



2021 ASSEMBLY BILL 281

April 20, 2021 - Introduced by Representatives HORLACHER, BOWEN, BROOKS, CABRAL-GUEVARA, DITTRICH, DUCHOW, GUNDRUM, HONG, MAGNAFICI, MOSES, MURPHY, ROZAR, SCHRAA, SKOWRONSKI, SUBECK and WICHGERS, cosponsored by Senators BERNIER, RINGHAND and TESTIN. Referred to Committee on Health.

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), 450.035 (2h), 450.035 (2i) (a) and (b), 450.035 (3), 450.035 (4), 450.062
4 (intro.), 450.08 (1), 450.08 (2) (b), 450.10 (1) (a) 1., 450.10 (1) (a) 2., 450.10 (1)
5 (a) 3., 450.10 (1) (a) 6., 450.10 (1) (b) (intro.), 450.10 (1) (b) 3., 450.10 (2), 450.10
6 (3) (a) 1., 450.11 (1b) (bm), 450.11 (1b) (d), 450.11 (1b) (e) 2., 450.11 (3), 450.11
7 (7) (d), 450.11 (8) (a) and 450.17; *to repeal and recreate* 146.89 (1) (r) 4. and
8 450.08 (title); and *to create* 440.03 (13) (b) 48m., 440.08 (2) (a) 56m., 450.01
9 (15g), 450.01 (16c), 450.02 (2) (b), 450.03 (1) (gm) and 450.068 of the statutes;
10 **relating to:** registration of pharmacy technicians, extending the time limit for
11 emergency rule procedures, providing an exemption from emergency rule
12 procedures, and granting 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

ASSEMBLY BILL 281

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, 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 engaging in the practice of 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 the activities that constitute the practice 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:

ASSEMBLY BILL 281

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 (16c) of the statutes is created to read:

14 450.01 (16c) "Practice of a pharmacy technician" means any of the following:

15 (a) The activities specified in rules promulgated by the board under s. 450.02
16 (2) (b).

17 (b) Administering vaccines or drugs as authorized under s. 450.035.

18 **SECTION 9.** 450.01 (21e) (a) of the statutes is amended to read:

19 450.01 (21e) (a) An action by a pharmacist or pharmacy technician with respect
20 to a prescription drug that the pharmacist or pharmacy technician is dispensing.

21 **SECTION 10.** 450.02 (2) of the statutes is renumbered 450.02 (2) (intro.) and
22 amended to read:

23 450.02 (2) (intro.) The board shall adopt promulgate rules defining to do all of
24 the following:

ASSEMBLY BILL 281**SECTION 10**

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

3 **SECTION 11.** 450.02 (2) (b) of the statutes is created to read:

4 450.02 **(2)** (b) Define the activities that constitute the practice of a pharmacy
5 technician for purposes of the registration requirement under s. 450.068.

6 **SECTION 12.** 450.02 (3) (f) of the statutes is amended to read:

7 450.02 **(3)** (f) Establishing procedures for identifying pharmacists and
8 pharmacy technicians impaired by alcohol or other drugs or physical or mental
9 disability or disease and for assisting those pharmacists and pharmacy technicians
10 in obtaining treatment.

11 **SECTION 13.** 450.03 (1) (e) of the statutes is amended to read:

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

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

20 450.03 **(1)** (gm) A person who has applied for a registration under s. 450.068
21 and whose practice as a pharmacy technician is limited to performing duties under
22 the direct supervision of a person licensed as a pharmacist by the board and during
23 the period before which the board takes final action on the person's application.

24 **SECTION 15.** 450.03 (1) (i) of the statutes, as affected by 2021 Wisconsin Act 3,
25 is amended to read:

ASSEMBLY BILL 281

1 450.03 (1) (i) Any person, ~~other than a pharmacy technician,~~ who is providing
2 services, ~~including administering vaccines or drugs as authorized under s. 450.035,~~
3 as directed, supervised, and inspected by a pharmacist who has the power to direct,
4 decide, and oversee the implementation of the services rendered, subject to any rules
5 promulgated by the board and subject to s. 450.035 (2m).

6 **SECTION 16.** 450.035 (2h) of the statutes, as created by 2021 Wisconsin Act 3,
7 is amended to read:

8 450.035 (2h) (a) ~~A person engaged in the practice of pharmacy under s. 450.03~~
9 ~~(1) (i)~~ pharmacy technician may not administer a vaccine unless all of the following
10 are satisfied:

11 1. ~~The person~~ pharmacy technician has successfully completed at least 2 hours
12 in a course of study and training, approved by the Accreditation Council for
13 Pharmacy Education or the board, in hands-on injection technique and the
14 recognition and treatment of emergency reactions to vaccines.

