



2021 ASSEMBLY BILL 295

May 3, 2021 - Introduced by Representatives MURPHY, BRANDTJEN, GUNDRUM, HORLACHER, MILROY, MURSAU, NOVAK, TITTL, SKOWRONSKI and THIESFELDT, cosponsored by Senators FEYEN, BALLWEG, CARPENTER and FELZKOWSKI. Referred to Committee on Health.

1 **AN ACT** *to repeal* 450.062 (intro.); *to renumber* 450.062 (1) to (4); *to renumber*
2 *and amend* 450.09 (2); *to amend* 450.06 (1), 450.06 (2) (b), 450.06 (2m), 450.09
3 (1) (a) and 450.09 (2) (title); and *to create* 450.01 (11o), 450.01 (21c), 450.02 (5),
4 450.03 (1) (L) and 450.09 (2) (b) of the statutes; **relating to:** licensing and
5 regulation of pharmacies and remote dispensing sites under the pharmacy
6 practice law, the practice of pharmacy, extending the time limit for emergency
7 rule procedures, providing an exemption from rule-making procedures, and
8 granting rule-making authority.

Analysis by the Legislative Reference Bureau

Generally, under current law, no pharmacist may dispense at any location in this state that is not licensed as a pharmacy by the Pharmacy Examining Board, except that a pharmacist may, pursuant to rules promulgated by the board, dispense at certain specifically identified types of locations that are not licensed as pharmacies, which include health care facilities, health care provider offices or clinics, and jails and other adult and juvenile correctional or residential facilities.

This bill provides instead that a pharmacist may dispense at one of those locations only if the location is licensed by the board as a pharmacy. The bill requires this kind of pharmacy to adhere to a number of requirements that apply to other

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pharmacies, including the requirement for a managing pharmacist to be designated for the pharmacy. However, the bill allows this kind of pharmacy to be operated as a remote dispensing site, in which case a pharmacist is not required to be present at the pharmacy but must supervise it remotely. The bill also allows the board to promulgate rules governing pharmacies operated as remote dispensing sites, which may exempt pharmacies operated as remote dispensing sites from rules that apply to other pharmacies.

This bill exempts a person who is providing services as directed, supervised, and inspected by certain medical professionals from the requirement to be licensed as a pharmacist by the board while the person is providing the services at a narcotic treatment service for opiate addiction or a free and charitable clinic, as defined in the bill.

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.** 450.01 (11o) of the statutes is created to read:

2 450.01 **(11o)** “Free and charitable clinics” means health care organizations
3 that use a volunteer and staff model to provide health services to uninsured,
4 underinsured, underserved, economically and socially disadvantaged, and
5 vulnerable populations and that meet all of the following criteria:

6 (a) The organizations are nonprofit and tax exempt or are a part of a larger
7 nonprofit, tax-exempt organization.

8 (b) The organizations are located in this state or serve residents in this state.

9 (c) The organizations restrict eligibility to receive services to individuals who
10 are uninsured, underinsured, or have limited or no access to primary, specialty, or
11 prescription care.

12 (d) The organizations provide one or more of the following services:

13 1. Medical care.

14 2. Mental health care.

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1 3. Dental care.

2 4. Prescription medications.

3 (e) The organizations use volunteer health care professionals, nonclinical
4 volunteers, and partnerships with other health care providers to provide the services
5 under par. (d).

6 (f) The organizations are not federally qualified health centers as defined in 42
7 USC 1396d (1) (2) and do not receive reimbursement from the federal centers for
8 medicare and medicaid services under a federally qualified health center payment
9 methodology.

10 **SECTION 2.** 450.01 (21c) of the statutes is created to read:

11 450.01 **(21c)** “Remote dispensing site” means a pharmacy governed by s. 450.09
12 (2) (b) 2.

13 **SECTION 3.** 450.02 (5) of the statutes is created to read:

14 450.02 **(5)** The board may promulgate rules governing pharmacies that are
15 operated as remote dispensing sites. Rules promulgated under this subsection may
16 exempt pharmacies operated as remote dispensing sites from requirements
17 governing pharmacies that are not operated as remote dispensing sites.

