



**VIRTUAL/TELECONFERENCE
PHARMACY EXAMINING BOARD**
Virtual, 4822 Madison Yards Way, Madison, WI
Contact: Brad Wojciechowski (608) 266-2112
January 27, 2022

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

- A. Adoption of Agenda (1-4)**
- B. Approval of Minutes of December 2, 2021 (5-8)**
- C. Reminders: Conflicts of Interest, Scheduling Concerns**
- D. Administrative Matters – Discussion and Consideration**
 - 1) Department, Staff and Board Updates
 - 2) Annual Policy Review **(9-12)**
 - 3) Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities **(13-22)**
 - 4) Board Members – Term Expiration Dates
 - a. Kleppin, Susan – 7/1/2025
 - b. O’Hagan, Tiffany – 7/1/2024
 - c. Peterangelo, Anthony – 7/1/2023
 - d. Walsh, Michael – 7/1/2024
 - e. Weiss, Shana – 7/1/2023
 - f. Weitekamp, John – 7/1/2022
 - g. Wilson, Christa – 7/1/2025
- E. Memorandum of Understanding Addressing Certain Distributions of Compounded Drug Products Between the State Boards of Pharmacy and the U.S. Food and Drug Administration – Discussion and Consideration**
- F. Administrative Rule Matters – Discussion and Consideration (23-24)**
 - 1) Pending or Possible Rulemaking Projects

G. Legislative and Policy Matters – Discussion and Consideration

- 1) 2021 Wisconsin Act 100 – Registration of Pharmacy Technicians, Extending the Time Limit for Emergency Rule Procedures, Providing an Exemption from Emergency Rule Procedures, and Granting Rule-Making Authority **(25-29)**
- 2) 2021 Wisconsin Act 9 – Pharmacy Benefit Managers, Prescription Drug Benefits, and Granting Rule-Making Authority **(30-37)**

H. Education and Examination Matters- Discussion and Consideration

- 1) Multistate Pharmacy Jurisprudence Examination (MPJE) Update

I. Review of Pharmacy Self-Inspection Forms (#2550) – Discussion and Consideration

J. Speaking Engagements, Travel, or Public Relation Requests, and Reports – Discussion and Consideration

- 1) 2022 Annual Meeting Planning: NABP/American Association of Colleges of Pharmacy (AACCP) District IV – October 19-21, 2022 – Madison, WI

K. COVID-19 – Discussion and Consideration

L. Pilot Program Matters – Discussion and Consideration

M. Discussion and Consideration on Items Added After Preparation of Agenda

- 1) Introductions, Announcements and Recognition
- 2) Nominations, Elections, and Appointments
- 3) Administrative Matters
- 4) Election of Officers
- 5) Appointment of Liaisons and Alternates
- 6) Delegation of Authorities
- 7) Education and Examination Matters
- 8) Credentialing Matters
- 9) Practice Matters
- 10) Legislative and Policy Matters
- 11) Administrative Rule Matters
- 12) Pilot Program Matters
- 13) Variances
- 14) Liaison Reports
- 15) Board Liaison Training and Appointment of Mentors
- 16) Informational Items
- 17) Division of Legal Services and Compliance (DLSC) Matters
- 18) Presentations of Petitions for Summary Suspension
- 19) Petitions for Designation of Hearing Examiner
- 20) Presentation of Stipulations, Final Decisions and Orders
- 21) Presentation of Proposed Final Decisions and Orders
- 22) Presentation of Interim Orders
- 23) Pilot Program Matters
- 24) Petitions for Re-Hearing
- 25) Petitions for Assessments
- 26) Petitions to Vacate Orders
- 27) Requests for Disciplinary Proceeding Presentations
- 28) Motions
- 29) Petitions
- 30) Appearances from Requests Received or Renewed

31) Speaking Engagements, Travel, or Public Relation Requests, and Reports

N. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

O. Deliberation on Division of Legal Services and Compliance Matters

1) Administrative Warnings

- a. 21 PHM 010 – B.A.P. **(38-39)**
- b. 21 PHM 027 – E.C.J. **(40-41)**
- c. 21 PHM 090 – D.M.V. **(42-43)**
- d. 21 PHM 124 – W. **(44-45)**

2) Case Closings

- a. 19 PHM 285 – J.J.C. **(46-50)**
- b. 19 PHM 287 – S.V.D. **(51-56)**
- c. 20 PHM 088 – C.V.S. **(57-68)**
- d. 20 PHM 093 – M.P. **(69-73)**
- e. 20 PHM 144 – N.K., H.P. **(74-85)**
- f. 21 PHM 010 – W. **(86-91)**
- g. 21 PHM 078 – E.S.P. **(92-97)**
- h. 21 PHM 090 – W. **(98-101)**
- i. 21 PHM 107 – P.R.H. **(102-110)**

3) Proposed Stipulations, Final Decisions and Orders

- a. 19 PHM 287 – Matthew J. Huepfel, R.Ph. **(111-117)**
- b. 21 PHM 010 – Dawn M. O'Brien, R.Ph. **(118-123)**
- c. 21 PHM 022 – James P. Haney, R.Ph. **(124-130)**

P. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Application Reviews
- 4) DLSC Matters
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petitions for Summary Suspensions
- 8) Petitions for Designation of Hearing Examiner
- 9) Proposed Stipulations, Final Decisions and Orders
- 10) Proposed Interim Orders
- 11) Administrative Warnings
- 12) Review of Administrative Warnings
- 13) Proposed Final Decisions and Orders
- 14) Matters Relating to Costs/Orders Fixing Costs
- 15) Case Closings
- 16) Board Liaison Training
- 17) Petitions for Assessments and Evaluations

- 18) Petitions to Vacate Orders
- 19) Remedial Education Cases
- 20) Motions
- 21) Petitions for Re-Hearing
- 22) Appearances from Requests Received or Renewed

Q. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

R. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate

S. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: FEBRUARY 14, 2022

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE
PHARMACY EXAMINING BOARD
MEETING MINUTES
DECEMBER 2, 2021**

PRESENT: Susan Kleppin, Tiffany O'Hagan, Anthony Peterangelo, John Weitekamp, Michael Walsh, Christa Wilson

EXCUSED: Shana Weiss

STAFF: Brad Wojciechowski, Executive Director; Jameson Whitney, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; Kimberly Wood, Program Assistant Supervisor-Advanced; and other Department staff

CALL TO ORDER

John Weitekamp, Chairperson, called the meeting to order at 12:41 p.m. A quorum was confirmed with six (6) members present.

ADOPTION OF AGENDA

MOTION: Michael Walsh moved, seconded by Anthony Peterangelo, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF OCTOBER 20, 2021

MOTION: Anthony Peterangelo moved, seconded by Michael Walsh, to approve the Minutes of October 20, 2021 as published. Motion carried unanimously.

11:00 AM PRELIMINARY HEARING ON STATEMENT OF SCOPE – SS 097-21 (PHAR 18), RELATING TO LICENSURE OF THIRD-PARTY LOGISTICS PROVIDERS

Review Preliminary Hearing Comments

MOTION: Christa Wilson moved, seconded by Anthony Peterangelo, to affirm the Board has reviewed the public comments received concerning Scope Statement (SS) 097-21 (Phar 18) relating to licensure of third-party logistics providers. Additionally, after considering the public comments received the Board approves SS 097-21 for implementation after consideration of all public comments and feedback. Motion carried unanimously.

11:00 A.M. PUBLIC HEARING – CLEARINGHOUSE RULE 21-074 (PHAR 5, 6, 7, 11, AND 12), RELATING TO NAME AND ADDRESS CHANGE, FLOOR DESIGN, PROCEDURES FOR DISCIPLINARY PROCEEDINGS, SUPERSEDED REFERENCES, AND TECHNICAL CORRECTION

Review Public Hearing Comments and Respond to Clearinghouse Report

MOTION: Christa Wilson moved, seconded by Michael Walsh, to accept all Clearinghouse comments for Clearinghouse Rule 21-074 (Phar 5, 6, 7, 11, and 12) relating to name and address change, floor design, procedures for disciplinary proceedings, superseded references, and technical correction. Motion carried unanimously.

MOTION: Michael Walsh moved, seconded by Anthony Peterangelo, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 21-074 (Phar 5, 6, 7, 11, and 12) relating to name and address change, floor design, procedures for disciplinary proceedings, superseded references, and technical correction. Motion carried unanimously.

IMPLEMENT 2021 WISCONSIN ACT 9 – 100 MOST PRESCRIBED DRUGS

MOTION: Michael Walsh moved, seconded by Christa Wilson, to delegate authority to John Weitekamp to work with DSPS staff to develop and distribute a list of the 100 most commonly prescribed drugs as required under Wis. Stat. s. 450.13 (5m) (b). Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Phar 8, Relating to Requirements for Controlled Substances

MOTION: Susan Kleppin moved, seconded by Michael Walsh, to accept all Clearinghouse comments for Clearinghouse Rule 21-071 (Phar 8) relating to requirements for controlled substances. Motion carried unanimously.

MOTION: Michael Walsh moved, seconded by Anthony Peterangelo, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 21-071 (Phar 8) relating to requirements for controlled substances. Motion carried unanimously.

Phar 15, Compounding Pharmaceuticals

MOTION: Christa Wilson moved, seconded by Michael Walsh, to authorize Susan Kleppin to approve the preliminary rule draft of Phar 15, relating to compounding pharmaceuticals, for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

CLOSED SESSION

MOTION: Anthony Peterangelo moved, seconded by Michael Walsh, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85(1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). John Weitekamp, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Susan Kleppin-yes; Tiffany O’Hagan-yes; Anthony Peterangelo-yes; Michael Walsh-yes; John Weitekamp-yes; and Christa Wilson-yes. Motion carried unanimously.

