

# ASSEMBLY, No. 2324

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

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**District 37 (Bergen)**

**SYNOPSIS**

Codifies certain regulatory provisions regarding controlled dangerous substances and prescription monitoring.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning controlled dangerous substances and  
2 prescription monitoring and amending P.L.2017, c.341.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 11 of P.L.2017, c.341 (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.

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

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

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

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

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

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

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

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

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

44 (3) the practitioner determines that issuance of the subsequent  
45 prescription does not present an undue risk of abuse, addiction, or

**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 diversion and documents that determination.

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

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

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

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

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

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

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

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

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

42 (2) assess the patient prior to every renewal to determine  
43 whether the patient is experiencing problems associated with  
44 physical and psychological dependence and document the results of  
45 that assessment;

46 (3) periodically make reasonable efforts, unless clinically  
47 contraindicated, to either stop the use of the controlled substance,  
48 decrease the dosage, try other drugs or treatment modalities in an

1 effort to reduce the potential for abuse or the development of  
2 physical or psychological dependence and document with  
3 specificity the efforts undertaken;

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

6 (5) monitor compliance with the pain management agreement  
7 and any recommendations that the patient seek a referral;

8 (6) conduct baseline urine drug testing to establish a general  
9 assessment for new patients, monitor adherence to existing patient  
10 treatment plans, and to detect the use of non-prescribed drugs;

11 (7) conduct random urine screens at least once every 12 months;

12 (8) advise the patient, or the patient's parent or guardian if the  
13 patient is under 18 years of age and is not an emancipated minor, of  
14 the availability of an opioid antidote; and

15 (9) refer the patient to a pain management or addiction specialist  
16 for independent evaluation or treatment in order to achieve  
17 treatment objectives, if those objectives are not being met.

18 g. As used in this section:

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

25 "Baseline urine testing" means an initial patient assessment  
26 through urine drug testing to: (1) identify the presence of illicit  
27 substances prior to prescribing medication; or (2) confirm the  
28 presence or absence of a prescribed drug or drug class.

29 "Chronic pain" means pain that persists **【or recurs】** for **【more**  
30 **than】** three or more consecutive months, and which continues,  
31 either continuously or episodically, after reasonable medical efforts  
32 have been made to relieve the pain or its cause.

33 "Initial prescription" means a prescription issued to a patient  
34 who:

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

37 (2) was previously issued a prescription for, or used or was  
38 administered the drug or its pharmaceutical equivalent, but the date  
39 on which the current prescription is being issued is more than one  
40 year after the date the patient last used or was administered the drug  
41 or its equivalent.

42 When determining whether a patient was previously issued a  
43 prescription for, or used or was administered a drug or its  
44 pharmaceutical equivalent, the practitioner shall consult with the  
45 patient and review the patient's medical record and prescription  
46 monitoring information.

47 "Pain management agreement" means a written contract or  
48 agreement that is executed between a practitioner and a patient,

1 prior to the commencement of treatment for chronic pain using a  
2 Schedule II controlled dangerous substance or any other opioid drug  
3 which is a prescription drug as defined in section 2 of P.L.2003,  
4 c.280 (C.45:14-41), as a means to:

5 (1) prevent the possible development of physical or  
6 psychological dependence in the patient;

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

9 (3) establish the patient's rights in association with treatment,  
10 and the patient's obligations in relation to the responsible use,  
11 discontinuation of use, and storage of Schedule II controlled  
12 dangerous substances, including any restrictions on the refill of  
13 prescriptions or the acceptance of Schedule II prescriptions from  
14 practitioners;

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

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

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

25 "Practitioner" means a medical doctor, doctor of osteopathy,  
26 dentist, optometrist, podiatrist, physician assistant, certified nurse  
27 midwife, or advanced practice nurse, acting within the scope of  
28 practice of their professional license pursuant to Title 45 of the  
29 Revised Statutes.

30 h. This section shall not apply to a prescription for a patient  
31 who is currently in active treatment for cancer, receiving hospice  
32 care from a licensed hospice or palliative care, or is a resident of a  
33 long term care facility, or to any medications that are being  
34 prescribed for use in the treatment of substance abuse or opioid  
35 dependence.

36 i. Every policy, contract or plan delivered, issued, executed or  
37 renewed in this State, or approved for issuance or renewal in this  
38 State by the Commissioner of Banking and Insurance, and every  
39 contract purchased by the School Employees' Health Benefits  
40 Commission or State Health Benefits Commission, on or after the  
41 effective date of this act, that provides coverage for prescription  
42 drugs subject to a co-payment, coinsurance or deductible shall  
43 charge a co-payment, coinsurance or deductible for an initial  
44 prescription of an opioid drug prescribed pursuant to this section  
45 that is either:

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

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

5 j. A practitioner may prescribe the use of an implantable infusion  
6 pump that is utilized to achieve pain management for patients  
7 suffering from cancer, intractable pain, or terminal illness. A  
8 prescription for an implantable infusion pump may provide up to a  
9 90-day supply.

10 (cf: P.L.2017, c.341, s.11)

11  
12 2. This act shall take effect immediately.

13  
14  
15 STATEMENT

16  
17 This bill codifies into statute certain regulatory provisions  
18 regarding controlled dangerous substances and prescription  
19 monitoring. Specifically, the bill provides that a physician is to: 1)  
20 require a patient who is prescribed a controlled dangerous substance  
21 for chronic pain management to undergo random urine screens at  
22 least once every 12 months and conduct baseline urine drug testing  
23 for new patients; 2) advise the patient, or the patient's parent or  
24 guardian if the patient is under 18 years of age and is not an  
25 emancipated minor, of the availability of an opioid antidote; and 3)  
26 refer the patient to a pain management or addiction specialist for  
27 independent evaluation or treatment in order to achieve treatment  
28 objectives, if those objectives are not being met.

29 The bill amends the definition of “chronic pain,” consistent with  
30 existing regulations, to mean pain that persists for three or more  
31 consecutive months, and which continues, either continuously or  
32 episodically, after reasonable medical efforts have been made to  
33 relieve the pain or its cause.

34 The bill also codifies the regulatory provision that permits a  
35 physician to prescribe a 90 day supply of an implantable infusion  
36 pump that is utilized to achieve pain management for patients  
37 suffering from cancer, intractable pain, or terminal illness.