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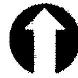


(FORM UPDATED: 08/11/2010)

# WISCONSIN STATE LEGISLATURE ...
# PUBLIC HEARING - COMMITTEE RECORDS

## 2009-10
(session year)

## Senate
(Assembly, Senate or Joint)

## Committee on ... Health, Health Insurance, Privacy, Property Tax Relief, and Revenue (SC-HHIPPTRR)

## COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

## INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)

## Senate

## Record of Committee Proceedings

# Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

**Assembly Bill 227**

Relating to: directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority.

By Representatives Sherman, Townsend, Benedict, Berceau and Hebl; cosponsored by Senators Jauch, Risser, Olsen, Darling, Carpenter and Taylor.

September 24, 2009 — Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

January 20, 2010 — **PUBLIC HEARING HELD**

Present: (7) Senators Erpenbach, Carpenter, Robson, Lassa, Lazich, Kanavas and Darling.

Absent: (0) None.

Appearances For
- Gary Sherman — Rep.
- Jason Weber, Neenah — Town of Menasha Police, WI Crime Prevention Practitioners Assn.
- Kevin Ruder, Stevens Point — Stevens Point Police Dept.
- John Lawrynk, Stevens Point — Stevens Point Police
- Robert Block, Madison — WI Controlled Substances Board
- Brian Drumm, Juneau — Dodge Co. Sheriff
- Minette Lawrence
- Misty Servi, Antigo — NADDI

Appearances Against
- None.

Appearances for Information Only
- Lisa Brown, Oshkosh — Winnebago County Health Dept.

Registrations For
- Tom Engels, Madison — Pharmacy Society of Wisconsin
- Arthur Thexton, Madison — WI Chapter of NADDI
- Bob Jauch — Sen.
- John Townsend — Rep.

- J.B. Van Hollen — Attorney General, WI Dept. of Justice

Registrations Against
- None.

Registrations for Information Only
- None.

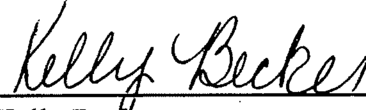
January 27, 2010 **EXECUTIVE SESSION HELD**

| | | |
|---|---|---|
| Present: | (7) | Senators Erpenbach, Carpenter, Robson, Lassa, Lazich, Kanavas and Darling. |
| Absent: | (0) | None. |

Moved by Senator Robson, seconded by Senator Kanavas that **Assembly Bill 227** be recommended for concurrence.

| | | |
|---|---|---|
| Ayes: | (7) | Senators Erpenbach, Carpenter, Robson, Lassa, Lazich, Kanavas and Darling. |
| Noes: | (0) | None. |

CONCURRENCE RECOMMENDED, Ayes 7, Noes 0



Kelly Becker
Committee Clerk

# Vote Record
# Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

Date: ______
Moved by: Robson  Seconded by: Kanavas

AB 227  SB ______  Clearinghouse Rule ______
AJR ______  SJR ______  Appointment ______
AR ______  SR ______  Other ______

A/S Amdt ______
A/S Amdt ______ to A/S Amdt ______
A/S Sub Amdt ______
A/S Amdt ______ to A/S Sub Amdt ______
A/S Amdt ______ to A/S Amdt ______ to A/S Sub Amdt ______

Be recommended for:
☐ Passage ☐ Adoption ☐ Confirmation ☐ Concurrence ☐ Indefinite Postponement
☐ Introduction ☐ Rejection ☐ Tabling ☐ Nonconcurrence

| Committee Member | Aye | No | Absent | Not Voting |
|---|---|---|---|---|
| **Senator Jon Erpenbach, Chair** | ☒ | ☐ | ☐ | ☐ |
| **Senator Tim Carpenter** | ☐ | ☐ | ☐ | ☐ |
| **Senator Judith Robson** | ☒ | ☐ | ☐ | ☐ |
| **Senator Julie Lassa** | ☒ | ☐ | ☐ | ☐ |
| **Senator Mary Lazich** | ☒ | ☐ | ☐ | ☐ |
| **Senator Ted Kanavas** | ☒ | ☐ | ☐ | ☐ |
| **Senator Alberta Darling** | ☒ | ☐ | ☐ | ☐ |
| **Totals:** | ____ | ____ | ____ | ____ |

☐ Motion Carried ☐ Motion Failed

FORWARD
E PLURIBUS UNUM

# WISCONSIN LEGISLATIVE COUNCIL
# AMENDMENT MEMO

| 2009 Assembly Bill 227 | Assembly Substitute Amendment 1 |
| --- | --- |
| *Memo published*: **September 23, 2009** | *Contact*: **Richard Sweet, Senior Staff Attorney (266-2982)** |

***Assembly Bill 227*** requires the Pharmacy Examining Board (PEB) to establish by rule a program for monitoring the dispensing of specified prescription drugs. The drugs that are covered are those that are Schedule II or III prescription drugs or a drug identified by the PEB by rule as having a substantial potential for abuse. The bill lists several items that must be included in the rule promulgated by the PEB for the prescription drug monitoring program. In addition, the bill requires the Department of Regulation and Licensing (DRL) to submit a timely application for a federal grant under two enumerated federal programs to fund the establishment and operation of the prescription drug monitoring program. If DRL fails to obtain federal funding before January 1, 2015, the statute governing the prescription drug monitoring program is void.

***Assembly Substitute Amendment 1*** makes the following changes to the bill:

- The bill provides that the PEB rules must require a pharmacist, physician, advanced practice nurse prescriber, optometrist, or dentist authorized to dispense prescription drugs to generate an electronic record documenting each dispensing of a prescription drug and to deliver the electronic record to the PEB, except that the program may not require the generation of an electronic record when the drug is administered directly to a patient. The substitute amendment replaces the requirement to generate an "electronic record" with one that requires generation of a "record." In addition, rather than including a list of providers that dispense prescription drugs, the substitute amendment refers to a pharmacist or practitioner. The term "practitioner" is defined in current law as a person licensed to prescribe and administer drugs in Wisconsin or licensed in another state and recognized by Wisconsin as a person authorized to prescribe and administer drugs.

- The bill requires that the PEB rules specify a format for an electronic record generated under the program. The substitute amendment replaces this with a requirement that the rules must specify a secure electronic format for delivery of a record generated under the program and must authorize the PEB to grant a pharmacist or practitioner a waiver of the specified format.

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536
(608) 266-1304 • Fax: (608) 266-3830 • Email: leg.council@legis.state.wi.us
http://www.legis.state.wi.us/lc

- The substitute amendment adds a requirement that the PEB rules ensure that the program complies with the state statute on confidentiality of patient health care records and federal regulations promulgated under the authority of the Health Insurance Portability and Accountability Act (HIPAA). In addition, the substitute amendment provides that records generated under the program are not subject to inspection or copying under the state's Open Records Law.

- The substitute amendment provides that a pharmacist or practitioner is immune from civil or criminal liability or professional discipline arising from the pharmacist's or practitioner's compliance in good faith with the statutes and rules related to the prescription drug monitoring program. In addition, the substitute amendment states that nothing in those statutes may be construed to require a pharmacist or practitioner to obtain, before prescribing or dispensing a prescription, information about the patient that has been collected under the program.

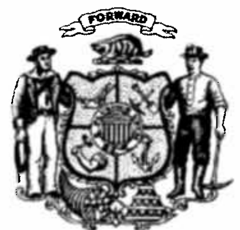
***Legislative History***

The Assembly Committee on Public Health recommended adoption of Assembly Substitute Amendment 1, and passage of the bill as amended, both by votes of Ayes, 7; Noes, 0.

The Assembly adopted Assembly Substitute Amendment 1 by a voice vote, and passed the bill as amended by a vote of Ayes, 89; Noes, 6.

RNS:jal:wu

WISCONSIN STATE LEGISLATURE



# OFFICE OF SHERIFF

**Ashland County Law Enforcement Center**
**220 East Sixth Street**
**Ashland, WI 54806**

*Sheriff John Kovach*
*Chief Deputy James Hnath*
*Lieutenant Michael Malmberg*
*Jail Administrator Lt. Tony Jones*

*Administration Phone (715) 685-7640*
*Administration Fax (715) 682-7039*
*Jail Phone (715) 682-7050*
*Jail Fax (715)-682-7034*


January 19, 2010

Dear Rep. Sherman, Sen. Jauch and Committee Members:

First of all, thank you for the work that has brought AB 227 to this point. Please read the stats that I was given by our county coroner. This information will not only show the deaths, but the cost involved just in our county.

