



State of Wisconsin
2009 - 2010 LEGISLATURE

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**SENATE AMENDMENT 1,
TO 2009 SENATE BILL 455**

February 16, 2010 – Offered by Senators ROBSON and SULLIVAN.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 2: after “drugs” insert “, donating drugs, and dispensing
donated drugs”.

3 **2.** Page 1, line 3: before that line insert:

4 “SECTION 1m. 255.056 (title) of the statutes is amended to read:

5 **255.056** (title) ~~Cancer and chronic diseases drug~~ **Drug repository.**

6 **SECTION 2.** 255.056 (1) (a) of the statutes is repealed.

7 **SECTION 3.** 255.056 (1) (am) of the statutes is repealed.

8 **SECTION 4.** 255.056 (1) (bg) of the statutes is created to read:

9 255.056 (1) (bg) “Drug” has the meaning given in s. 450.01 (10).

10 **SECTION 5.** 255.056 (1) (h) of the statutes is amended to read:

11 255.056 (1) (h) “Supplies” means items that are necessary to administer a
12 ~~cancer or chronic disease drug.~~

1 **SECTION 6.** 255.056 (2) of the statutes is amended to read:

2 255.056 **(2)** The department shall establish and maintain a ~~cancer and chronic~~
3 ~~diseases~~ drug repository program, under which any person may donate a ~~cancer or~~
4 ~~chronic disease~~ drug or supplies, other than a drug specified under sub. (2m), for use
5 by an individual who meets eligibility criteria specified by rule by the department.
6 Donation may be made on the premises of a medical facility or pharmacy that elects
7 to participate in the program and meets requirements specified by rule by the
8 department. The medical facility or pharmacy may charge an individual who
9 receives a ~~cancer or chronic disease~~ drug or supplies under this subsection a handling
10 fee that may not exceed the amount specified by rule by the department. A medical
11 facility or pharmacy that receives a donated ~~cancer or chronic disease~~ drug or
12 supplies under this subsection may distribute the ~~cancer or chronic disease~~ drug or
13 supplies to another eligible medical facility or pharmacy for use under the program
14 under this section.

15 **SECTION 7.** 255.056 (2m) of the statutes is created to read:

16 255.056 **(2m)** None of the following drugs may be donated, accepted,
17 distributed, or dispensed under this section:

18 (a) A controlled substance, as defined in s. 961.01 (4).

19 (b) A drug for which the U.S. food and drug administration requires that a
20 patient using the drug be enrolled in a registry as provided under 21 USC 355-1 (f)
21 (3) (F).

22 **SECTION 8.** 255.056 (3) of the statutes is amended to read:

23 255.056 **(3)** A ~~cancer or chronic disease~~ drug or supplies may be accepted and
24 dispensed under the program specified in sub. (2) only if all of the following
25 requirements are met:

1 (a) ~~The cancer or chronic disease~~ drug or supplies are in their original,
2 unopened, sealed, and tamper-evident unit-dose packaging or, if packaged in
3 single-unit doses, the single-unit-dose packaging is unopened.

4 (b) ~~The cancer or chronic disease~~ In the case of a drug, the drug bears an
5 expiration date that is later than ~~6 months~~ 90 days after the date that the drug was
6 donated.

7 (c) ~~The cancer or chronic disease~~ drug or supplies are not adulterated or
8 misbranded, as determined by a pharmacist employed by, or under contract with, the
9 medical facility or pharmacy, who shall inspect the drug or supplies before the drug
10 or supplies are dispensed.

11 (d) ~~The cancer or chronic disease~~ For a prescription drug or supplies used to
12 administer a prescription drug, the drug or supplies are prescribed by a practitioner
13 for use by an eligible individual and are dispensed by a pharmacist or practitioner.

14 **SECTION 9.** 255.056 (4) of the statutes is amended to read:

15 255.056 (4) No ~~cancer or chronic disease~~ drug or supplies that are donated for
16 use under this section may be resold.

