

ASSEMBLY, No. 1589

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Concerns prescriptions of certain schedule II controlled dangerous substances and opioids.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning certain prescriptions and amending P.L.2017,
2 c.28.

3

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

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7 1. Section 11 of P.L.2017, c.28 (C.24:21-15.2) is amended to
8 read as follows:

9 11. a. A practitioner shall not issue an initial prescription for an
10 opioid drug which is a prescription drug as defined in section 2 of
11 P.L.2003, c.280 (C.45:14-41) in a quantity exceeding a five-day
12 supply for treatment of acute pain. Any prescription for acute pain
13 pursuant to this subsection shall be for the lowest effective dose of
14 immediate-release opioid drug and for the shortest period of time
15 that is possible, as determined by the practitioner.

16 b. Prior to issuing an initial prescription of a Schedule II
17 controlled dangerous substance or any other opioid drug which is a
18 prescription drug as defined in section 2 of P.L.2003, c.280
19 (C.45:14-41) in a course of treatment for acute or chronic pain, a
20 practitioner shall:

21 (1) take and document the results of a thorough medical history,
22 including the patient's experience with non-opioid medication and
23 non-pharmacological pain management approaches and substance
24 abuse history;

25 (2) conduct, as appropriate, and document the results of a
26 physical examination;

27 (3) develop a treatment plan, with particular attention focused
28 on determining the cause of the patient's pain;

29 (4) access relevant prescription monitoring information under
30 the Prescription Monitoring Program pursuant to section 8 of
31 P.L.2015, c.74 (C. 45:1-46.1); **【and】**

32 (5) limit the supply of any opioid drug prescribed for acute pain
33 to a duration of no more than five days as determined by the
34 directed dosage and frequency of dosage; and

35 (6) consider alternatives to the prescription of a Schedule II
36 controlled dangerous substance or any other opioid drug, such as
37 the use of non-opioid medications, nerve-blocking treatments,
38 nitrous oxide, or any other non-addictive treatments.

39 c. No less than four days after issuing the initial prescription
40 pursuant to subsection a. of this subsection, the practitioner, after
41 consultation with the patient, may issue a subsequent prescription
42 for the drug to the patient in any quantity that complies with
43 applicable State and federal laws, provided that:

44 (1) the subsequent prescription would not be deemed an initial
45 prescription under this section;

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 (2) the practitioner determines the prescription is necessary and
2 appropriate to the patient's treatment needs and documents the
3 rationale for the issuance of the subsequent prescription; and

4 (3) the practitioner determines that issuance of the subsequent
5 prescription does not present an undue risk of abuse, addiction, or
6 diversion and documents that determination.

7 d. Prior to issuing the initial prescription of a Schedule II
8 controlled dangerous substance or any other opioid drug which is a
9 prescription drug as defined in section 2 of P.L.2003, c.280
10 (C.45:14-41) in a course of treatment for acute pain and prior to
11 issuing a prescription at the outset of a course of treatment for
12 chronic pain, a practitioner shall discuss with the patient, or the
13 patient's parent or guardian if the patient is under 18 years of age
14 and is not an emancipated minor, the risks associated with the drugs
15 being prescribed, including but not limited to:

16 (1) the risks of addiction and overdose associated with opioid
17 drugs and the dangers of taking opioid drugs with alcohol,
18 benzodiazepines and other central nervous system depressants;

19 (2) the reasons why the prescription is necessary;

20 (3) alternative treatments that may be available; and

21 (4) risks associated with the use of the drugs being prescribed,
22 specifically that opioids are highly addictive, even when taken as
23 prescribed, that there is a risk of developing a physical or
24 psychological dependence on the controlled dangerous substance,
25 and that the risks of taking more opioids than prescribed, or mixing
26 sedatives, benzodiazepines or alcohol with opioids, can result in
27 fatal respiratory depression.

28 The practitioner shall include a note in the patient's medical
29 record that the patient or the patient's parent or guardian, as
30 applicable, has discussed with the practitioner the risks of
31 developing a physical or psychological dependence on the
32 controlled dangerous substance and alternative treatments that may
33 be available. The Division of Consumer Affairs shall develop and
34 make available to practitioners guidelines for the discussion
35 required pursuant to this subsection.

36 e. Prior to the commencement of an ongoing course of
37 treatment for chronic pain with a Schedule II controlled dangerous
38 substance or any opioid, the practitioner shall enter into a pain
39 management agreement with the patient.

40 f. When a Schedule II controlled dangerous substance or any
41 other prescription opioid drug is continuously prescribed for three
42 months or more for chronic pain, the practitioner shall:

43 (1) review, at a minimum of every three months, the course of
44 treatment, any new information about the etiology of the pain, and
45 the patient's progress toward treatment objectives and document the
46 results of that review;

47 (2) assess the patient prior to every renewal to determine
48 whether the patient is experiencing problems associated with

1 physical and psychological dependence and document the results of
2 that assessment;

3 (3) periodically make reasonable efforts, unless clinically
4 contraindicated, to either stop the use of the controlled substance,
5 decrease the dosage, try other drugs or treatment modalities in an
6 effort to reduce the potential for abuse or the development of
7 physical or psychological dependence and document with
8 specificity the efforts undertaken;

9 (4) review the Prescription Drug Monitoring information in
10 accordance with section 8 of P.L.2015, c.74 (C. 45:1-46.1); and

11 (5) monitor compliance with the pain management agreement
12 and any recommendations that the patient seek a referral.

