american academy of pain management

Our Vision: No Life Limited by Pain

October 13, 2015

Assembly Committee on Health
Joe Sanfelippo, Chair
Wisconsin Assembly
Madison, Wisconsin

RE: Suggested amendments to AB 364, AB 365, AB 366, and AB 367

Dear Representative Sanfelippo and Members of the Committee:

I am writing on behalf of the American Academy of Pain Management to suggest amendments to AB 364, AB 365, AB 366, and AB 367, bills that relate to access to, and utilization of, the prescription monitoring information. The Academy recognizes the challenges involved in addressing two major public health crises, namely, inadequate treatment for pain, and prescription drug abuse, and to that end, has been heavily involved in both national and state-level efforts to address both health concerns. We are grateful to the State of Wisconsin for their efforts in addressing both public health crises.

In an effort to better enable health care providers to utilize prescription monitoring information in order to protect and improve the public welfare, we respectfully offer the following suggested amendments:

AB 364

As written, this bill would allow law enforcement agencies and prosecutorial agencies to obtain PMP reports by "making a written request for the record" if they are "engaged in an active and specific investigation or prosecution of a violation of any state or federal law involving a monitored prescription drug and the record being requested is reasonably related to that investigation or prosecution." We do not oppose law enforcement receiving PMP reports in such situations; however, in order to ensure appropriate privacy of patient records, these agencies should only be able to obtain PMP data after obtaining a court order rather than merely submitting a request. Mandating that law enforcement obtain an appropriate court order to access PMP data will ensure that one's highly personal medical history is treated with at least as much protection as their bank records.

We ask that you amend AB 364 to strike the language that states that these agencies must make "a written request" and replace it with language that requires the agency requesting PMP data to "present an appropriate court order."

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AB 365

Under this bill, if a law enforcement officer encounters a suspected controlled-substance violation involving certain prescription drugs or an opioid-related drug overdose or death, or a law enforcement officer receives a report of a stolen controlled-substance prescription, the officer must report certain identifying information about that suspected violation to his or her law enforcement agency, which the agency will then provide that information to the PMP. The program may then disclose information provided by the law enforcement agency to persons such as relevant practitioners and pharmacists.

The Academy is unaware of any other PMP in the nation that collects this type of information, and we are unsure how Wisconsin would build this functionality into its system, as doing so may be costly and/or technically challenging. **We respectfully advise that the Committee amend this bill so that it calls for an investigation as to the feasibility and cost of implementing these provisions.**

AB 366

This bill would require a physician or other health care provider at a pain clinic to review an individual's records on the prescription drug monitoring database prior to prescribing a pain medication.

In general, we believe it is a good thing for prescribers to check the PMP; however, this bill appears to require that this be done ***every time*** a prescription for pain medication is issued. Firstly, PMPs should be utilized when prescribing *any* controlled substance, not just pain medications, as medications like benzodiazepines and stimulants can be just as dangerous when mixed with other medications and can be just as abused, misused, or diverted. Furthermore, experience with PMPs indicates that obtaining and reading a report on a patient, even with the most efficient systems, takes 3-5 minutes. Given the number of prescriptions issued for controlled substances (opioids, but also benzodiazepines like Xanax, Valium, Klonopin, and Ativan, and stimulants used to treat ADHD), this would create unworkable backlogs in physician offices, and would very likely overwhelm the capacity of the prescription monitoring program to provide the millions of reports that would be required.

For these reasons, we oppose the bill as it is currently written. **We would be amenable to supporting an amendment to indicate that the PMP should be checked when the initial prescription for a controlled substance is issued, and periodically thereafter, no less frequently than every 6 months.** This new language should not be limited to only those practitioners seeing patients in a pain management clinic, nor should it be limited to pain medication.

In addition, while requiring that prescribers check the PMP is paramount, we encourage you to consider adding a requirement that pharmacists check the PMP with the same frequency as required for prescribers. Pharmacists may be privy to information that prescribers are not (including prescriptions that accidentally may have been mis-reported or unreported to the PMP), and may view the available information differently because of their personal knowledge of the patient. Adding required queries by pharmacists provides an additional safeguard that should help ensure that controlled substance prescriptions are used appropriately.

AB 367

This bill requires that before prescribing methadone, a physician or other health care provider authorized to prescribe methadone must review for treatment purposes an individual's records on the prescription drug monitoring database for other methadone or pain medication use.

