

INTERIM STUDY PROPOSAL 2019-179

1
2 State of Arkansas
3 92nd General Assembly
4 First Extraordinary Session, 2020

A Bill

JMB/JMB
HOUSE BILL

5
6 By: Representative Gonzales

7 Filed with: House Committee on Public Health, Welfare, and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO ENSURE THAT HEALTHCARE PROFESSIONALS WITH
11 PRESCRIPTIVE AUTHORITY MAY DISPENSE FULL
12 PRESCRIPTIONS; AND FOR OTHER PURPOSES.

Subtitle

13
14
15 TO ENSURE THAT HEALTHCARE PROFESSIONALS
16 WITH PRESCRIPTIVE AUTHORITY MAY DISPENSE
17 FULL PRESCRIPTIONS.
18

19
20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. Arkansas Code Title 17, Chapter 80, Subchapter 1, is
24 amended to add an additional section to read as follows:

25 17-80-122. Healthcare professional dispensing.

26 (a) As used in this section, "healthcare professional" means a person
27 who:

28 (1) Is licensed, certified, or otherwise authorized by the laws
29 of this state to administer health care in the ordinary course of the
30 practice of his or her profession; and

31 (2) Has prescriptive authority.

32 (b)(1) Except as provided in subdivision (b)(2) of this section, a
33 healthcare professional may dispense a prescription of a medication that does
34 not exceed thirty (30) days in an outpatient setting.

1 (2) Unless authorized by law, a healthcare professional shall
2 not dispense a prescription of a Schedule II drug or a narcotic in an
3 outpatient setting.

4 (c) This section does not apply to a clinic that provides methadone to
5 individuals.

6 (d) A state licensing board or state certification board for a
7 healthcare professional shall amend its rules to comply with this section.

8
9 SECTION 2. Arkansas Code § 17-92-102 is amended to read as follows:
10 17-92-102. Exemptions ~~– Emergency refills.~~

11 ~~(a) Nothing in this section and § 17-92-101, § 17-92-103, § 17-92-105,~~
12 ~~§ 17-92-205(b), § 17-92-206(b), § 17-92-303, § 17-92-402, § 17-92-404, § 17-~~
13 ~~92-405, § 17-92-409, § 17-92-410, and § 17-92-411(a) shall prevent the~~
14 ~~personal administration of drugs and medicines carried and kept for~~
15 ~~emergencies by licensed physicians, dentists, or veterinarians in order to~~
16 ~~supply the immediate needs of their patients while in their presence, nor~~
17 ~~shall it apply to physicians, dentists, or veterinarians compounding or~~
18 ~~dispensing their own prescriptions.~~

19 ~~(b) The provisions of this section and § 17-92-101, § 17-92-103, § 17-~~
20 ~~92-105, § 17-92-205(b), § 17-92-206(b), § 17-92-303, § 17-92-402, § 17-92-~~
21 ~~404, § 17-92-405, § 17-92-409, § 17-92-410, and § 17-92-411(a) shall not~~
22 ~~apply:~~

23 ~~(1) To the sale of drugs and medicines when intended for~~
24 ~~agricultural, technical, and industrial use, unless those drugs and medicines~~
25 ~~are legend drugs as defined in § 20-64-503;~~

26 ~~(2) To the sales by wholesale druggists, wholesale or retail~~
27 ~~grocers, or other wholesale or retail dealers or manufacturers of proprietary~~
28 ~~medicines in original packages; or~~

29 ~~(3) To the sales of those drugs commonly known as “grocers’~~
30 ~~drugs” in original packages when put up under the direction of a licensed~~
31 ~~pharmacist of this or some other state.~~

32 ~~(c) Further exempted from the provisions of this section and § 17-92-~~
33 ~~101, § 17-92-103, § 17-92-105, § 17-92-205(b), § 17-92-206(b), § 17-92-303, §~~
34 ~~17-92-402, § 17-92-404, § 17-92-405, § 17-92-409, § 17-92-410, and § 17-92-~~
35 ~~411(a) are the sale of legend drugs approved by the State Board of Optometry~~
36 ~~by licensed pharmacists to duly licensed optometrists and the possession and~~

1 ~~use of legend drugs by duly licensed optometrists as authorized by the board~~
2 ~~and by §§ 17-90-401 — 17-90-403.~~

3 (a) This chapter does not:

4 (1) Prevent the personal administration of drugs and medicines
5 carried and kept for emergencies by a physician, dentist, or veterinarian in
6 order to supply the immediate needs of his or her patients while in the
7 presence of the physician, dentist, or veterinarian;

8 (2) Apply to:

9 (A) A physician, dentist, or veterinarian compounding or
10 dispensing his or her own prescriptions;

11 (B) The sale of drugs and medicines when intended for
12 agricultural, technical, and industrial use, unless the drugs and medicines
13 are legend drugs as defined in § 20-64-503;

14 (C) The sale by a wholesale druggist, wholesale or retail
15 grocer, or other wholesale or retail dealer or manufacturer of proprietary
16 medicines in original packages;

17 (D) The sale of those drugs commonly known as “grocers’
18 drugs” in original packages when put up under the direction of a licensed
19 pharmacist of this or some other state;

20 (E) The sale of a legend drug approved by the State Board
21 of Optometry by a pharmacist to an optometrist and the possession and use of
22 a legend drug by an optometrist as authorized by the board and by §§ 17-90-
23 401 — 17-90-403; or

24 (F) The dispensing of a prescription by a healthcare
25 professional under § 17-80-122.

26 ~~(d)~~(b) In the event a pharmacist receives a request for a prescription
27 refill and the pharmacist is unable to obtain refill authorization from the
28 prescriber, the pharmacist may dispense a one-time emergency refill of the
29 prescribed medication, ~~provided that~~ if:

30 (1) The prescription is not for a medicinal drug listed in
31 Schedule II as defined in § 5-64-205;

32 (2) The medication is essential to the maintenance of life or to
33 the continuation of therapy;

34 (3) In the pharmacist’s professional judgment, the interruption
35 of therapy might reasonably produce undesirable health consequences or may
36 cause physical or mental discomfort;

1 (4) The pharmacist properly records the dispensing; and

2 (5) The dispensing pharmacist notifies the prescriber of the
3 emergency dispensing within a reasonable time after the one-time emergency
4 refill dispensing.

5
6 SECTION 3. Arkansas Code § 17-95-102 is amended to read as follows:
7 17-95-102. Legend drugs.

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

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

16 (c) The dispensing physician shall:

17 (1) Personally dispense legend drugs, and the dispensing of ~~such~~
18 legend drugs may not be delegated;

19 (2) Keep records of all receipts and distributions of legend
20 drugs. The records shall be subject to inspection by the proper enforcement
21 authority and shall be readily accessible for inspection and maintained in a
22 central registry; and

23 (3) Label legend drugs with the following information:

24 (A) Patient's name and address;

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

27 (C) Date of dispensing; and

28 (D) Directions and cautionary statements, if any, as
29 required by law.

30 (d)(1) A physician licensed under the Arkansas Medical Practices Act,
31 § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., shall not
32 dispense legend drugs without prior approval by the Arkansas State Medical
33 Board after application to the board and on the showing of need.

34 (2) Licensed physicians who were dispensing in the ordinary
35 course of their practice before April 12, 2013, shall be exempt from the
36 requirements of this subsection (d).

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

5 (A) The legend drug or drugs that the physician requests
6 to dispense;

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

9 (C) The availability of the legend drug to be prescribed
10 by the physician;

11 (D) The hours at which the legend drug may be obtained
12 from other medical professionals;

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

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

17 (G) Whether the physician has a financial relationship
18 with the manufacturer of a legend drug that would create the appearance of a
19 conflict of interest;

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

22 (I) The procedures the physician has implemented to:

23 (i) Assure compliance with the requirements of
24 subsection (c) of this section;

25 (ii) Monitor and guard against potential drug
26 interactions;

27 (iii) Store and safeguard the legend drugs; and

28 (iv) Comply with the Prescription Drug Monitoring
29 Program Act, § 20-7-601 et seq., concerning the reporting requirements to the
30 Prescription Drug Monitoring Program.

31 (4) A prescription for a topical medication, Naloxone, nicotine
32 replacement therapy products, ~~or~~ contraceptives, or a prescription under §
33 17-80-122 is exempt from subdivision (d)(3) of this section.

34 (e) The board shall enforce the provisions of this section and is
35 authorized and directed to adopt rules to carry out ~~its purpose~~ the purpose
36 of this section.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Referred by Representative Gonzales

Prepared by: JMB/JMB