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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2781 Session of  
2022

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INTRODUCED BY NEILSON, HOHENSTEIN, JOZWIAK, McNEILL AND BURGOS,  
AUGUST 22, 2022

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REFERRED TO COMMITTEE ON HEALTH, AUGUST 22, 2022

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AN ACT

1 Amending Title 35 (Health and Safety) of the Pennsylvania  
2 Consolidated Statutes, in prescribing opioids to minors,  
3 further providing for definitions, for prohibition and for  
4 procedure and providing for applicability; and making an  
5 editorial change.

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

8 Section 1. The heading of Chapter 52A of Title 35 of the  
9 Pennsylvania Consolidated Statutes is amended to read:

10 CHAPTER 52A

11 PRESCRIBING OPIOIDS TO [MINORS] INDIVIDUALS

12 Section 2. The definition of "medical emergency" in section  
13 52A01 of Title 35 is amended and the section is amended by  
14 adding definitions to read:

15 § 52A01. Definitions.

16 The following words and phrases when used in this chapter  
17 shall have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

19 \* \* \*

1 "Conservative care management." An approach to treating back  
2 pain, neck pain and related spinal conditions utilizing  
3 nonpharmacological and nonsurgical treatment options.

4 "Conservative care management specialist." A medical  
5 professional that administers conservative care management  
6 treatment that is either licensed by the State Board of Medicine  
7 or the State Board of Chiropractic.

8 \* \* \*

9 "Medical emergency." A situation which, in a prescriber's  
10 good faith professional judgment, creates an immediate threat of  
11 serious risk to the life or physical health of [a minor] an  
12 individual.

13 \* \* \*

14 Section 3. Sections 52A03 and 52A04 of Title 35 are amended  
15 to read:

16 § 52A03. Prohibition.

17 (a) Proscription.--A prescriber may not do any of the  
18 following:

19 (1) Prescribe to [a minor] an individual a controlled  
20 substance containing an opioid unless the prescriber complies  
21 with section 52A04 (relating to procedure).

22 (2) Except as set forth in subsection (b) and subject to  
23 section 52A04(c) (1), prescribe to [a minor] an individual  
24 more than a seven-day supply of a controlled substance  
25 containing an opioid.

26 (b) Exception.--Notwithstanding subsection (a) (1), a  
27 prescriber may prescribe to [a minor] an individual more than a  
28 seven-day supply of a controlled substance containing an opioid  
29 if any of the following apply:

30 (1) In the professional medical judgment of the

1 prescriber, more than a seven-day supply of a controlled  
2 substance containing an opioid is required to stabilize the  
3 [minor's] individual's acute medical condition. In order for  
4 this paragraph to apply, the prescriber must:

5 (i) document the acute medical condition in the  
6 [minor's] individual's record with the prescriber; and

7 (ii) indicate the reason why a non-opioid  
8 alternative is not appropriate to address the acute  
9 medical condition.

10 (2) The prescription is for:

11 (i) management of pain associated with cancer;

12 (ii) use in palliative or hospice care; or

13 (iii) management of chronic pain not associated with  
14 cancer.

15 § 52A04. Procedure.

16 (a) Requirements.--Except as set forth in subsection (b),  
17 before issuing [a minor] an individual the first prescription in  
18 a single course of treatment for a controlled substance  
19 containing an opioid, regardless of whether the dosage is  
20 modified during that course of treatment, a prescriber shall do  
21 all of the following:

22 (1) Assess whether the [minor] individual has taken or  
23 is currently taking prescription drugs for treatment of a  
24 substance use disorder.

25 (1.1) Assess whether or not the individual has completed  
26 a 12-week conservative care management treatment regimen  
27 administered by a doctor of chiropractic or other licensed  
28 physical medicine and rehabilitation professional. The  
29 following shall apply:

30 (i) If it is determined that the individual has not

1 completed a 12-week conservative care management  
2 treatment regimen, the prescriber shall refer the  
3 individual to a conservative care management treatment  
4 specialist to complete a 12-week conservative care  
5 management treatment regimen before issuing a  
6 prescription.

