

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 605

By: Standridge of the Senate

and

Echols and **Humphrey** of the
House

11 COMMITTEE SUBSTITUTE

12 An act relating to controlled dangerous substances;
13 amending Section 5, Chapter 175, O.S.L. 2018, as last
14 amended by Section 19, Chapter 428, O.S.L. 2019 (63
15 O.S. Supp. 2020, Section 2-309I), which relates to
16 prescription limits and rules for opioid drugs;
17 providing exemption from civil or criminal liability
18 under certain circumstances; and providing an
19 effective date.

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

21 SECTION 1. AMENDATORY Section 5, Chapter 175, O.S.L.
22 2018, as last amended by Section 19, Chapter 428, O.S.L. 2019 (63
23 O.S. Supp. 2020, Section 2-309I), is amended to read as follows:

24 Section 2-309I. A. A practitioner shall not issue an initial
prescription for an opioid drug in a quantity exceeding a seven-day

1 supply for treatment of acute pain. Any opioid prescription for
2 acute pain shall be for the lowest effective dose of an immediate-
3 release drug.

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

7 1. Take and document the results of a thorough medical history⁷
8 including the experience of the patient with nonopioid medication
9 and nonpharmacological pain-management approaches and substance
10 abuse history;

11 2. Conduct, as appropriate, and document the results of a
12 physical examination;

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

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

17 5. Limit the supply of any opioid drug prescribed for acute
18 pain to a duration of no more than seven (7) days as determined by
19 the directed dosage and frequency of dosage; provided, however, upon
20 issuing an initial prescription for acute pain pursuant to this
21 section, the practitioner may issue one (1) subsequent prescription
22 for an opioid drug in a quantity not to exceed seven (7) days if:
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- a. the subsequent prescription is due to a major surgical procedure or "confined to home" status as defined in 42 U.S.C., Section 1395n(a),
- b. the practitioner provides the subsequent prescription on the same day as the initial prescription,
- c. the practitioner provides written instructions on the subsequent prescription indicating the earliest date on which the prescription may be filled, otherwise known as a "do not fill until" date, and
- d. the subsequent prescription is dispensed no more than five (5) days after the "do not fill until" date indicated on the prescription;

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

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

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

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

1 2. The practitioner determines the prescription is necessary
2 and appropriate to the treatment needs of the patient and documents
3 the 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 an opioid drug
8 in a course of treatment for acute or chronic pain and again prior
9 to issuing the third prescription of the course of treatment, a
10 practitioner shall discuss with the patient or the parent or
11 guardian of the patient if the patient is under eighteen (18) years
12 of age and is not an emancipated minor, the risks associated with
13 the drugs being prescribed, including but not limited to:

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

17 2. The reasons why the prescription is necessary;

18 3. Alternative treatments that may be available; and

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

3 The practitioner shall include a note in the medical record of
4 the patient that the patient or the parent or guardian of the
5 patient, as applicable, has discussed with the practitioner the
6 risks of developing a physical or psychological dependence on the
7 controlled dangerous substance and alternative treatments that may
8 be available. The applicable state licensing board of the
9 practitioner shall develop and make available to practitioners
10 guidelines for the discussion required pursuant to this subsection.

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

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

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

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

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 an
7 opioid use disorder as defined by the American Psychiatric
8 Association and document with specificity the efforts undertaken;

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

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

13 G. 1. Any prescription for acute pain pursuant to this section
14 shall have the words "acute pain" notated on the face of the
15 prescription by the practitioner.

16 2. Any prescription for chronic pain pursuant to this section
17 shall have the words "chronic pain" notated on the face of the
18 prescription by the practitioner.

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
22 a 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.

1 I. Every policy, contract or plan delivered, issued, executed
2 or renewed in this state, or approved for issuance or renewal in
3 this state by the Insurance Commissioner, and every contract
4 purchased by the Employees Group Insurance Division of the Office of
5 Management and Enterprise Services, on or after November 1, 2018,
6 that provides coverage for prescription drugs subject to a
7 copayment, coinsurance or deductible shall charge a copayment,
8 coinsurance or deductible for an initial prescription of an opioid
9 drug prescribed pursuant to this section that is either:

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

12 2. Equivalent to the cost sharing for a full thirty-day supply
13 of the drug, provided that no additional cost sharing may be charged
14 for any additional prescriptions for the remainder of the thirty-day
15 supply.

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

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

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

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

5 K. 1. A licensed practitioner with appropriate prescriptive
6 authority shall not be criminally or civilly liable solely for
7 prescribing an opioid drug if:

8 a. the prescribed dosage does not exceed the maximum
9 daily dosage amounts in the package insert provided by
10 the drug manufacturer and approved by the Food and
11 Drug Administration (FDA),

12 b. the practitioner obtains a signed statement from the
13 patient notifying the practitioner of any other opioid
14 drug or controlled dangerous substance the patient is
15 taking, if any, and the practitioner confirms that any
16 resulting total amount of opioid drugs prescribed do
17 not exceed the maximum daily dosage amounts in the
18 package insert provided by the drug manufacturer and
19 approved by FDA, and

20 c. the practitioner prescribed within the reasonable
21 standard of care.

22 2. A licensed pharmacist or licensed pharmacy shall not be
23 criminally or civilly liable solely for dispensing an opioid drug if
24 the dispensed dosage does not exceed the maximum daily dosage

1 amounts in the package insert provided by the drug manufacturer and
2 approved by the FDA.

3 SECTION 2. This act shall become effective November 1, 2021.
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5 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
6 SUBSTANCES, dated 04/08/2021 - DO PASS, As Amended and Coauthored.
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