Respectfully submitted,

Sheriff John Kovach

**Task Force Statistics/Deaths in Ashland County**

**All Drug related deaths were due to prescription drug overdoses/ none for illicit drugs!**

| Age/Sex/DOD | Cause of Death | Was decedent being prescribed drug | History |
|---|---|---|---|
| 1. 42 y.o. female DOD: 1-12-01 | Morphine overdose | No | Unsure how they obtained drug, prior mental health and AODA |
| 2. 17 y.o. male DOD: 4-18-03 | Fentanyl/Morphine Overdose | No | Injected fentanyl between toes. Drugs available in home. Prior BHU/AODA admissions |
| 3. 44 y.o. female DOD: 8-29-04 | Mixed Drug Overdose | Yes | Prior overdose and BHU admits, AODA |
| 4. 47 y.o. male DOD: 8-25-04 | Oxycodone/Multi drug | Yes | Prior Overdose. Admissions, multiple Physicians & pharmacies, M.D. notified "Patient selling drugs", numerous early Refills, reported "Oxy: stolen, Drug Screen Pos. cannabis, neg. for narc. When screened by M.D. continued prescribing. Mental health and AODA history. |
| 5. 46y.o.female DOD: 9-15-04 | Oxycodone toxicity | | Multiple Physicians, Pharmacies Spouse stated "she tended to "overmedicate herself a lot". |
| 6. 51 y.o. female DOD: 9-17-05 | Fentanyl overdose | Yes | Would cut patch and suck on drug. |
| 7. 49 y.o. male DOD: 12-05-04 | Oxycodone overdose | No | Not known how deceased obtained drug. Prior BHU admissions, AODA, |
| 8. 44 y.o. female DOD: 6-08-05 | Multiple drug overdose | Yes | Numerous meds. prescribed, prior suicide attempts, BHU,AODA hx. |
| 9. 36 y.o. male DOD: 6-21-05 | Multiple drug overdose | No | Took drugs not Rx. for him at home |
| 10. 49 y.o. male DOD: 11-19-05 | Methadone overdose | No | Not known where deceased obtained drug. His prescribed opiates had just been filled, and were all missing and not found on tox. screen. obtained numerous narcs. & benzo's, from numerous providers. Mental Health and AODA history |

| | | | |
|---|---|---|---|
| 11. 46 y.o. female DOD: 4-24-2006 | Mixed drug/Tramadol | Yes | AODA history, chronic alcoholism |
| 12. 52 y.o. male DOD: 9-2-2006 | Probable CAD/ elevated oxycodone level. | Yes | Deceased found on plate of crushed oxycodone multiple M.D.'s, AODA HX, Oxy. not his Rx. |
| 13. 43 y.o. male. DOD: 8-11-2007 | Oxycodone and valium overdose | No | Deceased not known to be prescribed these. Hx: Alcohol abuse, past hx: AODA |
| 14. 21 y.o. female DOD: 4-24-2008 | pneumonia/other contributory factors elevated methadone level | No | Hx: Drug Abuse. Not Prescribed Methadone. |
| 15. 21 y.o. male- DOD: 6-1-2008 | suicide/contributinf factors alcohol and oxycontin | No | Mother stated she thought he was looking to buy "Oxys" the evening of his death. |
| 16. 46 y.o. male DOD: 3-9-2009 | combined hydrococone/oxycodone | No | AODA history |
| 17. 46 y.o. male- DOD: 4-30-2009 | methadone/hydromorphone overdose crushed and injected them | No | Was an AODA counselor, Hx of AODA |
| 18. 60 y.o. female DOD:8-22-09 | Mixed Drug/Hydroquinone & Cyclobenzaprime | ? | R.N. Hx. Of alcoholism/ WI & Texas Rx's Numerous unmarked Rx. bottles at scene. |
| 19. 43 y.o. male DOD: 11-20-09 | Chewing Fentanyl/cirtalopram | Yes | Hx. Of abuse/AODA |

## Decedents:

**11-males/ 8-females**

**16-were accidental deaths 3 were suicides**

**17 of 19 had AODA history. 1 was a AODA counselor**

**50 % of above obtained/possessed drug illegally.**

## Estimated Death Investigation Costs Per Case:

**Law Enforcement, Coroner Dept., Pathologist, toxicology, body transportation:**

**$3,000.00 x 19 = $57,000**

**Examples of Five Documented Cases**
**of Diversion/Abuse/Fraud in Ashland**

**Currently: Health Care Providers can not report a crime on their premises or share information with other health care providers when a Health Care Provider suspects, confirms a patient is diverting, fraudulently obtaining medications, abusing medications.**

**Case 1**

**79 year old female seeking narcotics from several physicians, clinics, E.R's, and several pharmacies to support her son' s addiction to narcotics. She admitted to not need any of them, that she would pretend to be in pain and would obtain narcotics by fraud illegally. In a 3 week period, it is estimated that she fraudulently billed out an excess of $3,000.00 to Medicare and an estimated $300.00 in medications.**

**$3,300.00 in a 3 week period of medications obtained and diverted fraudulently.**
**None of this is reportable under current state statute.**

**Case 2**

**Patient was on disability/Medicaid for back pain.**
**Patient received approx. $3,000.00 of prescription medications monthly for pain >1 1/2yrs.**
**Patient only paid Medicaid Co-pay of $1.00 per Rx.**
**Drug count was done by Probation & Parole (informants stated patient was selling meds.) three days after receiving #180 of Oxycontin, there were only three pills left. All others had been sold. The three pills were saved for the next appointment so the drug screen would be positive.**
**This had been occurring for over 1 year and was on the " use caution" list.**
**The patient was selling the drugs for several thousands of dollars cash. Thus selling narcotics and participating in Insurance fraud. Currently not reportable under state statute.**
**When the patient was placed in jail, narcotics were never needed for this patient's pain. while in jail.**

**$54,000.00 of medications were diverted/abused in approx. 1 ½ years.**

**Case 3**

**The patient was on Medical Assistance and receiving $3,200.00 of medications monthly from the Physician for 5 years. They were apprehended and confessed to Law Enforcement that they had been selling, trading and abusing these prescribed medications for the entire time. The patient stated narcotics, and all the other drugs were very easy to get and it was never a problem obtaining them.**

**$192,000.00 of narcotics being diverted/abused on a Government Program. 3,2000x12= $38,4000 YEARLY X 5 YEARS. **** This does not include all of the fraudulent office calls, treatments, tests, etc. paid for by this program.**

**Case 4**

**The patient was on Medical Assistance for back pain.**
**Patient received numerous prescriptions for narcotics and numerous types of pain meds. $12,000.00 of narcotics in 17 months were diverter, abused.**
**Patient was found to not have used these for pain relief, traded them for street drugs.**

**Case 5**

**Patient was admitted to a hospital for multiple drug overdose approx. 1 ½ years ago.**
**Patient is on the Law Enforcement caution list.**
**Patient continued to receive numerous prescriptions regardless of above information.**
**Patient has been recently admitted to an area hospital for another drug overdose.**

**TOTAL: $261,300.00 on the above 5 cases.**

## The cost of prosecuting drug cases in Ashland County

**Note: Below study is from a query from Ashland County Clerk of Courts of cases prosecuted by the Ashland County District Attorney 2003 - 2005**

**Katie Colgrove (Clerk of Courts) reviewed the process of prosecuting a case:**
**Man hours by Law Enforcement to investigate case and file with D.A.**
**D.A. to review case**
**D.A. files complaint**
**Sent to court: includes the time of: The Judge, Court Reporter, Clerk of Court staff, further D.A., and Law Enforcement time.**
**The defendant may also use a Public Defender if they can not afford representation.**
**If sentenced, we pay for incarceration, probation and parole, etc..**

**The minimum cost of each case below is $3,00.00**

| Narcotic Related cases Prosecuted in Ashland County Court: | 2003 | | 2004 | | 2005 | |
|---|---|---|---|---|---|---|
| Possess illegally obtained RX | 3 | | 7 | | 5 | |
| Obtain a RX by fraud | 6 | | 6 | | 2 | |
| Dispense RX drug w/o Prescription | 2 | | 1 | | 0 | |
| Possession of RX drug w/ intent to deliver | 0 | | 1 | | 1 | |
| Possess. of a narcotic | 2 | | 5 | | 7 | |
| Manufacture/deliver of sched. I,II narc. | 1 | | 0 | | 3 | |
| Possess. of illegally obtained narcotic | 0 | | 2 | | 0 | |
| Number of Court Cases: | 14 | + | 22 | + | 18 = | 54 cases |

