

Pennsylvania's new opioid laws and how they impact physicians

On Nov. 2, 2016, the Pennsylvania Legislature passed a package of new laws aimed at combating the growing heroin and opioid epidemic. These laws have a significant impact on practicing physicians statewide, especially because some took effect immediately after they were signed into law, while others are not effective until Jan. 1, 2017. Below is a detailed summary of what these new laws entail, their respective effective dates and the new legal requirements for physicians.

Act 122 – Opioid prescribing limits in emergency rooms

Act 122 has several components that affect physicians in hospital emergency departments and urgent care facilities.

- **No more than a seven-day supply.** Under Act 122, physicians in these settings may not prescribe opioids in excess of a seven-day supply. There is an exception that allows a physician to prescribe more than a seven-day supply to treat a patient's acute medical condition or if it is deemed necessary to treat pain associated with a cancer diagnosis or palliative care. For this to happen, the physician must document in the patient's medical record that a non-opioid alternative was not appropriate under the circumstances.

- **No refills.** The law also provides that, no matter the amount prescribed, physicians in these settings may not



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write prescriptions for refills of opioid prescriptions.

- **Substance abuse referrals.** Physicians in these settings are required to refer individuals for treatment if the individual is believed to be at risk for substance abuse.

- **Prescription Drug Monitoring Program.** The law requires that physicians query the Prescription Drug Monitoring Program system to determine whether a patient is under treatment with an opioid drug product by another provider. However, this does not apply to any medication provided to a patient while undergoing treatment in an emergency department.

Physicians who violate this law may face licensure sanctions by the state board. Compliance with the law means that the physician is presumed to be acting in good faith and will have immunity in any civil action.

The law takes effect Jan. 1, 2017.

Act 124 – Prescription Drug Monitoring Program revisions

Act 124 amends the Prescription Drug Monitoring Program (PDMP) law by adding the following provisions:

- **Queries by dispensers.** A dispenser shall query the PDMP system

before dispensing an opioid drug product or benzodiazepine prescribed to a patient if 1) the patient is a new patient of the dispenser; 2) the patient pays cash when he/she has insurance; 3) the patient requests a refill early; or 4) the patient is getting opioid drug products or benzodiazepines from more than one prescriber.

- **Queries by prescribers.** A prescriber shall query the PDMP system each time a patient is prescribed an opioid drug product or benzodiazepine. However, a query is not required if the patient has been admitted to a licensed health care facility or is in observation status in a licensed health care facility after the initial query, as long as the patient remains admitted to or in observation at the facility.

- **Education for licensing.** Licensing boards shall require that individuals applying for an initial license or certification that authorizes the licensee to be a dispenser or prescriber, to submit, no later than 12 months after obtaining an initial license or certification, documentation showing the completion of at least two hours of education in pain management or identification of addiction, and at least two hours of education in the practices of prescribing or dispensing opioids.

- **Education for license renewals.** Licensing boards also shall require that dispensers and prescribers who are applying for the renewal of a license or certification complete at least

two hours of continuing education in pain management, identification of addiction or the practice of prescribing or dispensing opioids. This education shall be a portion of the total continuing education requirements – not in addition to them.

This requirement does not apply to prescribers who are both exempt from the drug enforcement administration's requirement for a registration number and do not use the registration number of another person or entity as permitted by law to prescribe controlled substances in any manner.

Act 124 takes effect Jan. 1, 2017.

Act 125 – Prescribing opioids to minors

• **No more than a seven-day supply.** This law limits the number of opioids prescribed to minors to no more than a seven-day supply, unless the prescriber determines that more than a seven-day supply is required to stabilize the minor's acute medical condition. For this to happen, the prescriber must document the acute medical condition in the minor's medical records and indicate the reason why a non-opioid alternative is not appropriate to address the condition. The law also contains an exception for situations in which the opioid prescription is to treat pain associated with cancer, use in palliative care and the management of chronic pain not associated with cancer.

• **Procedure for prescribing opioids to minors.** The law requires that, before prescribing opioids to a minor for the first time, a prescriber must do the following:

– Assess whether the minor has taken or is currently taking prescription drugs for substance use disorder.

– Discuss with the minor and the minor's parents/guardian/authorized adult the risks of addiction and overdose associated with taking controlled substances containing an opioid. If consent is by an authorized adult (as opposed to a parent or guardian), there is a 72-hour dosage limit.

– Obtain written consent for the prescription from the minor's parent/guardian/authorized adult. The law requires the Department of State's Bureau of Professional and Occupational Affairs, with the licensing boards, to create a standardized consent form for parents/guardians/authorized adults to sign.

These requirements do not apply if treatment is associated with a medical emergency as documented in the minor's medical record or compliance would be detrimental to the minor's health or safety.

Violations of this law subject the prescriber to administrative sanctions by the appropriate licensing board.

The law took effect Nov. 2, 2016, with respect to the requirement that the licensing boards create a standardized consent form. All other parts of the law take effect after the form is published.

Act 126 – Opioid education and patient directive

Act 126 is broken into two parts, as summarized below:

• **Safe opioid prescription education.** Beginning Aug. 1, 2017, the licensing boards shall implement a curriculum addressing safe prescriptions of controlled substances containing opioids. The curriculum may be offered in medical schools, medical training facilities (including nursing and optometry schools), dental schools,

and osteopathic medical colleges and training facilities. While the law does not require this education for graduation, individual education facilities can mandate it for their students.

• **Patient voluntary non-opioid directive.** This part of the law allows for patients to execute a voluntary non-opioid directive form to deny or refuse the administration or prescribing of a controlled substance containing an opioid. These forms shall be developed and published by the Department of Health. Patients can revoke their forms for any reason in writing or orally at any time.

Physicians and their employees who act in good faith are immune from criminal and civil liability if they fail to offer or administer a prescription for a controlled substance containing an opioid under the voluntary non-opioid directive form.

This part of the law took effect Nov. 2, 2016.

Conclusion

The Pennsylvania Legislature has determined that physicians should have an increased role in battling the opioid and heroin epidemic that has affected so many lives. While these intentions seem noble, physicians are now faced with increased administrative burdens in treating patients as well as potential licensure sanctions and liability for failing to comply with the new requirements. Physicians should take the time to familiarize themselves with these new laws and implement their requirements into their practice.

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