

1983 Senate Bill 365

Date of enactment: April 5, 1984
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1983 Wisconsin Act 188

AN ACT *to repeal* 15.197 (15), 140.90 and 450.075 (1) (a) and (d); *to amend* 100.31 (2), 450.075 (2), 450.075 (3) and 450.075 (4); and *to repeal and recreate* 450.075 (1) (b) and (c) and 450.075 (5) of the statutes, *relating to* the use of drug product equivalents in dispensing prescriptions and abolishing the drug quality council.

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

SECTION 1. 15.197 (15) of the statutes is repealed.

SECTION 2. 100.31 (2) of the statutes is amended to read:

100.31 (2) PRICE DISCRIMINATION PROHIBITED. Every seller shall offer drugs from the ~~formulary prepared by the department of health and social services under s. 140.90 (2)~~ list of therapeutically equivalent drugs published by the federal food and drug administration to every purchaser in this state, with all rights and privileges offered or accorded

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by ~~such~~ the seller to the most favored purchaser, including purchase prices for similar volume purchases, rebates, free merchandise, samples and similar trade concessions. Nothing in this subsection ~~shall prohibit~~ prohibits the giving of a discount for volume purchases.

SECTION 3. 140.90 of the statutes is repealed.

SECTION 4. 450.075 (1) (a) and (d) of the statutes are repealed.

SECTION 5. 450.075 (1) (b) and (c) of the statutes are repealed and recreated to read:

450.075 (1) (b) "Drug product" means a specific drug in a specific dosage form from a known source of manufacture, whether by brand name or generic name.

(c) "Drug product equivalent" means a drug product that is designated the therapeutic equivalent of another drug product by the federal food and drug administration.

SECTION 6. 450.075 (2) of the statutes is amended to read:

450.075 (2) DRUG PRODUCT OR EQUIVALENT TO BE USED. ~~Subject to~~ Except as provided in sub. (3), a pharmacist shall ~~fill~~ dispense every prescription with using either the drug product prescribed or its drug product equivalent, if ~~such its drug product equivalent has an average wholesale cost, as established by the department, which is not greater than the drug product named in the prescription is lower in price to the consumer than the drug product prescribed, and shall inform the consumer of the options available in filling dispensing the prescription. If a drug product listed in the formulary is prescribed generically, the prescription shall be filled with one of its drug product equivalents having a cost not higher than the average wholesale cost of all of its drug product equivalents. The pharmacist shall inform the consumer that the drug product with which the prescription is filled has a cost not higher than the average wholesale cost of all its drug product equivalents. The full difference in wholesale cost resulting from any substitution under this subsection shall be passed on to the consumer.~~

SECTION 7. 450.075 (3) of the statutes is amended to read:

450.075 (3) If a ~~A~~ prescriber indicates may indicate, by writing on the face of the prescription order the phrase "No substitutions" or words of similar meaning or the initials "N.S.", that no substitution of the drug product equivalent prescribed may be dispensed because only a specific brand of a drug can be tolerated by or is effective for a particular patient; made under sub. (2) does not apply. Such indication may not be made by means of a preprinted statement. If such indication is made, the pharmacist shall dispense the prescription with the specific drug product prescribed. No preprinted statement regarding drug product substitution may appear on the face of the prescription order.

SECTION 8. 450.075 (4) of the statutes is amended to read:

450.075 (4) (title) RENEWED PRESCRIPTIONS. Prescriptions ~~filled~~ dispensed with a drug product equivalent may be refilled only renewed with the same a different drug product used to fill the original prescription equivalent only if the pharmacist informs the consumer of the change.

SECTION 9. 450.075 (5) of the statutes is repealed and recreated to read:

450.075 (5) LIMITATION ON LIABILITY. A pharmacist who dispenses a prescription with a drug product equivalent under this section assumes no greater liability than would be incurred had the pharmacist dispensed the prescription with the drug product prescribed.

SECTION 10. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

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A
Statute Sections
448.02 (3)

B
Old Cross-References
448.30

C
New Cross-References
448.30 or 450.075 (3)