**Illicit Drug Related cases prosecuted in Ashland County**
**(not including THC because there have been no known deaths in this county from THC)**

| | | | | | | |
|---|---|---|---|---|---|---|
| Cocaine related cases | NA | | 5 | | 8 | |
| Meth. related cases | NA | | 1 | | 3 | |
| Posses of Amphetamine/LSD | 2 | | 0 | | 0 | |
| Number of Court Cases: | 2 | | 6 | + | 11 = | 19 cases |

**54 Prescription drug cases as opposed to 19 Illicit drug cases.**
**19 X $3,000.00 (Min.) = $57,000.00 for illicit drug cases.**

# 54 x $3,000.00 (Min. per case) $162,000.00 for Prosecuting Prescription drug cases

**Examples of situations that happen frequently to Physicians and Pharmacists that are protected by current state law:**

**1. A patient presents with complaints of pain. Narcotics are prescribed. Patient continues to have pain. Drug screen is obtained, found to be negative. Suspect patient is diverting. Call local clinics and pharmacies to find patient is obtaining narcotics from numerous Physicians and Pharmacies. Patient is most likely diverting drugs.**

**This is currently protected health information and cannot be reported.**
**It would be criminal for the Physician to warn providers of this patients behavior.**

**2. Physician has been suspicious of patients unusually high use of drug. Patient states seeing no other providers. Constantly c/o pain, can't function without pain meds. Physician observes patient running downtown, quite pain free.**
**Next office visit obtains drug screen and finds patient is negative for what he has prescribed, but positive for several types of other medications that are not being prescribed, both legal and illegal. Calls pharmacy to find numerous physicians have prescribed pain meds for this patient. The patient is most likely diverting and abusing drugs.**

**This is currently protected health information and cannot be reported.**
**It would be criminal for the Physician to warn providers of this patients behavior.**

**3. A patient states their medications were stolen or lost, for the third time. Upon reviewing this with the pharmacy, you find the patient has obtained numerous medications from numerous providers in a small period of time.**

**This is currently protected health information and cannot be reported.**
**It would be criminal for the Physician to warn providers of this patients behavior.**

**The above have all fraudulently misrepresented themselves to obtain prescriptions.**
**This is all protected health information.**

FORWARD
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Senate Hearing
Committee on Health, Health Insurance, Privacy, Property Tax Relief and Revenue

Wednesday, January 20, 2010
10:00 AM
201 Southeast, State Capitol

Assembly Bill 227

Directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority.

My name is Robert Block. I am employed as a forensic controlled substance analyst with the Wisconsin Crime Laboratory. I am a member of the Wisconsin Controlled Substances Board. I will be addressing the committee today as the Controlled Substances Board's legislative liaison. I have provided you a copy of the letter from the Controlled Substances Board in support of Assembly Bill 227 for a state wide prescription monitoring program (also known as a PMP). This letter was sent to the Assembly committee which held its hearing on this matter in June of 2009. At that time the Controlled Substances Board recommended one change in the bill to replace the specific list of practitioner categories to more generic language such as "practitioners dispensing for human use". This would allow for covering any others (such as psychologists) that may be allowed to dispense controlled substances in the future. It is our understanding that such language has now been added to this bill.

Prescription monitoring programs do not cover schedule I controlled substances as by definition these drugs have no medical use and are not prescribed. The Controlled Substances Board feels that should medical marijuana become law in Wisconsin, that is should either be rescheduled to a schedule II controlled substance in which case it could be covered under a PMP program or an exception should be made to cover medical marijuana in a PMP program even if it remains a schedule I controlled substance. The Controlled Substances Board feels that since care givers and compassion centers would be "dispensing" a controlled substance (marijuana/THC) that they should also be covered under any state wide PMP program.

I recently attended the National Association of State Controlled Substances Authorities conference in October of 2009. One of the major topics covered at this conference was Prescription Monitoring Programs known as PMPs. I have provided you a copy of a summary of some of the highlights from the presentations at the conference. I would like to address a few of those highlights to this committee.

1. Currently Wisconsin is the only state that neither has a PMP program or is not currently drafting language for such a program.
2. Minnesota recently enacted a PMP program which went into affect in 2010 leaving only Wisconsin in the Midwest without a PMP program. This may lead to doctor and pharmacy shopping in Wisconsin since there is currently no way to monitor such activity.
3. National the abuse of prescription products is a growing problem.
4. The bulk of those using PMP reports are prescribers (doctors) and pharmacists (83%) followed by Boards of Pharmacies and law enforcement (less than 5%). In one state, prior to the use of a PMP they had an average of nearly 30 doctor shoppers for prescription drugs while after installing a PMP program it dropped to one. Likewise, they had an average of 15 pharmacy visits to fill a prescription prior to the PMP program and only one after the PMP was in place.
5. It was stressed that the intent of PMP programs is not to search out those who are abusing prescription drugs by law enforcement but to act as an intervention tool to help those who may be addicted to prescription drugs to get into an interdiction program.

There is funding available through a number of resources including the federal Harold Rogers Prescription Drug Monitoring Program to help establish, maintain and expand state drug monitoring programs. This program has established a Training and Technical Assistance Center to serve as a resource to states with PMP programs. They have now formed a partnership which is supported by the US Department of Justice with the Alliance of States with Prescription Monitoring Programs and Brandeis University to assist states with existing PMP programs or to help states like Wisconsin to establish a PMP program. This new national association is currently drafting model legislative language for PMP programs. This model legislation would form a uniform national PMP program that would allow for state wide prescription monitoring and inter-state monitoring to prevent border hopping for prescription drugs. I have provided you a copy of the resources available to Wisconsin through this organization to assist Wisconsin in its effort to establish a PMP program. This list of resources has been made available to the Wisconsin Pharmacy Board to assist them in the rules writing of a PMP program for Wisconsin.

In conclusion, I will state that the Controlled Substances Board continues its support of Assembly Bill 227 and feels that a monitoring program for the dispensing of controlled substances in Wisconsin is something that should be undertaken sooner rather than later. I will address any questions you may have at this time regarding PMP programs.

Robert Block
Controlled Substances Board Liaison

FORWARD
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**Jim Doyle**
Governor

**Celia M. Jackson**
Secretary

**WISCONSIN DEPARTMENT OF REGULATION & LICENSING**

1400 E Washington Ave
PO Box 8935
Madison WI 53708-8935
Email: web@drl.state.wi.us
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FAX: 608-267-0644
TTY: 608-267-2416

June 9, 2009

THE HONORABLE GARY SHERMAN
STATE REPRESENTATIVE
ROOM 304 EAST
STATE CAPITOL
P.O. BOX 8953
MADISON WI 53708

THE HONORABLE JOHN TOWNSEND
STATE REPRESENTATIVE
ROOM 22 WEST
STATE CAPITOL
P.O. BOX 8953
MADISON WI 53708

**Re: Assembly Bill 227, relating to directing the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs and requiring the exercise of rule-making authority**

Dear Representative Townsend:

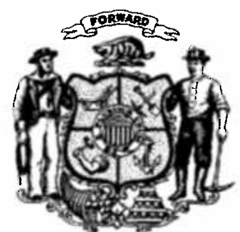
The Wisconsin Controlled Substances Board reviewed 2009 Assembly Bill 227 at its meeting on June 4. The Board supports the intent of the bill since it would join Wisconsin with other states that already have such programs in place for the detection and tracking of the serious problem of prescription drug diversion. By unanimous motion, the Board agreed to suggest an amendment to Section 1, 450.19 (2) (a), which lists practitioners who would be required to comply with the documentation and delivery requirements in the bill. The Board believes that instead of a listing of specific practitioner categories, language such as "practitioners dispensing for human use" (to clarify it does not apply to veterinarians) would be preferable in view of the possibility of the list of practitioners changing or expanding over time. If listed specifically, each time there might be a change in types of practitioners included, separate legislation would be required. For example Assembly Bill 180 proposes to grant dispensing authority to psychologists and, if enacted, AB 227 in its present form would not include psychologists. The use of the alternative language suggested would make it certain that all categories of practitioners authorized to dispense a prescription drug for human use would be included in the present and future provisions of AB 227. The alternative language excludes dispensing of prescription drugs by veterinarians from the tracking provisions of AB 227 which we presume was the intent of the legislation.

