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To: The Senate Committee on Health and Human Services
From: Sen. Dan Feyen
Re: Senate Bill 738

Mr. Chair, members of the committee, thank you for holding this hearing today.

This bill ensures remote dispensing sites that are currently operating can continue to operate. A remote dispensing site is a type of pharmacy that operates with a specially trained pharmacy technician and remote supervision by a pharmacist, rather than having a pharmacist physically present like a traditional pharmacy. The pharmacist counsels patients via a video chat. These sites currently exist and are vital access points in rural and otherwise underserved areas.

Remote dispensing sites currently operate in this manner. This bill simply allows them to continue these operations in light of DSPS' new interpretation of their statutory authority.

We have introduced one amendment to this bill. Senate Amendment 1 clarifies that free and charitable clinics as well as treatment centers for narcotic or opiate addictions will not be affected by this legislation. This amendment was drafted with input from stakeholders representing these entities.

There will be pharmacists speaking after me today who are well equipped to answer technical questions about the bill.

Thank you for your time and consideration.



DAVE MURPHY

State Representative • 56th Assembly District

Senate Committee on Health and Human Services

February 25, 2020

Senate Bill 738

Testimony of State Representative Dave Murphy

Mr. Chair and members of the committee, thank you for hearing Senate Bill 738 today.

Senate Bill 738 is bipartisan technical correction bill to bring administrative rules and statutes into line with current practice with regard to pharmacy remote dispensing sites.

Remote dispensing sites have existed under Wisconsin law for about a decade. They operate primarily in rural hospitals and clinics where it is not possible to have a pharmacist onsite, but patients require access to a dispensing pharmacy. At remote dispensing sites, technicians dispense under the remote supervision of a pharmacist. A pharmacist speaks to each patient before any drug is passed to a patient.

Current statute provides that pharmacists may dispense at certain locations and the Pharmacy Examining Board may promulgate rules about this dispensing. The rules that were promulgated created a mechanism for dispensing to occur at locations that essentially act as mini-pharmacies. Since statutes provide that only pharmacies can store drugs, and these sites aren't pharmacies, the rules go beyond the statutory allowance by creating remote dispensing sites, instead of permitting pharmacists to dispense outside of a pharmacy. The rules relating to remote dispensing sites are not specifically authorized by statute, which means there is not explicit authority for the rules to exist per the REINS act.

The federal Drug Enforcement Administration (DEA) has already stopped issuing DEA numbers to new remote dispensing sites because they are not considered licensed pharmacies under Wisconsin code. Our bill will license these sites specifically as "Remote Dispensing Sites," which gives the Pharmacy Examining Board clear and direct authority to write rules about these sites in the statutes and allows the DEA to issue DEA numbers to these sites.

The bill clarifies in statute that these sites may operate without a pharmacist present, but under the supervision of the pharmacist, which does not change current practice.

This bill is being advocated for by the Pharmacy Society of Wisconsin with the support of the Wisconsin Hospital Association, the Rural Wisconsin Health Cooperative, Aurora, Froedtert, SSM Health, and the UW Hospital and Clinics.

Subsequent concerns were raised by veterinarians, opioid treatment programs, and free and charitable clinics about their ability to dispense pharmaceuticals to the patients they serve, which is why we have introduced the amendment to ensure their services are not inhibited either by the current administrative rules or the change we are proposing.

It is critical that we move quickly on this bipartisan piece of legislation to bring our laws into line with a pharmacological practice that is serving an important need in our rural Wisconsin communities. The Assembly companion bill has already been adopted as amended without a single no vote. If we fail to act, it is very likely that many remote dispensing sites will be forced to close, which will limit access to medications for countless patients across Wisconsin.

Philip J. Trapskin, RPh, PharmD, BCPS
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DATE: February 24th, 2020
TO: Senator Patrick Testin, Chair
Members, Senate Committee on Health and Human Services
FROM: UW Health and Wisconsin Pharmacy Examining Board
Philip J. Trapskin, PharmD, BCPS, PEB Chair

SUBJECT: Senate Bill 738: relating to licensing and regulation of pharmacies and remote dispensing sites under the pharmacy practice law, extending the time limit for emergency rule procedures, providing an exemption from rule-making procedures, and granting rule-making authority.

