



General Assembly

Substitute Bill No. 7052

January Session, 2017

* _____HB07052GL_____030817_____*

AN ACT PREVENTING PRESCRIPTION OPIOID DIVERSION AND ABUSE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (j) of section 21a-254 of the general statutes is
2 amended by adding subdivision (11) as follows (*Effective from passage*):

3 (NEW) (11) The commissioner may provide controlled substance
4 prescription information obtained in accordance with subdivisions (3)
5 and (4) of this subsection to other state agencies, pursuant to an
6 agreement between the commissioner and the head of such agency,
7 provided the information is obtained for a study of disease prevention
8 and control related to opioid abuse or the study of morbidity and
9 mortality caused by overdoses of controlled substances. The provision
10 of such information shall be in accordance with all applicable state and
11 federal confidentiality requirements.

12 Sec. 2. Section 21a-262 of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective from passage*):

14 (a) The Commissioner of Consumer Protection may receive, take
15 into custody or destroy excess or undesired controlled substances and
16 may in his or her discretion deliver, upon application, to any hospital,
17 laboratory, incorporated college, scientific institution or any state or
18 municipal agency or institution not operated for private gain, any

19 controlled substances that have come into his or her custody by
20 authority of this section. In the case of a care-giving or correctional or
21 juvenile training institution having an institutional pharmacy, the
22 Commissioner of Consumer Protection shall deliver such controlled
23 substances only to the licensed pharmacist in charge of such
24 pharmacy. The Commissioner of Consumer Protection may receive
25 and take into custody excess or undesired controlled substances from
26 pharmacists, manufacturers and wholesalers or any other registrant.
27 Said commissioner shall keep a full and complete record of all
28 substances received and of all substances disposed of, showing the
29 exact kinds, quantities and forms of such substances, the persons from
30 whom received and to whom delivered, by whose authority received,
31 delivered and destroyed, and the dates of the receipt, disposal or
32 destruction. Controlled substances and preparations shall at all times
33 be properly safeguarded and securely kept. Minimum security and
34 safeguard standards for the storage, manufacture, sale or distribution
35 of all controlled substances shall be established by regulations adopted
36 hereunder. Controlled substances seized or held as contraband or
37 controlled substances, the title to which cannot be resolved, which
38 controlled substances are not held by law enforcement agencies or
39 court officials as evidence in criminal proceedings, shall be, upon the
40 order of the court, destroyed by the seizing authority or delivered to
41 the Commissioner of Consumer Protection as soon as possible upon
42 resolution of the case or upon ascertaining the status of the unclaimed
43 substance. The agent of the Commissioner of Consumer Protection
44 shall issue a receipt for all such substance obtained. Any loss,
45 destruction or theft of controlled substances shall be reported by a
46 registrant within seventy-two hours to the Commissioner of Consumer
47 Protection as follows: (1) Where, through breakage of the container or
48 other accident, otherwise than in transit, controlled substances are lost
49 or destroyed, the person having title thereto shall make a signed
50 statement as to the kinds and quantities of controlled substances lost or
51 destroyed and the circumstances involved, and immediately forward
52 the statement to the Commissioner of Consumer Protection. A copy of
53 such statement shall be retained by the registrant; (2) where controlled

54 substances are lost by theft, or otherwise lost or destroyed in transit,
55 the consignee shall, immediately upon ascertainment of the
56 occurrence, file with the Commissioner of Consumer Protection a
57 signed statement of the facts, including a list of the controlled
58 substances stolen, lost or destroyed and documentary evidence that
59 the local authorities were notified. A copy of the statement shall be
60 retained by the registrant. As used in this section, "care-giving
61 institution", "correctional or juvenile training institution", "institutional
62 pharmacy" and "pharmacist" have the same meanings as provided in
63 section 20-571.

64 (b) For each long-term care facility, two or more of the following
65 persons may jointly dispose of excess stock of controlled substances: A
66 nursing home administrator, a pharmacist consultant, a director of
67 nursing services or an assistant director of nursing services. Such
68 facility shall maintain documentation of any such destruction and
69 disposal for a period of three years and such documentation shall be
70 maintained in a separate log and on a form prescribed by the
71 department.

72 (c) For each outpatient surgical facility, as defined in section 19a-
73 493b, two or more of the following persons may jointly dispose of
74 excess stock of controlled substances: An administrator, a clinical
75 director or chief of staff, or a nursing supervisor. Such facility shall
76 maintain documentation of any such destruction and disposal for a
77 period of three years and such documentation shall be maintained in a
78 separate log and on a form prescribed by the department.

79 (d) A registered nurse licensed by the Department of Public Health
80 and employed by a home health care agency, as defined in section 19a-
81 490, may, along with a designated representative of the patient,
82 oversee the destruction and disposal of the patient's controlled
83 substances, using the recommendations for the proper disposal of
84 prescription drugs on the Internet web site of the Department of
85 Consumer Protection. Such registered nurse shall maintain written or
86 electronic documentation for a period of three years of any such

87 destruction and disposal on a form prescribed by the Commissioner of
88 Consumer Protection. Such written or electronic documentation shall
89 be maintained with the patient's medical record. Nothing in this
90 subsection shall prevent the registered nurse and patient
91 representative from depositing the patient's controlled substances in a
92 police department prescription drug drop box.

