



State of Wisconsin
2001 - 2002 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 672**

February 26, 2002 - Offered by Representatives GROTHMAN and UNDERHEIM.

1 **AN ACT** *to amend* 448.02 (3) (a); and *to create* 448.35 of the statutes; **relating**
2 **to:** requiring physicians to provide certain information when issuing
3 prescription orders to treat children with attention deficit hyperactivity
4 disorder.

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

5 **SECTION 1.** 448.02 (3) (a) of the statutes is amended to read:
6 448.02 (3) (a) The board shall investigate allegations of unprofessional conduct
7 and negligence in treatment by persons holding a license, certificate or limited
8 permit granted by the board. An allegation that a physician has violated s. 253.10
9 (3), 448.30, 448.35 (3), or 450.13 (2) or has failed to mail or present a medical
10 certification required under s. 69.18 (2) within 21 days after the pronouncement of
11 death of the person who is the subject of the required certificate or that a physician
12 has failed at least 6 times within a 6-month period to mail or present a medical

1 certificate required under s. 69.18 (2) within 6 days after the pronouncement of death
2 of the person who is the subject of the required certificate is an allegation of
3 unprofessional conduct. Information contained in reports filed with the board under
4 s. 49.45 (2) (a) 12r., 50.36 (3) (b), 609.17 or 632.715, or under 42 CFR 1001.2005, shall
5 be investigated by the board. Information contained in a report filed with the board
6 under s. 655.045 (1), as created by 1985 Wisconsin Act 29, which is not a finding of
7 negligence or in a report filed with the board under s. 50.36 (3) (c) may, within the
8 discretion of the board, be used as the basis of an investigation of a person named in
9 the report. The board may require a person holding a license, certificate or limited
10 permit to undergo and may consider the results of one or more physical, mental or
11 professional competency examinations if the board believes that the results of any
12 such examinations may be useful to the board in conducting its investigation.

13 **SECTION 2.** 448.35 of the statutes is created to read:

14 **448.35 Attention deficit hyperactivity disorder. (1) DEFINITIONS.** In this
15 section:

16 (a) "Child" means a person under 18 years of age.

17 (b) "Department" means the department of health and family services.

18 (c) "Prescription drug" has the meaning given in s. 450.01 (20).

19 (d) "Prescription order" has the meaning given in s. 450.01 (21).

20 (e) "Schedule II controlled substance" means any substance included under s.
21 961.16.

22 **(2) INFORMATIONAL MATERIALS.** (a) The department shall, in consultation with
23 the State Medical Society of Wisconsin, determine which Schedule II controlled
24 substances are commonly prescribed by physicians in this state to treat attention

1 deficit hyperactivity disorder in children and shall prepare informational materials
2 pertaining to each of those substances containing the following information:

3 1. A statement that the substance is a Schedule II controlled substance.

4 2. The information included in the labeling of the substance under 21 USC 352

5 (f).

6 (b) The materials prepared under par. (a) shall be made available to physicians
7 and to the public on the department's Internet site. Upon the request of a physician,
8 the materials under par. (a) shall be provided to the physician printed on paper that
9 is 8.5 inches wide and 11 inches long.

10 (c) The materials under par. (a) shall be made available to physicians and to
11 the public no later than the first day of the 6th month beginning after the effective
12 date of this paragraph [revisor inserts date].

13 (d) The department shall periodically review the materials under par. (a) and
14 shall exercise reasonable diligence in providing materials that are accurate and
15 current.

16 **(3) REQUIREMENTS FOR PHYSICIANS.** (a) Except in an emergency and as provided
17 under par. (d), a physician who diagnoses a child with attention deficit hyperactivity
18 disorder and issues a prescription order for a Schedule II controlled substance for
19 treatment of the disorder shall provide a printed copy of the materials pertaining to
20 the prescribed substance that have been prepared by the department under sub. (2)
21 (a) and that have been printed on paper that is 8.5 inches wide and 11 inches long
22 to the persons specified in par. (b).

23 (b) A physician required to provide information under this section shall provide
24 the information to the parent or guardian of the child if the parent or guardian of the
25 child is present when the prescription order is issued. If the child is 14 years of age

1 or older, the physician shall also provide the information to the child. If the child's
2 parent or guardian is not present at the time the prescription order is issued, the
3 physician shall provide the information to an adult who is with the child at the time
4 the prescription order is issued, if any.

5 (c) A physician shall obtain from the parent or guardian of the child, or the adult
6 to whom the information is provided, if any, certification in writing that the physician
7 has provided the information required under this section.

8 (d) A physician who treats a child for attention deficit hyperactivity disorder
9 on a long-term basis with the same prescription drug shall provide the information
10 and obtain the certification required under this section when issuing the initial
11 prescription order for that prescription drug and at least once every 2 years
12 thereafter. A physician is not required to provide the information described under
13 sub. (2) if the physician reasonably believes that another physician has issued a
14 prescription order for the child for the same prescription drug within the past year.

15 (4) EXEMPTION. It is not unprofessional conduct under s. 448.02 (3) (a) for a
16 physician to fail to provide the materials required under this section if the physician
17 made a reasonably diligent effort to obtain the materials from the department and
18 the department did not make the materials available at the time that the physician
19 was required to provide them.

20 **SECTION 3. Initial applicability.**

21 (1) The treatment of sections 448.02 (3) (a) and 448.35 (3) of the statutes first
22 applies to prescription orders that are issued on the first day of the 10th month
23 beginning after the effective date of this subsection.

24 (END)