Sincerely,

Darold Treffert, M.D.
Chair, Controlled Substances Board

c: Representative Gary Sherman

WISCONSIN STATE LEGISLATURE



National Association of State Controlled Substances Authorities (NASCSA)
San Diego, CA
October 20-23, 2009

NASCSA 25th yearly national meeting was held at the Doubletree Hotel in downtown San Diego. The conference was attended by 134 attendees from 34 states and the territory of Guam. There was a wide range of topics presented with an emphasis on prescription monitoring programs, pain relief versus abuse and addiction and state efforts to control and monitor pseudoephedrine. Supposedly, at some later time, the presentations will be posted on NASCSA website at www.nascsa.org. While all of the topics covered were interesting it is not possible to cover all of the presentations in detail in this over-view of the meeting. Therefore, I will simply list some of the highlights or facts that were presented at the various discussions.

2008 National survey on drug use and health estimates there are 6.2 million Americans who are current non-medical users of psychotherapeutic drugs. More than the number of those abusing cocaine, hallucinogens and heroin COMBINED. Non-medical use of prescription drugs ranks second only to marijuana as the most prevalent category of abuse.

The top four abused opiates (in order of abuse) are hydrocodone, oxycodone, methadone and morphine. The US consumes 90% of the worlds supply of hydrocodone. The top four prescribed benzodiazepines are alprazolam (by a large margin), clonazepam, diazepam and lorazepam.

The Ryan Haight Online Pharmacy Consumer Protection Act took effect in April, 2009. New DEA registration requirements are required for all internet pharmacies. Internet pharmacies must report monthly, listing all controlled substances dispensed and other requirements and they must also disclose pharmacies they service, pharmacists in charge and physicians. This act was intended to prevent the wide spread abuse of internet pharmacies. It will be interesting to see if this will effective reduce online internet pharmacies.

There has been a proposal to place fospropofol into Schedule IV (published on July 23, 2009). Lacosamide has been placed into Schedule V (effective June 22, 2009) and tapentadol has been placed in Schedule II (effective date June 22, 2009). There is currently a petition to review scheduling of propofol by DEA,

There is now a new organization called the Alliance of States with Prescription Monitoring Programs. They have a very useful website www.pmpalliance.org. They have model legislation and a lot of information for states trying to set up prescription monitoring programs. They have formed a national organization with the scope of trying to have a national dialogue on prescription monitoring programs with a goal of a national monitoring program to prevent state hopping for prescription drugs.

Under the Harold Rogers Prescription Drug Monitoring Program they have now established a Training and Technical Assistance Center (TTAC) to serve as a resource to states with existing PMP programs or to assisted states with the startup of a state PMP. TTAC is a partnership of Alliance of States with Prescription Monitoring Programs and Brandeis University and supported by the Bureau of Justice, US Dept. of Justice.

The bulk of those using PMP reports are prescribers and pharmacists (83%) followed by Boards of Pharmacies and law enforcement. In one state, prior to use of PMP they had an average of nearly 30 doctor shoppers for prescription drugs while after installing a PMP program it dropped to one. Like wise they had an average of 15 pharmacies visits prior to PMP's and only one after the PMP was in place.

The intent of PMP programs is not to search out those who are abusing prescription drugs by law enforcement but to act as an intervention tool to help those who may be addicted to prescription drugs to get into an interdiction program.

Counterfeit pharmaceuticals are a threat to public health and safety. If you are obtaining a prescription drug from a legitimate US pharmaceutical company you have little danger of a counterfeit drug. However, if you are using a generic (non-US manufactured) or an internet or website pharmacy (Canadian, British, China, etc) you are at greater risk for a counterfeit prescription. The number one counterfeit prescription drug is Viagra. The largest producer of counterfeit prescription drugs is China. The bulk of the profits from counterfeit drugs go either to lavish lifestyles or to terrorists.

The World Health Organization has said that undertreated pain is the number one health problem in America. The number of patients with chronic pain in the US exceeds diabetes, heart disease and cancer combined. Methadone is now being used as a pain relief drug instead of hydrocodone or oxycodone as it works well in some patients and is a very inexpensive drug. Responsible opioid prescribing requires Risk Management with an initial screening, monitoring and drug blood testing.

The state of Oregon has successfully reduced methamphetamine labs by requiring pseudoephedrine be placed behind the counter, available only at pharmacies, must have a photo ID and signature and they made it a PRESCRIPTION drug. The national recommendation is that states should either require electronic recording of pseudoephedrine (requiring a photo ID and signature) or making them a prescription drug. The Consumer Healthcare Products Association (suppliers of pseudoephedrine) does not support make pseudoephedrine a prescription drug but does support electronic monitoring. They will even pay states to set up this electronic monitoring system for pseudoephedrine.

King Pharmaceuticals, Inc. has marketed a new product called Embeda which contains morphine sulfate and naltrexone hydrochloride. It will give pain relief when consumed but will not work if the product is crushed and consumed. It is intended as an inhibitor to the illegal use of morphine.

Teens have a much different look on the use of non-prescribed pharmaceutical drugs. Most get their drugs from the medicine cabinet at home. Many feel that there is little harm in using pharmaceutical drugs and that they are safer than using other types of drugs. The National Association of School Nurses has made a series of short (4 minutes) videos on prescription drugs. These videos are entitled: "Myth Busting", " Science of Addition: Physical addition risks explained", "Changes for Life: Psychological and social aspects resulting from prescription drug abuse", "Media Literacy: Mixed media messages about drugs in popular culture" and "What Parents Should Know: Tips and insights for parents". You can view the videos and learn more at www.pbs.org/newshour/thenews/themedic/.

For further information from this NASCSA meeting go to their website (www.nascsa.org) where they are supposedly going to post the presentations at a later date.

Should you have any questions about the presentations or like to see them at this time, I will hold on to the binder and materials from the conference for a period of time (to the end of the year) and will be glad to share any of the information upon your request.

Prescription Monitoring Programs (PMP)

Perhaps the single best source for information about PMPs is the Alliance of States with Prescription Monitoring Programs at www.pmpalliance.org. The Alliance is a national organization of states that have PMPs with the intent of sharing information for the development, maintenance and operation of PMPs. It is also their intent to make PMPs consistent nationally to allow states to check on border states to prevent border hopping for prescription drugs. This website also lists state PMP directors and associates as well as state PMP websites.

The Alliance also provides a Training and Technical Assistance Center (TTAC) which is available through the Alliance website. TTAC is a partnership with The Bureau of Justice Assistance (BJA), The Schneider Institutes for Health Policy at Brandeis University and The Alliance. TTAC provides assistance with:

Developing policy and information for PMPs
Collecting and reporting performance measurements
Hosting regional and national conferences
Participating in information data sharing, and
Planning/implementing new PMPs.

There are a number of good contacts for information on establishing and running PMP programs. John Eadie is a member of both The Alliance and NASCSA (National Association of State Controlled Substances Authorities) and has established state PMP programs. I asked if he would be willing to help Wisconsin to establish a PMP program including proposed language for PMP legislation and resources for federal funding of such programs. He said he would be willing to be a resource for us unless he connects us with someone else from TTAC. John Eadie's contact information is:

John L. Eadie
John Eadie Consulting
78 Van Dyke Drive South
Rensselaer, NY 12144
Phone: 518-283-1624
Fax: 518-283-1624
Email Address: JohnLEadie@aol.com

When John Eadie contacts me I will have him contact Tom Ryan of the Dept. of R & L as the contact person since Tom has access to both the Controlled Substance Board and the Pharmacy Board.

Another contact from the NASCSA meeting was Steven Espy who is with the company of Health Information Designs. They assisted Minnesota in setting up their PMP program. This is a private for profit company but they may be a resource that knows how to set up the electronic monitoring systems. Steven Espy contact information is:

Steven Espy, R.Ph.
Director of Drug Utilization Review
391 Industry Drive
Auburn, Al 36832
Direct: 334-466-3049, Fax: 334-502-6589, Cell: 334-740-9589

steve.espy@hidinc.com

Another resource for establishing and writing PMP legislation is the National Alliance for Model State Drug Laws (NAMSDL). This is the website specifically dealing with PMPs: http://www.namsdl.org/presdrug.htm There is model legislation for PMPs, however, they are in the process of doing an update for PMP legislation.

Minnesota just recently passed their PMP legislation which will take affect in 2010. Their PMP legislation is found at: https://www.revisor.leg.state.mn.us/statutes/?id=152.126 Since they are a border state and have a very recent version of a PMP, it may be worthwhile looking at their PMP language. No sense trying to recreate the wheel so to speak. The Alliance website has each state that currently has a PMP and their state legislation language. So it may be a simple matter of finding one that we like and using that. However, we would certainly want to find one that is similar to many other states (model law) and that will allow us in the future to do multiple state searches in the PMP. This is where the Alliance may be a very useful resource for setting up the legislation language for a PMP.

