



2019 SENATE BILL 778

February 6, 2020 - Introduced by Senators BERNIER and OLSEN, cosponsored by Representatives HORLACHER, BORN, BROSTOFF, L. MYERS, SKOWRONSKI, SUBECK, TITTL and TUSLER. Referred to Committee on Health and Human Services.

1 **AN ACT** *to renumber and amend* 450.02 (2); *to amend* 146.81 (1) (fm), 146.997
2 (1) (d) 8., 450.01 (16) (g), 450.01 (21e) (a), 450.02 (3) (f), 450.03 (1) (e), 450.03 (1)
3 (i), 450.062 (intro.), 450.08 (1), 450.08 (2) (b), 450.10 (1) (a) 1., 450.10 (1) (a) 2.,
4 450.10 (1) (a) 3., 450.10 (1) (a) 6., 450.10 (1) (b) (intro.), 450.10 (1) (b) 3., 450.10
5 (2), 450.10 (3) (a) 1., 450.11 (1b) (bm), 450.11 (1b) (d), 450.11 (1b) (e) 2., 450.11
6 (3), 450.11 (7) (d), 450.11 (8) (a) and 450.17; *to repeal and recreate* 146.89 (1)
7 (r) 4. and 450.08 (title); and *to create* 440.03 (13) (b) 48m., 440.08 (2) (a) 56m.,
8 450.01 (15g), 450.02 (2) (b), 450.03 (1) (gm) and 450.068 of the statutes;
9 **relating to:** registration of pharmacy technicians, extending the time limit for
10 emergency rule procedures, providing an exemption from emergency rule
11 procedures, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, no person may engage in the practice of pharmacy unless the person is licensed as a pharmacist by the Pharmacy Examining Board. One such exception is for a person who is providing services as directed, supervised, and inspected by a pharmacist who has the power to direct,

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decide, and oversee the implementation of the services rendered, subject to any rules promulgated by the board. Current rules of the board govern the practice of pharmacy technicians, which are defined as non-pharmacists or non-pharmacist interns who, under the general supervision of a pharmacist who regularly coordinates, directs, and inspects the activities of the pharmacy technician, assist the pharmacist in the technical and nonjudgmental functions related to the practice of pharmacy in the processing of prescription orders and inventory management. The rules regulate the activities of pharmacy technicians, but pharmacy technicians are not, under current law, required to be credentialed by the board in order to practice.

This bill instead requires pharmacy technicians to be registered by the board and prohibits any person from practicing as a pharmacy technician, as defined by the board, or using the title “pharmacy technician” or “pharmacy tech” unless the person is registered as a pharmacy technician by the board. Registration requires submission of an application listing the applicant’s employer, if any, and address, and a fee, and requires that the applicant have graduated high school or an equivalency or be enrolled in a pharmacy technician youth apprenticeship program. The bill allows a person who has applied for a pharmacy technician registration to practice as a pharmacy technician under the direct supervision of a pharmacist during the period before the board takes final action on the person’s application. Pharmacy technicians are required under the bill to notify the board of any home address or employer changes.

The bill requires the board to promulgate rules to define “pharmacy technician” and the activities that constitute the practices of a pharmacy technician for purposes of the registration requirement.

For further information see the *state and local* 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.** 146.81 (1) (fm) of the statutes is amended to read:

2 146.81 (1) (fm) A pharmacist or pharmacy technician licensed or registered
3 under ch. 450.

4 **SECTION 2.** 146.89 (1) (r) 4. of the statutes is repealed and recreated to read:

5 146.89 (1) (r) 4. Registered as a pharmacy technician under ch. 450.

6 **SECTION 3.** 146.997 (1) (d) 8. of the statutes is amended to read:

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1 146.997 (1) (d) 8. A pharmacist or pharmacy technician licensed or registered
2 under ch. 450.

3 **SECTION 4.** 440.03 (13) (b) 48m. of the statutes is created to read:

4 440.03 (13) (b) 48m. Pharmacy technician.

5 **SECTION 5.** 440.08 (2) (a) 56m. of the statutes is created to read:

6 440.08 (2) (a) 56m. Pharmacy technician: June 1 of each even-numbered year.

7 **SECTION 6.** 450.01 (15g) of the statutes is created to read:

8 450.01 (15g) “Pharmacy technician” means a person registered by the board
9 under s. 450.068.

10 **SECTION 7.** 450.01 (16) (g) of the statutes is amended to read:

11 450.01 (16) (g) Supervision of pharmacy technicians and other pharmacist
12 supportive personnel.

13 **SECTION 8.** 450.01 (21e) (a) of the statutes is amended to read:

14 450.01 (21e) (a) An action by a pharmacist or pharmacy technician with respect
15 to a prescription drug that the pharmacist or pharmacy technician is dispensing.

16 **SECTION 9.** 450.02 (2) of the statutes is renumbered 450.02 (2) (intro.) and
17 amended to read:

18 450.02 (2) (intro.) The board shall ~~adopt~~ promulgate rules ~~defining to do all of~~
19 the following:

20 (a) Define the active practice of pharmacy. The rules shall apply to all
21 applicants for licensure under s. 450.05.

22 **SECTION 10.** 450.02 (2) (b) of the statutes is created to read:

23 450.02 (2) (b) Define “pharmacy technician” and the activities that constitute
24 the practice of a pharmacy technician for purposes of the registration requirement
25 under s. 450.068.

SENATE BILL 778**SECTION 11**

1 **SECTION 11.** 450.02 (3) (f) of the statutes is amended to read:

2 450.02 (3) (f) Establishing procedures for identifying pharmacists and
3 pharmacy technicians impaired by alcohol or other drugs or physical or mental
4 disability or disease and for assisting those pharmacists and pharmacy technicians
5 in obtaining treatment.

6 **SECTION 12.** 450.03 (1) (e) of the statutes is amended to read:

7 450.03 (1) (e) Any person lawfully practicing within the scope of a license,
8 permit, registration, certificate, or certification granted to practice as a pharmacy
9 technician under s. 450.068, to provide home medical oxygen under s. 450.076, to
10 practice professional or practical nursing or nurse-midwifery under ch. 441, to
11 practice dentistry or dental hygiene under ch. 447, to practice medicine and surgery
12 under ch. 448, to practice optometry under ch. 449 or to practice veterinary medicine
13 under ch. 89, or as otherwise provided by statute.

14 **SECTION 13.** 450.03 (1) (gm) of the statutes is created to read:

15 450.03 (1) (gm) A person who has applied for a registration under s. 450.068
16 and whose practice as a pharmacy technician is limited to performing duties under
17 the direct supervision of a person licensed as a pharmacist by the board and during
18 the period before which the board takes final action on the person's application.

19 **SECTION 14.** 450.03 (1) (i) of the statutes is amended to read:

20 450.03 (1) (i) Any person, other than a pharmacy technician, who is providing
21 services as directed, supervised, and inspected by a pharmacist who has the power
22 to direct, decide, and oversee the implementation of the services rendered, subject
23 to any rules promulgated by the board and subject to s. 450.035 (2m).

24 **SECTION 15.** 450.062 (intro.) of the statutes is amended to read:

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1 **450.062 Remote dispensing.** (intro.) Pursuant to rules promulgated by the
2 board, a pharmacist, a pharmacy technician, or a person engaged in the practice of
3 pharmacy under s. 450.03 (1) (f), (g), or (i) may dispense at any of the following
4 locations:

5 **SECTION 16.** 450.068 of the statutes is created to read:

6 **450.068 Pharmacy technicians; registration. (1)** No person may practice
7 as a pharmacy technician, as defined by the board under s. 450.02 (2) (b), or use the
8 title “pharmacy technician” or “pharmacy tech” unless the person is registered as a
9 pharmacy technician by the board.

10 **(2)** Except as provided in s. 450.10, the board shall issue a registration as a
11 pharmacy technician to an applicant who satisfies all of the following:

12 (a) The applicant submits an application for registration on a form provided by
13 the board that specifies all of the following:

14 1. The applicant’s home address.

15 2. If the applicant is employed, the name and address of the applicant’s
16 employer, and the applicant’s place of employment.

17 (b) The applicant satisfies one of the following:

18 1. The applicant is at least 18 years of age and has graduated from high school
19 or has attained high school graduation equivalency as determined by the department
20 of public instruction.

21 2. The applicant is enrolled in a youth apprenticeship program for pharmacy
22 technicians that is on the list of youth apprenticeship programs approved by the
23 department of workforce development under s. 106.13 (2m).

24 (d) The applicant pays the fee specified in s. 440.05 (1).

25 **(3)** A pharmacy technician shall do all of the following:

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1 (a) Notwithstanding s. 440.11, if the pharmacy technician moves from the last
2 address provided to the department, notify the department of his or her new address
3 within 10 days of the change in writing or in accordance with other notification
4 procedures approved by the department.

5 (b) If the pharmacy technician changes his or her employer or place of
6 employment, notify the department of his or her new employer or address of
7 employment within 10 days of the change in writing or in accordance with other
8 notification procedures approved by the department and, if required by the
9 department, pay the transfer fee under s. 440.05 (7).

10 **SECTION 17.** 450.08 (title) of the statutes is repealed and recreated to read:

11 **450.08 (title) Credential renewals.**

12 **SECTION 18.** 450.08 (1) of the statutes is amended to read:

13 450.08 (1) The renewal ~~date~~ dates for all licenses and registrations granted by
14 the board is are specified under s. 440.08 (2) (a). Except as provided under sub. (2)
15 (a), only a holder of an unexpired license or registration may engage in his or her
16 licensed activity.

17 **SECTION 19.** 450.08 (2) (b) of the statutes is amended to read:

18 450.08 (2) (b) A pharmacy, pharmacy technician's, manufacturer's,
19 distributor's, or home medical oxygen provider's license or registration may be
20 renewed by paying the applicable fee determined by the department under s. 440.03
21 (9) (a) on or before the applicable renewal date specified under s. 440.08 (2) (a).

22 **SECTION 20.** 450.10 (1) (a) 1. of the statutes is amended to read:

23 450.10 (1) (a) 1. Making any materially false statement or giving any
24 materially false information in connection with an application for a license or
25 registration or for renewal or reinstatement of a license or registration.

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1 **SECTION 21.** 450.10 (1) (a) 2. of the statutes is amended to read:

2 450.10 (1) (a) 2. Violating this chapter or, subject to s. 961.38 (4r), ch. 961 or
3 any federal or state statute or rule which substantially relates to the practice of the
4 licensee or registrant.

5 **SECTION 22.** 450.10 (1) (a) 3. of the statutes is amended to read:

6 450.10 (1) (a) 3. ~~Practicing~~ Engaging in the practice of pharmacy or practicing
7 as a pharmacy technician while the person's ability to practice is impaired by alcohol
8 or other drugs or physical or mental disability or disease.

9 **SECTION 23.** 450.10 (1) (a) 6. of the statutes is amended to read:

10 450.10 (1) (a) 6. Engaging in conduct in the practice of the licensee or registrant
11 ~~which that~~ evidences a lack of knowledge or ability to apply professional principles
12 or skills.

13 **SECTION 24.** 450.10 (1) (b) (intro.) of the statutes is amended to read:

14 450.10 (1) (b) (intro.) Subject to subch. II of ch. 111 and the rules adopted under
15 s. 440.03 (1), the board may reprimand the licensee or registrant or deny, revoke,
16 suspend, or limit the license or registration or any combination thereof of any person
17 licensed under this chapter who has:

18 **SECTION 25.** 450.10 (1) (b) 3. of the statutes is amended to read:

19 450.10 (1) (b) 3. Been found guilty of an offense the circumstances of which
20 substantially relate to the practice of the licensee or registrant.

