

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1367 Session of
2015

INTRODUCED BY YAW, STEFANO, SCARNATI, RESCHENTHALER, MCGARRIGLE,
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YUDICHAK, KILLION AND BROWNE, SEPTEMBER 23, 2016

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 18, 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.

1 § 5201. Definitions.

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

5 "Authorized adult." An adult ~~to whom a minor's parent or~~ <--
6 guardian has given written legal authorization WHO HAS A VALID <--
7 HEALTH CARE PROXY to consent to the minor's medical treatment.

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

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

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

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

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

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

26 "Opioid." Any of the following:

- 27 (1) A preparation or derivative of opium.
28 (2) A synthetic narcotic that has opiate-like effects
29 but is not derived from opium.
30 (3) A group of naturally occurring peptides that bind at

1 or otherwise influence opiate receptors, including opioid
2 agonist.

3 "Prescriber." An individual who is authorized under the laws <--
4 of this Commonwealth to distribute, dispense or administer a
5 controlled substance containing an opioid in the course of
6 professional practice in this Commonwealth. A PERSON THAT IS <--
7 LICENSED, REGISTERED OR OTHERWISE AUTHORIZED TO DISTRIBUTE,
8 DISPENSE OR ADMINISTER A CONTROLLED SUBSTANCE, OTHER DRUG OR
9 DEVICE IN THE COURSE OF PROFESSIONAL PRACTICE OR RESEARCH IN
10 THIS COMMONWEALTH. The term does not include a veterinarian.

11 § 5202. Administration.

12 (a) Licensing boards.--A licensing board shall administer
13 this chapter as to prescribers under its jurisdiction.

14 (b) Bureau.--

15 (1) The bureau shall, in cooperation with the licensing
16 boards, prescribe the form under section 5204(a)(3) (relating
17 to procedure).

18 (2) The bureau shall transmit notice of the availability
19 of the form to the Legislative Reference Bureau for
20 publication in the Pennsylvania Bulletin.

21 § 5203. Prohibition.

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

24 (1) Prescribe to a minor a controlled substance
25 containing an opioid unless the prescriber complies with
26 section 5204 (relating to procedure).

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

30 (b) Exception.--Notwithstanding subsection (a)(1), a

1 prescriber may prescribe to a minor more than a seven-day supply
2 of a controlled substance containing an opioid if any of the
3 following apply:

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

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

11 (ii) indicate the reason why a non-opioid
12 alternative is not appropriate to address the acute
13 medical condition.

14 (2) The prescription is for:

15 (i) management of pain associated with cancer;

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

17 (iii) management of chronic pain not associated with
18 cancer.

19 § 5204. Procedure.

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

25 (1) Assess whether the minor has taken or is currently
26 taking prescription drugs for treatment of a substance abuse <--
27 USE disorder. <--

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~~ USE 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)(1))
14 DEEMED NECESSARY BY THE PRESCRIBER. <--

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, the
22 prescriber:

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

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

27 § 5205. Penalties.

28 A violation of this chapter subjects a prescriber to
29 administrative sanctions by the ~~provider's~~ PRESCRIBER'S
30 licensing board under the applicable statute.

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

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

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

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

6 (iii) This section.

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