

P.L. 2021, CHAPTER 54, *approved April 19, 2021*
Senate, No. 2323 (*Second Reprint*)

1 **AN ACT** concerning opioids and amending P.L.2017, c.28.

2

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

5

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

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

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

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

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

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

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

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

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted July 22, 2020.

²Senate floor amendments adopted November 16, 2020.

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

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

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

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

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

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

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

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

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

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

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

47 (3) periodically make reasonable efforts, unless clinically
48 contraindicated, to either stop the use of the controlled substance,

1 decrease the dosage, try other drugs or treatment modalities in an
2 effort to reduce the potential for abuse or the development of physical
3 or psychological dependence and document with specificity the efforts
4 undertaken;

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

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

9 ¹[g. A practitioner who prescribes an opioid drug which is a
10 controlled dangerous substance to a patient who has a history of
11 substance use disorder, whose daily opioid prescription is greater than
12 50 morphine milligram equivalents, or who has a prescription for a
13 benzodiazepine that is concurrent to the patient's opioid prescription
14 shall, at the time the practitioner issues the prescription for the opioid
15 drug, additionally issue the patient an annual prescription for a product
16 approved by the federal Food and Drug Administration for the reversal
17 of an opioid overdose.]¹

18 [g.] ¹[h.] g.¹ 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 care,
23 hospice or other end of life care, or pain being treated as part of
24 palliative care.

25 "Chronic pain" means pain that persists or recurs for more than
26 three months.

27 "Initial prescription" means a prescription issued to a patient who:

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

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

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

40 ¹"Opioid antidote" means any drug, regardless of dosage amount
41 or method of administration, which has been approved by the United
42 States Food and Drug Administration (FDA) for the treatment of an
43 opioid overdose. "Opioid antidote includes, but is not limited to,
44 naloxone hydrochloride, in any dosage amount, which is administered
45 through nasal spray or any other FDA-approved means or methods.¹

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

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

5 (1) prevent the possible development of physical or psychological
6 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, and
10 the patient's obligations in relation to the responsible use,
11 discontinuation of use, and storage of Schedule II controlled dangerous
12 substances, including any restrictions on the refill of prescriptions or
13 the acceptance of Schedule II prescriptions from practitioners;

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

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

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

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

28 **[h.] ¹[i.] h.¹** This section shall not apply to a prescription for a
29 patient who is currently in active treatment for cancer, receiving
30 hospice care from a licensed hospice or palliative care, or is a resident
31 of a long term care facility, or to any medications that are being
32 prescribed for use in the treatment of substance abuse or opioid
33 dependence.

34 **[i.] ¹[j.] i.¹** Every policy, contract or plan delivered, issued,
35 executed or renewed in this State, or approved for issuance or renewal
36 in this State by the Commissioner of Banking and Insurance, and every
37 contract purchased by the School Employees' Health Benefits
38 Commission or State Health Benefits Commission, on or after the
39 effective date of this act, that provides coverage for prescription drugs
40 subject to a co-payment, coinsurance or deductible shall charge a co-
41 payment, coinsurance or deductible for an initial prescription of an
42 opioid drug prescribed pursuant to this section that is either:

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

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

¹j. (1) Subject to paragraph (2) of this subsection, if a health care practitioner issues a prescription for an opioid drug which is a controlled dangerous substance to a patient, the prescriber shall additionally issue the patient a prescription for an opioid antidote if any of the following conditions is present:

(a) the patient has a history of substance use disorder;

(b) the prescription for the opioid drug is for a daily dose of more than 90 morphine milligram equivalents; or

(c) the patient holds a current, valid prescription for a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance ²or the patient was dispensed a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance within the preceding 45 days².

(2) A practitioner shall not be required to issue more than one prescription for an opioid antidote to a patient under paragraph (1) of this subsection per year.

(3) Nothing in paragraph (2) of this subsection shall be construed to prohibit a practitioner from issuing additional prescriptions for an opioid antidote to a patient upon the patient's request or when the practitioner determines there is a clinical or practical need for the additional prescription.¹

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

2. This act shall take effect immediately.

Requires opioid antidote prescriptions for certain patients.