15 2. ~~The person~~ pharmacy technician acts under the direct supervision of a
16 pharmacist and the supervising pharmacist has successfully completed a course of
17 study and training specified in sub. (2) and has satisfied the requirements specified
18 in sub. (2t).

19 3. ~~The person~~ pharmacy technician holds a current certification in basic life
20 support or cardiopulmonary resuscitation.

21 4. ~~The person~~ pharmacy technician holds a certified pharmacy technician
22 certification from either the Pharmacy Technician Certification Board, or its
23 successor organization, or the National Healthcareer Association, or its successor
24 organization.

ASSEMBLY BILL 281**SECTION 16**

1 (b) A ~~person engaged in the practice of pharmacy under s. 450.03 (1) (i)~~
2 pharmacy technician may not administer a vaccine under this subsection to a person
3 who is under the age of 6.

4 **SECTION 17.** 450.035 (2i) (a) and (b) of the statutes, as affected by 2021
5 Wisconsin Act 3, are amended to read:

6 450.035 **(2i)** (a) Subject to subs. (2), (2g), and (2h), a pharmacist, a pharmacy
7 technician, or a person engaged in the practice of pharmacy under s. 450.03 (1) (f),
8 (fm), or (g), ~~or~~ (i) may administer without a prescription order any vaccine listed in
9 the current immunization schedules recommended by the federal advisory
10 committee on immunization practices and published by the federal centers for
11 disease control and prevention.

12 (b) Subject to subs. (2), (2g), and (2h), a pharmacist, a pharmacy technician, or
13 a person engaged in the practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), ~~or~~
14 (i) may initiate and administer any vaccine not listed in the current immunization
15 schedules recommended by the federal advisory committee on immunization
16 practices and published by the federal centers for disease control and prevention if
17 the vaccine is administered pursuant to a prescription order, vaccination protocol,
18 or standing order.

19 **SECTION 18.** 450.035 (3) of the statutes, as affected by 2021 Wisconsin Act 3,
20 is amended to read:

21 450.035 **(3)** A pharmacist, a pharmacy technician, or a person engaged in the
22 practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), ~~or~~ (i) who successfully
23 completes a course of study and training specified in sub. (1r), (1t), (2), (2g), or (2h),
24 or holds a certification under sub. (2h), shall maintain proof of completion or holding

ASSEMBLY BILL 281

1 the certification and, upon request, provide copies of such proof to the department
2 or the board.

3 **SECTION 19.** 450.035 (4) of the statutes, as affected by 2021 Wisconsin Act 3,
4 is amended to read:

5 450.035 (4) A pharmacist, pharmacy technician, or person engaged in the
6 practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), ~~or (i)~~ who administers a
7 vaccine to a person under this section shall update, or cause a pharmacy to update,
8 the Wisconsin Immunization Registry established by the department of health
9 services within 7 days of administering the vaccine.

10 **SECTION 20.** 450.062 (intro.) of the statutes is amended to read:

11 **450.062 Remote dispensing.** (intro.) Pursuant to rules promulgated by the
12 board, a pharmacist, a pharmacy technician, or a person engaged in the practice of
13 pharmacy under s. 450.03 (1) (f), (g), or (i) may dispense at any of the following
14 locations:

15 **SECTION 21.** 450.068 of the statutes is created to read:

16 **450.068 Pharmacy technicians; registration.** (1) No person may engage
17 in the practice of a pharmacy technician or use the title “pharmacy technician” or
18 “pharmacy tech” unless the person is registered as a pharmacy technician by the
19 board.

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

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

24 1. The applicant’s home address.

ASSEMBLY BILL 281**SECTION 21**

1 2. If the applicant is employed, the name and address of the applicant's
2 employer, and the applicant's place of employment.

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

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

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

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

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

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

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

21 **SECTION 22.** 450.08 (title) of the statutes is repealed and recreated to read:

22 **450.08** (title) **Credential renewals.**

23 **SECTION 23.** 450.08 (1) of the statutes is amended to read:

24 450.08 (1) The renewal date dates for all licenses and registrations granted by
25 the board is are specified under s. 440.08 (2) (a). Except as provided under sub. (2)

ASSEMBLY BILL 281

1 (a), only a holder of an unexpired license or registration may engage in his or her
2 licensed activity.