7 (ii) If the individual has completed a 12-week  
8 conservative care management treatment regimen, the  
9 prescriber shall consult with the individual's  
10 conservative care management treatment specialist as soon  
11 as practicable to determine if a prescription should be  
12 issued. The reasons provided by the conservative care  
13 management treatment specialist as to why a prescription  
14 should be issued shall be documented by the prescriber.

15 (2) Discuss with the [minor and] individual or, if the  
16 individual is a minor, with the minor's parent or guardian or  
17 with an authorized adult, all of the following:

18 (i) The risks of addiction and overdose associated  
19 with the controlled substance containing an opioid.

20 (ii) The increased risk of addiction to controlled  
21 substances to individuals suffering from mental or  
22 substance use disorders.

23 (iii) The dangers of taking a controlled substance  
24 containing an opioid with benzodiazepines, alcohol or  
25 other central nervous system depressants.

26 (iv) Other information in the patient counseling  
27 information section of the labeling for controlled  
28 substances containing an opioid required under 21 C.F.R.  
29 201.57(c)(18) (relating to specific requirements on  
30 content and format of labeling for human prescription

1 drug and biological products described in § 201.56(b)(1))  
2 deemed necessary by the prescriber.

3 (3) Obtain written consent for the prescription from the  
4 [minor's] individual or, if the individual is a minor, from  
5 the minor's parent or guardian or from an authorized adult.  
6 The prescriber shall record the consent on the form under  
7 section 52A02(b)(1) (relating to administration). The  
8 following apply:

9 (i) The form must contain all of the following:

10 (A) The brand name or generic name and quantity  
11 of the controlled substance containing an opioid  
12 being prescribed and the amount of the initial dose.

13 (B) A statement indicating that a controlled  
14 substance is a drug or other substance that the  
15 United States Drug Enforcement Administration has  
16 identified as having a potential for abuse.

17 (C) A statement certifying that the prescriber  
18 engaged in the discussion under paragraph (2).

19 (D) The number of refills authorized by the  
20 prescription under section 52A03(b) (relating to  
21 prohibition).

22 (E) The signature of the [minor's] individual  
23 or, if the individual is a minor, the signature of  
24 the parent or guardian or of an authorized adult, and  
25 the date of signing.

26 (ii) The form shall be maintained in the [minor's]  
27 individual's record with the prescriber.

28 (b) Exception.--Subsection (a) does not apply if the  
29 [minor's] individual's treatment with a controlled substance  
30 containing an opioid meets any of the following criteria:

1 (1) The treatment is associated with or incident to a  
2 medical emergency as documented in the [minor's] individual's  
3 medical record.

4 (2) In the prescriber's professional judgment, complying  
5 with subsection (a) with respect to the [minor's]  
6 individual's treatment would be detrimental to the [minor's]  
7 individual's health or safety. The prescriber shall document  
8 in the [minor's] individual's medical record the factor or  
9 factors which the prescriber believed constituted cause for  
10 not fulfilling the requirements of subsection (a).

11 (3) The medical treatment is rendered while the [minor]  
12 individual remains admitted to a licensed health care  
13 facility or remains in observation status in a licensed  
14 health care facility.

15 (4) The prescriber is continuing a treatment initiated  
16 by another member of the prescriber's practice, the  
17 prescriber who initiated the treatment followed the  
18 procedures outlined in subsection (a) and the prescriber who  
19 is continuing the treatment is not changing the therapy in  
20 any way other than dosage.

21 (5) A conservative care management specialist recommends  
22 to the prescriber the issuance of a prescription for an  
23 individual under subsection (a)(1.1)(ii).

24 (c) Limited prescription.--If the individual who signs the  
25 consent form under subsection (a)(3) is an authorized adult, the  
26 prescriber:

27 (1) may prescribe not more than a single, 72-hour  
28 supply; and

29 (2) shall indicate on the prescription the quantity that  
30 is to be dispensed pursuant to the prescription.

1 Section 4. Title 35 is amended by adding a section to read:

2 § 52A06. Applicability.

3 This chapter shall not apply to a prescriber who may  
4 prescribe a controlled substance containing an opioid to an  
5 individual seeking treatment in an emergency department or  
6 urgent care center under the act of November 2, 2016 (P.L.976,  
7 No.122), known as the Safe Emergency Prescribing Act.

8 Section 5. This act shall take effect in 180 days.