As explained above, in regard to AB 366, required checks of the PMP for *every* prescription can cause unworkable backlogs in physician offices, and would very likely overwhelm the capacity of the prescription monitoring program. For these reasons, we oppose the bill as it is currently written. **We would be amenable to supporting an amendment to indicate that the PMP should be checked when the initial prescription for methadone is issued, and periodically thereafter, no less frequently than every 6 months.**

We thank you for your attention to these important issues, and we urge you to amend these bills as outlined above in order to strengthen Wisconsin's prescription monitoring program and improve the public welfare. I am happy to discuss this issue with you if necessary. Please feel free to contact me by email at btwillman@aapainmanage.org, or by telephone at 209-288-2210.

About the Academy: The American Academy of Pain Management is the premier organization for all clinicians who care for people with pain. It is the largest pain management organization in the nation and the only one that embraces, as part of its mission statement, an integrative model of care, which: is patient-centered; considers the whole person; encourages healthful lifestyle changes as part of the first line of treatment to restore wellness; is evidence-based; brings together all appropriate therapeutic approaches to reduce pain and achieve optimal health and healing; and, encourages a team approach.

Sincerely yours,

Robert Twillman, PhD

Robert Twillman, Ph.D., FAPM
Executive Director
American Academy of Pain Management

Cc: Representative John Nygren

STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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PREPARED TESTIMONY OF ATTORNEY GENERAL BRAD D. SCHIMEL

Support for Assembly Bill 364, Assembly Bill 365, Assembly Bill 366, and Assembly Bill 367
Assembly Committee on Health
Wednesday, October 14, 2015

Good morning Mr. Chairman and members of the Assembly Committee on Health. Thank you for this opportunity to testify on these four important bills: AB 364, AB 365, AB 366, and AB 367.

I am Wisconsin Attorney General Brad Schimel. Prior to becoming Attorney General, I served 25 years in the Waukesha County DA's Office. I am here today, not only in my official capacity as the leader of the Wisconsin Department of Justice, but as a concerned father, uncle, and community member.

Over the last decade, Wisconsin has seen a dramatic increase in the illegal use of opiates, both heroin and prescription painkillers. The National Household Survey on Drug Use and Health found that 4.3% of Wisconsin adults abuse opiates in some manner. That represents more than 163,000 people right here in our state!

Those members of the legislature who were serving last session know how much of an impact opiates have had on Wisconsinites in all corners of the state and I thank you again for unanimously passing the H.O.P.E. legislation. In recent years, the Wisconsin Department of Justice and the Wisconsin State Legislature have together made great progress in expanding availability and training for Narcan use, organizing drug take back days, enacting Good Samaritan laws, and encouraging and funding expansion of treatment courts.

These have been very important first steps in addressing our state's devastating opiate epidemic. However, rates of addiction and number of deaths are still on the rise in Wisconsin. Looking back to 2000, we saw opiate overdose deaths more than quadruple, and in the past decade, they increased by more than 250%. Just last month, the Wisconsin Department of Health Services released additional data that show that a drug overdose is now the leading cause of accidental death in Wisconsin. More than from motor vehicle crashes, breast cancer, colon cancer, influenza, or HIV.

If we saw deaths from any of those causes rise so dramatically, we would do something about it. Perhaps even things that might sound a bit crazy.

Beyond the deaths and destruction directly caused by abuse of opiates, it is also driving dramatic increases in virtually every other type of crime as addicts desperately try to find ways to support their habit: theft, burglary, robbery, identity theft, prostitution and opiates are even often linked to human trafficking.

In fact, Wisconsin is now number two in the nation for pharmacy robberies nationwide. Not per capita. In raw numbers. We have more than California, New York, Florida or Texas. The only other state ahead of us is Indiana, another wholesome Midwestern state.

This addiction is affecting every community in Wisconsin; rural, suburban and urban. There has, rightly, been a great deal of concern in Wisconsin about heroin in our state, but prescription painkillers play a role in the deaths of more people than heroin and cocaine combined.

Even more shocking, nearly 4 of 5 heroin addicts started by first becoming addicted to prescription painkillers. Without prescription opiate abuse, we might not be talking about heroin at all.

This presents us with a great opportunity. Heroin is in our state because there is a tremendous demand for it. The numbers demonstrate, though, that if we can reduce the abuse of prescription opiates, we can greatly reduce the demand for heroin. We cannot continue to allow these potentially dangerous drugs to be diverted for abuse. I'm glad to see the Wisconsin State Legislature, under Representative Nygren's leadership, address the challenges of prescription drug diversion and abuse with these four new laws. These pieces of legislation will help put Wisconsin on the right track.