21 **SECTION 26.** 450.10 (2) of the statutes is amended to read:

22 450.10 (2) In addition to or in lieu of a reprimand or denial, limitation,
23 suspension, or revocation of a license or registration under sub. (1), the board may,
24 for the violations enumerated under sub. (1), assess a forfeiture of not more than
25 \$1,000 for each separate offense. Each day of violation constitutes a separate offense.

SENATE BILL 778**SECTION 27**

1 **SECTION 27.** 450.10 (3) (a) 1. of the statutes is amended to read:

2 450.10 (3) (a) 1. A pharmacist or pharmacy technician licensed or registered
3 under this chapter.

4 **SECTION 28.** 450.11 (1b) (bm) of the statutes is amended to read:

5 450.11 (1b) (bm) A pharmacist, pharmacy technician, or other person
6 dispensing or delivering a drug shall legibly record the name on each identification
7 card presented under par. (b) to the pharmacist, pharmacy technician, or other
8 person, and the name of each person to whom a drug is dispensed or delivered subject
9 to par. (e) 2., and shall maintain that record for a time established by the board by
10 rule or, for a record that is subject to s. 961.385, until the name is delivered to the
11 controlled substances board under s. 961.385, whichever is sooner.

12 **SECTION 29.** 450.11 (1b) (d) of the statutes is amended to read:

13 450.11 (1b) (d) A pharmacist or pharmacy technician is immune from any civil
14 or criminal liability and from discipline under s. 450.10 for any act taken by the
15 pharmacist or pharmacy technician in reliance on an identification card that the
16 pharmacist reasonably believed was authentic and displayed the name of the person
17 to whom the drug was being delivered if the sale was made in good faith.

18 **SECTION 30.** 450.11 (1b) (e) 2. of the statutes is amended to read:

19 450.11 (1b) (e) 2. The pharmacist, pharmacy technician, or other person
20 dispensing or delivering the drug has personal knowledge of the person to whom the
21 drug is dispensed or delivered and that the person is the ultimate user or the ultimate
22 user's authorized representative.

23 **SECTION 31.** 450.11 (3) of the statutes is amended to read:

24 450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. Except as provided in sub. (1i)
25 (b) and ss. 118.2925 (4), 255.07 (3), and 450.076, no person other than a pharmacist

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1 or practitioner or their agents and employees as directed, supervised, and inspected
2 by the pharmacist or practitioner, including pharmacy technicians, may prepare,
3 compound, dispense, or prepare for delivery for a patient any prescription drug.

4 **SECTION 32.** 450.11 (7) (d) of the statutes is amended to read:

5 450.11 (7) (d) No person may, for the purpose of obtaining a prescription drug,
6 falsely assume the title of, or represent himself or herself to be, a manufacturer,
7 distributor, pharmacist, pharmacy technician, or practitioner.

8 **SECTION 33.** 450.11 (8) (a) of the statutes is amended to read:

9 450.11 (8) (a) The board, insofar as this section applies to pharmacists and
10 pharmacy technicians.

11 **SECTION 34.** 450.17 of the statutes is amended to read:

12 **450.17 Violations.** Each member of the board shall investigate and institute
13 actions for violations of this chapter by any person and for violation of ch. 961 by
14 pharmacists or pharmacy technicians. The district attorney of the proper county
15 shall promptly prosecute any such violation upon notice from any source.

16 **SECTION 35. Nonstatutory provisions.**

17 (1) The pharmacy examining board may promulgate emergency rules under s.
18 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2),
19 emergency rules promulgated under this subsection remain in effect until May 1,
20 2022, or the date on which permanent rules take effect, whichever is sooner.
21 Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to
22 provide evidence that promulgating a rule under this subsection as an emergency
23 rule is necessary for the preservation of the public peace, health, safety, or welfare
24 and is not required to provide a finding of emergency for a rule promulgated under
25 this subsection.