The Board convened into Closed Session at 2:22 p.m.

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

MOTION: Anthony Peterangelo moved, seconded by Tiffany O’Hagan, to close the following DLSC Cases for the reasons outlined below:

1. 20 PHM 169 – C. – Insufficient Evidence
2. 20 PHM 185 – P.N.S.P. – No Violation
3. 21 PHM 111 – V.R.X.D. – No Violation

Motion carried unanimously.

Monitoring Matters

Andrew Seidlitz, R.Ph.

Requesting for Auditor Approval for Controlled Substance Inventory and Accountability Audits of all Controlled Substances

MOTION: Michael Walsh moved, seconded by Anthony Peterangelo, to grant the request of Andrew Seidlitz, R.Ph. for Ky Terrill, pharmacy manager, to serve as the auditing pharmacist as outlined in provision C.26. of the Board Order (1/28/2021). Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Christa Wilson moved, seconded by Anthony Peterangelo, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 2:35 p.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MOTION: Christa Wilson moved, seconded by Anthony Peterangelo, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the Closed Session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Michael Walsh moved, seconded by Anthony Peterangelo, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 2:36 p.m.

DRAFT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Kimberly Wood, Program Assistant Supervisor-Adv. on behalf of Division of Policy Development Executive Directors		2) Date when request submitted: 12/13/2021 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date: First Meeting of 2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Annual Policy Review	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: Please be advised of the following Annual Policy Review items: <ol style="list-style-type: none"> 1. Attendance/Quorum: Thank you for your service and for your commitment to meeting attendance. If you cannot attend a meeting or if you have scheduling conflicts impacting your attendance, please let us know ASAP. Timely notification is appreciated as quorum is required for our Boards, Sections and Councils to meet pursuant to Open Meetings Law. 2. Walking Quorum: Board/Section/Council members must not collectively discuss the body's business outside of a properly noticed meeting. Should several members of a body do so, the members could be violating the open meetings law. 3. Agenda Deadlines: Please communicate agenda topics to your Executive Director before the agenda submission deadline which is at 12:00 pm, 8 business days prior to a meeting. (Attachment: Timeline of a Meeting) 4. Travel Voucher and Per Diem Submissions: Please submit all Per Diem and Reimbursement claims to DSPS within 30 days of the close of each month in which expenses are incurred. (Attachments: Per Diem Example, Travel Voucher Example) 5. Lodging Accommodations/Hotel Cancellation Policy: Lodging accommodations are available to eligible members. Standard eligibility: member must leave home before 6:00 a.m. to attend a meeting by the scheduled start time. <ul style="list-style-type: none"> • If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe. If a meeting is changed to occur remotely or is cancelled or rescheduled DSPS staff will cancel or modify reservations as appropriate. 6. Inclement Weather Policy: In the event of inclement weather the agency may change a meeting from an in-person venue to one that is executed remotely. 			
11) Authorization			
Kimberly Wood		12/13/2021	
Signature of person making this request		Date	
Supervisor (Only required for post agenda deadline items)		Date	
Executive Director signature (Indicates approval for post agenda deadline items)		Date	
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

Timeline of a Meeting

8 business days prior to the meeting: All agenda materials are due to the Department by 12:00 pm, 8 business days prior to the meeting date.

7 business days prior to the meeting: The draft agenda page is due to the Executive Director. The Executive Director transmits to the Chair for review and approval.

5 business days prior to the meeting: The approved agenda is returned to the Bureau Assistant for agenda packet production and compilation.

4 business days prior to the meeting: Agenda packets are posted on the DSPS Board SharePoint site and on the Department website.

Agenda Item Examples:

- Approval of the Agenda and Minutes (from the last meeting)
- Open Session Items
 - Public Hearings (on Admin Rules)
 - Administrative Matters
 - Legislation and Policy Matters
 - Administrative Rules Matters
 - Credentialing Matters
 - Education and Exam Issues
 - Public Agenda Requests
 - Current Issues Affecting the Profession
 - Public Comments
- Closed Session items
 - Deliberations on Proposed Disciplinary Actions
 - Stipulations
 - Administrative Warnings
 - Case Closings
 - Monitoring Matters
 - Professional Assistance Procedure (PAP) Issues
 - Proposed Final Decisions and Orders
 - Orders Fixing Costs/Matters Relating to Costs
 - Credentialing Matters
 - Education and Exam Issues

Thursday of the Week Prior to the Meeting: Agendas are published for public notice on the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

1 business day after the Meeting: "Action" lists are distributed by staff detailing board actions on closed session business.

5 business days after the Meeting: "To Do" lists are distributed to staff to ensure that board decisions are acted on and/or implemented within the appropriate divisions in the Department. Minutes approved by the board are published on the the Public Notices and Meeting Minutes website: publicmeetings.wi.gov.

Department of Safety and Professional Services

PER DIEM REPORT

INSTRUCTIONS: Claimant records board-related activities by entering the date of an activity, the duration of time spent in that activity, the relevant purpose code (see purpose code descriptions below), where the activity is conducted, and the type of activity performed. Only one (1) \$25.00 per diem payment can be issued on any given calendar day.

Purpose Codes:

- A. Official meetings including video/teleconference calls** (automatic day of per diem): i.e., board, committee, board training or screening panels; **Hearings**, i.e., Senate Confirmation, legislative, disciplinary or informal settlement conferences; **Examinations and Test Development Sessions**, i.e., test administration, test review or analysis events, national testing events, tour of test facilities, etc.)
- B. Other** (One (1) per diem will be issued for every five (5) hours spent in category B, per calendar month): i.e., review of disciplinary cases, consultation on cases, review of meeting materials, board liaison work e.g., contacts regarding Monitoring, Professional Assistance Procedure, Credentialing, Education and Examinations

NAME OF EXAMINING BOARD OR COUNCIL EXAMPLE EXAMINING BOARD			BOARD OR COUNCIL MEMBER'S NAME MARY SUNSHINE	
Activity Date MM/DD/YY	Duration of Activity Hours/Minutes	Purpose Code A or B	Where Performed City/Location (Home, Work, DSPS)	Activity Describe Activity Performed (see purpose codes)
12/2/20	2 hrs	B	Pleasant Prairie/Home	Review of screening panel materials
12/3/20	2 hr / 30 mins	B	Pleasant Prairie/Home	Review of screening panel materials
12/10/20	1 hr	A	Pleasant Prairie/Home	Screening Panel Meeting - Teleconference
12/12/20	1 hr / 30 mins	B	Pleasant Prairie/Home	Case consultation
12/13/20	1 hr	B	Pleasant Prairie/Home	Liaison: Application Review
12/16/20	6 hrs	A	Madison/DSPS	Board Member Training
				<p>The 5-hour rule applies to "B" code activities. Add the 'B' codes within the calendar month and then divide by five (5) hours to calculate your per diem payment. In this case the total is seven (7) hours which equals one (1) day of per diem.</p> <p>Each 'A' code is an automatic day of per diem regardless of time spent in that activity. Ms. Sunshine is eligible for two (2) additional days of payment.</p> <p>Department staff completes the fields titled "Total Days Claimed".</p>
CLAIMANT'S CERTIFICATION			Comments:	
The undersigned certifies, in accordance with § 16.53, Wis. Stats., that this account for per diem, is just and correct; and that this claim is for service necessarily incurred in the performance of duties required by the State, as authorized by law.				
<i>Mary Sunshine</i> Claimant's Signature		1/4/2021 Date		
			Supervisor	Date

EMPL ID: 100012345-0

To be completed by Department staff: TOTAL DAYS CLAIMED: 3 @ \$25.00 = 75.00

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Katlin Schwartz, Bureau Assistant		2) Date when request submitted: 12/13/2021 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting									
3) Name of Board, Committee, Council, Sections: Pharmacy Examining Board											
4) Meeting Date: 1/27/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Matters <ul style="list-style-type: none"> • Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities 									
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A									
10) Describe the issue and action that should be addressed: 1) The Board, Council or Section should conduct Election Officers: Chairperson, Vice Chairperson & Secretary 2) The newly elected Chairperson should review and appoint/reappoint Liaisons and Alternates as appropriate 3) The Board should review and then consider its existing delegated authorities including any modification of these delegations and any proposals for additional delegations.											
11) Authorization <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; border-bottom: 1px solid black;">Katlin Schwartz</td> <td style="width: 30%; border-bottom: 1px solid black; text-align: right;">12/13/2021</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Signature of person making this request</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Supervisor (Only required for post agenda deadline items)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Executive Director signature (Indicates approval for post agenda deadline items)</td> <td style="border-bottom: 1px solid black; text-align: right;">Date</td> </tr> </table>				Katlin Schwartz	12/13/2021	Signature of person making this request	Date	Supervisor (Only required for post agenda deadline items)	Date	Executive Director signature (Indicates approval for post agenda deadline items)	Date
Katlin Schwartz	12/13/2021										
Signature of person making this request	Date										
Supervisor (Only required for post agenda deadline items)	Date										
Executive Director signature (Indicates approval for post agenda deadline items)	Date										
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.											

