



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs0132/1
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 366**

October 21, 2015 – Offered by Representative NYGREN.

1 **AN ACT** *to repeal* subchapter IV (title) of chapter 50 [precedes 50.90]; *to amend*
2 20.435 (6) (jm), 50.56 (3), 146.40 (1) (bo), 146.81 (1) (L) and 146.997 (1) (d) 18.;
3 and *to create* subchapter V (title) of chapter 50 [precedes 50.60], 50.60, 50.65
4 and subchapter VI (title) of chapter 50 [precedes 50.90] of the statutes; **relating**
5 **to:** pain clinic certification and requirements, granting rule-making authority,
6 and providing a penalty.

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

7 **SECTION 1.** 20.435 (6) (jm) of the statutes is amended to read:
8 20.435 (6) (jm) *Licensing and support services.* The amounts in the schedule
9 for the purposes specified in ss. 48.685 (2) (am) and (b) 1., (3) (a), (am), (b), and (bm),
10 and (5) (a), 49.45 (47), 50.02 (2), 50.025, 50.065 (2) (am) and (b) 1., (3) (a) and (b), and
11 (5), 50.13, 50.135, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.981, and

1 146.40 (4r) (b) and (er), and subch. ~~IV~~ VI of ch. 50 and to conduct health facilities plan
2 and rule development activities, for accrediting nursing homes, convalescent homes,
3 and homes for the aged, to conduct capital construction and remodeling plan reviews
4 under ss. 50.02 (2) (b) and 50.36 (2), and for the costs of inspecting, licensing or
5 certifying, and approving facilities, issuing permits, and providing technical
6 assistance, that are not specified under any other paragraph in this subsection. All
7 moneys received under ss. 48.685 (8), 49.45 (42) (c), 49.45 (47) (c), 50.02 (2), 50.025,
8 50.065 (8), 50.13, 50.36 (2), 50.49 (2) (b), 50.495, 50.52 (2) (a), 50.57, 50.93 (1) (c), and
9 50.981, all moneys received from fees for the costs of inspecting, licensing or
10 certifying, and approving facilities, issuing permits, and providing technical
11 assistance, that are not specified under any other paragraph in this subsection, and
12 all moneys received under s. 50.135 (2) shall be credited to this appropriation
13 account.

14 **SECTION 2.** 50.56 (3) of the statutes is amended to read:

15 50.56 (3) Notwithstanding sub. (2), insofar as a conflict exists between this
16 subchapter, or the rules promulgated under this subchapter, and subch. I, II or ~~IV~~
17 VI, or the rules promulgated under subch. I, II or ~~IV~~ VI, the provisions of this
18 subchapter and the rules promulgated under this subchapter control.

19 **SECTION 3.** Subchapter V (title) of chapter 50 [precedes 50.60] of the statutes
20 is created to read:

21 **CHAPTER 50**

22 **SUBCHAPTER V**

23 **CLINICS**

24 **SECTION 4.** 50.60 of the statutes is created to read:

25 **50.60 Definitions; clinics.** In this subchapter:

1 **(1)** “Health care provider” has the meaning given in s. 146.81 (1) (a) to (hp).

2 **(2)** “Interventional pain medicine” means the branch of medicine and surgery
3 devoted to the diagnosis and treatment of pain syndromes through the use of
4 invasive techniques.

5 **(3)** “Pain clinic” means any of the following:

6 (a) A privately owned facility where a majority of the health care providers,
7 practicing within the scope of their licenses, devotes a majority of their practices to
8 the treatment of pain syndromes through the practice of pain medicine or
9 interventional pain medicine.

10 (b) A privately owned facility that advertises or otherwise holds itself out as
11 providing pain medicine or interventional pain medicine services and that has one
12 or more employees or contractors who prescribe opioids or opiates, benzodiazepines,
13 barbiturates, or carisoprodol as chronic therapy for pain syndromes.

14 **(4)** “Pain medicine” means the branch of medicine devoted to the diagnosis and
15 treatment of pain syndromes through treatments, including prescription of a
16 monitored prescription drug, as defined in s. 961.385 (1) (ag).

17 **(5)** “Pain syndrome” means any of the following:

18 (a) Pain that is reasonably anticipated to persist, or has persisted, beyond the
19 time frame for normal healing.

20 (b) Pain that is reasonably anticipated to persist, or has persisted, for more
21 than 3 months.

