

State of Wisconsin



2021 Senate Bill 300

Date of enactment: **December 3, 2021**

Date of publication*: **December 4, 2021**

2021 WISCONSIN ACT 100

AN ACT *to renumber and amend* 450.02 (2); *to amend* 146.81 (1) (fm), 146.997 (1) (d) 8., 450.01 (16) (g), 450.01 (21e) (a), 450.02 (3) (f), 450.03 (1) (e), 450.03 (1) (i), 450.035 (2h), 450.035 (2i) (a) and (b), 450.035 (3), 450.035 (4), 450.062 (intro.), 450.08 (1), 450.08 (2) (b), 450.10 (1) (a) 1., 450.10 (1) (a) 2., 450.10 (1) (a) 3., 450.10 (1) (a) 6., 450.10 (1) (b) (intro.), 450.10 (1) (b) 3., 450.10 (2), 450.10 (3) (a) 1., 450.11 (1b) (bm), 450.11 (1b) (d), 450.11 (1b) (e) 2., 450.11 (3), 450.11 (7) (d), 450.11 (8) (a) and 450.17; *to repeal and recreate* 146.89 (1) (r) 4. and 450.08 (title); and *to create* 440.03 (13) (b) 48m., 440.08 (2) (a) 56m., 450.01 (15g), 450.01 (16c), 450.02 (2) (b), 450.03 (1) (gm) and 450.068 of the statutes; **relating to:** registration of pharmacy technicians, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.81 (1) (fm) of the statutes is amended to read:

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

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 of the statutes is repealed and recreated to read:

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

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

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

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

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

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

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

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

450.01 (15g) "Pharmacy technician" means a person registered by the board under s. 450.068.

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

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

SECTION 8. 450.01 (16c) of the statutes is created to read:

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

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

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

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

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

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

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

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

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

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

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

450.03 (1) (i) Any person, other than a pharmacy technician, who is providing services, ~~including administering vaccines or drugs as authorized under s. 450.035,~~ 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 and subject to s. 450.035 (2m).

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

450.035 (2h) (a) A ~~person engaged in the practice of pharmacy under s. 450.03 (1) (i)~~ pharmacy technician

may not administer a vaccine unless all of the following are satisfied:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The applicant satisfies one of the following:

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

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

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

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

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

(b) If the pharmacy technician changes his or her employer or place of employment, notify the department of his or her new employer or address of employment within 10 days of the change in writing or in accordance with other notification procedures approved by the

department and, if required by the department, pay the transfer fee under s. 440.05 (7).

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

450.08 (title) Credential renewals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 40. Nonstatutory provisions.

(1) The pharmacy examining board may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2024, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 41. Effective dates. This act takes effect on the first day of the 13th month beginning after publication or on May 31, 2022, whichever is later, except as follows:

(1) SECTION 40 (1) of this act takes effect on the day after publication.