PHARMACY EXAMINING BOARD

2021 Elections, Liaisons and Delegations

ELECTION RESULTS	
Chairperson	John Weitekamp
Vice Chairperson	Tiffany O’Hagan
Secretary	Susan Kleppin

Appointment of Liaisons and Alternates

LIAISON APPOINTMENTS	
Credentialing Liaison(s)	Anthony Peterangelo, Tiffany O’Hagan, Christa Wilson
Office of Education and Examinations Liaison(s)	Susan Kleppin <i>Alternate: John Weitekamp</i>
Monitoring Liaison(s)	Shana Weiss <i>Alternate: Anthony Peterangelo</i>
Professional Assistance Procedure (PAP) Liaison(s)	Anthony Peterangelo <i>Alternate: Susan Kleppin</i>
Travel Liaison	Chairperson <i>Alternate: Vice Chairperson</i>
Legislative Liaison(s)	Anthony Peterangelo, Tiffany O’Hagan, John Weitekamp
Pilot Program Liaison(s)	Tiffany O’Hagan, Anthony Peterangelo
Newsletter Liaison(s)	Christa Wilson <i>Alternate: John Weitekamp</i>
Website Liaison(s)	Michael Walsh
Appointed to Controlled Substances Board as per Wis. Stats. §15.405(5g)	John Weitekamp

PHARM Rep to SCAODA	Anthony Peterangelo <i>Alternate:</i> John Weitekamp
Variance Liaison	Tiffany O’Hagan <i>Alternate:</i> Anthony Peterangelo
SCREENING PANEL APPOINTMENTS	
January – December 2021	John Weitekamp, Tiffany O’Hagan, Michael Walsh <i>Alternate:</i> Anthony Peterangelo
COMMITTEE MEMBER APPOINTMENTS	
Pharmacy Rules Committee	Susan Kleppin, Tiffany O’Hagan, Anthony Peterangelo, John Weitekamp

Delegation of Authorities

Document Signature Delegations

MOTION: Anthony Peterangelo moved, seconded by Michael Walsh, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: Philip Trapskin moved, seconded by Tiffany O’Hagan, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Tiffany O’Hagan moved, seconded by Michael Walsh, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the

Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Delegation to Chief Legal Counsel Due to of Loss of Quorum

NEW MOTION: Philip Trapskin moved, seconded by Michael Walsh, to delegate the review of disciplinary cases to the Department’s Chief Legal Counsel due to lack of/loss of quorum after two consecutive meetings. Motion carried unanimously.

Monitoring Delegations

Delegation of Authorities for Monitoring

MOTION: Philip Trapskin moved, seconded by Michael Walsh, to adopt the “Roles and Authorities Delegated for Monitoring” document as presented in the January 28, 2021 agenda materials on pages 21-22. Motion carried unanimously.

Delegation of Authorities for Legal Counsel to Sign Monitoring Orders

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate to Board legal counsel the authority to sign Monitoring orders that result from Board meetings on behalf of the Board Chairperson. Motion carried unanimously.

Credentialing Authority Delegations

Delegation of Authority to Credentialing Liaison

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications. Motion carried unanimously.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION: Cathy Winters moved, seconded by Philip Trapskin, to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

Delegation of Authority for Predetermination Reviews

MOTION: Philip Trapskin moved, seconded by Anthony Peterangelo, to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f). Motion carried unanimously.

Delegation of Authority for Conviction Reviews

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate authority to Department Attorneys to review and approve applications with municipal/ordinance violations and misdemeanors which are not substantially related to the practice of pharmacy. Motion carried unanimously.

Delegation to DSPS When Applicant’s History Has Been Previously Reviewed

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous pharmacy credential and there is no new conviction record. Motion carried unanimously.

Delegation of Authority for Reciprocity/Endorsement Reviews

MOTION: Philip Trapskin moved, seconded by Michael Walsh, to delegate authority to the Department Attorneys to review and approve reciprocity/endorsement applications in which the applicant met requirements comparable to those that existed in this state at the time the person became licensed in the other state. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: Michael Walsh moved, seconded by Tiffany O’Hagan, to delegate authority to the Department’s Attorney Supervisors to serve as the Board’s designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

Pre-Screening Delegation to Open Cases

MOTION: Philip Trapskin moved, seconded by Michael Walsh, to delegate pre-screening decision making authority to the DSPS screening attorney for opening cases as outlined below:

1. OWIs of 3 or more that occurred in the last 5 years.
2. Reciprocal discipline cases.
3. Impairment and/or diversion at work that includes a positive drug/alcohol test or admission by respondent.

4. Conviction of a misdemeanor or felony that the attorney believes is substantially related and is not otherwise excluded from consideration via Wis. Stat. ch. 111.
5. No response from the respondent after intake requested a response (case would be opened for the failure to respond issue as well as the merits).

Motion carried unanimously.

Pre-Screening Delegation to Close Cases

MOTION: Philip Trapskin moved, seconded by Tiffany O'Hagan, to delegate pre-screening decision making authority to the DSPTS screening attorney for closing cases as outlined below:

1. One OWI that is non-work related and if AODA assessment completed, assessment does not indicate dependency.
2. Complaints that even if allegations are true, do not amount to a violation of law or rules.
3. To close at prescreening complaints that the Board has already reviewed and acted upon that are the result of multiple-state discipline based on original violations.

Motion carried unanimously.

Voluntary Surrenders

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter. Motion carried unanimously.

(Shana Weiss was excused at 12:45 p.m.)

Office of Education and Examination Liaison(s) Delegation

MOTION: Cathy Winters moved, seconded by Michael Walsh, to delegate authority to the Office of Education and Examination Liaison(s) to address all issues related to education, continuing education, and examinations. Motion carried unanimously.

Pilot Program Liaison(s) Delegation

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate authority to the Pilot Program Liaison(s) to address all issues related to pilot program matters. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies

MOTION: Philip Trapskin moved, seconded by Michael Walsh, to authorize DSPS staff to provide national regulatory related bodies with all board member contact information that DSPS retains on file. Motion carried unanimously.

Optional Renewal Notice Insert Delegation

MOTION: Philip Trapskin moved, seconded by Cathy, to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

Rules Committee Delegation

MOTION: Michael Walsh moved, seconded by Tiffany O'Hagan, to grant the Rules Committee the ability to address all rulemaking as related to drafting and making recommendations to the full Board. Motion carried unanimously.

Legislative Liaison(s) Delegation

MOTION: Philip Trapskin moved, seconded by Michael Walsh, to delegate authority to the Legislative Liaison(s) to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

Website Liaison(s) Delegation

MOTION: Cathy Winters moved, seconded by Michael Walsh, to delegate authority to the Website Liaison(s) to act on behalf of the Board regarding website updates. Motion carried unanimously.

Travel Liaison(s) Delegation

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate authority to the Travel Liaison(s) to approve any board member travel. Motion carried unanimously.

Variance Liaison(s) Delegation

MOTION: Philip Trapskin moved, seconded by Cathy Winters, to delegate to the Variance Liaison(s) the Board's authority to approve, rescind, and modify variances under §450.02(3m). Motion carried unanimously.

Roles and Authorities Delegated for Monitoring

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors (“Monitor”) to enforce Board/Section orders as explained below.

Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/disciplinary/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing/disciplinary/remedial education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant a maximum of one extension, if warranted and requested in writing by Respondent, to complete a Board/Section-ordered evaluation or exam.
8. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain written authorization from the Liaison to sign on their behalf.
9. Grant or deny a request to appear before the Board/Section in closed session.
10. The Liaison may determine whether Respondent’s petition is eligible for consideration by the full Board/Section.
11. *(Except Pharmacy and Medical)* Accept Respondent’s written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review.

12. Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison. Orders that do not start at 49 screens will still follow the same standard schedule.
 - a. Initial: 49 screens (including 1 hair test, if required by original order)
 - b. 1st Reduction: 36 screens (plus 1 hair test, if required by original order)
 - c. 2nd Reduction: 28 screens plus 1 hair test
 - d. 3rd Reduction: 14 screens plus 1 hair test
13. (*Dentistry only*) Ability to approve or deny all requests from a respondent.
14. The Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc.

Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

- 1) Grant full reinstatement of licensure if education is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
- 2) Suspend the license if Respondent has not completed Board/Section-ordered education and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof of completion and/or payment have been received.
- 3) Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.
- 4) **Grant or deny approval when Respondent proposes treatment providers [, mentors, supervisors, etc.] unless the Order specifically requires full-Board/Section or Board designee approval.**

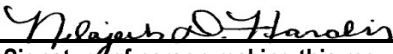
Authorities Delegated to Board Legal Counsel

Board Legal Counsel may take the following actions on behalf of the Board/Section:

1. Sign Monitoring orders that result from Board/Section meetings on behalf of the Board/Section Chair.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM


1) Name and title of person submitting the request: Nilajah Hardin Administrative Rules Coordinator		2) Date when request submitted: 01/13/22 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Pharmacy Examining Board			
4) Meeting Date: 01/27/22	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Rule Matters – Discussion and Consideration 1. Pending or Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <i>(If yes, please complete Appearance Request for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Attachments: 1. Rule Projects Chart Copies of current Board Rule Projects Can be Viewed Here: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx			
11) Authorization			
 Signature of person making this request		01/13/22 Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**Pharmacy Examining Board
Rule Projects (updated 01/13/22)**

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
Not Assigned Yet	137-20	4/19/2023	Phar 1, 6, 7, 8, 12, 13	Electronic Track and Trace Pedigree System, Drug Supply Chain Security, Manufacturers, and Distributors	Drafting	Board Review and Approve for Posting for EIA Comments and Submission to Clearinghouse
21-028	080-20	12/22/2022	Phar 2	Reciprocal Credentials for Service Members, Former Service Members, and their Spouses	Ready for Adoption	Adoption Order to be Presented at March 3, 2022 Meeting
21-074	079-20	12/22/2022	Phar 5, 6, 7, 11, 12	Name and Address Change, Floor Design, Procedures for Disciplinary Proceedings, Superseded References, and Technical Correction	Final Rule Draft and Legislative Report Submitted to Chair for Approval	Submission of Final Rule Draft and Legislative Report to Governor's Office
Not Assigned Yet	102-21	Determined After Governor Approval	Phar 7 and 10	Consumer Disclosures	Drafting	Board Review and Approve for Posting for EIA Comments and Submission to Clearinghouse
21-071	074-19	2/12/2022	Phar 8	Controlled Substances Requirements	Final Rule Draft and Legislative Report Under Review at Governor's Office	Submission to the Legislature After Governor's Office Approval
Not Assigned Yet	096-19	03/09/2022	Phar 15	Compounding Pharmaceuticals	Public Hearing on February 14, 2022	Board Review of Public Hearing and Clearinghouse Comments on February 18, 2022
Not Assigned Yet	097-21	Determined After Governor Approval	Phar 18	Third Party Logistics Providers	Scope Submitted to the Chair for Approval for Implementation	Drafting

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Brad Wojciechowski, Executive Director		2) Date when request submitted: 1/19/2022 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>	
3) Name of Board, Committee, Council, Sections: Pharmacy Examining Board			
4) Meeting Date: 1/27/2022	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Policy Matters – Discussion and Consideration 1) 2021 Wisconsin Act 100 2) 2021 Wisconsin Act 9	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: The Governor signed AB281/SB300 and was enacted on December 3, 2021			
11) Authorization			
			1/19/2021
Signature of person making this request			Date
Supervisor (Only required for post agenda deadline items)			Date
Executive Director signature (Indicates approval for post agenda deadline items)			Date
Directions for including supporting documents: 1. This form should be saved with any other documents submitted to the Agenda Items folders. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

State of Wisconsin



2021 Senate Bill 300

Date of enactment: **December 3, 2021**
Date of publication*: **December 4, 2021**

2021 WISCONSIN ACT 100

AN ACT *to renumber and amend* 450.02 (2); *to amend* 146.81 (1) (fm), 146.997 (1) (d) 8., 450.01 (16) (g), 450.01 (21e) (a), 450.02 (3) (f), 450.03 (1) (e), 450.03 (1) (i), 450.035 (2h), 450.035 (2i) (a) and (b), 450.035 (3), 450.035 (4), 450.062 (intro.), 450.08 (1), 450.08 (2) (b), 450.10 (1) (a) 1., 450.10 (1) (a) 2., 450.10 (1) (a) 3., 450.10 (1) (a) 6., 450.10 (1) (b) (intro.), 450.10 (1) (b) 3., 450.10 (2), 450.10 (3) (a) 1., 450.11 (1b) (bm), 450.11 (1b) (d), 450.11 (1b) (e) 2., 450.11 (3), 450.11 (7) (d), 450.11 (8) (a) and 450.17; *to repeal and recreate* 146.89 (1) (r) 4. and 450.08 (title); and *to create* 440.03 (13) (b) 48m., 440.08 (2) (a) 56m., 450.01 (15g), 450.01 (16c), 450.02 (2) (b), 450.03 (1) (gm) and 450.068 of the statutes; **relating to:** registration of pharmacy technicians, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, and granting rule-making authority.

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

SECTION 1. 146.81 (1) (fm) of the statutes is amended to read:

146.81 (1) (fm) A pharmacist or pharmacy technician licensed or registered under ch. 450.

SECTION 2. 146.89 (1) (r) 4. of the statutes is repealed and recreated to read:

146.89 (1) (r) 4. Registered as a pharmacy technician under ch. 450.

SECTION 3. 146.997 (1) (d) 8. of the statutes is amended to read:

146.997 (1) (d) 8. A pharmacist or pharmacy technician licensed or registered under ch. 450.

SECTION 4. 440.03 (13) (b) 48m. of the statutes is created to read:

440.03 (13) (b) 48m. Pharmacy technician.

SECTION 5. 440.08 (2) (a) 56m. of the statutes is created to read:

440.08 (2) (a) 56m. Pharmacy technician: June 1 of each even-numbered year.

SECTION 6. 450.01 (15g) of the statutes is created to read:

450.01 (15g) “Pharmacy technician” means a person registered by the board under s. 450.068.

SECTION 7. 450.01 (16) (g) of the statutes is amended to read:

450.01 (16) (g) Supervision of pharmacy technicians and other pharmacist supportive personnel.

SECTION 8. 450.01 (16c) of the statutes is created to read:

450.01 (16c) “Practice of a pharmacy technician” means any of the following:

(a) The activities specified in rules promulgated by the board under s. 450.02 (2) (b).

(b) Administering vaccines or drugs as authorized under s. 450.035.

SECTION 9. 450.01 (21e) (a) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES: 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.”

450.01 (21e) (a) An action by a pharmacist or pharmacy technician with respect to a prescription drug that the pharmacist or pharmacy technician is dispensing.

SECTION 10. 450.02 (2) of the statutes is renumbered 450.02 (2) (intro.) and amended to read:

450.02 (2) (intro.) The board shall ~~adopt~~ promulgate rules ~~defining to do all of the following:~~

(a) Define the active practice of pharmacy. The rules shall apply to all applicants for licensure under s. 450.05.

SECTION 11. 450.02 (2) (b) of the statutes is created to read:

450.02 (2) (b) Define the activities that constitute the practice of a pharmacy technician for purposes of the registration requirement under s. 450.068.

SECTION 12. 450.02 (3) (f) of the statutes is amended to read:

450.02 (3) (f) Establishing procedures for identifying pharmacists and pharmacy technicians impaired by alcohol or other drugs or physical or mental disability or disease and for assisting those pharmacists and pharmacy technicians in obtaining treatment.

SECTION 13. 450.03 (1) (e) of the statutes is amended to read:

450.03 (1) (e) Any person lawfully practicing within the scope of a license, permit, registration, certificate, or certification granted to practice as a pharmacy technician under s. 450.068, to provide home medical oxygen under s. 450.076, to practice professional or practical nursing or nurse-midwifery under ch. 441, to practice dentistry or dental hygiene under ch. 447, to practice medicine and surgery under ch. 448, to practice optometry under ch. 449 or to practice veterinary medicine under ch. 89, or as otherwise provided by statute.

SECTION 14. 450.03 (1) (gm) of the statutes is created to read:

450.03 (1) (gm) A person who has applied for a registration under s. 450.068 and whose practice as a pharmacy technician is limited to performing duties under the direct supervision of a person licensed as a pharmacist by the board and during the period before which the board takes final action on the person's application.

SECTION 15. 450.03 (1) (i) of the statutes, as affected by 2021 Wisconsin Act 3, is amended to read:

450.03 (1) (i) Any person, other than a pharmacy technician, who is providing services, ~~including administering vaccines or drugs as authorized under s. 450.035,~~ as directed, supervised, and inspected by a pharmacist who has the power to direct, decide, and oversee the implementation of the services rendered, subject to any rules promulgated by the board and subject to s. 450.035 (2m).

SECTION 16. 450.035 (2h) of the statutes, as created by 2021 Wisconsin Act 3, is amended to read:

450.035 (2h) (a) A ~~person engaged in the practice of pharmacy under s. 450.03 (1) (i)~~ pharmacy technician

may not administer a vaccine unless all of the following are satisfied:

1. The ~~person~~ pharmacy technician has successfully completed at least 2 hours in a course of study and training, approved by the Accreditation Council for Pharmacy Education or the board, in hands-on injection technique and the recognition and treatment of emergency reactions to vaccines.

2. The ~~person~~ pharmacy technician acts under the direct supervision of a pharmacist and the supervising pharmacist has successfully completed a course of study and training specified in sub. (2) and has satisfied the requirements specified in sub. (2t).

3. The ~~person~~ pharmacy technician holds a current certification in basic life support or cardiopulmonary resuscitation.

4. The ~~person~~ pharmacy technician holds a certified pharmacy technician certification from either the Pharmacy Technician Certification Board, or its successor organization, or the National Healthcareer Association, or its successor organization.

(b) A ~~person engaged in the practice of pharmacy under s. 450.03 (1) (i)~~ pharmacy technician may not administer a vaccine under this subsection to a person who is under the age of 6.

SECTION 17. 450.035 (2i) (a) and (b) of the statutes, as affected by 2021 Wisconsin Act 3, are amended to read:

450.035 (2i) (a) Subject to subs. (2), (2g), and (2h), a pharmacist, a pharmacy technician, or a person engaged in the practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), ~~or (i)~~ may administer without a prescription order any vaccine listed in the current immunization schedules recommended by the federal advisory committee on immunization practices and published by the federal centers for disease control and prevention.

(b) Subject to subs. (2), (2g), and (2h), a pharmacist, a pharmacy technician, or a person engaged in the practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), ~~or (i)~~ may initiate and administer any vaccine not listed in the current immunization schedules recommended by the federal advisory committee on immunization practices and published by the federal centers for disease control and prevention if the vaccine is administered pursuant to a prescription order, vaccination protocol, or standing order.

SECTION 18. 450.035 (3) of the statutes, as affected by 2021 Wisconsin Act 3, is amended to read:

450.035 (3) A pharmacist, a pharmacy technician, or a person engaged in the practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), ~~or (i)~~ who successfully completes a course of study and training specified in sub. (1r), (1t), (2), (2g), or (2h), or holds a certification under sub. (2h), shall maintain proof of completion or holding the

certification and, upon request, provide copies of such proof to the department or the board.

SECTION 19. 450.035 (4) of the statutes, as affected by 2021 Wisconsin Act 3, is amended to read:

450.035 (4) A pharmacist, pharmacy technician, or person engaged in the practice of pharmacy under s. 450.03 (1) (f), (fm), or (g), or (i) who administers a vaccine to a person under this section shall update, or cause a pharmacy to update, the Wisconsin Immunization Registry established by the department of health services within 7 days of administering the vaccine.