Thank you for the opportunity to testify today in support of Senate Bill 738. My name is Philip Trapskin; I am a pharmacist at UW Health and serve as the Chair of the Wisconsin Pharmacy Examining Board (PEB).

Remote dispensing sites are locations, typically associated with a clinic, where a pharmacist supervises pharmacy services remotely. There are hundreds of remoted dispensing sites in operation across the state. They help to provide access to pharmacy services at locations that are unable to justify the costs of a pharmacist on-site. UW Health currently operates three sites that fill over 30,000 prescriptions a year, with two of the locations within federally qualified health centers (FQHC).

Please indulge me in providing the Committee with a brief history of remote dispensing sites in Wisconsin. In 2007, Wisconsin Act 202 established the legal foundation for remote dispensing, and the Pharmacy Examining Board then promulgated rules of minimum standards for supervision, operations, and personnel necessary to protect the public. Subsequently, in 2011, WI Act 21 created 227.10(2m) *"No agency may implement or enforce any standard, requirement, or threshold, including as a term or condition of any license issued by the agency, unless that standard, requirement, or threshold is explicitly required or explicitly permitted by statute or by a rule that has been promulgated in*

accordance with this subchapter. The governor, by executive order, may prescribe guidelines to ensure that rules are promulgated in compliance with this subchapter". As part of the Pharmacy Examining Board's work to update chapter Phar 7, the Board determined that statutory authority does not exist to permit the storage of medications at remote dispensing sites.

The proposed legislation provides a framework that would limit remote dispensing to locations licensed as a pharmacy. As a licensed pharmacy, it would be permissible to store medications. Furthermore, explicit statutory authority is granted for the promulgation of rules by the Pharmacy Examining Board for the minimum standards necessary for pharmacies to operate as remote dispensing sites safely.

Finally, I would like to thank Senators Feyen and Carpenter and Representatives Murphy, Skowronski, and Milroy for their leadership and sponsorship of SB 738, and Chairman Testin for holding today's hearing.

February 25, 2020

**Testimony to the Senate Committee on Health and Human Services
Support for Senate Bill 738
George Kowalski, RPh, Vice President Retail Pharmacy**

Chair Testin and members of the committee – thank you for the opportunity to provide written testimony in support of SB 738. Thank you also to the bipartisan bill authors for prioritizing this important legislation. My name is George Kowalski and I am the VP of Aurora Pharmacy, Inc. (API). API consists of 71 sites including 19 Remote Dispensary (RD) Sites. We are the largest operator of RD sites in the state.

RD sites have existed per law in Wisconsin for the better part of a decade. They operate in areas where patients need access to a dispensing pharmacy within a clinic or rural hospital. However, due to the remoteness or low volume, it is not economically feasible to operate these sites with a dispensing pharmacist on site.

At these sites, our specially trained technicians dispense under the remote supervision of a pharmacist. Each patient speaks to a pharmacist before the drugs are dispensed. These functions occur with the use of electronic equipment where both the pharmacist and the patient are visible to one another.

The need for this legislation arose because DSPS legal counsel has advised that the rules promulgated relating to RD sites are not authorized by the statute in light of the REINS act. Therefore, what we want to avoid is the potential closing of any of our 19 sites or any site that provides access to a patient. Our goal in supporting this legislation is to bridge the statutory authority gap.

Parallel to this, the DEA has stopped issuing DEA numbers to RD sites because they are not licensed pharmacies. Therefore, any new RD site which would provide additional access points for patients cannot dispense controlled substances. To illustrate the significance of this, it means access will be limited for patients needing treatment for pain management, seizure disorders and behavioral health disorders where the treatment of choice is a controlled substance.

The bill in question would license these as RD which will:

- Give the PEB authority to write rules regarding RD sites
- Allow the DEA to issue DEA numbers to these sites

The bill clarifies that these sites will operate without a pharmacist presence on site but under the supervision of a pharmacist. This is not a change from current practice.

We respectfully ask that you support this bill so that these sites do not close which would significantly impact patients who would no longer have access to pharmacy services.

Thank you again, for the opportunity to provide this testimony. I'd be happy to answer any questions you may have – please feel free to reach out to me or to Andrew Hanus, our Director of State Government Affairs.