Assembly Bill 364

Under current Wisconsin law, pharmacists have up to seven days to report prescriptions being filled, giving addicts the ability to "doctor shop" before the prior prescription shows up on the Prescription Drug Monitoring Program, or PDMP, site. Law enforcement and the medical community have seen countless addicts game the system by obtaining prescription opiates from several different doctors within a couple days, without any of the doctors able to know that the patient is receiving prescriptions from other prescribers.

Assembly Bill 364, and its companion, SB 268, will bring our state's Prescription Drug Monitoring Program or PDMP in line with many neighboring states, by requiring pharmacists to report prescriptions within 24 hours. This will help

prevent improper access to potentially deadly drugs.

Assembly Bill 365
Physicians will not be able to win this fight alone and have already begun a multi-disciplinary approach, teaming up with pharmacists, law enforcement, educators, and other members of the community to raise awareness about and put an end to the abuse of these deadly drugs. Currently, when a law enforcement officer is conducting an overdose investigation and comes across a pill bottle, he or she does not have the ability to contact the prescribing physician through the PDMP. Assembly Bill 365, and its companion, SB 269, strengthen the collaboration between doctors and law enforcement by allowing law enforcement to notify prescribing doctors through the PDMP when they believe drugs those doctors prescribed resulted in an overdose or abuse being investigated.

Assembly Bill 366
In Wisconsin, certain types of "pain clinics," institutions that prescribe highly addictive prescription painkillers, often without demonstrable patient need, have little supervision. Assembly Bill 366, and its companion, SB 272, will put safeguards in place to have additional oversight by the Department of Health Services and will ensure proper guidelines are in place and strictly adhered to.

Assembly Bill 367
Similarly, Methadone Clinics operating in our state may provide effective treatment to some patients, but little information is collected and shared with authorities, making a full assessment of the clinics' effectiveness in helping addicts stay sober essentially impossible. Assembly Bill 367, and its companion, SB 271, will allow the Department of Health Services to collect data from methadone clinics and requires an annual report to ensure it is being used in an effective way.

Conclusion
The Wisconsin Department of Justice and law enforcement statewide will continue our enforcement efforts. In fact, we have ramped them up, but we cannot arrest our way out of this public health crisis. The Department of Health Services and treatment community will also not be able to address the need to treat tens of thousands of people addicted to opiates. The resources are simply not adequate enough to address the need. These efforts need to be combined with pervasive and powerful prevention efforts. To that end, the Wisconsin Department of Justice and Department of Health Services have kicked off a large-scale prevention campaign to address prescription painkiller abuse. The Wisconsin Hospital Association, the Wisconsin Dental Association, the Wisconsin Medical Society, the Wisconsin Pharmacy Society, and other medical providers have partnered with us to develop the important message presented by this campaign and have also taken steps to educate their members on the dangers of opiate abuse. I am thrilled that the Wisconsin State Legislature is continues to support these efforts to prevent

additional Wisconsinites from being harmed by abuse of these drugs which are demonstrated to be very dangerous when used improperly.

Thank you for allowing me the time today to address this body. I am happy to take questions.

John Nygren
WISCONSIN STATE REPRESENTATIVE ★ 89TH ASSEMBLY DISTRICT

HOPE Agenda Testimony
State Rep. John Nygren
October 14, 2015

Thank you Chair Sanfelippo and members of the Committee on Health for holding a public hearing on Assembly Bills 364, 365, 366 and 367.

Last year, my colleagues in the legislature and I passed a package of seven bills aimed at combating our state's heroin epidemic. We called this package the Heroin, Opiate Prevention and Education – or HOPE -- Agenda. With unanimous bipartisan support and Governor Walker's signature, we successfully laid a foundation to fight heroin and opiate addiction in Wisconsin.

This session, our goal is to address what many people believe to be the root of our state's heroin problem: prescription drug abuse and addiction. Studies show that, in many cases, heroin addiction begins with an addiction to prescription painkillers. Whether these medications are obtained legally or not, we need to do our best to curtail the illegal use of these dangerous substances. It is for this reason that I am offering additional HOPE Agenda bills that are aimed at fighting prescription drug abuse in Wisconsin.

These proposals focus on our state's prescription drug monitoring program (PDMP), methadone clinics, and pain clinics. The goal of these bills is to stop the abuse of prescription medications before it begins; these proposals will help doctors and pharmacists stay on top of their prescribing and dispensing practices, identify patients who attempt to "doctor shop," and ultimately reduce the number of Wisconsinites who become addicted to prescription opiates.