Listed below are a number of either current or past NASCSA officers and executive committee members who have had experience with PMPs. I will not give you all of the information available about them but either a title or brief summary and contact information. I would think they would either be willing to help in the establishing of a PMP or would be able to direct us to the best possible resource for doing so.

Grant Carrow, Ph.D – Deputy Director of the Burau of Health Care Safety and Quality in the Massachusetts Dept. of Public Health (DPH). Dr. Carrow serves as Principle Investigator on enhancement grants to the Precription Monitoring Program from the U.S. Dept of Justice and a research grant on electronic prescribing from the U.S. Agency for Healthcare Research and Quality. His contact info is:

Grant Carrow
Department of Public Health
99 Chauncy St.
Boston, MA 0211
617-753-8100
grant.carrow@state.ma.us

Dana Droz – Currently Ms Droz is the Prescriptioin Monitoring Program Administrator for the Ohio State Board of Pharmacy with primary responsibility for the Ohio Automated Rx Reporting System. Ms Droz developed and implemented KASPER (Kentucky All Schedule Prescription Electronic Reporting), a nationally recognized prescription monitoring program. Her contact info is:

Danna Droz
Ohio State Board of Pharmacy
77 South High St
Columbus, OH 43215-6126
614-466-4143
ddroz@ohiopmp.gov

Ralph Orr – He is the Program Manager for Virginia's Prescription Monitoring Program. He is responsible for administering the prescription monitoring program for the Dept of Health Professions to include federal grant management, contract oversight and the operation and expansion of the program. His contact info is:

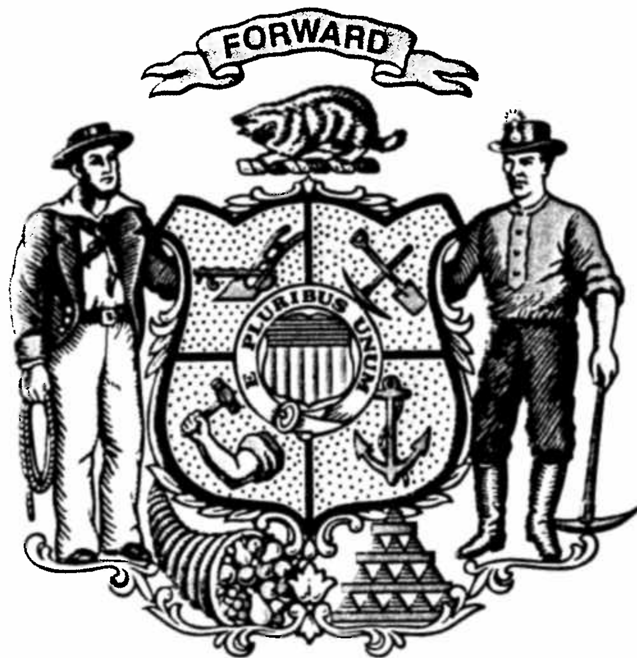
Ralph Orr
Virginia Dept of Health Professions
9960 Maryland Drive, Suite 300
Richmond, VA 23233
804-367-4523
Ralph.orr@dhp.virginia.gov

Dean Wright – He is the Director of the Board's Prescription Monitoring Program for the state of Arizona. Prior to taking the position of Director he was a Compliance Officer for the State Board of Pharmacy. His contact info is:

Dean Wright
AZ State Board of Pharmacy
1700 W. Washington, Suite 250
Glendale, AZ 85007-2335
602-771-2744
dwright@azpharmacy.gov

While I'm sure there are other sites and individuals to consult for establishing PMPs, this should be a good starting list of information for the Pharmacy Board for review to start the process of writing or establishing PMP legislation. In addition to this information, the Pharmacy Board could also view information on PMP funding either at NASPER or the Harold Rogers websites. Should you or the Pharmacy Board need additional names, resources or other information to help establish a PMP for Wisconsin feel free to contact me at the Wisconsin Crime Lab at 608-266-2031.

Robert Block
Wisconsin Controlled Substance Board Member
Wisconsin Crime Laboratory
Drug Unit Lead Analyst
Madison, WI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# STATE OF WISCONSIN
# DEPARTMENT OF JUSTICE

**J.B. VAN HOLLEN**
**ATTORNEY GENERAL**

**Raymond P. Taffora**
**Deputy Attorney General**

**114 East, State Capitol**
**P.O. Box 7857**
**Madison, WI 53707-7857**
**608/266-1221**
**TTY 1-800-947-3529**

TO: Members of the Senate Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

FR: Attorney General J.B. Van Hollen

DT: January 20, 2010

RE: 2009 Assembly Bill 227

Dear Senators:

Please accept the attached written testimony in support of AB 227, relating to monitoring the dispensing of prescription drugs. This written testimony was also delivered to the Assembly Committee on Public Health when that committee held a public hearing on the bill July 28, 2009.

Thank you.

**STATE OF WISCONSIN**
**DEPARTMENT OF JUSTICE**

**J.B. VAN HOLLEN**
**ATTORNEY GENERAL**

**Raymond P. Taffora**
**Deputy Attorney General**

**114 East, State Capitol**
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**Madison, WI 53707-7857**
**608/266-1221**
**TTY 1-800-947-3529**

TO: Members, Senate Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

FR: Attorney General J.B. Van Hollen

DT: January 20, 2010

RE: Written Testimony in Support of 2009 Assembly Bill 227 Relating to Directing the Pharmacy Examining Board to Use Federal Funds to Create a Program to Monitor the Dispensing of Prescription Drugs and Requiring the Exercise of Rule-Making Authority

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I am writing today to support 2009 Assembly Bill 227. This important legislation will enable Wisconsin to join 40 other states that have a prescription drug monitoring program. Passage of this legislation will enable the Pharmacy Examining Board to reduce the amount of prescription drugs that are obtained through the use of fraudulent prescriptions.

The unauthorized use of prescription drugs in not only illegal, it can be destructive. In Wisconsin, we have seen the non-medical use of prescription drugs contribute to addiction, escalating use of other drugs, and overdose. As I have traveled the state and met with local law enforcement, community leaders, and their state representatives, prescription drug abuse was a topic that arose frequently, particularly in the northern part of the state. On the national level, the Drug Enforcement Administration reports that prescription pain relievers are the new drug users' drug of choice, as opposed to more traditional illegal drugs, such as marijuana or cocaine. DEA reports that opiate pain killers are now causing more drug overdose deaths in the United States than cocaine and heroin combined. Nearly 10% of high school seniors admit to abusing powerful prescription pain killers.

According to data from the National Survey on Drug Use and Health, of individuals aged 12 or older who use pain relievers non-medically in the past year, 70% obtained the drugs from a friend or relative for free, or purchased or stole them from a friend or family member. The remaining 30% of illegally obtained prescription drugs, especially pain killers, were obtained by users through traditional diversion methods, such as doctor-shopping, theft, forged prescriptions, or unscrupulous physicians and pharmacists.

It is my understanding that of the 50 states, 40 currently have a prescription monitoring program on the books, and 9 states are in the process of developing such a program. According to the DEA, as

of July of 2009, *only Wisconsin and the District of Columbia have not taken steps to develop a prescription monitoring program.*

The purpose of a Prescription Monitoring Program (PMP) is to facilitate the early detection of trends in diversion and abuse. In general, while prescription monitoring data regarding specific health care professionals may be reviewed after an official complaint, PMP's are not used to target subjects for an investigation. Instead, states that have a PMP program typically use the data to identify problems and to determine the extent of diversion or abuse. State PMP systems are queried for patients who are found to be "doctor shoppers", meaning an individual visiting many doctors or pharmacies to obtain pharmaceutical controlled substances. The ultimate goal of these programs is to reduce pharmaceutical drug diversion and abuse.

Department of Justice staff in the Division of Criminal Investigation have informed me that federal funding for a Wisconsin PMP should be available under the Harold Rogers Prescription Drug Monitoring Grant Program. This program provides financial assistance to state authorities who want to create or enhance a prescription drug monitoring program. Additional funding may also be available under the National All Schedules Prescription Electronic Reporting Act of 2005. This Act creates a grant program for states to create prescription drug monitoring databases and enhance existing ones, similar to the Harold Rogers Prescription Memorial Grant Program.

I believe that the creation of a Prescription Monitoring Program in Wisconsin will enable the Wisconsin Pharmacy Examining Board to detect trends in the dispensing of fraudulent prescriptions within the state, and will ultimately lead to fewer illegally obtained prescription drugs available for abuse. By reducing the number of illegally obtained prescription drugs, we reduce criminal activity and hopefully reduce the personal destruction that can accompany prescription drug abuse – including fatal overdoses.

