



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0096/2
CTS:bjk:jf

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 227**

August 20, 2009 – Offered by Representative SHERMAN.

1 **AN ACT** *to amend* 146.82 (1); and *to create* 450.19 of the statutes; **relating to:**
2 directing the Pharmacy Examining Board to create a program to monitor the
3 dispensing of prescription drugs and requiring the exercise of rule-making
4 authority.

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

5 **SECTION 1.** 146.82 (1) of the statutes is amended to read:
6 146.82 (1) CONFIDENTIALITY. All patient health care records shall remain
7 confidential. Patient health care records may be released only to the persons
8 designated in this section or to other persons with the informed consent of the patient
9 or of a person authorized by the patient. This subsection does not prohibit reports
10 made in compliance with s. 253.12 (2), 255.40, or 979.01; records generated or
11 disclosed pursuant to rules promulgated under s. 450.19; testimony authorized

1 under s. 905.04 (4) (h); or releases made for purposes of health care operations, as
2 defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

3 **SECTION 2.** 450.19 of the statutes is created to read:

4 **450.19 Prescription drug monitoring program. (1)** In this section,
5 “prescription drug” means a substance identified in s. 961.16 or 961.18 or a drug
6 identified by the board by rule as having a substantial potential for abuse.

7 **(2)** The board shall establish by rule a program for monitoring the dispensing
8 of prescription drugs. The program shall do all of the following:

9 (a) Require a pharmacist or practitioner to generate a record documenting each
10 dispensing of a prescription drug and to deliver the record to the board, except that
11 the program may not require the generation of a record when a drug is administered
12 directly to a patient.

13 (b) Identify specific data elements to be contained in a record documenting the
14 dispensing of a prescription drug. In identifying specific data elements, the board
15 shall consider data elements identified by similar programs in other states and shall
16 ensure, to the extent possible, that records generated by the program are easily
17 shared with other states.

18 (c) Specify the persons to whom a record may be disclosed and the
19 circumstances under which the disclosure may occur. The rule promulgated under
20 this paragraph shall permit the board to share a record generated by the program
21 with relevant agencies of other states.

22 (d) Specify a secure electronic format for delivery of a record generated under
23 the program and authorize the board to grant a pharmacist or practitioner a waiver
24 of the specified format.

25 (e) Specify a deadline for the delivery of a record to the board.

1 (f) Specify a penalty for failure to comply with rules promulgated under this
2 subsection.

3 (g) Maximize the potential for funding the operation of the program with
4 available federal funding sources.

5 (h) Ensure that the program complies with s. 146.82 and 45 CFR part 164,
6 subpart E.

7 **(3)** (a) A pharmacist or practitioner is immune from civil or criminal liability
8 or professional discipline arising from the pharmacist's or practitioner's compliance
9 in good faith with this section or with rules promulgated under this section.

10 (b) Nothing in this section may be construed to require a pharmacist or
11 practitioner to obtain, before prescribing or dispensing a prescription to a patient,
12 information about the patient that has been collected pursuant to the program
13 described under sub. (2).

14 **(4)** Records generated under the program under this section are not subject to
15 inspection or copying under s. 19.35.

16 **(5)** The department shall submit a timely application for a federal grant under
17 42 USC 280g-3 and under the Harold Rogers Prescription Drug Monitoring Program
18 to fund the establishment and operation of the program under this section. If the
19 department fails to obtain federal funding before January 1, 2015, this section is
20 void.

21 (END)