18 **SECTION 4.** 450.03 (1) (L) of the statutes is created to read:

19 450.03 **(1) (L)** A person who is providing services as directed, supervised, and
20 inspected by a person described in par. (e) in any of the following settings:

21 1. A narcotic treatment service for opiate addiction, as defined in s. 51.4224 (1)
22 (a).

23 2. A free and charitable clinic.

24 **SECTION 5.** 450.06 (1) of the statutes is amended to read:

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1 450.06 (1) ~~Except as provided in s. 450.062, no~~ No pharmacist or person
2 engaged in the practice of pharmacy under s. 450.03 (1) (f), (g), or (i) may dispense
3 at any location in this state that is not licensed as a pharmacy by the board. No
4 person in this state may use or display the title “pharmacy,” “drugstore,”
5 “apothecary,” or any other title, symbol, or insignia having the same or similar
6 meanings, except for a place of practice which is licensed under this section as a
7 pharmacy by the board.

8 **SECTION 6.** 450.06 (2) (b) of the statutes is amended to read:

9 450.06 (2) (b) The location of the pharmacy is inspected in a manner approved
10 by the board and found to meet all the requirements of this chapter.

11 **SECTION 7.** 450.06 (2m) of the statutes is amended to read:

12 450.06 (2m) The board may request, ~~but may not require,~~ that practice-related
13 information be submitted on the application under sub. (2) (a).

14 **SECTION 8.** 450.062 (intro.) of the statutes is repealed.

15 **SECTION 9.** 450.062 (1) to (4) of the statutes are renumbered 450.09 (2) (b) 1.

16 a. to d.

17 **SECTION 10.** 450.09 (1) (a) of the statutes is amended to read:

18 450.09 (1) (a) Every pharmacy shall be under the control of the managing
19 pharmacist who signed the pharmacy license application, the most recent license
20 renewal application or the most recent amended schedule of operations. The
21 managing pharmacist shall be responsible for the professional operations of the
22 pharmacy. A pharmacist may be the managing pharmacist of not more than one
23 community and one institutional pharmacy at any time and shall be engaged in the
24 practice of pharmacy at each location he or she supervises. The board shall by rule
25 define community pharmacy and institutional pharmacy for the purposes of this

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1 section, but a pharmacy that is operated exclusively as a remote dispensing site shall
2 not be considered a community pharmacy or institutional pharmacy for the purposes
3 of this paragraph.

4 **SECTION 11.** 450.09 (2) (title) of the statutes is amended to read:

5 450.09 (2) (title) ~~PRESENCE OF~~ SUPERVISION BY PHARMACIST.

6 **SECTION 12.** 450.09 (2) of the statutes is renumbered 450.09 (2) (a) and
7 amended to read:

8 450.09 (2) (a) No pharmaceutical service may be provided to any person unless
9 a pharmacist is present in the pharmacy to provide or supervise the service, except
10 as provided in par. (b).

11 **SECTION 13.** 450.09 (2) (b) of the statutes is created to read:

12 450.09 (2) (b) 1. A pharmacist is not required to be present in a pharmacy if the
13 pharmacy is any of the following locations:

14 2. Whenever a pharmacist is not present at the pharmacy when allowed under
15 subd. 1., all of the following shall apply:

16 a. The pharmacy shall be considered a remote dispensing site and shall be
17 subject to and governed by any rules promulgated under s. 450.02 (5).

18 b. A pharmacist shall remotely supervise the pharmaceutical services
19 provided, consistent with any rules promulgated under s. 450.02 (5).

20 **SECTION 14. Nonstatutory provisions.**

21 (1) The pharmacy examining board may promulgate emergency rules under s.
22 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2),
23 emergency rules promulgated under this subsection remain in effect until May 1,
24 2024, or the date on which permanent rules take effect, whichever is sooner.
25 Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to

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1 provide evidence that promulgating a rule under this subsection as an emergency
2 rule is necessary for the preservation of the public peace, health, safety, or welfare
3 and is not required to provide a finding of emergency for a rule promulgated under
4 this subsection.

5 **SECTION 15. Effective dates.** This act takes effect on the first day of the 7th
6 month beginning after publication, except as follows:

7 (1) SECTION 14 (1) of this act takes effect on the day after publication.

8 (END)