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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 169 Session of  
2021

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INTRODUCED BY YAW, REGAN, SCAVELLO, HUTCHINSON, STEFANO, BAKER  
AND YUDICHAK, FEBRUARY 18, 2021

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
FEBRUARY 18, 2021

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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 and making editorial changes.

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

8 Section 1. The heading of Chapter 52A of Title 35 of the  
9 Pennsylvania Consolidated Statutes is amended to read:

10 CHAPTER 52A

11 PRESCRIBING OPIOIDS TO [MINORS] INDIVIDUALS

12 Section 2. The definitions of "medical emergency" and  
13 "minor" in section 52A01 of Title 35 are amended and the section  
14 is amended by adding a definition to read:

15 § 52A01. Definitions.

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

19 \* \* \*

1 "Health care facility." The term shall have the same meaning  
2 as provided in section 103 of the act of July 19, 1979 (P.L.130,  
3 No.48), known as the Health Care Facilities Act.

4 \* \* \*

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

9 "Minor." An individual under 18 years of age. The term  
10 excludes [an individual] a minor who is [emancipated by:

- 11 (1) marrying;  
12 (2) entering the armed forces of the United States;  
13 (3) being employed and self-sustaining; or  
14 (4) otherwise being independent from the care and  
15 control of the individual's parent, guardian or custodian.]:

- 16 (1) married or has been married;  
17 (2) pregnant or has been pregnant;  
18 (3) a member of the armed forces of the United States;  
19 or  
20 (4) legally emancipated.

21 \* \* \*

22 Section 3. Sections 52A03 and 52A04(a) and (b) of Title 35  
23 are amended to read:

24 § 52A03. Prohibition.

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

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

30 (2) Except as set forth in subsection (b) and subject to

1 section 52A04(c) (1), prescribe to [a minor] an individual  
2 more than a seven-day supply of a controlled substance  
3 containing an opioid.

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

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

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

15 (ii) indicate the reason why a non-opioid  
16 alternative is not appropriate to address the acute  
17 medical condition.

18 (2) The prescription is for:

19 (i) management of pain associated with cancer;

20 (ii) use in palliative or hospice care; [or]

21 (iii) management of chronic pain not associated with  
22 cancer[.]; or

23 (iv) management of pain associated with a major  
24 surgical procedure.

25 § 52A04. Procedure.

26 (a) Requirements.--Except as set forth in subsection (b),  
27 before issuing [a minor] an individual the first prescription in  
28 a single course of treatment for a controlled substance  
29 containing an opioid, regardless of whether the dosage is  
30 modified during that course of treatment, a prescriber shall do

1 all of the following:

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

5 (2) Discuss with the [minor and] individual or, if the  
6 individual is a minor, with the minor and the minor's parent  
7 or guardian or with an authorized adult, all of the  
8 following:

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

11 (ii) The increased risk of addiction to controlled  
12 substances to individuals suffering from mental or  
13 substance use disorders.

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

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

24 (3) [Obtain] In the case of a minor, obtain written  
25 consent for the prescription from the minor's parent or  
26 guardian or from an authorized adult. The prescriber shall  
27 record the consent on the form under section 52A02(b)(1)  
28 (relating to administration). The following apply:

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

30 (A) The brand name or generic name and quantity

1 of the controlled substance containing an opioid  
2 being prescribed and the amount of the initial dose.

3 (B) A statement indicating that a controlled  
4 substance is a drug or other substance that the  
5 United States Drug Enforcement Administration has  
6 identified as having a potential for abuse.

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

9 (D) The number of refills authorized by the  
10 prescription under section 52A03(b) (relating to  
11 prohibition).

12 (E) The signature of the minor's parent or  
13 guardian or of an authorized adult and the date of  
14 signing.

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

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

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

23 (2) In the prescriber's professional judgment, complying  
24 with subsection (a) with respect to the [minor's]  
25 individual's treatment would be detrimental to the [minor's]  
26 individual's health or safety. The prescriber shall document  
27 in the [minor's] individual's medical record the factor or  
28 factors which the prescriber believed constituted cause for  
29 not fulfilling the requirements of subsection (a).

30 (3) The medical treatment is rendered while the [minor]

1     individual remains admitted to a licensed health care  
2     facility or remains in observation status in a licensed  
3     health care facility.

4           (4) The prescriber is continuing a treatment initiated  
5     by another member of the prescriber's practice, the  
6     prescriber who initiated the treatment followed the  
7     procedures outlined in subsection (a) and the prescriber who  
8     is continuing the treatment is not changing the therapy in  
9     any way other than dosage.

10    \* \* \*

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