

State of Wisconsin



2015 Senate Bill 13

Date of enactment: **March 23, 2015**
Date of publication*: **March 24, 2015**

2015 WISCONSIN ACT 3

AN ACT *to amend* 450.03 (1) (e), 450.08 (2) (b) and 450.11 (3); and *to create* 440.08 (2) (a) 38h. and 450.076 of the statutes; **relating to:** licensure of home medical oxygen providers, 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. 440.08 (2) (a) 38h. of the statutes is created to read:

440.08 (2) (a) 38h. Home medical oxygen provider:
June 1 of each even-numbered year.

SECTION 2. 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 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. 453, or as otherwise provided by statute.

SECTION 3. 450.076 of the statutes is created to read:

450.076 Home medical oxygen providers; licensure. (1) **DEFINITIONS.** In this section:

(a) "Home medical oxygen provider" means a person that provides medical oxygen directly to a consumer or patient in this state for that consumer's or patient's own use.

(b) "Licensed provider" means a home medical oxygen provider licensed under this section.

(c) "Medical oxygen" means oxygen that is a prescription drug.

(2) **LICENSE REQUIRED.** (a) Except as provided in par. (b), no person may operate as a home medical oxygen provider, use the title "home medical oxygen provider" or any similar title, or hold itself out as a home medical oxygen provider unless the person is a licensed provider.

(b) No license under this section is required for any of the following:

1. A person that holds a current credential, as defined in s. 440.01 (2) (a), and is acting within the scope of that credential.

2. A hospital, excluding any home medical oxygen provider that is owned or operated by a hospital.

3. An employee or agent of a licensed provider acting within the scope of his or her employment or agency.

(3) **LICENSURE.** The board may grant a license to act as a home medical oxygen provider to a person that does all of the following:

(a) Submits an application for licensure on a form provided by the board.

(b) Pays the fee specified in s. 440.05 (1).

(c) Satisfies any other requirements established by the board by rule.

(4) **RULES.** The board shall promulgate rules implementing this section. The rules shall include rules gov-

* 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."

erning the professional conduct of licensed providers and their employees and agents.

SECTION 4. 450.08 (2) (b) of the statutes is amended to read:

450.08 (2) (b) A pharmacy, manufacturer's or distributor's, or home medical oxygen provider's license 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 5. 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 s. 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 may prepare, compound, dispense, or prepare for delivery for a patient any prescription drug.

SECTION 6. Nonstatutory provisions.

(1) EMERGENCY RULES. The pharmacy examining board may promulgate emergency rules under section 227.24 of the statutes implementing section 450.076 of

the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until June 30, 2017, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the 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.

(2) REGULATION OF HOME MEDICAL OXYGEN PROVIDERS. The pharmacy examining board shall administer section 450.076 of the statutes, as created by this act, on a case-by-case basis prior to the effective date of the rules promulgated under section 450.076 (4) of the statutes.

SECTION 7. Effective date.

(1) The treatment of section 450.076 (2) (a) of the statutes takes effect on May 1, 2015, or on the day after publication, whichever is later.