13 g. As used in this section:

14 "Acute pain" means pain, whether resulting from disease,
15 accidental or intentional trauma, or other cause, that the practitioner
16 reasonably expects to last only a short period of time. "Acute pain"
17 does not include chronic pain, pain being treated as part of cancer
18 care, hospice or other end of life care, or pain being treated as part
19 of palliative care.

20 "Chronic pain" means pain that persists or recurs for more than
21 three months.

22 "Initial prescription" means a prescription issued to a patient
23 who:

24 (1) has never previously been issued a prescription for the drug
25 or its pharmaceutical equivalent; or

26 (2) was previously issued a prescription for, or used or was
27 administered the drug or its pharmaceutical equivalent, but the date
28 on which the current prescription is being issued is more than one
29 year after the date the patient last used or was administered the drug
30 or its equivalent.

31 When determining whether a patient was previously issued a
32 prescription for, or used or was administered a drug or its
33 pharmaceutical equivalent, the practitioner shall consult with the
34 patient and review the patient's medical record and prescription
35 monitoring information.

36 "Pain management agreement" means a written contract or
37 agreement that is executed between a practitioner and a patient,
38 prior to the commencement of treatment for chronic pain using a
39 Schedule II controlled dangerous substance or any other opioid drug
40 which is a prescription drug as defined in section 2 of P.L.2003,
41 c.280 (C.45:14-41), as a means to:

42 (1) prevent the possible development of physical or
43 psychological dependence in the patient;

44 (2) document the understanding of both the practitioner and the
45 patient regarding the patient's pain management plan;

46 (3) establish the patient's rights in association with treatment,
47 and the patient's obligations in relation to the responsible use,
48 discontinuation of use, and storage of Schedule II controlled

1 dangerous substances, including any restrictions on the refill of
2 prescriptions or the acceptance of Schedule II prescriptions from
3 practitioners;

4 (4) identify the specific medications and other modes of
5 treatment, including physical therapy or exercise, relaxation, or
6 psychological counseling, that are included as a part of the pain
7 management plan;

8 (5) specify the measures the practitioner may employ to monitor
9 the patient's compliance, including but not limited to random
10 specimen screens and pill counts; and

11 (6) delineate the process for terminating the agreement,
12 including the consequences if the practitioner has reason to believe
13 that the patient is not complying with the terms of the agreement.

14 "Practitioner" means a medical doctor, doctor of osteopathy,
15 dentist, optometrist, podiatrist, physician assistant, certified nurse
16 midwife, or advanced practice nurse, acting within the scope of
17 practice of their professional license pursuant to Title 45 of the
18 Revised Statutes.

19 h. This section shall not apply to a prescription for a patient
20 who is currently in active treatment for cancer, receiving hospice
21 care from a licensed hospice or palliative care, or is a resident of a
22 long term care facility, or to any medications that are being
23 prescribed for use in the treatment of substance abuse or opioid
24 dependence.

25 i. Every policy, contract or plan delivered, issued, executed or
26 renewed in this State, or approved for issuance or renewal in this
27 State by the Commissioner of Banking and Insurance, and every
28 contract purchased by the School Employees' Health Benefits
29 Commission or State Health Benefits Commission, on or after the
30 effective date of this act, that provides coverage for prescription
31 drugs subject to a co-payment, coinsurance or deductible shall
32 charge a co-payment, coinsurance or deductible for an initial
33 prescription of an opioid drug prescribed pursuant to this section
34 that is either:

35 (1) proportional between the cost sharing for a 30-day supply
36 and the amount of drugs the patient was prescribed; or

37 (2) equivalent to the cost sharing for a full 30-day supply of the
38 opioid drug, provided that no additional cost sharing may be
39 charged for any additional prescriptions for the remainder of the 30-
40 day supply.

41 (cf: P.L.2017, c.341, s.1)

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43 2. This act shall take effect 180 days after enactment.

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STATEMENT

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48 This bill makes revisions to the law regarding opioid
49 prescriptions. Under the bill, an immediate-release opioid drug for

1 acute pain is to be prescribed for the shortest period of time that is
2 possible, as determined by prescribing health care practitioner. The
3 bill provides that, prior to issuing an initial prescription of a
4 Schedule II controlled dangerous substance or any other opioid drug
5 for acute or chronic pain, a practitioner is to consider alternatives to
6 the prescription of a Schedule II controlled dangerous substance or
7 any other opioid drug, such as the use of non-opioid medications,
8 nerve-blocking treatments, nitrous oxide, or any other non-addictive
9 treatments.