3 **SECTION 24.** 450.08 (2) (b) of the statutes is amended to read:

4 450.08 (2) (b) A pharmacy, pharmacy technician's, manufacturer's,
5 distributor's, or home medical oxygen provider's license or registration may be
6 renewed by paying the applicable fee determined by the department under s. 440.03
7 (9) (a) on or before the applicable renewal date specified under s. 440.08 (2) (a).

8 **SECTION 25.** 450.10 (1) (a) 1. of the statutes is amended to read:

9 450.10 (1) (a) 1. Making any materially false statement or giving any
10 materially false information in connection with an application for a license or
11 registration or for renewal or reinstatement of a license or registration.

12 **SECTION 26.** 450.10 (1) (a) 2. of the statutes is amended to read:

13 450.10 (1) (a) 2. Violating this chapter or, subject to s. 961.38 (4r), ch. 961 or
14 any federal or state statute or rule which substantially relates to the practice of the
15 licensee or registrant.

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

17 450.10 (1) (a) 3. ~~Practicing~~ Engaging in the practice of pharmacy or practicing
18 as a pharmacy technician while the person's ability to practice is impaired by alcohol
19 or other drugs or physical or mental disability or disease.

20 **SECTION 28.** 450.10 (1) (a) 6. of the statutes is amended to read:

21 450.10 (1) (a) 6. Engaging in conduct in the practice of the licensee or registrant
22 ~~which~~ that evidences a lack of knowledge or ability to apply professional principles
23 or skills.

24 **SECTION 29.** 450.10 (1) (b) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 281**SECTION 29**

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

5 **SECTION 30.** 450.10 (1) (b) 3. of the statutes is amended to read:

6 450.10 (1) (b) 3. Been found guilty of an offense the circumstances of which
7 substantially relate to the practice of the licensee or registrant.

8 **SECTION 31.** 450.10 (2) of the statutes is amended to read:

9 450.10 (2) In addition to or in lieu of a reprimand or denial, limitation,
10 suspension, or revocation of a license or registration under sub. (1), the board may,
11 for the violations enumerated under sub. (1), assess a forfeiture of not more than
12 \$1,000 for each separate offense. Each day of violation constitutes a separate offense.

13 **SECTION 32.** 450.10 (3) (a) 1. of the statutes is amended to read:

14 450.10 (3) (a) 1. A pharmacist or pharmacy technician licensed or registered
15 under this chapter.

16 **SECTION 33.** 450.11 (1b) (bm) of the statutes is amended to read:

17 450.11 (1b) (bm) A pharmacist, pharmacy technician, or other person
18 dispensing or delivering a drug shall legibly record the name on each identification
19 card presented under par. (b) to the pharmacist, pharmacy technician, or other
20 person, and the name of each person to whom a drug is dispensed or delivered subject
21 to par. (e) 2., and shall maintain that record for a time established by the board by
22 rule or, for a record that is subject to s. 961.385, until the name is delivered to the
23 controlled substances board under s. 961.385, whichever is sooner.

24 **SECTION 34.** 450.11 (1b) (d) of the statutes is amended to read:

ASSEMBLY BILL 281

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

6 **SECTION 35.** 450.11 (1b) (e) 2. of the statutes is amended to read:

7 450.11 **(1b)** (e) 2. The pharmacist, pharmacy technician, or other person
8 dispensing or delivering the drug has personal knowledge of the person to whom the
9 drug is dispensed or delivered and that the person is the ultimate user or the ultimate
10 user's authorized representative.

11 **SECTION 36.** 450.11 (3) of the statutes is amended to read:

12 450.11 **(3)** PREPARATION OF PRESCRIPTION DRUGS. Except as provided in sub. (1i)
13 (b) and ss. 118.2925 (4), 255.07 (3), and 450.076, no person other than a pharmacist
14 or practitioner or their agents and employees as directed, supervised, and inspected
15 by the pharmacist or practitioner, including pharmacy technicians, may prepare,
16 compound, dispense, or prepare for delivery for a patient any prescription drug.

17 **SECTION 37.** 450.11 (7) (d) of the statutes is amended to read:

18 450.11 **(7)** (d) No person may, for the purpose of obtaining a prescription drug,
19 falsely assume the title of, or represent himself or herself to be, a manufacturer,
20 distributor, pharmacist, pharmacy technician, or practitioner.

21 **SECTION 38.** 450.11 (8) (a) of the statutes is amended to read:

22 450.11 **(8)** (a) The board, insofar as this section applies to pharmacists and
23 pharmacy technicians.

24 **SECTION 39.** 450.17 of the statutes is amended to read:

