user and may inform the person to whom the drug is being delivered
25 that his or her identification is being recorded.

1 (d) A pharmacist is immune from any civil or criminal liability and from
2 discipline under s. 450.10 for any act taken by the pharmacist in reliance on an
3 identification card that the pharmacist reasonably believed was authentic and
4 displayed the name of the person to whom the drug was being delivered if the sale
5 was made in good faith.

6 (e) No identification card is required under par. (b) if any of the following
7 applies:

8 1. The drug is administered or dispensed directly to the ultimate user by a
9 practitioner.

10 2. The pharmacist or other person dispensing or delivering the drug has
11 personal knowledge of the person to whom the drug is dispensed or delivered and
12 that the person is the ultimate user or the ultimate user's authorized representative.

13 3. The drug is delivered to a health care facility to be administered in the health
14 care facility.

15 (f) The board may, by rule, establish an exemption from the requirements under
16 this subsection for the delivery of a drug by mail if the board determines that the
17 exemption is necessary.

18 **SECTION 2.** 450.11 (9) (bm) of the statutes is created to read:

19 450.11 (9) (bm) A violation of sub. (1b) is not punishable under par. (a) or (b).

20 **SECTION 3.** 450.19 (2) (b) of the statutes is amended to read:

21 450.19 (2) (b) Identify specific data elements to be contained in a record
22 documenting the dispensing of a prescription drug, including the method of payment
23 and, subject to sub. (2m), the name recorded under s. 450.11 (1b) (bm). In identifying
24 specific data elements, the board shall consider data elements identified by similar

1 programs in other states and shall ensure, to the extent possible, that records
2 generated by the program are easily shared with other states.

3 **SECTION 4.** 450.19 (2m) of the statutes is created to read:

4 450.19 (2m) (a) The rules promulgated under sub. (2) may not require that a
5 record delivered to the board before 2 years after the effective date of this paragraph
6 [LRB inserts date], contain the name recorded under s. 450.11 (1b) (bm).

7 (b) After consultation with representatives of licensed pharmacists and
8 pharmacies, and subject to the approval of the secretary, the board may delay the
9 requirement that a record delivered to the board contain the name recorded under
10 s. 450.11 (1b) (bm) for an additional period beyond the date specified in par. (a).

11 (END)