



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0840/1
JPC:kjf

2021 ASSEMBLY BILL 36

February 10, 2021 - Introduced by Representatives KITCHENS, MAGNAFICI, TUSLER, ARMSTRONG, AUGUST, BORN, DITTRICH, DUCHOW, JAMES, KERKMAN, KNODL, KRUG, KUGLITSCH, KURTZ, LOUDENBECK, MOSES, MURSAU, NEYLON, NOVAK, PLUMER, SKOWRONSKI, SNYDER, SPIROS, STEFFEN, STEINEKE, SUMMERFIELD, SWEARINGEN, TAUCHEN, TRANEL, VORPAGEL, VOS and WITTKKE, cosponsored by Senators FELZKOWSKI, BERNIER, CARPENTER, DARLING, FEYEN and MARKLEIN. Referred to Committee on Health.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 450.095 (title) and 450.095 (3); and *to create* 49.46 (2) (bg),
2 450.01 (16) (L), 450.095 (1) (ag) and (ar) and 450.095 (2m) of the statutes;
3 **relating to:** permitting pharmacists to prescribe certain contraceptives,
4 extending the time limit for emergency rule procedures, providing an
5 exemption from emergency rule procedures, granting rule-making authority,
6 and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill permits a pharmacist to prescribe and dispense hormonal contraceptive patches and self-administered oral hormonal contraceptives, subject to limitations described as follows.

The bill requires the Pharmacy Examining Board, after consultation with the Medical Examining Board, the Board of Nursing, and the Department of Health Services, to promulgate rules to establish standard procedures for the prescribing of contraceptives by pharmacists under the bill. The rules must include a self-assessment questionnaire, developed in consideration of guidelines established by the American Congress of Obstetricians and Gynecologists, that must be used by a pharmacist when prescribing a contraceptive. The rules must include certain requirements for pharmacists prescribing contraceptives, such as 1) requiring a report to the patient's primary health care practitioner following a prescription; and 2) requiring the contraceptive to be dispensed as soon as practicable after the

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pharmacist issues the prescription order. In addition, the rules must prohibit a pharmacist from prescribing or dispensing a contraceptive to a patient unless 1) the patient has responded to the self-assessment questionnaire and undergone a blood pressure screening; and 2) the use of the contraceptive is not contraindicated based upon the results of the questionnaire and screening. A pharmacist who prescribes contraceptives as permitted under the bill must comply with those rules, as well as any other rules promulgated by the Pharmacy Examining Board. Finally, under the bill, a pharmacist may prescribe a contraceptive only to a person who is at least 18 years of age.

The bill further requires that DHS must ensure any contraceptives or contraceptive services covered under the Medical Assistance program are covered and reimbursed when prescribed, if a prescription is required under federal law, or provided by a pharmacist acting under the scope of his or her practice. The Medical Assistance program is a joint federal and state program that provides health services to individuals who have limited financial resources. The bill also requires DHS to certify pharmacists as providers of Medical Assistance services for the purposes of covering and reimbursing prescribed hormonal contraceptive patches and self-administered oral hormonal contraceptives.

For further information see the state 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.** 49.46 (2) (bg) of the statutes is created to read:

2 49.46 (2) (bg) The department shall ensure that any contraceptives, including
3 contraceptive drugs or drug products, or contraceptive services that are covered
4 under this subsection and for which reimbursement is made to any provider are
5 covered and reimbursed when prescribed, if a prescription is required under federal
6 law, or provided by a pharmacist acting under his or her scope of practice, including
7 under s. 450.095 (2m). The department shall certify pharmacists as providers of
8 Medical Assistance services for the purposes of covering and reimbursing under this
9 paragraph services that are provided under s. 450.095 (2m).

10 **SECTION 2.** 450.01 (16) (L) of the statutes is created to read:

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1 450.01 **(16)** (L) Prescribing and dispensing hormonal contraceptive patches
2 and self-administered oral hormonal contraceptives pursuant to s. 450.095 (2m).