I encourage the committee to support this bill.

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AB 227

January 20, 2010

Good Morning Chairman Erpenbach and members of the Committee,

My name is Lisa Brown of Oshkosh WI and I am employed with the Winnebago County Health Department. I serve as a coalition coordinator for re:TH!NK Winnebago's Healthy Living Partnership and one of our community priorities is reducing the misuse and abuse of prescription drugs that have increased so dramatically in recent years.

We need a Prescription Drug Monitoring Program (PDMP) in our state.

This past summer I was invited to conduct a Prescription Drug presentation to incoming freshman at a local high school. At the health teacher's recommendation, I was connected with a 19-year-old high school alumni who was a former all conference football star... and also a recovering prescription drug user.

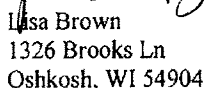
This former athlete and well-liked student explained how he visited pharmacy after pharmacy-diverting health professionals and tricking doctors just to obtain non-prescribed pills. He was nervous, genuine and spoke with a heavy heart about his journey into drug abuse as his high school football season came to an end due to an injury. He expressed remorse over many lost opportunities and shared how his life was changed forever when he moved from underage drinking to prescription drug use. Like many youth, he had misconceptions about the effects of prescription drugs. He felt familiar with them after having taken them in the past when ill, he did not know how unsafe they were when not specifically prescribed by his doctor for him, and he had no idea how quickly they would alter his body. Before he knew it, he catapulted into full prescription drug abuse and was snorting Vicodin off school urinals, selling Oxycodone pills to teammates, bringing DXM to school in water bottles, even conjuring up mental illnesses to achieve a Ritalin prescription. As his addiction worsened he stole from his parents and was soon kicked out leaving him homeless. He committed strings of theft and burglaries resulting in multiple arrests and loss of jobs/friends/drivers license/health. He watched a friend die at a "Pharming" party and overdosed himself as well. His former high school teachers thought he was attending a UW school playing college football, when actually he was decked out in an orange jumpsuit laying in a fetal position vomiting on the floor of the Winnebago county jail enduring withdrawal from prescription drugs.

Now in recovery, he speaks about the many factors that led to his addiction in an effort to help at-risk youth. While assuming responsibility for his prescription drug abuse, he repeatedly says he wished he was stopped-he knew pharmacists had to wonder about him, but no one told him "no". He could not believe how easy it was to obtain prescription drugs in Oshkosh WI.

I am here today because he could not be and that I know from my professional experience that this is only one of many stories of lives derailed to the point of incarceration from unmonitored access to prescription drugs. We can do better.

All of our youth in WI deserve to be protected from prescription drug diversion trends that can be tragic. A Prescription Drug Monitoring Program can significantly lessen prescription drug misuse and abuse.

Thank You,



Lisa Brown
1326 Brooks Ln
Oshkosh, WI 54904

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Testimony of
**Arthur Thexton**
President
Wisconsin Chapter
National Association of Drug Diversion Investigators,
before the
Senate Committee on Health, Health Insurance,
Privacy, Property Tax Relief, and Revenue
Hearing on AB 227
January 20, 2010

Good morning, thank you for the opportunity to testify regarding this important matter.

I am Arthur Thexton, President of the Wisconsin Chapter of the National Association of Drug Diversion Investigators. NADDI is an organization which brings together law enforcement and regulatory staff from the local, state, and federal levels, together with private security staff from the pharmacy industry, all for the purpose of improving investigation, and prevention, of diversion of pharmaceutical products. NADDI was organized 20 years ago and conducts training in diversion investigation, and public education and advocacy, across the United States.

My own background includes being a sheriff's deputy, an elected district attorney, and, for the past 19 years, a prosecutor for the Department of Regulation & Licensing, where I have handled most of the impairment, diversion, and inappropriate prescribing cases involving physicians and other health care providers, for most of those years, including having been the principal prosecutor for the Pharmacy Examining Board for over a decade. However, I am on vacation time today, and am not speaking on behalf of the Department or any of its attached Boards. I am appearing solely on behalf of NADDI and as a private citizen.

NADDI has long advocated for states to enact Prescription Drug Monitoring Programs, and these are now enacted in 2/3 of the states, including all of the largest states, and cover the overwhelming majority of the population. All of our neighbors have enacted legislation authorizing these programs, and, under federal funding requirements, they will be required to "talk" to each other. Minnesota's program goes "live" in March; all of the others are already up.

These programs serve two important functions: they enable prescribers, such as physicians, dentists, nurse practitioners, podiatrists, and physician assistants, to check on persons presenting themselves as patients, to determine whether they have received controlled substances from others. It is a sad fact that there is a group of entrepreneurs who pose as patients for the purpose of obtaining inventory, by lying to prescribers and faking symptoms. This tool will enable prescribers to detect these persons, and avoid becoming unwitting enablers.

At the same time, this tool will allow law enforcement to quickly learn the location of evidence in cases involving these "doctor shoppers." At present, law enforcement must visit all of the individual non-chain pharmacies in an area, to determine whether a person is doctorshopping; this is a huge expenditure of staff time and resources. Being able to query a central database in a few minutes, electronically, will save hundreds of hours of time, and miles on the road. This is especially significant when we must all learn to do our jobs more efficiently. This feature will also assist those of us regulators responsible for licensing investigations, in the same way.

The current proposal locates the program in the state pharmacy examining board. NADDI has no position on where the program should be located, as long as it is accessible to those with legitimate needs for the data.

There are legitimate privacy concerns whenever government assembles a database on citizens, and this is certainly true when medical information is involved, as it is here. NADDI advocates for pain patients, and opposes proposals which seek to prevent legitimate prescribing for legitimate patients. We recognize that it is very difficult to distinguish between people who are lying about their pain, and those who are telling the truth. Just because a person is receiving controlled substances for pain or other legitimate medical condition, does not make that patient a diverter, or the prescriber a criminal. All PDMP's have safeguards against fishing expeditions, and we anticipate that Wisconsin's will also incorporate appropriate privacy safeguards, including requirements that all queries be accompanied by a certification that there is a pre-existing investigation of the person whose data is being sought.

You may hear suggestions that law enforcement, or we at the Department, will start using the database to conduct searches to see who is prescribing the most, or who is using multiple prescribers, proactively. This is seen by many as a civil liberties problem. I can tell you that this is not a problem which is likely to develop.

Again, I am not speaking on behalf of the Department or its Boards, but I can tell you from my 19 years of experience that ours, and all regulatory agencies, and all law enforcement agencies, are complaint driven. We are all overwhelmed with cases, and already lack staff and resources to investigate all the complaints we presently receive; we don't have the time to go looking for cases about which no one has complained. So, as a practical matter, fishing expeditions or other inappropriate uses of the system are highly unlikely, and will also be prohibited by any rules adopted by the agency which houses the program, as they are in every other state.

These kinds of monitoring programs are, in today's society, essential to preventing and solving drug diversion, they are in effect in most of the United States, and Wisconsin is now an island surrounded by states which have, or are getting, this kind of program. We cannot afford to become an island, where drug diverters come to get prescriptions because we cannot detect them. On behalf of NADDI-Wisconsin, and as a prosecutor of many years experience in this area, I strongly urge the committee to adopt this, or a very similar, measure.

Again, thank you for the opportunity to testify here, today. I would be happy to answer any questions.

Arthur Thexton
President, NADDI—WI
athexton@alum.beloit.edu
608-249-2702, fax 206-666-5671
2142 E. Johnson St. #2
Madison, WI 53704-4710

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**PHARMACY SOCIETY OF WISCONSIN**

*"Leading Our Profession in a Changing Health Care Environment"*

To: Members of the Wisconsin Senate committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

From: Tom Engels, VP of Public Affairs for the Pharmacy Society of Wisconsin

Re: Assembly 227 – Prescription Drug Monitoring Program

The Pharmacy Society of Wisconsin (PSW) supports Assembly Bill 272 as amended by the State Assembly. The legislation will allow for the creation of a prescription drug monitoring program in Wisconsin and will utilize available federal funds to develop and implement the program over the next few years.

Assembly Bill 272 has been developed with the support of PSW, health care providers, and law enforcement officials, all of whom support the establishment of a prescription drug database for dispensed controlled substances for the purposes of preventing diversion and improving patient safety through improved pharmaceutical case management. The Wisconsin Pharmacy Examining Board (PEB) will be responsible for development of rules and administering the program.

