



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2013 Wisconsin Act 199**  
[2013 Assembly Bill 445]

**Dispensing Controlled Substances**

2014 Wisconsin Act 199 (the Act) creates several requirements applicable to the dispensing of Schedule II and III drugs. Schedule II drugs have a high potential for abuse, a currently accepted medical use in treatment in the United States, and abuse of the drug may lead to severe psychological or physical dependence. Schedule III drugs have a lower potential for abuse, a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

### **IDENTIFICATION CARD REQUIREMENT**

The Act specifies that a Schedule II or III drug generally may not be dispensed or delivered without an identification card belonging to the person to whom it is dispensed or delivered.

The pharmacist or other person dispensing or delivering a Schedule II or III drug must record the name on the identification card and maintain the record of that name for as long as is required by administrative rules promulgated by the Pharmacy Examining Board (Board), or until it is submitted to the Board through the Prescription Drug Monitoring Program, as described below, whichever is sooner.

### **Acceptable Types of Identification**

The types of identification card that are acceptable are the following:

- A Wisconsin motor vehicle operator's license.
- A Wisconsin state identification card issued by the Department of Transportation.
- An identification card issued by a U.S. uniformed service.
- A U.S. passport.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

- A motor vehicle operator's license or a state identification card issued by another state.
- A foreign passport.

### **Exemptions to the Identification Card Requirement**

An identification card is not required under any of the following circumstances:

- When a health care practitioner administers or dispenses a drug directly to a patient.
- If the pharmacist or other person dispensing or delivering a Schedule II or III drug has personal knowledge of the person to whom the drug is dispensed or delivered and knows that the person is the ultimate user or the ultimate user's authorized representative. However, the pharmacist or other person must record the name of the person and report it to the Board and the PDMP to the same extent that the name on an identification card must be reported.
- When a drug is delivered to a health care facility, if the drug is to be administered in the health care facility. The types of facilities included in this exemption are the following:
  - Hospital.
  - Nursing home.
  - Community-based residential facility.
  - Continuing care facility.
  - Mental health institution.
  - County home.
  - County infirmary.
  - County hospital.
  - County mental health complex.
  - Veterans home.
  - Center for the developmentally disabled.
  - Local health department dispensary.
  - Adult family homes.
  - Residential care apartment complexes.

The Board may, by administrative rule, exempt additional health care facilities from the requirements of the Act.

### **Delivery to a Person Other Than the Ultimate User**

A Schedule II or III drug may be delivered to a representative of the ultimate user if the representative has an identification card as described above. In this circumstance, the person delivering the drug may, but is not required to, ask the ultimate user to designate a person who is authorized to pick up the drug on their behalf. The pharmacist may inform the person picking up the drug that his or her identification is being recorded.

### **Pharmacist Immunity for Sales Made in Good Faith**

A pharmacist is immune from any civil or criminal liability and from professional discipline for any act he or she takes in reliance on an identification card that he or she reasonably believed was authentic and displayed the name of the person to whom the drug was being delivered, if the sale was made in good faith.

## **PDMP REPORTING REQUIREMENTS**

### **Background**

The Prescription Drug Monitoring Program (PDMP) is a statewide program that collects information about monitored prescription drugs that are dispensed to patients in Wisconsin. The Board is required to promulgate administrative rules to administer the program. Under the PDMP, practitioners (individuals licensed to prescribe and administer drugs) must report to the Board certain information regarding the dispensing of certain drugs.

### **The Act**

#### **Identification Card Information**

The Act requires the name on an identification card that is presented when a Schedule II or III drug is dispensed to be reported to the Board through the PDMP. However, this reporting requirement does not go into effect until April 9, 2016. The Board may delay the reporting requirement beyond that date after consultation with representatives of licensed pharmacists and pharmacies, subject to the approval of the Secretary of the Department of Safety and Professional Services.

#### **Method of Payment**

Current law specifies that the Board's administrative rules governing the PDMP must identify the specific data elements to be contained in a PDMP report. The Act provides the method of payment is one of the data elements to be identified.

*Effective date:* The Act went into effect on April 9, 2014. However, as discussed above, the requirement that the name on an identification card be included in a PDMP report does not go into effect until April 9, 2016, and may be delayed beyond that date under certain circumstances.

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