

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 472 Session of 2017

INTRODUCED BY YAW, MCGARRIGLE, BAKER, ALLOWAY, GREENLEAF, SCAVELLO, ARGALL, YUDICHAK, RESCHENTHALER, LANGERHOLC, WHITE, WARD, HUTCHINSON, COSTA, KILLION, RAFFERTY, BROWNE, BREWSTER, STEFANO, HAYWOOD AND REGAN, MARCH 2, 2017

AS AMENDED ON SECOND CONSIDERATION, OCTOBER 17, 2017

AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania
2 Consolidated Statutes, in prescribing opioids to minors,
3 providing for prescribing opioids to individuals and further
4 providing for definitions, for prohibition and for procedure.

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

7 Section 1. The heading of Chapter 52A of Title 35 of the
8 Pennsylvania Consolidated Statutes, added November 2, 2016
9 (P.L.983, No.125), is amended to read:

CHAPTER 52A

PRESCRIBING OPIOIDS TO [MINORS] INDIVIDUALS

12 Section 2. The definition of "medical emergency" in section <--
13 52A01 of Title 35, added November 2, 2016 (P.L.983, No.125), is
14 amended to read:

15 SECTION 2. THE DEFINITIONS OF "MEDICAL EMERGENCY" AND <--
16 "MINOR" IN SECTION 52A01 OF TITLE 35, ADDED NOVEMBER 2, 2016
17 (P.L.983, NO.125), ARE AMENDED AND THE SECTION IS AMENDED BY
18 ADDING A DEFINITION TO READ:

1 § 52A01. 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 * * *

6 "HEALTH CARE FACILITY." THE TERM SHALL HAVE THE SAME MEANING <--
7 AS PROVIDED IN SECTION 103 OF THE ACT OF JULY 19, 1979 (P.L.130,
8 NO.48), KNOWN AS THE HEALTH CARE FACILITIES ACT.

9 * * *

10 "Medical emergency." A situation which, in a prescriber's
11 good faith professional judgment, creates an immediate threat of
12 serious risk to the life or physical health of [a minor] an
13 individual.

14 "MINOR." AN INDIVIDUAL UNDER 18 YEARS OF AGE. THE TERM <--
15 EXCLUDES [AN INDIVIDUAL] A MINOR WHO IS [EMANCIPATED BY:

- 16 (1) MARRYING;
17 (2) ENTERING THE ARMED FORCES OF THE UNITED STATES;
18 (3) BEING EMPLOYED AND SELF-SUSTAINING; OR
19 (4) OTHERWISE BEING INDEPENDENT FROM THE CARE AND
20 CONTROL OF THE INDIVIDUAL'S PARENT, GUARDIAN OR CUSTODIAN.]:

- 21 (1) MARRIED OR HAS BEEN MARRIED;
22 (2) PREGNANT OR HAS BEEN PREGNANT;
23 (3) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES;

24 OR

- 25 (4) LEGALLY EMANCIPATED.

26 * * *

27 Section 3. ~~Section~~ SECTIONS 52A03 and 52A04 of Title 35, <--
28 added November 2, 2016 (P.L.983, No.125), are amended to read:

29 § 52A03. Prohibition.

30 (a) Proscription.--A prescriber may not do any of the

1 following:

2 (1) Prescribe to [a minor] an individual a controlled
3 substance containing an opioid unless the prescriber complies
4 with section 52A04 (relating to procedure).

5 (2) Except as set forth in subsection (b) and subject to
6 section 52A04(c) (1), prescribe to [a minor] an individual
7 more than a seven-day supply of a controlled substance
8 containing an opioid.

9 (b) Exception.--Notwithstanding subsection (a) (1), a
10 prescriber may prescribe to [a minor] an individual more than a
11 seven-day supply of a controlled substance containing an opioid
12 if any of the following apply:

13 (1) In the professional medical judgment of the
14 prescriber, more than a seven-day supply of a controlled
15 substance containing an opioid is required to stabilize the
16 [minor's] individual's acute medical condition. In order for
17 this paragraph to apply, the prescriber must:

18 (i) document the acute medical condition in the
19 [minor's] individual's record with the prescriber; and

20 (ii) indicate the reason why a non-opioid
21 alternative is not appropriate to address the acute
22 medical condition.

23 (2) The prescription is for:

24 (i) management of pain associated with cancer;

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

26 (iii) management of chronic pain not associated with
27 cancer.

28 § 52A04. Procedure.

29 (a) Requirements.--Except as set forth in subsection (b),
30 before issuing [a minor] an individual the first prescription in

1 a single course of treatment for a controlled substance
2 containing an opioid, regardless of whether the dosage is
3 modified during that course of treatment, a prescriber shall do
4 all of the following:

5 (1) Assess whether the [minor] individual has taken or
6 is currently taking prescription drugs for treatment of a
7 substance use disorder.

8 (2) Discuss with the [minor and] individual or, if the
9 individual is a minor, with THE MINOR AND the minor's parent <--
10 or guardian or with an authorized adult, all of the
11 following:

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

14 (ii) The increased risk of addiction to controlled
15 substances to individuals suffering from mental or
16 substance use disorders.

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

20 (iv) Other information in the patient counseling
21 information section of the labeling for controlled
22 substances containing an opioid required under 21 C.F.R.
23 201.57(c)(18) (relating to specific requirements on
24 content and format of labeling for human prescription
25 drug and biological products described in § 201.56(b)(1))
26 deemed necessary by the prescriber.

27 (3) **[Obtain]** IN THE CASE OF A MINOR, OBTAIN written <--
28 consent for the prescription from the ~~{minor's}~~ individual <--
29 or, if the individual is a minor, from the minor's parent or
30 guardian or from an authorized adult. The prescriber shall

1 record the consent on the form under section 52A02(b)(1)
2 (relating to administration). The following apply:

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

4 (A) The brand name or generic name and quantity
5 of the controlled substance containing an opioid
6 being prescribed and the amount of the initial dose.

7 (B) A statement indicating that a controlled
8 substance is a drug or other substance that the
9 United States Drug Enforcement Administration has
10 identified as having a potential for abuse.

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

13 (D) The number of refills authorized by the
14 prescription under section 52A03(b) (relating to
15 prohibition).

16 (E) The signature of the ~~[minor's] individual~~ <--
17 ~~or, if the individual is a minor, the signature of~~
18 ~~the~~ parent or guardian or of an authorized adult_z and <--
19 the date of signing.

20 (ii) The form shall be maintained in the ~~[minor's]~~ <--
21 individual's record with the prescriber.

22 (b) Exception.--Subsection (a) does not apply if the
23 [minor's] individual's treatment with a controlled substance
24 containing an opioid meets any of the following criteria:

25 (1) The treatment is associated with or incident to a
26 medical emergency as documented in the [minor's] individual's
27 medical record.

28 (2) In the prescriber's professional judgment, complying
29 with subsection (a) with respect to the [minor's]
30 individual's treatment would be detrimental to the [minor's]

1 individual's health or safety. The prescriber shall document
2 in the [minor's] individual's medical record the factor or
3 factors which the prescriber believed constituted cause for
4 not fulfilling the requirements of subsection (a).

5 (3) THE MEDICAL TREATMENT IS RENDERED WHILE THE MINOR OR <--
6 INDIVIDUAL REMAINS ADMITTED TO A LICENSED HEALTH CARE
7 FACILITY OR REMAINS IN OBSERVATION STATUS IN A LICENSED
8 HEALTH CARE FACILITY.

9 (4) THE PRESCRIBER IS CONTINUING A TREATMENT INITIATED
10 BY ANOTHER MEMBER OF THE PRESCRIBER'S PRACTICE, THE
11 PRESCRIBER WHO INITIATED THE TREATMENT FOLLOWED THE
12 PROCEDURES OUTLINED IN SUBSECTION (A) AND THE PRESCRIBER WHO
13 IS CONTINUING THE TREATMENT IS NOT CHANGING THE THERAPY IN
14 ANY WAY OTHER THAN DOSAGE.

15 (c) Limited prescription.--If the individual who signs the
16 consent form under subsection (a) (3) is an authorized adult, the
17 prescriber:

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

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

22 Section 4. This act shall take effect in 180 days.