We would like to thank Representatives Gary Sherman (D-74) and Representative John Townsend (R-52) for their leadership in the development of this legislation. With the passage of Assembly Bill 272, Wisconsin will be one of the last to have a prescription drug monitoring program. In fact, Wisconsin is the only state in the upper Midwest that doesn't have a program. Through the development and use of a prescription monitoring system, pharmacists and practitioners will have a better ability to detect prescription fraud or doctor shopping.

Knowing what medications a patient is taking is important in their care. Before dispensing any prescription, Wisconsin pharmacy providers are required to do a consultation with the patient. Additionally, pharmacists will review the patient's prescription history to ensure there are no contraindications with other prescribed medications the patient may be taking. Although it is highly recommended that patients maintain a complete medication history by using the same pharmacy for all their prescription medications, often patients use multiple pharmacies and sometimes persons use multiple pharmacies to receive medications that a single pharmacy would not dispense. A prescription drug monitoring program may provide an opportunity for pharmacists to review a medication history for patients that may not be regular customers. The monitoring program would be limited to controlled substances and would provide for a limited review of a patient's medication history.

However, it is important the prescription drug monitoring program not impede a patient's access to prescription medications. The Pharmacy Society of Wisconsin appreciates the amendments included by the Assembly that will ensure the privacy of all patients' medication history. Additionally, the amendments will ensure that access to the program's data is strictly limited. Furthermore we will encourage the PEB to reach out to all interested parties as they work to develop the rules governing the monitoring Wisconsin prescription drug monitoring System.

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tele 608.827.9200
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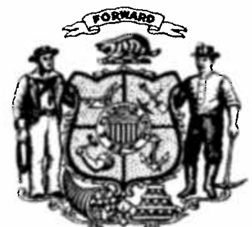
www.pswi.org

# WISCONSIN STATE LEGISLATURE



AB 227

Good Morning, my name is John Lawrynk and I am a detective with the City of Stevens Point Police Department which is located in Portage County. In our county of approximately 68,000 people we have had 23 people die from confirmed prescription drug overdoses in the last 4 years. These people were mostly young healthy people with no major health problems. They were people who accidentally took too much or combined several drugs which caused a poly-drug overdose and they died. This problem does not discriminate against anyone, in our county we have had moms, dads, brothers, sisters and even a fourteen year old boy succumb to this nationwide fatal epidemic.

I would like to briefly mention one specific case that could have been prevented with a prescription drug monitoring law in place.

This case involved a 30 year old male subject who was found in his house unconscious by a good friend. The victim was rushed to our local hospital and then transported to St. Joseph's Hospital in Marshfield because of how serious his condition was. The 30 year old had overdosed on Oxycodone which was supplied to him by another individual. The 30 year old was in intensive care for several days and barely survived his overdose but not before causing permanent damage to his heart. The female who was suspected of providing the Oxycodone to the male had been obtaining Oxycodone for several years from several different doctors. As of today I have been able to identify 6 different doctors and can show she obtained almost 260,000 mg of Oxycodone between October of 2006 and May of 2009. I am certain there are more doctors from whom she obtained more prescriptions but I will probably never know how many there were for sure. In speaking with many of the doctors involved with this case, many of them had some suspicions but didn't know what to do or how to do it. With a prescription monitoring program in place in Wisconsin these doctors would have been able to see this person was getting large amounts of Oxycodone from other doctors in other cities and it would have stopped the problem early on. Although the most serious result of this case was the near death of the victim it also cost society tens of thousands of dollars.

I would like to thank you for your time today and urge you to support this bill as it will not only save this state a lot of money but it will save lives!!!!

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*Town of Menasha*
**POLICE DEPARTMENT**

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**RODNEY V. McCANTS**
Chief of Police

**To: Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue**

**From: Jason Weber - Town of Menasha Police Department**
**Wisconsin Crime Prevention Practitioners Association**

**Re: 2009 Assembly Bill 227**

Chairperson Erpenbach and members of the Committee, thank you for the opportunity to speak on behalf of 2009 Assembly Bill 227, which would create a program to monitor the dispensing of controlled substances in Wisconsin. I am speaking to you on behalf of the Town of Menasha Police Department and the Wisconsin Crime Prevention Practitioners Association of which I am a board of director.

Prescription drug abuse is rapidly becoming a serious problem across the country and in Wisconsin. When people hear the term 'drug abuse' they typically think of street drugs such as marijuana or crack cocaine, but rarely think of the medicine that is prescribed to many of us. This is one of the reasons that the problem has silently risen to the level that we are faced with now.

In the Fox Valley, we have seen this problem affect many lives in a negative way. From the abusers addicted to it to the victims of the many robberies and burglaries by people seeking these medications. In 2008, there were 36 drug related deaths in the four counties that surround Lake Winnebago. Of those 36 deaths, 27 were the result of a pharmaceutical. That same year, almost half of all the drug related emergency room visits were pharmaceutical related.

In response to this issue, a coalition in the Fox Valley developed an educational campaign called "Good Drugs Gone Bad" which contains presentations and information about this problem. A CD/DVD kit contains material that is targeted at audiences including students, parents, older adults, and physicians/pharmacists. This kit has been distributed across Wisconsin and has been requested in other states.

Many of these prescription drugs are obtained fraudently by drug seekers through "doctor shopping". The number of prescriptions written each year in Wisconsin continues to grow and given these statistics, "doctor shopping" appears to be the prescription fraud tactic with the highest success rate.

Recent examples of this tactic include:

- A female that brought an undercover agent to her doctor's appointment to fraudently obtain a prescription and then drove the agent to the pharamcy to fill that prescription and sold it in the parking lot. This female was also receiving assistance for health insurance and medication. Not only was she committing a criminal act, she was profiting and taking advantage from the assisted insurance.

- A pharmacist in Milwaukee County, who became suspicious after receiving an unusually high number of prescriptions, broke up a sophisitcated prescription fraud ring. The ring was recruiting people to fake injuries to get oxycodone prescriptions and resold the medication in 17 southeastern Wisconsin communities.

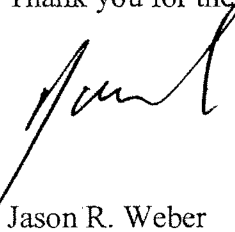
- In the span of seven months in 2006, a 24 year old Fox Valley female had received prescriptions from 27 different doctors using 11 different pharmacies. After being caught, she continued her ways in 2009 and in 2 months had received prescriptions from 15 doctors using 4 different pharmacies.

- Between 2004 and 2005, a Fox Valley man and woman working together each saw 22 different doctors, at one point the woman saw 7 in a 12 day period. They also admitted to going out of state to see doctors.

Prescription Drug Monitoring Programs (PDMP) entails various methods of tracking and monitoring certain prescription drugs. The general goal of the program is to educate and inform prescribers, pharmacists, and the public regarding specific prescription drugs. Other aspects of the program is that the information can be used for early intervention and prevention and if need be, to assist in investigations and enforcement. Presently a majority of the states have a PDMP, including all of our surrounding states.

As stated earlier, crime prevention officers and other prevention workers across the state have been out educating the public on this danger. Health care professionals and pharmacists play a critical role in the prevention of prescription drug abuse and the creation of a PDMP would be another tool in curbing this rising trend.

Thank you for the opportunity to appear today.



Jason R. Weber
Town of Menasha Police Department – Community Liaison Officer
Wisconsin Crime Prevention Practitioners Association – Board of Director

FORWARD
E PLURIBUS UNUM

TO: Senate Committee on Health, Health Insurance, Privacy, Property Tax Relief and Revenue

Re: AB 227

The Red Cliff Band of Lake Superior Chippewa Indians thanks you for the opportunity to submit written testimony on this most important matter. We are a small, impoverished Tribe located on the northernmost tip of Wisconsin. Like many economically-depressed areas, the drug abuse in our community is especially common and above the nationwide average. Over the past decade, the problem of prescription drug abuse has become prevalent. Prescription drug abuse presents dangers not only to the abuser, but also to the abusers family. Prescription drug abusers, like those who abuse non-prescription drugs, sometimes engage in violent behavior, neglect the safety of children within their care, operate motor vehicles under the influence, and otherwise present dangers to society at large.

