



TO: Members of the Wisconsin Legislature
From: Pharmacy Society of Wisconsin, Wisconsin Health Care Association and LeadingAge Wisconsin
Re: Support for LRB 2399
Date: Thursday, July 11, 2013

The Pharmacy Society of Wisconsin (PSW), along with the two organizations representing nursing home providers in Wisconsin, Wisconsin Health Care Association (WHCA) and LeadingAge Wisconsin, worked cooperatively to develop this legislation, which has been reviewed by the Wisconsin Medical Society. When enacted, this legislation will implement efficiencies in the use of prescription drugs in nursing homes and in the collaboration between pharmacists and physicians.

We are asking for your support of this legislation.

There are two provisions of the legislation:

First, nursing homes in Wisconsin are asking that current law be revised to allow for the development and use of a prescription drug formulary. Under current law, hospitals are allowed to use formularies in order to perform similar therapeutic selections. Under both instances, the therapeutic selections would be done with the approval of a committee that consists of a Wisconsin physician and pharmacist designated by the facility. This change would allow for nursing homes to better control the costs attributed to prescription drugs dispensed to residents of these facilities, especially in those instances when a nursing home resident does not have a health insurance plan with a specific formulary requirement. By working together, the facility, physicians, and pharmacists can better manage the prescription care for nursing home residents by reducing costs and staff time.

Secondly, current law allows physicians to delegate authority for patient care to a pharmacist. However, the law doesn't specify that a pharmacist may accept the delegation from a physician. The bill simply clarifies current law to allow a pharmacist to accept a physician delegated act. By working together through defined collaborative agreements, physicians and pharmacists are able to improve how their patients use medications through better coordination of care.

We are requesting your support of LRB 2399, please contact State Senator Rick Gudex at (608) 266-5300 Sen.Gudex@legis.wisconsin.gov or State Representative Mike Endsley at (608) 266-0656 Rep.Endsley@legis.wisconsin.gov to be listed as a co-sponsor. The deadline to sign on to this legislation is Wednesday, July 24, at 5 PM.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2399/P1
MED&TJD:jld&sac:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to create* 49.498 (2) (a) 3., 50.045, 450.01 (16) (hm) and 450.033 of the
2 statutes; **relating to:** therapeutic alternate drug selections in nursing homes,
3 performance of patient services by a pharmacist, and the practice of pharmacy.

Analysis by the Legislative Reference Bureau

This bill provides that a pharmacist who is licensed by the Pharmacy Examining Board (pharmacist) may perform any patient care service that is delegated to the pharmacist by a physician licensed by the Medical Examining Board (physician).

Under current law, a nursing facility, as defined under federal law, must maintain a quality assessment and assurance committee that must identify issues with respect to which quality assessment and assurance activities are necessary and must develop and implement appropriate plans of action to correct identified quality deficiencies. The committee must consist of the director of nursing services, a physician designated by the nursing facility, and at least three other members of the nursing facility staff.

This bill allows the quality assessment and assurance committee of a nursing facility to establish written guidelines or procedures for making therapeutic alternate drug selections for certain purposes if the committee members include a licensed pharmacist. This bill also allows a nursing home, as defined under state law, that does not otherwise maintain a quality assessment and assurance committee under the federal law requirement for nursing facilities, to maintain a committee consisting of the director of nursing services, a physician, a pharmacist, and at least two other members of the nursing home staff. If the nursing home establishes a

committee consisting of those members, the committee may establish written guidelines or procedures for making therapeutic alternate drug selections in accordance with the provisions created in the bill.

The bill also adds to the definition of the practice of pharmacy, allowing a pharmacist to make therapeutic alternate drug selections in accordance with written guidelines or procedures previously established by a committee of a nursing facility or nursing home that includes the required membership, as described above. Under the bill, the use of the therapeutic alternate drug selection must have also been approved for a patient during the period of the patient's stay within the nursing home by the patient's personal attending physician; the patient's physician assistant, if the physician assistant is under the supervision of the patient's personal attending physician; or the patient's advanced practice nurse prescriber, if the advanced practice nurse prescriber has entered into a written agreement to collaborate with the patient's personal attending physician.

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

1 **SECTION 1.** 49.498 (2) (a) 3. of the statutes is created to read:

2 49.498 (2) (a) 3. A quality assessment and assurance committee described
3 under subd. 2. may establish written guidelines or procedures for making
4 therapeutic alternate drug selections for the purposes of s. 450.01 (16) (hm) if the
5 committee members include a pharmacist, as defined in s. 450.01 (15).

6 **SECTION 2.** 50.045 of the statutes is created to read:

7 **50.045 Therapeutic alternate drug selections in nursing homes.** (1) A
8 nursing home that does not maintain a quality assessment and assurance committee
9 under s. 49.498 (2) (a) 2. may maintain a committee that consists of the director of
10 nursing services, a physician, as defined in s. 448.01 (5), a pharmacist, as defined in
11 s. 450.01 (15), and at least 2 other members of the nursing home staff.

****NOTE: I added an in-text definition here for physician to make it clear that it refers to a Wisconsin-licensed physician, but note that under s. 990.01 (28), the term "physician" already means this by default.

****NOTE: This provision allows a nursing home that is only licensed under state law (and not licensed as a nursing facility under federal law) to maintain a committee to establish a formulary. At the meeting, the question came up of whether the requirement to include at least 3 other members of the nursing home staff could be changed to 2 for

committees that include a pharmacist. For purposes of this provision, I changed the number to 2 because it only addresses facilities that are subject to the requirements under federal law. However, we left unchanged the requirement under s. 49.498 (2) (a) 2. to include 3 members of the nursing home staff because that is a requirement of federal law.

1 **(2)** A committee with the members specified under sub. (1) may establish
2 written guidelines or procedures for making therapeutic alternate drug selections
3 for the purposes of s. 450.01 (16) (hm).

4 **SECTION 3.** 450.01 (16) (hm) of the statutes is created to read:

5 450.01 **(16)** (hm) Making therapeutic alternate drug selections in accordance
6 with written guidelines or procedures previously established by a quality
7 assessment and assurance committee of a nursing facility under s. 49.498 (2) (a) 3.
8 or by a committee established for a nursing home under s. 50.045 (2), if the use of the
9 therapeutic alternate drug selection has been approved for a patient during the
10 period of the patient's stay within the nursing facility or nursing home by any of the
11 following:

- 12 1. The patient's personal attending physician.
13 2. The patient's advanced practice nurse prescriber, if the advanced practice
14 nurse prescriber has entered into a written agreement to collaborate with the
15 patient's personal attending physician.
16 3. The patient's physician assistant, if the physician assistant is under the
17 supervision of the patient's personal attending physician.

18 **SECTION 4.** 450.033 of the statutes is created to read:

19 **450.033 Services delegated by physician.** A pharmacist may perform any
20 patient care service delegated to the pharmacist by a physician, as defined in s.
21 448.01 (5).

22

(END)