

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H2/24/21

A Bill

HOUSE BILL 1247

5 By: Representative Gonzales
6

For An Act To Be Entitled

8 AN ACT TO MODIFY PHYSICIAN DISPENSING; TO ALLOW
9 DELEGATION OF PHYSICIAN DISPENSING; AND FOR OTHER
10 PURPOSES.
11

Subtitle

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14 TO MODIFY PHYSICIAN DISPENSING; AND TO
15 ALLOW DELEGATION OF PHYSICIAN DISPENSING.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 17-95-102 is amended to read as follows:

21 *17-95-102. Legend drugs.*

22 (a) ~~A dispensing physician is~~ As used in this section, a "dispensing
23 physician" means a physician licensed under the Arkansas Medical Practices
24 Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., who
25 purchases *legend drugs* to be dispensed to his or her patients for the
26 patients' personal use and administration outside the physician's office.

27 (b) This section ~~shall~~ does not apply to physicians who only dispense
28 drugs in injectable form unless they are controlled substances, in which case
29 the section shall fully apply.

30 (c) The dispensing physician shall:

31 (1) *Personally dispense legend drugs, and the dispensing of such*
32 *drugs may not be delegated;*

33 (2) (A) *Keep records of all receipts and distributions of legend*
34 *drugs.*

35 (B) The records shall be subject to inspection by the
36 proper enforcement authority and shall be readily accessible for inspection



1 and maintained in a central registry; and

2 (3) Label *legend drugs* with the following information:

3 (A) Patient's name and address;

4 (B) Prescribing physician's address and narcotic registry
5 number issued by the United States Drug Enforcement Administration;

6 (C) Date of dispensing; and

7 (D) Directions and cautionary statements, if any, as
8 required by law.

9 (d)(1) *A physician licensed under the Arkansas Medical Practices Act,*
10 *§ 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., shall not*
11 *dispense legend drugs without prior approval by the Arkansas State Medical*
12 *Board after application to the board and on the showing of need.*

13 (2) *Licensed physicians who were dispensing in the ordinary*
14 *course of their practice before April 12, 2013, shall be exempt from the*
15 *requirements of this subsection.*

16 (3) *The board shall determine whether need exists for a*
17 *physician to dispense a specific legend drug to the physician's patient for a*
18 *patient's personal use and administration outside of the physician's office*
19 *based on such information as is necessary for the board to determine:*

20 (A) *The legend drug or drugs that the physician requests*
21 *to dispense;*

22 (B) *The ability of a physician's patient to obtain the*
23 *legend drug from other medical professionals;*

24 (C) *The availability of the legend drug to be prescribed*
25 *by the physician;*

26 (D) *The hours at which the legend drug may be obtained*
27 *from other medical professionals;*

28 (E) *The distance the physician's patient must travel to*
29 *obtain the legend drug from other medical professionals;*

30 (F) *Whether the physician has been investigated by the*
31 *board concerning the improper prescribing or use of a legend drug;*

32 (G) *Whether the physician has a financial relationship*
33 *with the manufacturer of a legend drug that would create the appearance of a*
34 *conflict of interest;*

35 (H) *Whether the physician dispensing a legend drug will*
36 *foster cost containment through improved efficiency and productivity; and*

- 1 (I) The procedures the physician has implemented to:
 2 (i) Assure compliance with the requirements of
 3 subsection (c) of this section;
 4 (ii) Monitor and guard against potential drug
 5 interactions;
 6 (iii) Store and safeguard the legend drugs; and
 7 (iv) Comply with the Prescription Drug Monitoring
 8 Program Act, § 20-7-601 et seq., concerning the reporting requirements to the
 9 Prescription Drug Monitoring Program.
- 10 (4) This section does not apply to a prescription for:
 11 (i) A ~~prescription for a~~ topical medication;
 12 (ii) Naloxone;
 13 (iii) Nicotine ~~nicotine~~ replacement therapy
 14 products;
 15 (iv) Contraceptives; ~~contraceptives is exempt from~~
 16 ~~subdivision (d)(3) of this section~~
 17 (v) Acute care medication; or
 18 (vi) Initial treatment for maintenance medication.
- 19 (e) The ~~board~~ Arkansas State Medical Board shall enforce the
 20 provisions of this section and is authorized and directed to adopt rules to
 21 carry out ~~its purpose~~ the purpose of this section.
- 22 (f) As used in this section:
- 23 (1)(A) "Acute care medication" means a legend drug that is not a
 24 controlled substance and is prescribed for no more than fourteen (14) days of
 25 therapy.
- 26 (B) "Acute care medication" includes the following oral
 27 medications:
- 28 (i) Medications to treat infections;
 29 (ii) Anti-inflammatory medications;
 30 (iii) Antinausea medications;
 31 (iv) Antihistamines; and
 32 (v) Cough medications;
- 33 (2) "Initial treatment" means the first prescription written for
 34 a specific prescription medication intended to initiate therapy on such
 35 medication; and
- 36 (3) "Maintenance medication" means a legend drug that:

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- (A) Is not a controlled substance;
- (B) Is prescribed for no more than thirty (30) days; and
- (C) Is used to treat one (1) of the following medical

conditions:

- (i) Hypertension;
- (ii) Diabetes mellitus; or
- (iii) Hypercholesterolemia.

/s/Gonzales