3 **SECTION 3.** 450.095 (title) of the statutes is amended to read:

4 **450.095** (title) ~~Duty to dispense~~ Prescribing and dispensing of
5 **contraceptives.**

6 **SECTION 4.** 450.095 (1) (ag) and (ar) of the statutes are created to read:

7 450.095 **(1)** (ag) “Hormonal contraceptive patch” means a transdermal patch
8 applied to the skin of a patient, by the patient or by a practitioner, that releases a
9 drug composed of a combination of hormones that is approved by the federal food and
10 drug administration to prevent pregnancy.

11 (ar) “Self-administered oral hormonal contraceptive” means a drug composed
12 of a combination of hormones that is approved by the federal food and drug
13 administration to prevent pregnancy and that the patient to whom the drug is
14 prescribed may take orally.

15 **SECTION 5.** 450.095 (2m) of the statutes is created to read:

16 450.095 **(2m)** (a) In accordance with rules promulgated by the board, a
17 pharmacist may prescribe and dispense hormonal contraceptive patches and
18 self-administered oral hormonal contraceptives to a person who is at least 18 years
19 of age.

20 (b) 1. The board shall, after consultation with the medical examining board, the
21 board of nursing, and the department of health services, promulgate rules to
22 establish standard procedures for the prescribing of hormonal contraceptive patches
23 and self-administered oral hormonal contraceptives by pharmacists under this
24 subsection.

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1 2. The rules promulgated under subd. 1. shall include a self-assessment
2 questionnaire, developed in consideration of guidelines established by the American
3 Congress of Obstetricians and Gynecologists, that must be used by a pharmacist as
4 described in subd. 3. a.

5 3. The rules promulgated under subd. 1. shall require a pharmacist to do all
6 of the following:

7 a. Provide the self-assessment questionnaire described in subd. 2. to a patient
8 prior to the pharmacist's prescribing the hormonal contraceptive patch or
9 self-administered oral hormonal contraceptive to the patient.

10 b. Report to the patient's primary care practitioner upon prescribing and
11 dispensing the hormonal contraceptive patch or self-administered oral hormonal
12 contraceptive.

13 c. Provide the patient with a written record of the hormonal contraceptive
14 patch or self-administered oral hormonal contraceptive prescribed and dispensed.

15 d. Dispense the hormonal contraceptive patch or self-administered oral
16 hormonal contraceptive to the patient as soon as practicable after the pharmacist
17 issues the prescription order.

18 4. The rules promulgated under subd. 1. shall prohibit a pharmacist from
19 prescribing and dispensing a hormonal contraceptive patch or self-administered
20 oral hormonal contraceptive to a patient unless all of the following apply:

21 a. The patient has responded to the self-assessment questionnaire provided
22 under subd. 3. a. and undergone a blood pressure screening.

23 b. The use of the hormonal contraceptive patch or self-administered oral
24 hormonal contraceptive by the patient is not contraindicated based upon the results
25 of the questionnaire and screening.

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1 **SECTION 6.** 450.095 (3) of the statutes is amended to read:

2 450.095 (3) Any person who violates this section or any rules promulgated
3 under this section may be required to forfeit not less than \$250 nor more than \$2,500
4 for each violation.

5 **SECTION 7. Nonstatutory provisions.**

6 (1) The pharmacy examining board may promulgate emergency rules under s.
7 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2),
8 emergency rules promulgated under this subsection remain in effect until May 1,
9 2023, or the date on which permanent rules take effect, whichever is sooner.
10 Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to
11 provide evidence that promulgating a rule under this subsection as an emergency
12 rule is necessary for the preservation of the public peace, health, safety, or welfare
13 and is not required to provide a finding of emergency for a rule promulgated under
14 this subsection.

15 **SECTION 8. Effective dates.** This act takes effect on the first day of the 10th
16 month beginning after publication, except as follows:

17 (1) SECTION 7 (1) of this act takes effect on the day after publication.

18

(END)