17 **SECTION 10.** 255.056 (6) of the statutes is amended to read:

18 255.056 (6) (a) Unless the manufacturer of a drug or supply exercises bad faith,
19 the manufacturer is not subject to criminal or civil liability for injury, death, or loss
20 to a person or property for matters related to the donation, acceptance, or dispensing
21 of a ~~cancer or chronic disease~~ drug or supply manufactured by the manufacturer that
22 is donated by any person under this section, including liability for failure to transfer
23 or communicate product or consumer information or the expiration date of the
24 donated ~~cancer or chronic disease~~ drug or supply.

1 (b) Except as provided in par. (c), any person, except the manufacturer of a drug
2 or supply, is immune from civil liability for injury to or the death of the individual
3 to whom the ~~cancer or chronic disease~~ drug or supply is dispensed and may not be
4 found guilty of unprofessional conduct for his or her acts or omissions related to
5 donating, accepting, distributing, or dispensing a ~~cancer or chronic disease~~ drug or
6 supply under this section.

7 (c) The immunity or the prohibition on a finding of guilty of unprofessional
8 conduct under par. (b) does not extend to donation, acceptance, distribution, or
9 dispensation of a ~~cancer or chronic disease~~ drug or supply by a person whose act or
10 omission involves reckless, wanton, or intentional misconduct.

11 **SECTION 11.** 255.056 (7) (a) (intro.) of the statutes is amended to read:

12 255.056 (7) (a) (intro.) Requirements for medical facilities and pharmacies to
13 accept and dispense donated ~~cancer or chronic disease~~ drugs or supplies under this
14 section, including all of the following:

15 **SECTION 12.** 255.056 (7) (a) 2. of the statutes is amended to read:

16 255.056 (7) (a) 2. Standards and procedures for accepting, safely storing, and
17 dispensing donated ~~cancer or chronic disease~~ drugs or supplies.

18 **SECTION 13.** 255.056 (7) (a) 3. of the statutes is amended to read:

19 255.056 (7) (a) 3. Standards and procedures for inspecting donated ~~cancer or~~
20 ~~chronic disease~~ drugs or supplies to determine if the drug or supplies are in their
21 original, unopened, sealed, and tamper-evident ~~unit-dose~~ packaging or, if packaged
22 in single-unit doses, the single-unit-dose packaging is unopened.

23 **SECTION 14.** 255.056 (7) (a) 4. of the statutes is amended to read:

1 255.056 (7) (a) 4. Standards and procedures for inspecting donated ~~cancer or~~
2 ~~chronic disease~~ drugs or supplies to determine that the drug or supplies are not
3 adulterated or misbranded.

4 **SECTION 15.** 255.056 (7) (b) of the statutes is amended to read:

5 255.056 (7) (b) Eligibility criteria for individuals to receive donated ~~cancer or~~
6 ~~chronic disease~~ drugs or supplies dispensed under the program. The standards shall
7 prioritize dispensation to individuals who are uninsured or indigent, but will permit
8 dispensation to others if an uninsured or indigent individual is unavailable.

9 **SECTION 16.** 255.056 (7) (c) of the statutes is amended to read:

10 255.056 (7) (c) A means, such as an identification card, by which an individual
11 who is eligible to receive a donated ~~cancer or chronic disease~~ drug or supplies may
12 indicate that eligibility.

13 **SECTION 17.** 255.056 (7) (d) of the statutes is amended to read:

14 255.056 (7) (d) Necessary forms for administration of the ~~cancer and chronic~~
15 ~~diseases~~ drug repository program, including forms for use by persons that donate,
16 accept, distribute, or dispense ~~cancer or chronic disease~~ drugs or supplies under the
17 program.

18 **SECTION 18.** 255.056 (7) (e) of the statutes is amended to read:

19 255.056 (7) (e) The maximum handling fee that a medical facility or pharmacy
20 may charge for accepting, distributing, or dispensing donated ~~cancer or chronic~~
21 ~~disease~~ drugs or supplies The fee under this paragraph may not be less than 300
22 percent of the dispensing fee permitted to be charged for prescription drugs for which
23 coverage is provided under s. 49.46 (2) (b) 6. h.

24 **SECTION 19.** 255.056 (7) (f) of the statutes is repealed.

25 **SECTION 20.** 255.056 (7) (g) of the statutes is amended to read:

