

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1367 Session of 2015

INTRODUCED BY YAW, STEFANO, SCARNATI, RESCHENTHALER, MCGARRIGLE, ARGALL, MENSCH, GREENLEAF, TEPLITZ, GORDNER, BARTOLOTTA, BAKER, COSTA, RAFFERTY, HUTCHINSON, WHITE, FOLMER, DINNIMAN, YUDICHAK AND KILLION, SEPTEMBER 23, 2016

AS AMENDED ON SECOND CONSIDERATION, SEPTEMBER 27, 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:

CHAPTER 52

PRESCRIBING OPIOIDS TO MINORS

12 Sec.

13 5201. Definitions.

14 5202. Administration.

15 5203. Prohibition.

16 5204. Procedure.

17 5205. Penalties.

18 § 5201. Definitions.

1 The following words and phrases when used in this chapter  
2 shall have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

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

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

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

13 "Licensing agency BOARD." A Commonwealth agency which <--  
14 licenses, registers or certifies a prescriber.

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

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

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

25 "Opioid." Any of the following:

- 26 (1) A preparation or derivative of opium.  
27 (2) A synthetic narcotic that has opiate-like effects  
28 but is not derived from opium.

29 (3) A group of naturally occurring peptides that bind at  
30 or otherwise influence opiate receptors, including opioid

1 agonist.

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

7 § 5202. Administration.

8 (a) Licensing ~~agencies~~ BOARDS.--A licensing ~~agency~~ may BOARD <--  
9 SHALL administer this chapter as to prescribers under its  
10 jurisdiction.

11 (b) Bureau.--

12 (1) The bureau shall, in cooperation with the licensing  
13 ~~agencies~~ BOARDS, prescribe the form under section 5204(a)(3) <--  
14 (relating to procedure).

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

18 § 5203. Prohibition.

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

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

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

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

1           (1) In the professional medical judgment of the  
2 prescriber, more than a seven-day supply of a controlled  
3 substance containing an opioid is required to stabilize the  
4 minor's acute medical condition. In order for this paragraph  
5 to apply, the prescriber must:

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

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

11          (2) The prescription is for:

12           (i) management of pain associated with cancer;

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

14           (iii) management of chronic pain not associated with  
15 cancer.

16 § 5204. Procedure.

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

22           (1) Assess whether the minor: <--

23           ~~(i) has ever suffered or is currently suffering from~~  
24 ~~a mental health or substance abuse disorder; and~~

25           ~~(ii) has taken or is currently taking prescription~~  
26 ~~drugs for treatment of a SUBSTANCE ABUSE disorder under~~ <--  
27 ~~subparagraph (i).~~

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

30           (i) The risks of addiction and overdose associated

1 with the controlled substance containing an opioid.

2 (ii) The increased risk of addiction to controlled  
3 substances to individuals suffering from mental or  
4 substance abuse disorders.

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

8 (iv) Other information in the patient counseling  
9 information section of the labeling for controlled  
10 substances containing an opioid required under 21 C.F.R.  
11 201.57(c)(18) (relating to specific requirements on  
12 content and format of labeling for human prescription  
13 drug and biological products described in § 201.56(b)  
14 (1)).

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

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

21 (A) The BRAND NAME OR GENERIC name and quantity <--  
22 of the controlled substance containing an opioid  
23 being prescribed and the amount of the initial dose.

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

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

30 (D) The number of refills authorized by the

1 prescription UNDER SECTION 5203(B) (RELATING TO <--  
2 PROHIBITION).

3 (E) The signature of the minor's parent or  
4 guardian or of an authorized adult and the date of  
5 signing.

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

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

11 (1) The treatment is associated with or incident to a  
12 medical emergency as documented in the minor's medical  
13 record.

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

20 (c) Limited prescription.--If the individual who signs the  
21 consent form under subsection (a)(3) is an AUTHORIZED adult <--  
22 authorized to consent to the minor's medical treatment, the <--  
23 prescriber:

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

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

28 § 5205. Penalties.

29 A violation of this chapter subjects a prescriber to  
30 administrative sanctions by the provider's licensing agency <--

1 BOARD under the applicable statute.

<--

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

3 (1) The following provisions shall take effect  
4 immediately:

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

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

7 (iii) This section.

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