It's important to note that these proposals won't prevent the legitimate use of prescription medications. Instead, these proposals help prescribers and dispensers collect data in order to better identify instances of scheduled drug abuse. I'm proud that we're taking steps in the right direction to fight Wisconsin's heroin and opiate epidemic, and I look forward to continuing to work with my colleagues, the medical community, law enforcement, and advocacy groups on this effort.

I appreciate the opportunity to testify before your committee today on these important pieces of legislation and welcome any questions you may have at this time.

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Rep.Nygren@legis.wi.gov

To: The Assembly Committee on Health

From: Guy DuBeau
Counsel for the Wisconsin Society of Anesthesiologists

Date: October 14, 2015

RE: AB366 – Pain Clinic Certification

I would like to thank the Committee for this opportunity to be heard on this important piece of legislation and give special thanks to Representative Nygren for his work on the H.O.P.E. bills. I am counsel for the Wisconsin Society of Anesthesiologists (the Society). I am also honored to represent a number of health care provider specialty groups and while they have not asked that I appear on their behalves here, the work I have done for them helps me realize how significant and far reaching this legislation is.

As I believe the Committee knows, pain medicine is a boarded subspecialty of Anesthesiology. It is the Society's desire that those who hold themselves out as practicing in this area adhere to the highest standards of patient care. We share the goal of seeing pain medications only be prescribed responsibly and in a manner that does not lead to dependence.

The Society has reviewed the initial drafts of the bill, specifically the definition of "pain clinic" and has identified some issues that may interfere with its chances to be passed and its efficacy if passed. I would like to identify those issues here and ask that you accept them in the spirit in which they are intended.

The Society is concerned by the definition of "pain clinic" initially proposed in s. 50.60. As worded, the definition of pain clinic hinges on the question of whether patients are prescribed certain drugs. First, this definition does not comport with the medical community's understanding of what is a pain clinic. Perhaps more importantly, it would potentially capture every general practice clinic in the state. It is not uncommon for general practitioners to quite legitimately have long-term patients in their care who receive chronic pain management drugs. By making the definition of pain clinic hinge on what drugs individual patients receive, this creates a record keeping requirement on the front end to know if one's clinic even qualifies as a pain clinic (or demonstrate that one does not). Because of the scope of this perceived administrative

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burden, the Society fears general practice clinics would resist these efforts for that reason alone.

Society members are the physicians who oversee the operations of clinics typically thought of as "pain clinics." The Society favors a definition of "pain clinic" that mirrors the industry understanding of that term. Specifically, we believe a "pain clinic" would be defined as a place where health care professionals practice, or advertise that they practice, "pain medicine" in order to address "pain syndromes." These are concepts recognized in the industry which have specific, generally agreed upon meanings. The Society believes such a definition will capture the "pill mills" the legislation is designed to address. It will incorporate concepts that have meaning in medical parlance and will dramatically reduce the front end administrative burden on uninvolved clinics, making ultimate passage of this important legislation more likely.

The Society appreciates your consideration of these thoughts and stands ready to assist in any manner where Representative Nygren or other members of the Committee might feel its expertise is useful.

Respectfully submitted,

Guy DuBeau on behalf of the Wisconsin Society of Anesthesiologist

Partner
Chair, Litigation Practice Group

THE WISCONSIN SOCIETY OF ANESTHESIOLOGISTS, INCORPORATED

TO: Assembly Committee on Health

FROM: Joshua Sebranek, MD, President
Wisconsin Society of Anesthesiologists

DATE: October 13, 2015

RE: AB 366 – Pain Clinic Certification

As a specialty medical society counting Pain Medicine specialists among our members, we thank you for the opportunity to provide testimony in regard to AB 366 – Pain Clinic Certification. We applaud and encourage Representative Nygren's efforts as author of this bill and other H.O.P.E. legislation, and look forward to continuing to work with him and other interested lawmakers to fight the scourge of heroin and other illegally used drugs.

Pain Medicine is a highly advanced sub-specialty of the medical specialty Anesthesiology. Pain Medicine physicians are among the most highly trained physicians in the world. After college, they complete medical school, a general residency, specialized residency training in Anesthesiology and finally fellowship training specifically in Pain Medicine before being eligible to sit for Board Certification in the sub-specialty.

Pain Medicine is much more complex than simply the treatment of pain by prescription pills. Treatment of severe or chronic pain may involve the long-term prescription of narcotic or opioid medications. Our members recognize all too well that these medications can lead to drug dependence if not properly prescribed and monitored, and can be diverted to the black market if prescribed to the wrong individuals. But true pain medicine also involves the administration of intravenous nerve agents with x-ray and fluoroscopic assistance, implantation of surgical devices, and even the delivery of powerful medications directly into the nervous system to impair targeted nerves. Knowing how to choose among and integrate these therapies is what our members know how to do.

