



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5024/P1
AJM:kjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 102.14; *to amend* 102.14 (title); and *to create* 102.13 (1)
2 (bm), 102.14 (2m), 102.33 (1m) and 102.425 (2m) of the statutes; **relating to:**
3 various changes to the treatment of opiates under the worker's compensation
4 law.

Analysis by the Legislative Reference Bureau

This bill makes various changes regarding opiates under the worker's compensation law, as administered by the Department of Workforce Development.

The bill prohibits a practitioner from dispensing more than a seven-day supply of an opiate to treat an injury for which an employer or insurer is liable under the worker's compensation law. The bill provides that a supply greater than a seven-day supply dispensed by a practitioner is considered to be unnecessary treatment without the need for a written opinion on the necessity of the treatment.

The bill requires that if a health care provider conducts an independent medical examination and concludes that an employee has sustained a work-related injury but that opiates that have been prescribed to the employee for the injury are not medically necessary, any report prepared by the health care provider that recommends the cessation of those opiates must include certain information, including a discussion of alternative treatments, a proposed plan of discontinuation of opiate therapy consistent with any applicable guidelines issued by a state credentialing board, and a statement regarding coverage for addiction treatment.

The bill requires each employer to post, in each workplace, a notice in a form approved by DWD setting forth employees' rights under the worker's compensation

law. DWD must include in the notice information to educate injured employees regarding opiate therapies, opiate addiction, and alternative treatments for pain.

The bill requires DWD to coordinate with the Department of Safety and Professional Services and its attached credentialing boards and to educate injured employees about treatments and about devices approved by the federal Food and Drug Administration for chronic pain related to injuries compensable under the worker's compensation law that, in lieu of or in combination with medication, may reasonably be required to cure or provide relief from injured employees' pain and about the fact that such treatments and devices may constitute covered medical expenses under the worker's compensation law.

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.** 102.13 (1) (bm) of the statutes is created to read:

2 102.13 (1) (bm) 1. In this paragraph, "opiate" has the meaning given in s. 961.01
3 (16).

4 2. If a physician, chiropractor, psychologist, dentist, physician assistant,
5 advanced practice nurse prescriber, or podiatrist conducts an examination under
6 par. (a) and concludes that the employee has sustained a work-related injury but
7 that opiates that have been prescribed to the employee for the injury are not
8 medically necessary, any report prepared by the physician, chiropractor,
9 psychologist, dentist, physician assistant, advanced practice nurse prescriber, or
10 podiatrist that recommends the cessation of those opiates shall include all of the
11 following:

12 a. A discussion of alternative treatments or medical devices for the injured
13 employee's pain and, if opining that alternative treatments are also unnecessary, an
14 explanation as to why such alternative treatments are unnecessary.

1 b. A proposed plan of discontinuation of opiate therapy consistent with any
2 applicable guidelines concerning opiates issued under s. 440.035 (2m).

3 c. If the physician, chiropractor, psychologist, dentist, physician assistant,
4 advanced practice nurse prescriber, or podiatrist opines that the injured employee
5 has developed behaviors indicative of opioid use disorder related to the injury, a
6 statement to the employee that the employer or insurer will pay for, and assist the
7 employee in obtaining, a physician referral for addiction treatment. In that case, the
8 employer or insurer shall advise the employee that opiates prescribed as a result of
9 the injury will continue to be paid for by the employer or insurer until the employee
10 is referred for addiction treatment.

11 **SECTION 2.** 102.14 (title) of the statutes is amended to read:

12 **102.14** (title) **Jurisdiction, powers, and duties of department and**
13 **division; advisory committee council.**

14 **SECTION 3.** 102.14 of the statutes is renumbered 102.14 (1m).

15 **SECTION 4.** 102.14 (2m) of the statutes is created to read:

16 **102.14 (2m)** The department of workforce development shall coordinate with
17 the department of safety and professional services and credentialing boards, as
18 defined in s. 440.01 (2) (bm), and shall educate injured employees about treatments
19 and about devices approved by the federal food and drug administration for chronic
20 pain related to injuries compensable under this chapter that, in lieu of or in
21 combination with medication, may reasonably be required to cure or provide relief
22 from injured employees' pain and about the fact that such treatments and devices
23 may constitute covered medical expenses under this chapter.

24 **SECTION 5.** 102.33 (1m) of the statutes is created to read:

