

ASSEMBLY, No. 469

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JOHN CATALANO

District 10 (Ocean)

Assemblyman GREGORY P. MCGUCKIN

District 10 (Ocean)

Co-Sponsored by:

Assemblyman Peterson

SYNOPSIS

Requires health care practitioners prescribing opioid medications on first-time basis, or to minor children, to limit amount of prescribed medication to seven-day supply, except in certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning prescriptions for opioid medications, amending
2 various parts of the statutory law, and supplementing Title 24 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) a. (1) The first time that a health care
9 practitioner prescribes an opioid medication to an adult patient, for
10 outpatient use, the health care practitioner shall not prescribe more
11 than a seven-day supply.

12 (2) Whenever a health care practitioner prescribes an opioid
13 medication to a minor patient, the health care practitioner shall not
14 prescribe more than a seven-day supply.

15 (3) Before prescribing opioid medication in accordance with
16 paragraph (1) or (2) of this subsection, the health care practitioner
17 shall discuss with the adult patient, or with the parent or guardian of
18 the minor patient, as appropriate, the risks associated with opioid
19 use, and the reasons why the opioid medication is necessary.

20 b. Notwithstanding the provisions of subsection a. of this
21 section to the contrary, if a health care practitioner determines, in
22 the practitioner's professional medical judgment, that the
23 prescription of more than a seven-day supply of opioid medication
24 is necessary to treat an adult or minor patient's acute medical
25 condition, or is necessary to provide the adult or minor patient with
26 adequate management of chronic pain, treatment of pain associated
27 with a cancer diagnosis, or palliative care, the health care
28 practitioner may issue a prescription for the quantity of opioid
29 medication that is needed to treat such acute medical condition,
30 chronic pain, cancer-related pain, or pain experienced while in
31 palliative care. The quantity of opioid medication prescribed under
32 this subsection shall not exceed the amounts specified in section 1
33 of P.L.1997, c.249 (C.45:9-22.19), and shall be consistent with any
34 other applicable State and federal prescribing requirements. The
35 condition triggering the prescription of more than a seven-day
36 supply of opioid medication shall be documented in the patient's
37 medical record, and the health care practitioner shall also indicate
38 therein that a non-opioid alternative was not appropriate to treat the
39 medical condition.

40 c. This section shall not apply to the issuance of prescriptions
41 for any medications that are designed for use in the treatment of
42 substance abuse or opioid dependence.

43
44 2. Section 1 of P.L.1997, c.249 (C.45:9-22.19) is amended to
45 read as follows:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 1. a. **【A】** Except as provided by subsection c. of this section, a
2 physician licensed pursuant to chapter 9 of Title 45 of the Revised
3 Statutes may prescribe a Schedule II controlled dangerous substance
4 for the use of a patient in any quantity which does not exceed a 30-
5 day supply, as defined by regulations adopted by the State Board of
6 Medical Examiners in consultation with the Department of Health
7 **【and Senior Services】**. The physician shall document the diagnosis
8 and the medical need for the prescription in the patient's medical
9 record, in accordance with guidelines established by the State Board
10 of Medical Examiners.

11 b. **【A】** Except as provided by subsection c. of this section, a
12 physician may issue multiple prescriptions authorizing the patient to
13 receive a total of up to a 90-day supply of a Schedule II controlled
14 dangerous substance, provided that the following conditions are
15 met:

16 (1) each separate prescription is issued for a legitimate medical
17 purpose by the physician acting in the usual course of professional
18 practice;

19 (2) the physician provides written instructions on each
20 prescription, other than the first prescription if it is to be filled
21 immediately, indicating the earliest date on which a pharmacy may
22 fill each prescription;

23 (3) the physician determines that providing the patient with
24 multiple prescriptions in this manner does not create an undue risk
25 of diversion or abuse; and

26 (4) the physician complies with all other applicable State and
27 federal laws and regulations.

28 c. Notwithstanding the provisions of subsections a. and b. of
29 this section to the contrary, whenever a physician prescribes a
30 Schedule II opioid medication to an adult patient for the first time,
31 or prescribes a Schedule II opioid medication to a minor patient, the
32 physician shall comply with the prescribing parameters and supply
33 limitations specified in section 1 of P.L. _____,

34 c. (C. _____) (pending before the Legislature as this bill).

35 (cf: P.L.2009, c.165, s.1)

36

37 3. Section 10 of P.L.1991, c.378 (C.45:9-27.19) is amended to
38 read as follows:

39 10. A physician assistant may order, prescribe, dispense, and
40 administer medications and medical devices to the extent delegated
41 by a supervising physician.

42 a. Controlled dangerous substances may only be ordered or
43 prescribed if:

44 (1) a supervising physician has authorized a physician assistant
45 to order or prescribe Schedule II, III, IV, or V controlled dangerous
46 substances in order to:

47 (a) continue or reissue an order or prescription for a controlled
48 dangerous substance issued by the supervising physician;

1 (b) otherwise adjust the dosage of an order or prescription for a
2 controlled dangerous substance originally ordered or prescribed by
3 the supervising physician, provided there is prior consultation with
4 the supervising physician;

5 (c) initiate an order or prescription for a controlled dangerous
6 substance for a patient, provided there is prior consultation with the
7 supervising physician if the order or prescription is not pursuant to
8 subparagraph (d) of this paragraph; or

9 (d) initiate an order or prescription for a controlled dangerous
10 substance as part of a treatment plan for a patient with a terminal
11 illness, which for the purposes of this subparagraph means a
12 medical condition that results in a patient's life expectancy being 12
13 months or less as determined by the supervising physician;

14 (2) the physician assistant has registered with, and obtained
15 authorization to order or prescribe controlled dangerous substances
16 from, the federal Drug Enforcement Administration and any other
17 appropriate State and federal agencies; **[and]**

18 (3) the physician assistant complies with all requirements which
19 the board shall establish by regulation for the ordering, prescription,
20 or administration of controlled dangerous substances, all applicable
21 educational program requirements, and continuing professional
22 education programs approved pursuant to section 16 of P.L.1991,
23 c.378 (C.45:9-27.25) ; and

24 (4) the physician assistant complies with the applicable
25 prescribing parameters and supply limitations established by section
26 1 of P.L. , c. (C.) (pending before the Legislature as this
27 bill) when prescribing a Schedule II opioid medication.

28 b. (Deleted by amendment, P.L.2015, c.224)

29 c. (Deleted by amendment, P.L.2015, c.224)

30 d. In the case of an order or prescription for a controlled
31 dangerous substance, the physician assistant shall print on the order
32 or prescription the physician assistant's Drug Enforcement
33 Administration registration number.

34 e. The dispensing of medication or a medical device by a
35 physician assistant shall comply with relevant federal and State
36 regulations, and shall occur only if: (1) pharmacy services are not
37 reasonably available; (2) it is in the best interest of the patient; or
38 (3) the physician assistant is rendering emergency medical
39 assistance.

40 f. A physician assistant may request, receive, and sign for
41 prescription drug samples and may distribute those samples to
42 patients.

43 (cf: P.L.2015, c.224, s.7)

45 4. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to
46 read as follows:

47 10. a. In addition to all other tasks which a registered
48 professional nurse may, by law, perform, an advanced practice

1 nurse may manage preventive care services and diagnose and
2 manage deviations from wellness and long-term illnesses, consistent
3 with the needs of the patient and within the scope of practice of the
4 advanced practice nurse, by:

- 5 (1) initiating laboratory and other diagnostic tests;
- 6 (2) prescribing or ordering medications and devices, as
7 authorized by subsections b. and c. , and in accordance with the
8 provisions of subsection g., of this section; and
- 9 (3) prescribing or ordering treatments, including referrals to
10 other licensed health care professionals, and performing specific
11 procedures in accordance with the provisions of this subsection.

12 b. An advanced practice nurse may order medications and
13 devices in the inpatient setting, subject to the following conditions:

- 14 (1) the collaborating physician and advanced practice nurse
15 shall address in the joint protocols whether prior consultation with
16 the collaborating physician is required to initiate an order for a
17 controlled dangerous substance;
- 18 (2) the order is written in accordance with standing orders or
19 joint protocols developed in agreement between a collaborating
20 physician and the advanced practice nurse, or pursuant to the
21 specific direction of a physician;
- 22 (3) the advanced practice nurse authorizes the order by signing
23 the nurse's own name, printing the name and certification number,
24 and printing the collaborating physician's name;
- 25 (4) the physician is present or readily available through
26 electronic communications;
- 27 (5) the charts and records of the patients treated by the advanced
28 practice nurse are reviewed by the collaborating physician and the
29 advanced practice nurse within the period of time specified by rule
30 adopted by the Commissioner of Health pursuant to section 13 of
31 P.L.1991, c.377 (C.45:11-52);
- 32 (6) the joint protocols developed by the collaborating physician
33 and the advanced practice nurse are reviewed, updated, and signed
34 at least annually by both parties; and

35 (7) the advanced practice nurse has completed six contact hours
36 of continuing professional education in pharmacology related to
37 controlled substances, including pharmacologic therapy and
38 addiction prevention and management, in accordance with
39 regulations adopted by the New Jersey Board of Nursing. The six
40 contact hours shall be in addition to New Jersey Board of Nursing
41 pharmacology education requirements for advanced practice nurses
42 related to initial certification and recertification of an advanced
43 practice nurse as set forth in N.J.A.C.13:37-7.2.

44 c. An advanced practice nurse may prescribe medications and
45 devices in all other medically appropriate settings, subject to the
46 following conditions:

- 47 (1) the collaborating physician and advanced practice nurse
48 shall address in the joint protocols whether prior consultation with

- 1 the collaborating physician is required to initiate a prescription for a
2 controlled dangerous substance;
- 3 (2) the prescription is written in accordance with standing orders
4 or joint protocols developed in agreement between a collaborating
5 physician and the advanced practice nurse, or pursuant to the
6 specific direction of a physician;
- 7 (3) the advanced practice nurse writes the prescription on a New
8 Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40
9 et seq.), signs the nurse's own name to the prescription and prints
10 the nurse's name and certification number;
- 11 (4) the prescription is dated and includes the name of the patient
12 and the name, address, and telephone number of the collaborating
13 physician;
- 14 (5) the physician is present or readily available through
15 electronic communications;
- 16 (6) the charts and records of the patients treated by the advanced
17 practice nurse are periodically reviewed by the collaborating
18 physician and the advanced practice nurse;
- 19 (7) the joint protocols developed by the collaborating physician
20 and the advanced practice nurse are reviewed, updated, and signed
21 at least annually by both parties; and
- 22 (8) the advanced practice nurse has completed six contact hours
23 of continuing professional education in pharmacology related to
24 controlled substances, including pharmacologic therapy and
25 addiction prevention and management, in accordance with
26 regulations adopted by the New Jersey Board of Nursing. The six
27 contact hours shall be in addition to New Jersey Board of Nursing
28 pharmacology education requirements for advanced practice nurses
29 related to initial certification and recertification of an advanced
30 practice nurse as set forth in N.J.A.C.13:37-7.2.
- 31 d. The joint protocols employed pursuant to subsections b. and
32 c. of this section shall conform with standards adopted by the
33 Director of the Division of Consumer Affairs pursuant to section 12
34 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999,
35 c.85 (C.45:11-49.2), as applicable.
- 36 e. (Deleted by amendment, P.L.2004, c.122.)
- 37 f. An attending advanced practice nurse may determine and
38 certify the cause of death of the nurse's patient and execute the
39 death certification pursuant to R.S.26:6-8 if no collaborating
40 physician is available to do so and the nurse is the patient's primary
41 caregiver.
- 42 g. When prescribing a Schedule II opioid medication, an
43 advanced practice nurse shall comply with the applicable
44 prescribing parameters and supply limitations established by section
45 1 of P.L. , c. (C.) (pending before the Legislature as this
46 bill).
47 (cf: P.L.2015, c.38, s.3)

1 5. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill would provide certain limits on the amount of opioid
7 medication that may be prescribed to a patient.

8

9 The bill would specify, in particular, that the first time a health
10 care practitioner prescribes an opioid medication to an adult patient,
11 for outpatient use, and whenever a health care practitioner
12 prescribes an opioid medication to a minor patient, the health care
13 practitioner will be prohibited from prescribing more than a seven-
14 day supply of the medication. The bill would also require a health
15 care practitioner, before prescribing opioid medication under the
16 bill's provisions, to discuss with the adult patient, or with the parent
17 or guardian of the minor patient, as appropriate, the risks associated
18 with opioid use, and the reasons why the opioid medication is
19 necessary.

20 The bill would amend the various practice laws applicable to
21 physicians, advanced practice nurses, and physician assistants –
22 each of whom are authorized to prescribe medications – in order to
23 clarify that the prescription of opioid medications must be done in
24 compliance with the bill's new prescribing parameters and supply
25 limitations.

26 The bill would specify, however, that if a prescribing health care
27 practitioner determines, in the practitioner's professional medical
28 judgment, that the prescription of more than a seven-day supply of
29 opioid medication is necessary to treat an adult patient's or minor
30 patient's acute medical condition, or is necessary to provide the
31 patient with appropriate management of chronic pain, treatment of
32 pain associated with a cancer diagnosis, or palliative care, the
33 health care practitioner will be authorized to issue a prescription,
34 consistent with all other applicable State and federal prescribing
35 requirements, for the quantity of opioid medication that is needed to
36 treat such acute medical condition, chronic pain, cancer-related
37 pain, or pain experienced while in palliative care. The condition
38 triggering the prescription of more than a seven-day supply of
39 opioid medication would need to be documented in the patient's
40 medical record, and the health care practitioner would be required
41 to indicate that a non-opioid alternative was not appropriate to
42 address the medical condition.

43 The bill's provisions would not apply to any medications that are
44 designed for use in the treatment of substance abuse or opioid
dependence.