Complicating matters, the confidential nature of the relationship between health care providers and those who abuse prescription drugs has hampered our ability to combat this type of crime. At Red Cliff, our direct experience dealing with the issues surrounding the abuse of prescription drugs led us to seek out new methods to combat this type of crime. In March of this past year, some of these issues came to a head in connection with contact from our own physicians as well as other law enforcement agencies seeking to address specific instances of suspected criminal activity. Rather than wait for assistance from outside entities, we decided to attempt to address these issues ourselves as best we could. This led to our own internal policy at the Red Cliff Community Health Center entitled "Controlled Substance Prescribing Policy." Within our own internal policy we took measures such as:

► restricting the ability of those who are prescribed medications to have their medications replaced upon their claim that it had been lost, stolen, damaged or destroyed

► requiring that the patient present original containers with remaining medications to each office visit

▶ unannounced pill counts; and

▶ reserving the right to cancel prescriptions upon receipt of evidence that the patient's medication or a similar medication is being prescribed by an outside provider

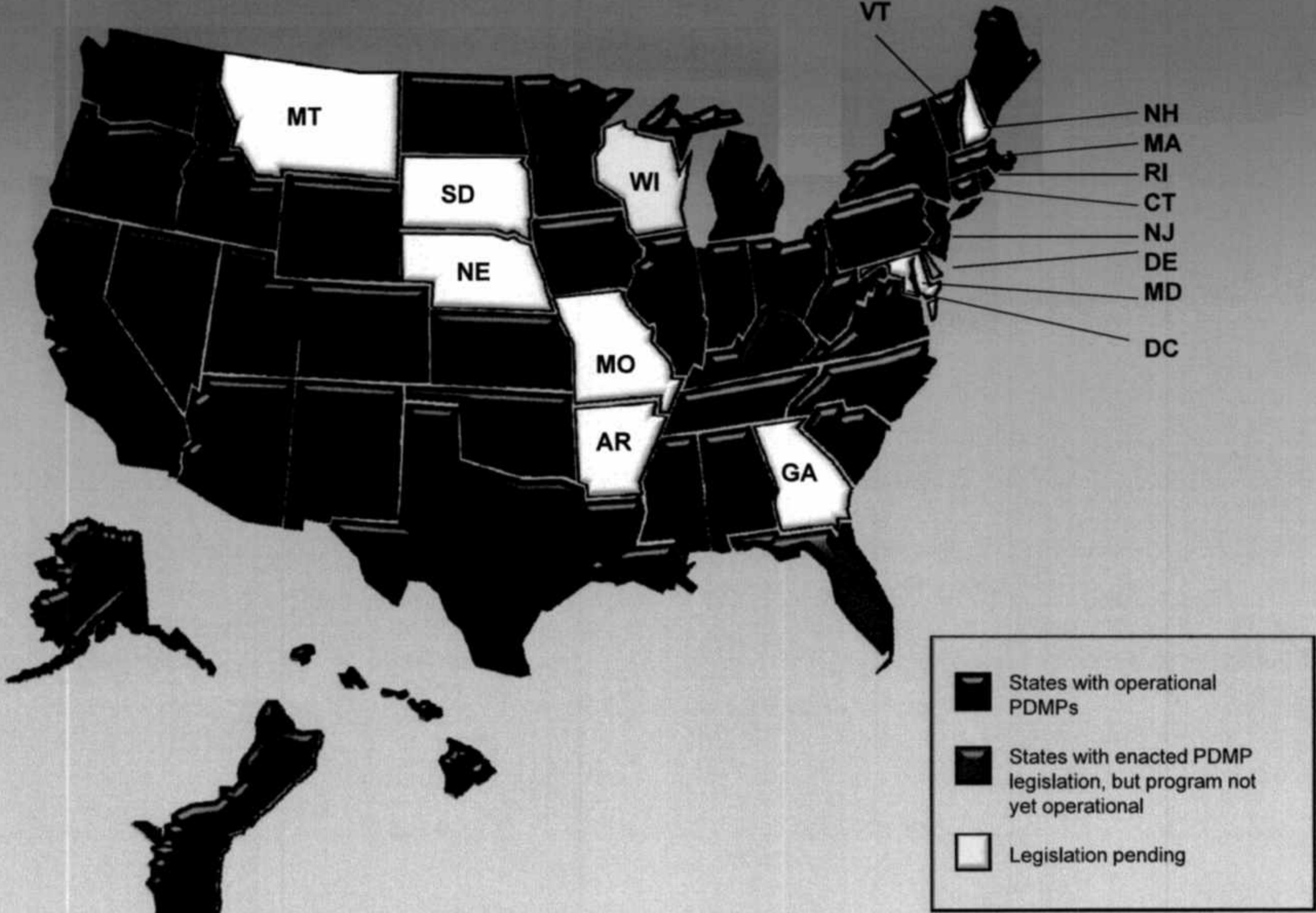
We also became involved in the Chequamegon Bay Area Prescription Drug Abuse Task Force and began to talk with other law enforcement agencies as well as health care providers about solutions to the problem of prescription drug abuse. Throughout all of our efforts, a central theme has emerged: The need for a central data base to stop the diversion and abuse of prescription drugs. We have discussed this issue directly with our representative Gary Sherman, and are fully supportive of the Bill that he has introduced AB 227 which directs the Pharmacy Examining Board to create a program to monitor the dispensing of prescription drugs. The requirement that those who dispense prescription drugs maintain records documenting dispensing of those drugs will assist law enforcement efforts by making this information available to law enforcement upon appropriate court order and will track efforts being made at the federal level to address this most important issue. We urge you to pass AB 277 and to pledge your full support to the ongoing efforts of law enforcement to make our communities a safer place. Thank you for taking the time to listen to our concerns.

Dated this 19th day of Janary, 2010.

David Ujke
Tribal Attorney
Red Cliff Band of Lake Superior Chippewa Indians
88385 Pike Road
Bayfield, Wisconsin 54814

FORWARD
E PLURIBUS UNUM

AB 227



FORWARD
E PLURIBUS UNUM

AB 227

AMANDA SCHIEFELBEIN

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Sen Health Comm
Referenced by Sleeman

January 12, 2010

Judith Robson
Room 122 South
State Capitol
P.O. Box 7882
Madison, WI 53707

On December 22nd, 2009, while I was in the hospital, a prescription written for 30 pills of 20mg Oxycontin was stolen out of my hospital chart and filled at a local pharmacy. This person took information out of my chart; namely my phone number and my address. This person knew that this particular pharmacy did not have security cameras in the drive thru and therefore there is not a photo of the person to help in the prosecution of this matter. This person used my insurance and paid cash for the medication.

When I got out of the hospital on December 23rd, 2009, another doctor, unaware that my primary care physician had already written an Oxycontin prescription, wrote me another. My husband and I went to a separate pharmacy and tried to fill my prescriptions. The pharmacist told us that the Oxycontin prescription had been filled the previous day. We went to the pharmacy where the stolen prescription had been filled. The pharmacy technician who sold the prescription said that she felt that there might have been something wrong because this person couldn't remember the house number. When this person was told that the script was not ready she took off fast; and when she came back, she had a hood over her head and would not look at the technician. The technician still sold her the medication.

This pharmacy said that they did nothing wrong in filling the prescription. They put a note in my file to check my identification when I bring a prescription to be filled. I asked them about instituting a company wide policy to check identification when people pick up controlled substances, but they said they were unable to do so because some people who can't get out of their homes have other people pick up their prescriptions.

In this state, you have to show identification and sign a log book to obtain pseudoephedrine, but not to pick up a controlled substance. Wisconsin pseudoephedrine law passed in 2005 requires that the purchaser be at least 18 years old, present a government issued photo identification card, and provide your signature for the log book.

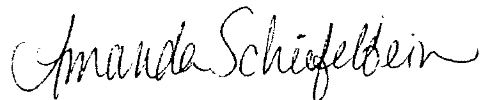
I believe to prevent people from getting stolen prescriptions filled, identification should be required and a signature obtained to receive controlled substances. Pharmacies already have in place a system for keeping signatures for pseudoephedrine and to institute the same mandates for controlled substances would not be too difficult. Also, by requiring people to come into the pharmacy to get the medication, video surveillance would also be obtained of the individual coming in to get the controlled substance as most pharmacies have surveillance cameras.

One concern might be that homebound people will have a harder time getting their medications. We are not asking that the person who is picking up the controlled substance be the person for whom the medication is for, but that there is a record of who picked up the medication.

As of today, there has not been any arrests made in my case. The person who stole it more than likely works in the hospital and still has opportunities to steal more prescriptions. Had a law been in place requiring someone to go inside the pharmacy, present identification, and provide a signature; there would have been a photograph of this person, a name, and an address of the person so an arrest could have been made.

As you know, Oxycontin is a very powerful pain medication and when used inappropriately, it can be deadly. This law would not only protect a person's identity and insurance; but it could potentially save lives and keep drugs off the street.

Thank you for your time and we hope to work together with you to get the law changed to prevent this from happening to someone else.



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