We understand and support the intent of AB 366 – to provide state monitoring of those clinics that hold themselves out as pain medicine specialty clinics – and help prevent the spread of so-called "pill mills." We are concerned that the definition of "pain clinic" in AB 366 is so broad as to require oversight of many more clinics than we believe the author intends. Narcotic and opioid medications can be prescribed by any licensed physician, but a Family Physician or surgeon or Ophthalmologist prescribing a limited supply is not practicing "Pain Medicine" or operating a "Pain Clinic." Some general practitioners assume responsibility for managing chronic pain medications for patients they have known for years; again a situation likely not the intended target of AB 366. Yet , we believe the current definitions in AB 366 would capture all of these.

In addition, because medical specialties or sub-specialties are rarely, if ever, defined in Wisconsin law, we are always concerned with attempts to do so because of the unforeseen consequences for quality of care, access to care, reimbursement and patient safety that may result from a definition that is too narrow or too broad or

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simply inaccurate. This is, however, a most worthy cause and reason for attempting to codify Pain Medicine, and we are eager to help create an accurate and appropriate definition that will allow Wisconsin to properly monitor for "pill mills", but do so without inadvertently subjecting to monitoring a vast array of more general clinics and medical practices and without unintentionally impacting Pain Medicine practice and care negatively. We look forward to continuing to work with Representative Nygren in this regard.

Respectfully submitted,

Joshua Sebranek, MD, President
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Alberta Darling

Wisconsin State Senator

Co-Chair, Joint Committee on Finance

Continuing the HOPE Agenda:

Testimony on Assembly Bill 367/Senate Bill 271 and Assembly Bill 366/Senate Bill 272

Assembly Committee on Health

October 14, 2015

Thank you Chair Sanfelippo and members of the Assembly Committee on Health for your willingness to continue our bipartisan effort to confront Wisconsin's heroin epidemic. With the help of this Committee, the Legislature unanimously passed seven bills last session that are the cornerstone of our HOPE agenda. Representative Nygren is the driving force behind these bills and their attempt to curb one of the root causes of heroin addiction – prescription drug abuse. I would like to thank my friend Rep. Nygren for his leadership.

As you may already know, heroin addictions often begin with prescription drugs administered for legitimate medical reasons. Many addicted individuals turn to heroin when the prescription drugs become too complicated to obtain or too expensive. The two bills I co-authored will curtail the abuse of prescription drugs with the hope that fewer people will become addicted.

I am proud to co-author AB 367/SB 271 and AB 366/SB272. AB 367/SB 271 attempts to acquire more information on methadone clinics around the state. Methadone is itself a prescription drug that can be used to combat narcotic drug addiction by reducing the withdrawal symptoms. Clinics are located throughout the state, are for-profit, and receive Medicaid reimbursement. The bill simply asks methadone clinics to gather data that public health experts and treatment professionals would find useful in studying and analyzing trends in the epidemic and using that data to find new ways to combat addiction. The data collected would include the treatment program's plan for tapering individuals off of methadone, the number of doses that individuals carry out of the facility, the ratio of treatment program staff, the number of individuals who are receiving behavioral health services in conjunction with the methadone treatment, and the average mileage that an individual has to travel to receive the treatment. The data would be provided to DHS in a way that would ensure privacy for individuals receiving treatment. Finally, the bill asks health care providers at methadone clinics to review the Prescription Drug Monitoring Program for other methadone or pain medication use.

AB 366 / SB 272 preempts the possibility of "pill mills" in Wisconsin. It would give the Department of Health Services oversight over the operation of pain management clinics across the state. These clinics serve a role in our health care system but can sometimes be operated by unsavory characters that care more about their bottom-line than the well-being of their patients. This bill helps to balance the safety of our citizens while preserving an open marketplace for clinics that serve a real need for those in chronic pain.

The medical community in Wisconsin is second to none. I stand in awe of the superb care they give to Wisconsinites and I have no interest in curtailing the operations of those who uphold their oath. These bills will have very little impact on these honest professionals.

I urge the Committee to support the continuation of the HOPE agenda today. In doing so, I want to emphasize that every precaution has been taken to ensure that individuals who need these medications will not be prohibited from obtaining them. We have just begun to combat prescription drug abuse in our state. It is my strong belief – that together – we can reduce the number of Wisconsinites who are swept up in this tragic epidemic.