[Second Reprint]

SENATE, No. 2035

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED APRIL 18, 2016

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)
Senator ROBERT M. GORDON
District 38 (Bergen and Passaic)

Co-Sponsored by:
Senator Beck

SYNOPSIS

Restricts initial prescriptions for opioid drugs to seven day supply.

CURRENT VERSION OF TEXT

As amended by the Senate on June 27, 2016.

(Sponsorship Updated As Of: 7/1/2016)

AN ACT concerning initial prescriptions for opioid drugs, amending P.L.1997, c.249, [1]P.L.1991, c.378, and P.L.1991, c.377,[1] and supplementing Title 24 of the Revised Statutes.

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

1. (New section) a. A practitioner shall not issue an initial prescription for an opioid [1]**[**drug which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41)**]** medication[1] in a quantity exceeding a seven-day supply. No less than six days after issuing the initial prescription, the practitioner may issue a subsequent prescription for the drug to the patient in any quantity that complies with applicable State and federal laws, provided that:

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

(2) the practitioner determines the prescription is necessary and appropriate to the patient's treatment needs; and

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

b. For the purposes of this section, a prescription shall be deemed an initial prescription if:

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

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

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

c. This section shall not apply to a prescription for a patient who is currently receiving hospice care from a licensed hospice [2]or is a resident of a licensed long-term care facility[2].

[1]d. As used in this section, "opioid medication" means a Schedule II narcotic drug, available only with a prescription and generally prescribed for analgesic purposes, which binds to the body's opioid receptor sites and produces opiate-like effects. "Opioid medication" includes, but is not limited to, hydrocodone, oxycodone, fentanyl, and any other similarly-acting prescription narcotic analgesic drug, whether or not such drug is combined with another drug substance to form a single drug product or dosage.[1]

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:
[1]Senate SHH committee amendments adopted June 6, 2016.
[2]Senate floor amendments adopted June 27, 2016.

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

1. a. **[**A**]** Except in the case of an initial prescription issued pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), a physician licensed pursuant to chapter 9 of Title 45 of the Revised Statutes may prescribe a Schedule II controlled dangerous substance for the use of a patient in any quantity which does not exceed a 30-day supply, as defined by regulations adopted by the State Board of Medical Examiners in consultation with the Department of Health **[**and Senior Services**]**. The physician shall document the diagnosis and the medical need for the prescription in the patient's medical record, in accordance with guidelines established by the State Board of Medical Examiners.

b. **[**A**]** Except in the case of an initial prescription issued pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), a physician may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled dangerous substance, provided that the following conditions are met:

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

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

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

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

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

[1]3. Section 10 of P.L.1991, c.378 (C.45:9-27.19) is amended to read as follows:

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

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

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

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

(b) otherwise adjust the dosage of an order or prescription for a controlled dangerous substance originally ordered or prescribed by

the supervising physician, provided there is prior consultation with the supervising physician;

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

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

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

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

(4) the physician assistant complies with the applicable prescribing parameters and supply limitations established by section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) when issuing an initial prescription for an opioid medication.

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

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

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

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

f. A physician assistant may request, receive, and sign for prescription drug samples and may distribute those samples to patients.**[1]**

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

[1]4. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to read as follows:

10. a. In addition to all other tasks which a registered professional nurse may, by law, perform, an advanced practice nurse may manage preventive care services and diagnose and manage deviations from wellness and long-term illnesses, consistent

with the needs of the patient and within the scope of practice of the advanced practice nurse, by:

(1) initiating laboratory and other diagnostic tests;

(2) prescribing or ordering medications and devices, as authorized by subsections b. and c. , and in accordance with the provisions of subsection g., of this section; and

(3) prescribing or ordering treatments, including referrals to other licensed health care professionals, and performing specific procedures in accordance with the provisions of this subsection.

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

(1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate an order for a controlled dangerous substance;

(2) the order is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

(3) the advanced practice nurse authorizes the order by signing the nurse's own name, printing the name and certification number, and printing the collaborating physician's name;

(4) the physician is present or readily available through electronic communications;

(5) the charts and records of the patients treated by the advanced practice nurse are reviewed by the collaborating physician and the advanced practice nurse within the period of time specified by rule adopted by the Commissioner of Health pursuant to section 13 of P.L.1991, c.377 (C.45:11-52);

(6) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated, and signed at least annually by both parties; and

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

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

(1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate a prescription for a controlled dangerous substance;

(2) the prescription is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

(3) the advanced practice nurse writes the prescription on a New Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), signs the nurse's own name to the prescription and prints the nurse's name and certification number;

(4) the prescription is dated and includes the name of the patient and the name, address, and telephone number of the collaborating physician;

(5) the physician is present or readily available through electronic communications;

(6) the charts and records of the patients treated by the advanced practice nurse are periodically reviewed by the collaborating physician and the advanced practice nurse;

(7) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated, and signed at least annually by both parties; and

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

d. The joint protocols employed pursuant to subsections b. and c. of this section shall conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85 (C.45:11-49.2), as applicable.

e. (Deleted by amendment, P.L.2004, c.122.)

f. An attending advanced practice nurse may determine and certify the cause of death of the nurse's patient and execute the death certification pursuant to R.S.26:6-8 if no collaborating physician is available to do so and the nurse is the patient's primary caregiver.

g. An advanced practice nurse shall comply with the applicable prescribing parameters and supply limitations established by section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) when issuing an initial prescription for an opioid medication.[1]

(cf: P.L.2015, c.38, s.3)

[1][3.] 5.[1] This act shall take effect on the first day of the fourth month next following enactment.