SECTION 20. 450.062 (intro.) of the statutes is amended to read:

450.062 Remote dispensing. (intro.) Pursuant to rules promulgated by the board, a pharmacist, a pharmacy technician, or a person engaged in the practice of pharmacy under s. 450.03 (1) (f), (g), or (i) may dispense at any of the following locations:

SECTION 21. 450.068 of the statutes is created to read:

450.068 Pharmacy technicians; registration. (1) No person may engage in the practice of a pharmacy technician or use the title “pharmacy technician” or “pharmacy tech” unless the person is registered as a pharmacy technician by the board.

(2) Except as provided in s. 450.10, the board shall issue a registration as a pharmacy technician to an applicant who satisfies all of the following:

(a) The applicant submits an application for registration on a form provided by the board that specifies all of the following:

1. The applicant’s home address.
2. If the applicant is employed, the name and address of the applicant’s employer, and the applicant’s place of employment.

(b) The applicant satisfies one of the following:

1. The applicant is at least 18 years of age and has graduated from high school or has attained high school graduation equivalency as determined by the department of public instruction.

2. The applicant is enrolled in a youth apprenticeship program for pharmacy technicians that is on the list of youth apprenticeship programs approved by the department of workforce development under s. 106.13 (2m).

(d) The applicant pays the fee specified in s. 440.05 (1).

(3) A pharmacy technician shall do all of the following:

(a) Notwithstanding s. 440.11, if the pharmacy technician moves from the last address provided to the department, notify the department of his or her new address within 10 days of the change in writing or in accordance with other notification procedures approved by the department.

(b) If the pharmacy technician changes his or her employer or place of employment, notify the department of his or her new employer or address of employment within 10 days of the change in writing or in accordance with other notification procedures approved by the

department and, if required by the department, pay the transfer fee under s. 440.05 (7).

SECTION 22. 450.08 (title) of the statutes is repealed and recreated to read:

450.08 (title) Credential renewals.

SECTION 23. 450.08 (1) of the statutes is amended to read:

450.08 (1) The renewal ~~date~~ dates for all licenses and registrations granted by the board is are specified under s. 440.08 (2) (a). Except as provided under sub. (2) (a), only a holder of an unexpired license or registration may engage in his or her licensed activity.

SECTION 24. 450.08 (2) (b) of the statutes is amended to read:

450.08 (2) (b) A pharmacy, pharmacy technician’s, manufacturer’s, distributor’s, or home medical oxygen provider’s license or registration may be renewed by paying the applicable fee determined by the department under s. 440.03 (9) (a) on or before the applicable renewal date specified under s. 440.08 (2) (a).

SECTION 25. 450.10 (1) (a) 1. of the statutes is amended to read:

450.10 (1) (a) 1. Making any materially false statement or giving any materially false information in connection with an application for a license or registration or for renewal or reinstatement of a license or registration.

SECTION 26. 450.10 (1) (a) 2. of the statutes is amended to read:

450.10 (1) (a) 2. Violating this chapter or, subject to s. 961.38 (4r), ch. 961 or any federal or state statute or rule which substantially relates to the practice of the licensee or registrant.

SECTION 27. 450.10 (1) (a) 3. of the statutes is amended to read:

450.10 (1) (a) 3. ~~Practicing~~ Engaging in the practice of pharmacy or practicing as a pharmacy technician while the person’s ability to practice is impaired by alcohol or other drugs or physical or mental disability or disease.

SECTION 28. 450.10 (1) (a) 6. of the statutes is amended to read:

450.10 (1) (a) 6. Engaging in conduct in the practice of the licensee or registrant ~~which that~~ evidences a lack of knowledge or ability to apply professional principles or skills.

SECTION 29. 450.10 (1) (b) (intro.) of the statutes is amended to read:

450.10 (1) (b) (intro.) Subject to subch. II of ch. 111 and the rules adopted under s. 440.03 (1), the board may reprimand the licensee or registrant or deny, revoke, suspend, or limit the license or registration or any combination thereof of any person licensed under this chapter who has:

SECTION 30. 450.10 (1) (b) 3. of the statutes is amended to read:

450.10 (1) (b) 3. Been found guilty of an offense the circumstances of which substantially relate to the practice of the licensee or registrant.

SECTION 31. 450.10 (2) of the statutes is amended to read:

450.10 (2) In addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license or registration under sub. (1), the board may, for the violations enumerated under sub. (1), assess a forfeiture of not more than \$1,000 for each separate offense. Each day of violation constitutes a separate offense.

SECTION 32. 450.10 (3) (a) 1. of the statutes is amended to read:

450.10 (3) (a) 1. A pharmacist or pharmacy technician licensed or registered under this chapter.

SECTION 33. 450.11 (1b) (bm) of the statutes is amended to read:

450.11 (1b) (bm) A pharmacist, pharmacy technician, or other person dispensing or delivering a drug shall legibly record the name on each identification card presented under par. (b) to the pharmacist, pharmacy technician, or other person, and the name of each person to whom a drug is dispensed or delivered subject to par. (e) 2., and shall maintain that record for a time established by the board by rule or, for a record that is subject to s. 961.385, until the name is delivered to the controlled substances board under s. 961.385, whichever is sooner.

SECTION 34. 450.11 (1b) (d) of the statutes is amended to read:

450.11 (1b) (d) A pharmacist or pharmacy technician is immune from any civil or criminal liability and from discipline under s. 450.10 for any act taken by the pharmacist or pharmacy technician in reliance on an identification card that the pharmacist reasonably believed was authentic and displayed the name of the person to whom the drug was being delivered if the sale was made in good faith.

SECTION 35. 450.11 (1b) (e) 2. of the statutes is amended to read:

450.11 (1b) (e) 2. The pharmacist, pharmacy technician, or other person dispensing or delivering the drug has personal knowledge of the person to whom the drug is dispensed or delivered and that the person is the ultimate user or the ultimate user's authorized representative.

SECTION 36. 450.11 (3) of the statutes is amended to read:

450.11 (3) PREPARATION OF PRESCRIPTION DRUGS. Except as provided in sub. (1i) (b) and ss. 118.2925 (4), 255.07 (3), and 450.076, no person other than a pharmacist or practitioner or their agents and employees as directed, supervised, and inspected by the pharmacist or practitioner, including pharmacy technicians, may prepare, compound, dispense, or prepare for delivery for a patient any prescription drug.

SECTION 37. 450.11 (7) (d) of the statutes is amended to read:

450.11 (7) (d) No person may, for the purpose of obtaining a prescription drug, falsely assume the title of, or represent himself or herself to be, a manufacturer, distributor, pharmacist, pharmacy technician, or practitioner.

SECTION 38. 450.11 (8) (a) of the statutes is amended to read:

450.11 (8) (a) The board, insofar as this section applies to pharmacists and pharmacy technicians.

SECTION 39. 450.17 of the statutes is amended to read:

450.17 Violations. Each member of the board shall investigate and institute actions for violations of this chapter by any person and for violation of ch. 961 by pharmacists or pharmacy technicians. The district attorney of the proper county shall promptly prosecute any such violation upon notice from any source.

SECTION 40. Nonstatutory provisions.

(1) The pharmacy examining board may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2024, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

SECTION 41. Effective dates. This act takes effect on the first day of the 13th month beginning after publication or on May 31, 2022, whichever is later, except as follows:

(1) SECTION 40 (1) of this act takes effect on the day after publication.

State of Wisconsin



2021 Senate Bill 3

Date of enactment: **March 26, 2021**

Date of publication*: **March 27, 2021**

2021 WISCONSIN ACT 9

AN ACT *to repeal* 40.51 (15m) and 632.86; *to renumber* 632.865 (1) (a); *to renumber and amend* 632.865 (1) (c) and 633.01 (4); *to amend* 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g), 185.983 (1) (intro.), 450.135 (9), 601.31 (1) (w), 601.46 (3) (b), 609.83, 616.09 (1) (a) 2., chapter 633 (title), 633.01 (1) (intro.) and (c), 633.01 (3), 633.01 (5), 633.04 (intro.), 633.05, 633.06, 633.07, 633.09 (4) (b) 2. and 3., 633.11, 633.12 (1) (intro.), (b) and (c), 633.13 (1) and (3), 633.14 (2) (intro.) and (c) 1. and 3. and (3), 633.15 (1) (a), (1m) and (2) (a) 1., 2. and 3. and (b) 1., 633.15 (2) (b) 2. and 633.16; and *to create* 450.13 (5m), 450.135 (8m), 632.861, 632.865 (1) (ae) and (ak), 632.865 (1) (c) 2., 632.865 (1) (dm), 632.865 (3) to (7), 633.01 (2r), 633.01 (4g), 633.01 (4r), 633.01 (6), 633.15 (2) (b) 1. d. and 633.15 (2) (f) of the statutes; **relating to:** pharmacy benefit managers, prescription drug benefits, and granting rule-making authority.

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

SECTION 1. 40.51 (8) of the statutes is amended to read:

40.51 (8) Every health care coverage plan offered by the state under sub. (6) shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.729, 632.746 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.861, 632.867, 632.87 (3) to (6), 632.885, 632.89, 632.895 (5m) and (8) to (17), and 632.896.

SECTION 2. 40.51 (8m) of the statutes is amended to read:

40.51 (8m) Every health care coverage plan offered by the group insurance board under sub. (7) shall comply with ss. 631.95, 632.729, 632.746 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.861, 632.867, 632.885, 632.89, and 632.895 (11) to (17).

SECTION 3. 40.51 (15m) of the statutes is repealed.

SECTION 4. 66.0137 (4) of the statutes is amended to read:

66.0137 (4) **SELF-INSURED HEALTH PLANS.** If a city, including a 1st class city, or a village provides health care benefits under its home rule power, or if a town provides health care benefits, to its officers and employees on a self-insured basis, the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.861, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

SECTION 5. 120.13 (2) (g) of the statutes is amended to read:

120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855,

* Section 991.11, WISCONSIN STATUTES: 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."

632.861, 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

SECTION 6. 185.983 (1) (intro.) of the statutes is amended to read:

185.983 (1) (intro.) Every voluntary nonprofit health care plan operated by a cooperative association organized under s. 185.981 shall be exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44, 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93, 631.95, 632.72 (2), 632.729, 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798, 632.85, 632.853, 632.855, 632.861, 632.867, 632.87 (2) to (6), 632.885, 632.89, 632.895 (5) and (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646, but the sponsoring association shall:

SECTION 7. 450.13 (5m) of the statutes is created to read:

450.13 (5m) DISCLOSURES TO CONSUMERS. (a) Each pharmacy shall post in a prominent place at or near the place where prescriptions are dispensed a sign that clearly describes a pharmacist's ability under this state's law to substitute a less expensive drug product equivalent under sub. (1s) unless the consumer or the prescribing practitioner has indicated otherwise under sub. (2).

(b) The pharmacy examining board shall create a list of the 100 most commonly prescribed generic drug product equivalents, including the generic and brand names of the drugs, and provide, either directly or on the department's Internet site, the list to each pharmacy on an annual basis. Each pharmacy shall make available to the public information on how to access the list under this paragraph.

(c) Each pharmacy shall have available for the public a listing of the retail price, updated no less frequently than monthly, of the 100 most commonly prescribed prescription drugs, which includes brand name and generic equivalent drugs and biological products and interchangeable biological products, that are available for purchase at the pharmacy.

SECTION 8. 450.135 (8m) of the statutes is created to read:

450.135 (8m) DISCLOSURE TO CONSUMERS. Each pharmacy shall post in a prominent place at or near the place where prescriptions are dispensed a sign that clearly describes a pharmacist's ability under this state's law to substitute a less expensive interchangeable biological product under sub. (2) unless the consumer or the prescribing practitioner has indicated otherwise under sub. (3).

SECTION 9. 450.135 (9) of the statutes is amended to read:

450.135 (9) LINKS TO BE MAINTAINED BY BOARD. The board shall maintain links on the department's Internet site to the federal food and drug administration's lists of all currently approved interchangeable biological prod-

ucts. Each pharmacy shall make available for the public information on how to access the federal food and drug administration's lists of all currently approved interchangeable biological products through the department's Internet site.

SECTION 10. 601.31 (1) (w) of the statutes is amended to read:

601.31 (1) (w) For initial issuance and for each annual renewal of a license as an administrator or pharmacy benefit manager under ch. 633, \$100.

SECTION 11. 601.46 (3) (b) of the statutes is amended to read:

601.46 (3) (b) A general review of the insurance business in this state, including a report on emerging regulatory problems, developments and trends, including trends related to prescription drugs;

SECTION 12. 609.83 of the statutes is amended to read:

609.83 Coverage of drugs and devices. Limited service health organizations, preferred provider plans, and defined network plans are subject to ss. 632.853, 632.861, and 632.895 (16t) and (16v).

SECTION 13. 616.09 (1) (a) 2. of the statutes is amended to read:

616.09 (1) (a) 2. Plans authorized under s. 616.06 are subject to s. 610.21, 1977 stats., s. 610.55, 1977 stats., s. 610.57, 1977 stats., and ss. 628.34 to 628.39, 1977 stats., to chs. 600, 601, 620, 625, 627 and 645, to ss. 632.72, 632.755, ~~632.86~~ 632.861 and 632.87 and to this subchapter except s. 616.08.

SECTION 14. 632.86 of the statutes is repealed.

SECTION 15. 632.861 of the statutes is created to read:

632.861 Prescription drug charges. (1) DEFINITIONS. In this section:

(a) "Disability insurance policy" has the meaning given in s. 632.895 (1) (a).

(b) "Enrollee" means an individual who is covered under a disability insurance policy or a self-insured health plan.

(c) "Pharmacy benefit manager" has the meaning given in s. 632.865 (1) (c).

(d) "Prescription drug" has the meaning given in s. 450.01 (20).

(e) "Prescription drug benefit" has the meaning given in s. 632.865 (1) (e).

(f) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

(2) ALLOWING DISCLOSURES. (a) A disability insurance policy or self-insured health plan that provides a prescription drug benefit may not restrict, directly or indirectly, any pharmacy that dispenses a prescription drug to an enrollee in the policy or plan from informing, or penalize such pharmacy for informing, an enrollee of any differential between the out-of-pocket cost to the enrollee under the policy or plan with respect to acquisition of the drug and the amount an individual would pay

for acquisition of the drug without using any health plan or health insurance coverage.

(b) A disability insurance policy or self-insured health plan that provides a prescription drug benefit shall ensure that any pharmacy benefit manager that provides services under a contract with the policy or plan does not, with respect to such policy or plan, restrict, directly or indirectly, any pharmacy that dispenses a prescription drug to an enrollee in the policy or plan from informing, or penalize such pharmacy for informing, an enrollee of any differential between the out-of-pocket cost to the enrollee under the policy or plan with respect to acquisition of the drug and the amount an individual would pay for acquisition of the drug without using any health plan or health insurance coverage.

(3) **COST-SHARING LIMITATION.** A disability insurance policy or self-insured health plan that provides a prescription drug benefit or a pharmacy benefit manager that provides services under a contract with a policy or plan may not require an enrollee to pay at the point of sale for a covered prescription drug an amount that is greater than the lowest of all of the following amounts:

(a) The cost-sharing amount for the prescription drug for the enrollee under the policy or plan.

(b) The amount a person would pay for the prescription drug if the enrollee purchased the prescription drug at the dispensing pharmacy without using any health plan or health insurance coverage.

(4) **DRUG SUBSTITUTION.** (a) Except as provided in par. (b), a disability insurance policy that offers a prescription drug benefit, a self-insured health plan that offers a prescription drug benefit, or a pharmacy benefit manager acting on behalf of a disability insurance policy or self-insured health plan shall provide to an enrollee advanced written notice of a formulary change that removes a prescription drug from the formulary of the policy or plan or that reassigns a prescription drug to a benefit tier for the policy or plan that has a higher deductible, copayment, or coinsurance. The advanced written notice of a formulary change under this paragraph shall be provided no fewer than 30 days before the expected date of the removal or reassignment and shall include information on the procedure for the enrollee to request an exception to the formulary change. The policy, plan, or pharmacy benefit manager is required to provide the advanced written notice under this paragraph only to those enrollees in the policy or plan who are using the drug at the time the notification must be sent according to available claims history.

(b) 1. A disability insurance policy, self-insured health plan, or pharmacy benefit manager is not required to provide advanced written notice under par. (a) if the prescription drug that is to be removed or reassigned is any of the following:

a. No longer approved by the federal food and drug administration.

b. The subject of a notice, guidance, warning, announcement, or other statement from the federal food and drug administration relating to concerns about the safety of the prescription drug.

c. Approved by the federal food and drug administration for use without a prescription.

2. A disability insurance policy, self-insured health plan, or pharmacy benefit manager is not required to provide advanced written notice under par. (a) if, for the prescription drug that is being removed from the formulary or reassigned to a benefit tier that has a higher deductible, copayment, or coinsurance, the policy, plan, or pharmacy benefit manager adds to the formulary a generic prescription drug that is approved by the federal food and drug administration for use as an alternative to the prescription drug or a prescription drug in the same pharmacologic class or with the same mechanism of action at any of the following benefit tiers:

a. The same benefit tier from which the prescription drug is being removed or reassigned.

b. A benefit tier that has a lower deductible, copayment, or coinsurance than the benefit tier from which the prescription drug is being removed or reassigned.

(c) A pharmacist or pharmacy shall notify an enrollee in a disability insurance policy or self-insured health plan if a prescription drug for which an enrollee is filling or refilling a prescription is removed from the formulary and the policy or plan or a pharmacy benefit manager acting on behalf of a policy or plan adds to the formulary a generic prescription drug that is approved by the federal food and drug administration for use as an alternative to the prescription drug or a prescription drug in the same pharmacologic class or with the same mechanism of action at any of the following benefit tiers:

1. The same benefit tier from which the prescription drug is being removed or reassigned.

2. A benefit tier that has a lower deductible, copayment, or coinsurance than the benefit tier from which the prescription drug is being removed or reassigned.

(d) If an enrollee has had an adverse reaction to the generic prescription drug or the prescription drug in the same pharmacologic class or with the same mechanism of action that is being substituted for an originally prescribed drug, the pharmacist or pharmacy may extend the prescription order for the originally prescribed drug to fill one 30-day supply of the originally prescribed drug for the cost-sharing amount that applies to the prescription drug at the time of the substitution.

SECTION 16. 632.865 (1) (a) of the statutes is renumbered 632.865 (1) (aw).

SECTION 17. 632.865 (1) (ae) and (ak) of the statutes are created to read:

632.865 (1) (ae) “Health benefit plan” has the meaning given in s. 632.745 (11).

(ak) “Health care provider” has the meaning given in s. 146.81 (1).

SECTION 18. 632.865 (1) (c) of the statutes is renumbered 632.865 (1) (c) (intro.) and amended to read:

632.865 (1) (c) (intro.) “Pharmacy benefit manager” means an entity doing business in this state that contracts to administer or manage prescription drug benefits on behalf of any of the following:

1. An insurer or other,

3. Another entity that provides prescription drug benefits to residents of this state.

SECTION 19. 632.865 (1) (c) 2. of the statutes is created to read:

632.865 (1) (c) 2. A cooperative, as defined in s. 185.01 (2).

SECTION 20. 632.865 (1) (dm) of the statutes is created to read:

632.865 (1) (dm) “Prescription drug” has the meaning given in s. 450.01 (20).

SECTION 21. 632.865 (3) to (7) of the statutes are created to read:

632.865 (3) LICENSE REQUIRED. No person may perform any activities of a pharmacy benefit manager without being licensed by the commissioner as an administrator or pharmacy benefit manager under s. 633.14.

(4) ACCREDITATION FOR NETWORK PARTICIPATION. A pharmacy benefit manager or a representative of a pharmacy benefit manager shall provide to a pharmacy, within 30 days of receipt of a written request from the pharmacy, a written notice of any certification or accreditation requirements used by the pharmacy benefit manager or its representative as a determinant of network participation. A pharmacy benefit manager or a representative of a pharmacy benefit manager may change its accreditation requirements no more frequently than once every 12 months.

(5) RETROACTIVE CLAIM REDUCTION. Unless required otherwise by federal law, a pharmacy benefit manager may not retroactively deny or reduce a pharmacist’s or pharmacy’s claim after adjudication of the claim unless any of the following is true:

(a) The original claim was submitted fraudulently.

(b) The payment for the original claim was incorrect. Recovery for an incorrect payment under this paragraph is limited to the amount that exceeds the allowable claim.

(c) The pharmacy services were not rendered by the pharmacist or pharmacy.

(d) In making the claim or performing the service that is the basis for the claim, the pharmacist or pharmacy violated state or federal law.

(e) The reduction is permitted in a contract between a pharmacy and a pharmacy benefit manager and is related to a quality program.

(6) AUDITS OF PHARMACIES OR PHARMACISTS. (a) *Definitions.* In this subsection:

1. “Audit” means a review of the accounts and records of a pharmacy or pharmacist by or on behalf of

an entity that finances or reimburses the cost of health care services or prescription drugs.

2. “Entity” means a defined network plan, as defined in s. 609.01 (1b), insurer, self-insured health plan, or pharmacy benefit manager or a person acting on behalf of a defined network plan, insurer, self-insured health plan, or pharmacy benefit manager.

3. “Self-insured health plan” has the meaning given in s. 632.85 (1) (c).

(b) *Procedures.* An entity conducting an on-site or desk audit of pharmacist or pharmacy records shall do all of the following:

1. If the audit is an audit on the premises of the pharmacist or pharmacy, notify the pharmacist or pharmacy in writing of the audit at least 2 weeks before conducting the audit.

2. Refrain from auditing a pharmacist or pharmacy within the first 5 business days of a month unless the pharmacist or pharmacy consents to an audit during that time.

3. If the audit involves clinical or professional judgment, conduct the audit by or in consultation with a pharmacist licensed in any state.

4. Limit the audit review to no more than 250 separate prescriptions. For purposes of this subdivision, a refill of a prescription is not a separate prescription.

5. Limit the audit review to claims submitted no more than 2 years before the date of the audit, unless required otherwise by state or federal law.

6. Allow the pharmacist or pharmacy to use authentic and verifiable records of a hospital, physician, or other health care provider to validate the pharmacist’s or pharmacy’s records relating to delivery of a prescription drug and use any valid prescription that complies with requirements of the pharmacy examining board to validate claims in connection with a prescription, refill of a prescription, or change in prescription.

7. Allow the pharmacy or pharmacist to document the delivery of a prescription drug or pharmacist services to an enrollee under a health benefit plan using either paper or electronic signature logs.

8. Before leaving the pharmacy after concluding the on-site portion of an audit, provide to the representative of the pharmacy or the pharmacist a complete list of the pharmacy records reviewed.

(c) *Results of audit.* An entity that has conducted an audit of a pharmacist or pharmacy shall do all of the following:

1. Deliver to the pharmacist or pharmacy a preliminary report of the audit within 60 days after the date the auditor departs from an on-site audit or the pharmacy or pharmacist submits paperwork for a desk audit. A preliminary report under this subdivision shall include claim-level information for any discrepancy reported, the estimated total amount of claims subject to recovery,

and contact information for the entity or person that completed the audit so the pharmacist or pharmacy subject to the audit may review audit results, procedures, and discrepancies.

2. Allow a pharmacist or pharmacy that is the subject of an audit to provide documentation to address any discrepancy found in the audit within 30 days after the date the pharmacist or pharmacy receives the preliminary report.

3. Deliver to the pharmacist or pharmacy a final audit report, which may be delivered electronically, within 90 days of the date the pharmacist or pharmacy receives the preliminary report or the date of the final appeal of the audit, whichever is later. The final audit report under this subdivision shall include any response provided to the auditor by the pharmacy or pharmacist and consider and address the pharmacy's or pharmacist's response.

4. Refrain from assessing a recoupment or other penalty on a pharmacist or pharmacy until the appeal process is exhausted and the final report under subd. 3. is delivered to the pharmacist or pharmacy.

5. Refrain from accruing or charging interest between the time the notice of the audit is given under par. (b) 1. and the final report under subd. 3. has been delivered.

6. Exclude dispensing fees from calculations of overpayments.

7. Establish and follow a written appeals process that allows a pharmacy or pharmacist to appeal the final report of an audit and allow the pharmacy or pharmacist as part of the appeal process to arrange for, at the cost of the pharmacy or pharmacist, an independent audit.

8. Refrain from subjecting the pharmacy or pharmacist to a recoupment or recovery for a clerical or record-keeping error in a required document or record, including a typographical or computer error, unless the error resulted in an overpayment to the pharmacy or pharmacist.

(d) *Confidentiality of audit.* Information obtained in an audit under this subsection is confidential and may not be shared unless the information is required to be shared under state or federal law and except that the audit may be shared with the entity on whose behalf the audit is performed. An entity conducting an audit may have access to the previous audit reports on a particular pharmacy only if the audit is conducted by the same entity.

(e) *Cooperation with audit.* If an entity is conducting an audit that is complying with this subsection in auditing a pharmacy or pharmacist, the pharmacy or pharmacist that is the subject of the audit may not interfere with or refuse to participate in the audit.

(f) *Payment of auditors.* A pharmacy benefit manager or entity conducting an audit may not pay an auditor employed by or contracted with the pharmacy benefit manager or entity based on a percentage of the amount recovered in an audit.

(g) *Applicability.* 1. This subsection does not apply to an investigative audit that is initiated as a result of a credible allegation of fraud or willful misrepresentation or criminal wrongdoing.

2. If an entity conducts an audit to which a federal law applies that is in conflict with all or part of this subsection, the entity shall comply with this subsection only to the extent that it does not conflict with federal law.

(7) **TRANSPARENCY REPORTS.** (a) Beginning on June 1, 2021, and annually thereafter, every pharmacy benefit manager shall submit to the commissioner a report that contains, from the previous calendar year, the aggregate rebate amount that the pharmacy benefit manager received from all pharmaceutical manufacturers but retained and did not pass through to health benefit plan sponsors and the percentage of the aggregate rebate amount that is retained rebates. Information required under this paragraph is limited to contracts held with pharmacies located in this state.

(b) Reports under this subsection shall be considered a trade secret under the uniform trade secret act under s. 134.90.

(c) The commissioner may not expand upon the reporting requirement under this subsection, except that the commissioner may effectuate this subsection.

SECTION 22. Chapter 633 (title) of the statutes is amended to read:

CHAPTER 633

EMPLOYEE BENEFIT PLAN

ADMINISTRATORS AND PRINCIPALS, AND PHARMACY BENEFIT MANAGERS

SECTION 23. 633.01 (1) (intro.) and (c) of the statutes are amended to read:

633.01 (1) (intro.) “Administrator” means a person who directly or indirectly solicits or collects premiums or charges or otherwise effects coverage or adjusts or settles claims for ~~a~~ an employee benefit plan, but does not include the following persons if they perform these acts under the circumstances specified for each:

(c) A creditor on behalf of its debtor, if to obtain payment, reimbursement or other method of satisfaction from ~~a~~ an employee benefit plan for any part of a debt owed to the creditor by the debtor.

SECTION 24. 633.01 (2r) of the statutes is created to read:

633.01 (2r) “Enrollee” has the meaning given in s. 632.861 (1) (b).

SECTION 25. 633.01 (3) of the statutes is amended to read:

633.01 (3) “Insured employee” means an employee who is a resident of this state and who is covered under ~~a~~ an employee benefit plan.

SECTION 26. 633.01 (4) of the statutes is renumbered 633.01 (2g) and amended to read:

633.01 (2g) “Plan Employee benefit plan” means an insured or wholly or partially self-insured employee

benefit plan which by means of direct payment, reimbursement or other arrangement provides to one or more employees who are residents of this state benefits or services that include, but are not limited to, benefits for medical, surgical or hospital care, benefits in the event of sickness, accident, disability or death, or benefits in the event of unemployment or retirement.

SECTION 27. 633.01 (4g) of the statutes is created to read:

633.01 (4g) "Pharmacy benefit manager" has the meaning given in s. 632.865 (1) (c).

SECTION 28. 633.01 (4r) of the statutes is created to read:

633.01 (4r) "Prescription drug benefit" has the meaning given in s. 632.865 (1) (e).

SECTION 29. 633.01 (5) of the statutes is amended to read:

633.01 (5) "Principal" means a person, including an insurer, that uses the services of an administrator to provide ~~a~~ an employee benefit plan.

SECTION 30. 633.01 (6) of the statutes is created to read:

633.01 (6) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

SECTION 31. 633.04 (intro.) of the statutes is amended to read:

633.04 Written agreement required. (intro.) An administrator may not administer ~~a~~ an employee benefit plan in the absence of a written agreement between the administrator and a principal. The administrator and principal shall each retain a copy of the written agreement for the duration of the agreement and for 5 years thereafter. The written agreement shall contain the following terms:

SECTION 32. 633.05 of the statutes is amended to read:

633.05 Payment to administrator. If a principal is an insurer, payment to the administrator of a premium or charge by or on behalf of an insured employee is payment to the insurer, but payment of a return premium or claim by the insurer to the administrator is not payment to an insured employee until the payment is received by the insured employee. This section does not limit any right of the insurer against the administrator for failure to make payments to the insurer or an insured employee.

SECTION 33. 633.06 of the statutes is amended to read:

633.06 Examination and inspection of books and records. (1) The commissioner may examine, audit or accept an audit of the books and records of an administrator or pharmacy benefit manager as provided for examination of licensees under s. 601.43 (1), (3), (4) and (5), to be conducted as provided in s. 601.44, and with costs to be paid as provided in s. 601.45.

(2) A principal that uses an administrator may inspect the books and records of the administrator, subject to any

restrictions set forth in ss. 146.81 to 146.835 and in the written agreement required under s. 633.04, for the purpose of enabling the principal to fulfill its contractual obligations to ~~insureds~~ insured employees.

SECTION 34. 633.07 of the statutes is amended to read:

633.07 Approval of advertising. An administrator may not use any advertising for ~~a~~ an employee benefit plan underwritten by an insurer unless the insurer approves the advertising in advance.

SECTION 35. 633.09 (4) (b) 2. and 3. of the statutes are amended to read:

633.09 (4) (b) 2. To ~~a~~ an employee benefit plan policyholder for payment to a principal, the funds belonging to the principal.

3. To an insured employee, the funds belonging to the insured employee.

SECTION 36. 633.11 of the statutes is amended to read:

633.11 Claim adjustment compensation. If an administrator adjusts or settles claims under ~~a~~ an employee benefit plan, the commission, fees or charges that the principal pays the administrator may not be based on the employee benefit plan's loss experience. This section does not prohibit compensation based on the number or amount of premiums or charges collected, or the number or amount of claims paid or processed by the administrator.

SECTION 37. 633.12 (1) (intro.), (b) and (c) of the statutes are amended to read:

633.12 (1) (intro.) An administrator shall prepare sufficient copies of a written notice approved in advance by the principal for distribution to all ~~insureds~~ insured employees of the principal and either shall distribute the copies to the ~~insureds~~ insured employees or shall provide the copies to the principal for distribution to the ~~insureds~~ insured employees. The written notice shall contain all of the following:

(b) An explanation of the respective rights and responsibilities of the administrator, the principal and the ~~insureds~~ insured employees.

(c) A statement of the extent to which the employee benefit plan is insured or self-insured, and an explanation of the terms "insured" and "self-insured".

SECTION 38. 633.13 (1) and (3) of the statutes are amended to read:

633.13 (1) GENERAL. Except as provided in sub. (2), a person may not perform, offer to perform or advertise any service as an administrator or a pharmacy benefit manager unless the person has obtained a license under s. 633.14. A pharmacy benefit manager that also performs services as an administrator need only obtain an administrator license under s. 633.14.

(3) RESPONSIBILITIES OF PRINCIPAL. A principal may not use the services of an administrator unless the administrator furnishes proof of licensure under s. 633.14 or

exemption under sub. (2). An insurer or a self-insured health plan may not use the services of a pharmacy benefit manager unless the pharmacy benefit manager furnishes proof of licensure under s. 633.14.

SECTION 39. 633.14 (2) (intro.) and (c) 1. and 3. and (3) of the statutes are amended to read:

633.14 (2) (intro.) The commissioner shall issue a license to act as an administrator or pharmacy benefit manager to a corporation, limited liability company or partnership that does all of the following:

(c) 1. That the corporation, limited liability company or partnership intends in good faith to act as an administrator or pharmacy benefit manager through individuals designated under subd. 3. in compliance with applicable laws of this state and rules and orders of the commissioner.

3. That for each employee benefit plan or prescription drug benefit to be administered, the corporation, limited liability company or partnership has designated or will designate an individual in the corporation, limited liability company or partnership to directly administer the employee benefit plan or prescription drug benefit.

(3) The commissioner shall promulgate rules establishing the specifications that a bond supplied by an administrator or pharmacy benefit manager under sub. (1) (b) or (2) (b) must satisfy to guarantee faithful performance of the administrator or pharmacy benefit manager.

SECTION 40. 633.15 (1) (a), (1m) and (2) (a) 1., 2. and 3. and (b) 1. of the statutes are amended to read:

633.15 (1) (a) *Payment.* An administrator or pharmacy benefit manager shall pay the annual renewal fee under s. 601.31 (1) (w) for each annual renewal of a license by the date specified by a schedule established under par. (b).

(1m) SOCIAL SECURITY NUMBER, FEDERAL EMPLOYER IDENTIFICATION NUMBER OR STATEMENT. At an annual renewal, an administrator or pharmacy benefit manager shall provide his or her social security number, if the administrator is an individual unless he or she does not have a social security number, or its federal employer identification number, if the administrator or pharmacy benefit manager is a corporation, limited liability company or partnership, if the social security number or federal employer identification number was not previously provided on the application for the license or at a previous renewal of the license. If an administrator who is an individual does not have a social security number, the individual shall provide to the commissioner, at each annual renewal and on a form prescribed by the department of children and families, a statement made or subscribed under oath or affirmation that the administrator does not have a social security number.

(2) (a) 1. If an administrator or pharmacy benefit manager fails to pay the annual renewal fee as provided under sub. (1) or fails to provide a social security number, federal employer identification number or statement

made or subscribed under oath or affirmation as required under sub. (1m), the commissioner shall suspend the administrator's or pharmacy benefit manager's license effective the day following the last day when the annual renewal fee may be paid, if the commissioner has given the administrator or pharmacy benefit manager reasonable notice of when the fee must be paid to avoid suspension.

2. If, within 60 days from the effective date of suspension under subd. 1., an administrator or pharmacy benefit manager pays the annual renewal fee or provides the social security number, federal employer identification number or statement made or subscribed under oath or affirmation, or both if the suspension was based upon a failure to do both, the commissioner shall reinstate the administrator's or pharmacy benefit manager's license effective as of the date of suspension.

3. If payment is not made or the social security number, federal employer identification number or statement made or subscribed under oath or affirmation is not provided within 60 days from the effective date of suspension under subd. 1., the commissioner shall revoke the administrator's or pharmacy benefit manager's license.

(b) 1. Except as provided in pars. (c) to (e), the commissioner may revoke, suspend or limit the license of an administrator or pharmacy benefit manager after a hearing if the commissioner makes any of the following findings:

a. That the administrator or pharmacy benefit manager is unqualified to perform the responsibilities of an administrator or pharmacy benefit manager.

b. That the administrator or pharmacy benefit manager has repeatedly or knowingly violated an applicable law, rule or order of the commissioner.

c. ~~That~~ If the licensee is an administrator, that the administrator's methods or practices in administering a an employee benefit plan endanger the interests of insureds insured employees or the public, or that the financial resources of the administrator are inadequate to safeguard the interests of ~~insureds insured employees~~ or the public.

SECTION 41. 633.15 (2) (b) 1. d. of the statutes is created to read:

633.15 (2) (b) 1. d. If the licensee is a pharmacy benefit manager, that the pharmacy benefit manager's methods or practices in administering a prescription drug benefit endanger the interests of enrollees or the public, or that the financial resources of the pharmacy benefit manager are inadequate to safeguard the interests of enrollees or the public.

SECTION 42. 633.15 (2) (b) 2. of the statutes is amended to read:

633.15 (2) (b) 2. A person whose license has been revoked under subd. 1. may apply for a new license under s. 633.14 only after the expiration of 5 years from the date of the order revoking the administrator's or pharmacy

benefit manager's license, unless the order specifies a lesser period.

SECTION 43. 633.15 (2) (f) of the statutes is created to read:

633.15 (2) (f) The commissioner, after ordering a suspension or revocation under this subsection, may allow a pharmacy benefit manager to continue to provide services for the purpose of providing continuity of care in prescription drug benefits to existing enrollees.

SECTION 44. 633.16 of the statutes is amended to read:

633.16 Regulation. Nothing in this chapter gives the commissioner the authority to impose requirements on a- an employee benefit plan that is exempt from state law under 29 USC 1144 (b).

SECTION 45. Nonstatutory provisions.

(1) PHARMACY BENEFIT MANAGER; COMPLIANCE DATE. A pharmacy benefit manager that is not required to be licensed as an administrator is not required to be licensed

under s. 633.14 and a pharmacy benefit manager is not required to comply with s. 632.865 (3) to (7) until the effective date of this subsection, unless the commissioner of insurance specifies a later date on which registration or compliance is required.

SECTION 46. Initial applicability.

(1) For policies and plans containing provisions inconsistent with this act, this act first applies to policy or plan years beginning on the effective date of this subsection.

SECTION 46m. Effective dates. This act takes effect on January 1, 2022, except as follows:

(1) ALLOWING DISCLOSURES. The treatment of s. 632.861 (2) takes effect on the day after publication.

(2) COST-SHARING LIMITATION. The treatment of s. 632.861 (3) takes effect on June 30, 2021.

(3) AUDITS. The treatment of s. 632.865 (6) takes effect on June 30, 2021.