22 **SECTION 5.** 50.65 of the statutes is created to read:

23 **50.65 Pain clinics. (1) CERTIFICATION REQUIRED.** (a) No pain clinic may
24 operate unless it holds a certificate to operate issued by the department.

1 (b) A pain clinic shall submit to the department an application, on a form
2 prescribed by the department, for a certificate. A business entity that owns more
3 than one pain clinic may apply for a single certificate for all pain clinics it owns, but
4 the business entity assuming responsibility for the pain clinics shall submit with the
5 application a listing of each pain clinic site, the number of days each week each pain
6 clinic site operates, and the health care providers who are working on each day of
7 operation at each site. The department may charge an applicant a fee for applying
8 for a certificate.

9 (c) A certified pain clinic that undergoes a change of majority ownership shall
10 submit a new application for a certificate.

11 (d) A pain clinic shall have a medical director who is a physician that practices
12 in this state. In the event that the medical director no longer meets the requirements
13 of holding the position of medical director, the pain clinic shall notify the department
14 within 10 business days of the identity of a physician who meets the requirements
15 of medical director and who acts as medical director at that pain clinic. Failure to
16 notify the department of an acting medical director within 10 days of the departure
17 of the previous medical director may be a basis for the department to suspend the
18 pain clinic's certification.

19 (e) The department shall issue a certificate of operation to a pain clinic if the
20 department finds that the pain clinic meets the requirements of this section, has paid
21 any application fee required by the department, and meets any requirements
22 established by the department. The department may not issue a certificate of
23 operation to a pain clinic if the owner has been convicted of a felony or found guilty
24 of a misdemeanor related to the distribution of an illegal prescription drug or
25 controlled substance.

1 (f) Subject to sub. (2), a certificate issued under this subsection is valid for 3
2 years and may be renewed.

3 **(2) PENALTY FOR VIOLATION.** (a) If the department finds that a pain clinic which
4 was issued a certificate under this section no longer meets any requirement of this
5 section or rules promulgated under this section or of requirements established by the
6 department, the department may do any of the following:

7 1. Suspend the certificate of the pain clinic until the department determines
8 that the pain clinic demonstrates compliance.

9 2. Revoke the certificate of the pain clinic.

10 3. Impose a forfeiture of up to \$1,000 per day for each day of continued violation.

11 (b) A pain clinic subject to a penalty under par. (a) is entitled to an appeal and
12 a hearing under ch. 227.

13 **(3) CASH TRANSACTIONS.** A pain clinic may not solicit or accept payment for
14 services in cash from an individual seeking treatment at the pain clinic, except that
15 an individual seeking treatment may pay an insurance copayment, coinsurance, or
16 deductible with cash. A pain clinic may accept credit, a credit card, a check, or a draft
17 from an individual who seeks treatment from a pain clinic but who does not have
18 insurance.

19 **(4) DIRECT DISPENSING.** A pain clinic may not directly dispense, as defined in
20 s. 450.01 (7), a monitored prescription drug, as defined in s. 961.385 (1) (ag), that is
21 administered orally, unless any of the following are true:

22 (a) The pain clinic is licensed as a pharmacy under s. 450.06.

23 (b) The pain clinic is treating an individual under ch. 102 for a condition or
24 complaint reasonably related to a condition for which the individual claims worker's
25 compensation under ch. 102.

1 146.40 (1) (bo) "Hospice" means a hospice that is licensed under subch. ~~IV~~ VI
2 of ch. 50.

3 **SECTION 9.** 146.81 (1) (L) of the statutes is amended to read:

4 146.81 (1) (L) A hospice licensed under subch. ~~IV~~ VI of ch. 50.

5 **SECTION 10.** 146.997 (1) (d) 18. of the statutes is amended to read:

6 146.997 (1) (d) 18. A hospice licensed under subch. ~~IV~~ VI of ch. 50.

7 **SECTION 11. Nonstatutory provisions.**

8 (1) Notwithstanding section 50.65 (1) (a) of the statutes, a pain clinic, as defined
9 in section 50.60 (3) of the statutes, that is operating on the effective date of this
10 subsection may continue to operate without the certificate required under section
11 50.65 (1) (a) of the statutes if the pain clinic submits an application for a certificate
12 under section 50.65 (1) of the statutes within 30 days after the date the department
13 of health services publishes the certificate application form on its Internet site.

14 (END)