
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1367 Session of
2015

INTRODUCED BY YAW, STEFANO AND SCARNATI, SEPTEMBER 23, 2016

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
SEPTEMBER 23, 2016

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, in public safety, providing for
3 prescribing opioids to minors; imposing powers and duties on
4 certain Commonwealth agencies and on the Legislative
5 Reference Bureau; and imposing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 35 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter in Part III to read:

10 CHAPTER 52

11 PRESCRIBING OPIOIDS TO MINORS

12 Sec.

13 5201. Definitions.

14 5202. Administration.

15 5203. Prohibition.

16 5204. Procedure.

17 5205. Penalties.

18 § 5201. Definitions.

19 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Authorized adult." An adult to whom a minor's parent or
4 guardian has given written authorization to consent to the
5 minor's medical treatment.

6 "Bureau." The Bureau of Professional and Occupational
7 Affairs.

8 "Controlled substance." A drug, substance or immediate
9 precursor included in Schedules I through V of section 4 of the
10 act of April 14, 1972 (P.L.233, No.64), known as The Controlled
11 Substance, Drug, Device and Cosmetic Act.

12 "Licensing agency." A Commonwealth agency which licenses,
13 registers or certifies a prescriber.

14 "Medical emergency." A situation which, in a prescriber's
15 good faith professional judgment, creates an immediate threat of
16 serious risk to the life or physical health of a minor.

17 "Minor." An individual under 18 years of age. The term
18 excludes an individual who is emancipated by:

- 19 (1) marrying;
20 (2) entering the armed forces of the United States;
21 (3) being employed and self-sustaining; or
22 (4) otherwise being independent from the care and
23 control of the individual's parent, guardian or custodian.

24 "Opioid." Any of the following:

- 25 (1) A preparation or derivative of opium.
26 (2) A synthetic narcotic that has opiate-like effects
27 but is not derived from opium.
28 (3) A group of naturally occurring peptides that bind at
29 or otherwise influence opiate receptors, including opioid
30 agonist.

1 "Prescriber." An individual who is authorized under the laws
2 of this Commonwealth to distribute, dispense or administer a
3 controlled substance containing an opioid in the course of
4 professional practice in this Commonwealth. The term does not
5 include a veterinarian.

6 § 5202. Administration.

7 (a) Licensing agencies.--A licensing agency may administer
8 this chapter as to prescribers under its jurisdiction.

9 (b) Bureau.--

10 (1) The bureau shall, in cooperation with the licensing
11 agencies, prescribe the form under section 5204(a)(3)
12 (relating to procedure).

13 (2) The bureau shall transmit notice of the availability
14 of the form to the Legislative Reference Bureau for
15 publication in the Pennsylvania Bulletin.

16 § 5203. Prohibition.

17 (a) Proscription.--A prescriber may not do any of the
18 following:

19 (1) Prescribe to a minor a controlled substance
20 containing an opioid unless the prescriber complies with
21 section 5204 (relating to procedure).

22 (2) Except as set forth in subsection (b) and subject to
23 section 5204(c)(1), prescribe to a minor more than a seven-
24 day supply of a controlled substance containing an opioid.

25 (b) Exception.--Notwithstanding subsection (a)(1), a
26 prescriber may prescribe to a minor more than a seven-day supply
27 of a controlled substance containing an opioid if any of the
28 following apply:

29 (1) In the professional medical judgment of the
30 prescriber, more than a seven-day supply of a controlled

1 substance containing an opioid is required to stabilize the
2 minor's acute medical condition. In order for this paragraph
3 to apply, the prescriber must:

4 (i) document the acute medical condition in the
5 minor's record with the prescriber; and

6 (ii) indicate the reason why a non-opioid
7 alternative is not appropriate to address the acute
8 medical condition.

9 (2) The prescription is for:

10 (i) management of pain associated with cancer;

11 (ii) use in palliative or hospice care; or

12 (iii) management of chronic pain not associated with
13 cancer.

14 § 5204. Procedure.

15 (a) Requirements.--Except as set forth in subsection (b),
16 before issuing a minor the first prescription in a single course
17 of treatment for a controlled substance containing an opioid,
18 regardless of whether the dosage is modified during that course
19 of treatment, a prescriber shall do all of the following:

20 (1) Assess whether the minor:

21 (i) has ever suffered or is currently suffering from
22 a mental health or substance abuse disorder; and

23 (ii) has taken or is currently taking prescription
24 drugs for treatment of a disorder under subparagraph (i).

25 (2) Discuss with the minor and the minor's parent or
26 guardian or with an authorized adult all of the following:

27 (i) The risks of addiction and overdose associated
28 with the controlled substance containing an opioid.

29 (ii) The increased risk of addiction to controlled
30 substances to individuals suffering from mental or

1 substance abuse disorders.

2 (iii) The dangers of taking a controlled substance
3 containing an opioid with benzodiazepines, alcohol or
4 other central nervous system depressants.

5 (iv) Other information in the patient counseling
6 information section of the labeling for controlled
7 substances containing an opioid required under 21 C.F.R.
8 201.57(c)(18) (relating to specific requirements on
9 content and format of labeling for human prescription
10 drug and biological products described in § 201.56(b)
11 (1)).

12 (3) Obtain written consent for the prescription from
13 the minor's parent or guardian or from an authorized adult.
14 The prescriber shall record the consent on the form under
15 section 5202(b)(1) (relating to administration). The
16 following apply:

17 (i) The form must contain all of the following:

18 (A) The name and quantity of the controlled
19 substance containing an opioid being prescribed and
20 the amount of the initial dose.

21 (B) A statement indicating that a controlled
22 substance is a drug or other substance that the
23 United States Drug Enforcement Administration has
24 identified as having a potential for abuse.

25 (C) A statement certifying that the prescriber
26 engaged in the discussion under paragraph (2).

27 (D) The number of refills authorized by the
28 prescription.

29 (E) The signature of the minor's parent or
30 guardian or of an authorized adult and the date of

1 signing.

2 (ii) The form shall be maintained in the minor's
3 record with the prescriber.

4 (b) Exception.--Subsection (a) does not apply if the minor's
5 treatment with a controlled substance containing an opioid meets
6 any of the following criteria:

7 (1) The treatment is associated with or incident to a
8 medical emergency as documented in the minor's medical
9 record.

10 (2) In the prescriber's professional judgment, complying
11 with subsection (a) with respect to the minor's treatment
12 would be detrimental to the minor's health or safety. The
13 prescriber shall document in the minor's medical record the
14 factor or factors which the prescriber believed constituted
15 cause for not fulfilling the requirements of subsection (a).

16 (c) Limited prescription.--If the individual who signs the
17 consent form under subsection (a)(3) is an adult authorized to
18 consent to the minor's medical treatment, the prescriber:

19 (1) may prescribe not more than a single, 72-hour
20 supply; and

21 (2) shall indicate on the prescription the quantity that
22 is to be dispensed pursuant to the prescription.

23 § 5205. Penalties.

24 A violation of this chapter subjects a prescriber to
25 administrative sanctions by the provider's licensing agency
26 under the applicable statute.

27 Section 2. This act shall take effect as follows:

28 (1) The following provisions shall take effect
29 immediately:

30 (i) The addition of 35 Pa.C.S. § 5201.

1 (ii) The addition of 35 Pa.C.S. § 5202.

2 (iii) This section.

3 (2) The remainder of this act shall take effect upon
4 publication of the notice under 35 Pa.C.S. § 5202(b)(2).