

1 ENGROSSED HOUSE
2 BILL NO. 3896

By: Bell of the House

3 and

4 Matthews of the Senate

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8 An Act relating to the Uniform Controlled Dangerous
9 Substances Act; amending Section 5, Chapter 175,
10 O.S.L. 2018, as last amended by Section 19, Chapter
11 428, O.S.L. 2019 (63 O.S. Supp. 2019, Section 2-
309I), which relates to prescription limits and rules
for opioid drugs; providing exception to
applicability; and providing an effective date.

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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY Section 5, Chapter 175, O.S.L.
18 2018, as last amended by Section 19, Chapter 428, O.S.L. 2019 (63
19 O.S. Supp. 2019, Section 2-309I), is amended to read as follows:

20 Section 2-309I. A. A practitioner shall not issue an initial
21 prescription for an opioid drug in a quantity exceeding a seven-day
22 supply for treatment of acute pain. Any opioid prescription for
23 acute pain shall be for the lowest effective dose of an immediate-
24 release drug.

1 B. Prior to issuing an initial prescription for an opioid drug
2 in a course of treatment for acute or chronic pain, a practitioner
3 shall:

4 1. Take and document the results of a thorough medical history,
5 including the experience of the patient with nonopioid medication
6 and nonpharmacological pain-management approaches and substance
7 abuse history;

8 2. Conduct, as appropriate, and document the results of a
9 physical examination;

10 3. Develop a treatment plan with particular attention focused
11 on determining the cause of pain of the patient;

12 4. Access relevant prescription monitoring information from the
13 central repository pursuant to Section 2-309D of this title;

14 5. Limit the supply of any opioid drug prescribed for acute
15 pain to a duration of no more than seven (7) days as determined by
16 the directed dosage and frequency of dosage; provided, however, upon
17 issuing an initial prescription for acute pain pursuant to this
18 section, the practitioner may issue one ~~(1)~~ subsequent prescription
19 for an opioid drug in a quantity not to exceed seven (7) days if:

20 a. the subsequent prescription is due to a major surgical
21 procedure or "confined to home" status as defined in
22 42 U.S.C., Section 1395n(a),

23 b. the practitioner provides the subsequent prescription
24 on the same day as the initial prescription,

1 c. the practitioner provides written instructions on the
2 subsequent prescription indicating the earliest date
3 on which the prescription may be filled, otherwise
4 known as a "do not fill until" date, and

5 d. the subsequent prescription is dispensed no more than
6 five (5) days after the "do not fill until" date
7 indicated on the prescription;

8 6. In the case of a patient under the age of eighteen (18)
9 years old, enter into a patient-provider agreement with a parent or
10 guardian of the patient; and

11 7. In the case of a patient who is a pregnant woman, enter into
12 a patient-provider agreement with the patient.

13 C. No less than seven (7) days after issuing the initial
14 prescription pursuant to subsection A of this section, the
15 practitioner, after consultation with the patient, may issue a
16 subsequent prescription for the drug to the patient in a quantity
17 not to exceed seven (7) days, provided that:

18 1. The subsequent prescription would not be deemed an initial
19 prescription under this section;

20 2. The practitioner determines the prescription is necessary
21 and appropriate to the treatment needs of the patient and documents
22 the rationale for the issuance of the subsequent prescription; and
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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 an opioid drug
5 in a course of treatment for acute or chronic pain and again prior
6 to issuing the third prescription of the course of treatment, a
7 practitioner shall discuss with the patient or the parent or
8 guardian of the patient if the patient is under eighteen (18) years
9 of age and is not an emancipated minor, the risks associated with
10 the drugs 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, and
20 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 medical record of
24 the patient that the patient or the parent or guardian of the

1 patient, as applicable, has discussed with the practitioner the
2 risks of developing a physical or psychological dependence on the
3 controlled dangerous substance and alternative treatments that may
4 be available. The applicable state licensing board of the
5 practitioner shall develop and make available to practitioners
6 guidelines for the discussion required pursuant to this subsection.

7 E. At the time of the issuance of the third prescription for an
8 opioid drug, the practitioner shall enter into a patient-provider
9 agreement with the patient.

10 F. When an opioid drug is continuously prescribed for three (3)
11 months or more for chronic pain, the practitioner shall:

12 1. Review, at a minimum of every three (3) months, the course
13 of treatment, any new information about the etiology of the pain,
14 and the progress of the patient toward treatment objectives and
15 document the results of that review;

16 2. In the first year of the patient-provider agreement, assess
17 the patient prior to every renewal to determine whether the patient
18 is experiencing problems associated with an opioid use disorder and
19 document the results of that assessment. Following one (1) year of
20 compliance with the patient-provider agreement, the practitioner
21 shall assess the patient at a minimum of every six (6) months;

22 3. Periodically make reasonable efforts, unless clinically
23 contraindicated, to either stop the use of the controlled substance,
24 decrease the dosage, try other drugs or treatment modalities in an

1 effort to reduce the potential for abuse or the development of an
2 opioid use disorder as defined by the American Psychiatric
3 Association and document with specificity the efforts undertaken;

4 4. Review the central repository information in accordance with
5 Section 2-309D of this title; and

6 5. Monitor compliance with the patient-provider agreement and
7 any recommendations that the patient seek a referral.

8 G. 1. Any prescription for acute pain pursuant to this section
9 shall have the words "acute pain" notated on the face of the
10 prescription by the practitioner.

11 2. Any prescription for chronic pain pursuant to this section
12 shall have the words "chronic pain" notated on the face of the
13 prescription by the practitioner.

14 H. This section shall not apply to a prescription for a patient
15 who is currently in active treatment for cancer, treatment for
16 sickle cell anemia, receiving hospice care from a licensed hospice
17 or palliative care, or is a resident of a long-term care facility,
18 or to any medications that are being prescribed for use in the
19 treatment of substance abuse or opioid dependence.

20 I. Every policy, contract or plan delivered, issued, executed
21 or renewed in this state, or approved for issuance or renewal in
22 this state by the Insurance Commissioner, and every contract
23 purchased by the Employees Group Insurance Division of the Office of
24 Management and Enterprise Services, on or after November 1, 2018,

1 that provides coverage for prescription drugs subject to a
2 copayment, coinsurance or deductible shall charge a copayment,
3 coinsurance or deductible for an initial prescription of an opioid
4 drug prescribed pursuant to this section that is either:

5 1. Proportional between the cost sharing for a thirty-day
6 supply and the amount of drugs the patient was prescribed; or

7 2. Equivalent to the cost sharing for a full thirty-day supply
8 of the drug, provided that no additional cost sharing may be charged
9 for any additional prescriptions for the remainder of the thirty-day
10 supply.

11 J. Any practitioner authorized to prescribe an opioid drug
12 shall adopt and maintain a written policy or policies that include
13 execution of a written agreement to engage in an informed consent
14 process between the prescribing practitioner and qualifying opioid
15 therapy patient. For the purposes of this section, "qualifying
16 opioid therapy patient" means:

17 1. A patient requiring opioid treatment for more than three (3)
18 months;

19 2. A patient who is prescribed benzodiazepines and opioids
20 together for more than one twenty-four-hour period; or

21 3. A patient who is prescribed a dose of opioids that exceeds
22 one hundred ~~(100)~~ morphine equivalent doses.

23 SECTION 2. This act shall become effective November 1, 2020.

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1 Passed the House of Representatives the 10th day of March, 2020.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2020.

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9 Presiding Officer of the Senate