



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5426/1
MED:cdc

2019 SENATE BILL 738

January 29, 2020 - Introduced by Senators FEYEN and CARPENTER, cosponsored by Representatives MURPHY, SKOWRONSKI and MILROY. Referred to Committee on Health and Human Services.

1 **AN ACT** *to repeal* 450.062 (intro.); *to renumber* 450.062 (1) to (4); *to renumber*
2 *and amend* 450.09 (2); *to amend* 450.06 (1), 450.06 (2) (b), 450.06 (2m), 450.09
3 (1) (a) and 450.09 (2) (title); and *to create* 450.01 (21c), 450.02 (5) and 450.09
4 (2) (b) of the statutes; **relating to:** licensing and regulation of pharmacies and
5 remote dispensing sites under the pharmacy practice law, extending the time
6 limit for emergency rule procedures, providing an exemption from rule-making
7 procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Generally, under current law, no pharmacist may dispense at any location in this state that is not licensed as a pharmacy by the Pharmacy Examining Board, except that a pharmacist may, pursuant to rules promulgated by the board, dispense at certain specifically identified types of locations that are not licensed as pharmacies, which include health care facilities, health care provider offices or clinics, and jails and other adult and juvenile correctional or residential facilities.

This bill instead requires the aforementioned locations to be licensed by the board as pharmacies. As such, the bill requires that they adhere to a number of requirements that apply to other pharmacies, including the requirement for a managing pharmacist to be designated for the pharmacy. However, the bill allows pharmacies at any of those locations to be operated as remote dispensing sites, in

SENATE BILL 738

which case a pharmacist is not required to be present at the pharmacy, but in that case a pharmacist must remotely supervise the pharmacy. Finally, the bill allows the board to promulgate rules governing pharmacies operated as remote dispensing sites, which may exempt pharmacies operated as remote dispensing sites from rules that apply to other pharmacies.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 450.01 (21c) of the statutes is created to read:

2 450.01 (21c) "Remote dispensing site" means a pharmacy governed by s. 450.09
3 (2) (b) 2.

4 **SECTION 2.** 450.02 (5) of the statutes is created to read:

5 450.02 (5) The board may promulgate rules governing pharmacies that are
6 operated as remote dispensing sites. Rules promulgated under this subsection may
7 exempt pharmacies operated as remote dispensing sites from requirements
8 governing pharmacies that are not operated as remote dispensing sites.

9 **SECTION 3.** 450.06 (1) of the statutes is amended to read:

10 450.06 (1) ~~Except as provided in s. 450.062, no~~ No pharmacist or person
11 engaged in the practice of pharmacy under s. 450.03 (1) (f), (g), or (i) may dispense
12 at any location in this state that is not licensed as a pharmacy by the board. No
13 person in this state may use or display the title "pharmacy," "drugstore,"
14 "apothecary," or any other title, symbol, or insignia having the same or similar
15 meanings, except for a place of practice which is licensed under this section as a
16 pharmacy by the board.

17 **SECTION 4.** 450.06 (2) (b) of the statutes is amended to read:

SENATE BILL 738

1 450.06 (2) (b) The location of the pharmacy is inspected in a manner approved
2 by the board and found to meet all the requirements of this chapter.

3 **SECTION 5.** 450.06 (2m) of the statutes is amended to read:

4 450.06 (2m) The board may ~~request, but may not require,~~ that practice-related
5 information be submitted on the application under sub. (2) (a).

6 **SECTION 6.** 450.062 (intro.) of the statutes is repealed.

7 **SECTION 7.** 450.062 (1) to (4) of the statutes are renumbered 450.09 (2) (b) 1.
8 a. to d.

9 **SECTION 8.** 450.09 (1) (a) of the statutes is amended to read:

10 450.09 (1) (a) Every pharmacy shall be under the control of the managing
11 pharmacist who signed the pharmacy license application, the most recent license
12 renewal application or the most recent amended schedule of operations. The
13 managing pharmacist shall be responsible for the professional operations of the
14 pharmacy. A pharmacist may be the managing pharmacist of not more than one
15 community and one institutional pharmacy at any time and shall be engaged in the
16 practice of pharmacy at each location he or she supervises. The board shall by rule
17 define community pharmacy and institutional pharmacy for the purposes of this
18 section, but a pharmacy that is operated exclusively as a remote dispensing site shall
19 not be considered a community pharmacy or institutional pharmacy for the purposes
20 of this paragraph.

21 **SECTION 9.** 450.09 (2) (title) of the statutes is amended to read:

22 450.09 (2) (title) ~~PRESENCE OF~~ SUPERVISION BY PHARMACIST.

23 **SECTION 10.** 450.09 (2) of the statutes is renumbered 450.09 (2) (a) and
24 amended to read:

SENATE BILL 738**SECTION 10**

1 450.09 (2) (a) No pharmaceutical service may be provided to any person unless
2 a pharmacist is present in the pharmacy to provide or supervise the service, except
3 as provided in par. (b).

4 **SECTION 11.** 450.09 (2) (b) of the statutes is created to read:

5 450.09 (2) (b) 1. A pharmacist is not required to be present in a pharmacy if the
6 pharmacy is any of the following locations:

7 2. Whenever a pharmacist is not present at the pharmacy when allowed under
8 subd. 1., all of the following shall apply:

9 a. The pharmacy shall be considered a remote dispensing site and shall be
10 subject to and governed by any rules promulgated under s. 450.02 (5).

11 b. A pharmacist shall, in accordance with any rules promulgated under s.
12 450.02 (5), remotely supervise the pharmaceutical services provided.

13 **SECTION 12. Nonstatutory provisions.**

14 (1) The pharmacy examining board may promulgate emergency rules under s.
15 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2),
16 emergency rules promulgated under this subsection remain in effect until May 1,
17 2022, or the date on which permanent rules take effect, whichever is sooner.
18 Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to
19 provide evidence that promulgating a rule under this subsection as an emergency
20 rule is necessary for the preservation of the public peace, health, safety, or welfare
21 and is not required to provide a finding of emergency for a rule promulgated under
22 this subsection.

23 (2) Sections Phar 6.04, 6.05, 6.06, 6.07, and 6.075, Wis. Adm. Code, do not apply
24 to remote dispensing sites, as defined in s. 450.01 (21c), until the date that is 6

SENATE BILL 738

1 months after the effective date of this subsection, except as the pharmacy examining
2 board otherwise provides by rule.

3 **SECTION 13. Effective dates.** This act takes effect on the first day of the 7th
4 month beginning after publication, except as follows:

5 (1) SECTION 12 (1) of this act takes effect on the day after publication.

6 (END)