State of Wisconsin

Date of enactment: **May 18, 2010**
2009 Assembly Bill 227 Date of publication*: **June 1, 2010**

2009 WISCONSIN ACT 362

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

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

SECTION 1. 146.82 (1) of the statutes is amended to read:

146.82 **(1)** CONFIDENTIALITY. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 253.12 (2), 255.40, or 979.01; records generated or disclosed pursuant to rules promulgated under s. 450.19; testimony authorized under s. 905.04 (4) (h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

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

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

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

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2007−08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

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

SECTION 3m. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 450.19 (2) of the statutes takes effect on the first day after the department of regulation and licensing receives federal funding under section 450.19 (5) of the statutes, as created by this act.