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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2336 Session of 2015

INTRODUCED BY GAINEY, DERMODY, TAYLOR, MILLARD, DEAN, DRISCOLL, DAVIS, BULLOCK, REGAN, NEILSON, MAHONEY, YOUNGBLOOD AND GINGRICH, SEPTEMBER 14, 2016

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 14, 2016

AN ACT

Amending the act of April 14, 1972 (P.L.233, No.64), entitled "An act relating to the manufacture, sale and possession of controlled substances, other drugs, devices and cosmetics; conferring powers on the courts and the secretary and Department of Health, and a newly created Pennsylvania Drug, Device and Cosmetic Board; establishing schedules of controlled substances; providing penalties; requiring registration of persons engaged in the drug trade and for the revocation or suspension of certain licenses and registrations; and repealing an act," further providing for professional prescription, administration and dispensing.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 11 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is amended by adding subsections to read:

Section 11. Professional Prescription, Administration, and Dispensing.--* * *

(d.2) Notwithstanding any other provision of law or regulation to the contrary, a practitioner shall not prescribe, administer or dispense a controlled substance listed on the schedules of controlled substances under section 4 or controlled

substances schedules established pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513, 21 U.S.C. § 801 et seq.) without first utilizing the system established under the act of October 27, 2014 (P.L.2911, No.191), known as the "Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) Act," to determine if an unusual prescribing pattern for such controlled substance exists for the patient and noting in the patient's medical record the reasons for prescribing, administering or dispensing the controlled substance, if the controlled substance to be prescribed has a heightened potential for misuse and abuse that could lead to psychic, psychological or physical dependence and poses a heightened risk to public health. The prescription monitoring requirement of this section shall not apply to any of the following:

(1) A licensed health care facility that distributes the controlled substance for the purpose of administration in the licensed health care facility.

(2) A correctional facility or its contractors if the confined person cannot lawfully visit a prescriber outside the correctional facility without being escorted by a corrections officer.

(3) A wholesale distributor of a controlled substance.

(4) A practitioner in the LIFE program.

(5) A practitioner of hospice as defined in the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

(6) A prescriber at a licensed health care facility if the quantity of controlled substances dispensed is limited to an amount adequate to treat the patient and does not allow for a

refill unless, in the professional medical judgment of the treating practitioner, a refill is appropriate and medically necessary upon discharge of the patient.

(7) A veterinarian.

(8) In the case of a medical emergency, as determined by the treating health care practitioner.

(d.3) (1) A practitioner shall have no duty to utilize the system in accordance with subsection (d.2) if the following apply:

(i) In the professional medical judgment of the treating practitioner, a controlled substance is needed to stabilize a patient's emergency medical condition.

(ii) The controlled substance is prescribed to the named patient for chronic pain management, pain associated with a cancer diagnosis or for palliative care.

(2) If a patient's medical condition requires the issuance of a controlled substance in accordance with paragraph (1), the condition triggering the prescription shall be documented in the patient's medical record and the practitioner shall indicate that no alternative controlled substance was appropriate or available to medically address the patient's medical condition.

* * *

(g) For the purposes of subsection (d.2), the following shall apply:

(1) The terms "licensed health care facility," "LIFE program" and "system" shall have the meanings given to them in section 3 of the act of October 27, 2014 (P.L.2911, No.191), known as the "Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) Act."

(2) The term "controlled substance" shall only include a

drug or substance listed on Schedule I, Schedule II or Schedule III of the schedules of controlled substances established under section 4 or pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970 which is opium or an opiate, including any compound, salt, derivative or preparation of opium or opiate, and which has a heightened potential for misuse or abuse.

(3) The term "practitioner" shall not include a veterinarian.

Section 2. This act shall take effect immediately.