



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5017/P3
MED&TJD:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to create* 49.45 (29z), 441.19 and 448.038 of the statutes; **relating to:**
2 maintenance and detoxification treatment provided by physician assistants
3 and advanced practice nurse prescribers and prescribing and dispensing of
4 buprenorphine combination products to Medical Assistance recipients.

Analysis by the Legislative Reference Bureau

Under current federal law, the federal Drug Enforcement Administration (DEA) registers health care practitioners to dispense controlled substances, and practitioners who dispense narcotic drugs to individuals for addiction treatment must additionally obtain a separate DEA registration for that purpose. However, qualifying health care practitioners may, subject to certain requirements and limitations, obtain a waiver from the requirement to obtain a separate DEA registration to dispense those drugs for addiction treatment. Health care practitioners eligible to obtain and practice under such a waiver include qualifying physicians and, until October 1, 2021, qualifying physician assistants and nurse practitioners. In order to qualify for a waiver, a nurse practitioner or physician assistant must be supervised by, or work in collaboration with, a qualifying physician, if the nurse practitioner or physician assistant is required by state law to act in collaboration with or under the supervision of a physician.

Under rules promulgated by the state Medical Examining Board, the practice of a physician assistant must be under the supervision of one or more physicians, and under rules promulgated by the state Board of Nursing, advanced practice nurse prescribers must work in a collaborative relationship with a physician.

This bill provides that, with respect to the ability of an advanced practice nurse prescriber or physician assistant to obtain and practice under a waiver, a physician who satisfies any of the criteria specified in federal law to be eligible to obtain a waiver is considered eligible to serve as a qualifying physician for purposes of the collaboration or supervision requirement under federal law, regardless of whether the physician himself or herself holds a waiver.

The bill prohibits the Department of Health Services from requiring prior authorization for or another limitation on prescribing and dispensing of buprenorphine combination products to a Medical Assistance recipient, who is not pregnant, by a health care provider who possesses a valid waiver, if the prior authorization or other limitation is not required under the federal law.

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

1 **SECTION 1.** 49.45 (29z) of the statutes is created to read:

2 49.45 **(29z)** OPIOID TREATMENT AUTHORIZATION. The department may not require
3 prior authorization for or other limitation on prescribing and dispensing of
4 buprenorphine combination products to a recipient, who is not pregnant, under the
5 Medical Assistance program under this subchapter by a health care provider who
6 possesses a valid waiver under 21 USC 823, if the prior authorization or other
7 limitation is not required by 21 USC 823.

8 **SECTION 2.** 441.19 of the statutes is created to read:

9 **441.19 Maintenance and detoxification treatment under federal**
10 **waiver.** (1) In this section, “waiver” means a waiver issued by the federal
11 department of health and human services under 21 USC 823 (g) (2) (A).

12 (2) With respect to the ability of an advanced practice nurse who is certified to
13 issue prescription orders to obtain and practice under a waiver, a physician who
14 meets any of the conditions specified in 21 USC 823 (g) (2) (G) (ii) shall be considered
15 eligible to serve as a qualifying physician for purposes of the requirement under 21

1 USC 823 (g) (2) (G) (iv) (III), regardless of whether the physician himself or herself
2 holds a waiver.

3 **SECTION 3.** 448.038 of the statutes is created to read:

4 **448.038 Maintenance and detoxification treatment under federal**
5 **waiver. (1)** In this section, “waiver” means a waiver issued by the federal
6 department of health and human services under 21 USC 823 (g) (2) (A).

7 **(2)** With respect to the ability of a physician assistant to obtain and practice
8 under a waiver, a physician who meets any of the conditions specified in 21 USC 823
9 (g) (2) (G) (ii) shall be considered eligible to serve as a qualifying physician for
10 purposes of the requirement under 21 USC 823 (g) (2) (G) (iv) (III), regardless of
11 whether the physician himself or herself holds a waiver.

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(END)