93 Sec. 3. Section 21a-249 of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective January 1, 2018*):

95 (a) All prescriptions for controlled drugs shall include (1) the name
96 and address of the patient, or the name and address of the owner of an
97 animal and the species of the animal, (2) whether the patient is an
98 adult or a child, or his specific age, (3) the compound or preparation
99 prescribed and the amount thereof, (4) directions for use of the
100 medication, (5) the name and address of the prescribing practitioner,
101 (6) the date of issuance, and (7) the Federal Registry number of the
102 practitioner. No prescription blank containing a prescription for a
103 schedule II substance shall contain more than one prescription. No
104 prescription or order for a controlled substance issued by a practitioner
105 to an inanimate object or thing shall be considered a valid prescription
106 within the meaning of this chapter.

107 (b) [Written prescriptions shall be written in ink or in indelible
108 pencil or by typewriter. No duplicate, carbon or photographic copies
109 and no printed or rubber-stamped orders shall be considered valid
110 prescriptions within the meaning of this chapter. No prescription or
111 order for any controlled substance issued by a practitioner to an
112 inanimate object or thing shall be considered a valid prescription
113 within the meaning of this chapter.] Each licensed practitioner who the
114 Department of Consumer Protection authorizes to prescribe controlled
115 substances, within the scope of practice of his or her license, shall
116 electronically transmit the controlled substance prescription to a
117 pharmacy. Electronically transmitted prescriptions shall be promptly
118 printed out in hardcopy or created as an electronic record and filed by
119 the prescriber. Electronically transmitted prescriptions shall be

120 consistent with the requirements of the federal Controlled Substances
121 Act, 21 USC 801, as amended from time to time. All records shall be
122 kept on the premises of the licensed practitioner and maintained in
123 such form as to be readily available for inspection by the
124 commissioner, his or her authorized agent or other persons, as
125 authorized in section 21a-265, at reasonable times and shall be kept on
126 file for three years. For purposes of this subsection and subsections (c),
127 (d) and (e) of this section, the term "electronically transmit" means to
128 transmit by computer modem or other similar electronic device.

129 (c) A licensed practitioner shall not be required to electronically
130 transmit a prescription when:

131 (1) Electronic transmission is not available due to a temporary
132 technological or electrical failure. For purposes of this subsection,
133 "temporary technological or electrical failure" means failure of a
134 computer system, application or device or the loss of electrical power
135 to such system, application or device, or any other service interruption
136 to such system, application or device that reasonably prevents the
137 practitioner from utilizing his or her certified application to
138 electronically transmit the prescription in accordance with subsection
139 (b) of this section. In the event of a temporary technological or
140 electrical failure, the practitioner shall, without undue delay,
141 reasonably attempt to correct any cause for the failure that is within his
142 or her control. A practitioner who issues a prescription, but fails to
143 electronically transmit the prescription, as permitted by this
144 subsection, shall document the reason for the practitioner's failure to
145 electronically transmit the prescription in the patient's medical record
146 as soon as practicable, but in no instance more than seventy-two hours
147 following the end of the technological or electrical failure that
148 prevented the electronic transmittal of the prescription;

149 (2) The practitioner reasonably determines that it would be
150 impractical for the patient to obtain substances prescribed by an
151 electronically transmitted prescription in a timely manner and that
152 such delay would adversely impact the patient's medical condition,

153 provided if such prescription is for a controlled substance, the quantity
154 of such controlled substance does not exceed a five-day supply for the
155 patient, if the controlled substance was used in accordance with the
156 directions for use. A practitioner who issues a prescription, but fails to
157 electronically transmit the prescription, as permitted by this
158 subsection, shall document the reason for the practitioner's failure to
159 electronically transmit the prescription in the patient's medical record;

160 (3) The prescription is to be dispensed by a pharmacy located
161 outside this state. A practitioner who issues a prescription, but fails to
162 electronically transmit the prescription, as permitted by this
163 subsection, shall document the reason for the practitioner's failure to
164 electronically transmit the prescription in the patient's medical record;

165 (4) Use of an electronically transmitted prescription may negatively
166 impact patient care, such as a prescription containing two or more
167 products to be compounded by a pharmacist, a prescription for direct
168 administration to a patient by parenteral, intravenous, intramuscular,
169 subcutaneous or intraspinal infusion, a prescription that contains long
170 or complicated directions, a prescription that requires certain elements
171 to be included by the federal Food and Drug and Administration, or an
172 oral prescription communicated to a pharmacist by a health care
173 practitioner for a patient in a chronic and convalescent nursing home,
174 licensed pursuant to chapter 368v; or

175 (5) Before July 1, 2019, the practitioner demonstrates, in a form and
176 manner prescribed by the commissioner, that such practitioner does
177 not have the technological capacity to issue electronically transmitted
178 prescriptions. For the purposes of this subsection, "technological
179 capacity" means possession of a computer system, hardware or device
180 that can be used to electronically transmit controlled substance
181 prescriptions consistent with the requirements of the federal
182 Controlled Substances Act, 21 USC 801, as amended from time to time.

183 (d) Any prescription issued instead of an electronically transmitted
184 prescription pursuant to subsection (c) of this section may be issued as

185 a written order or, to the extent permitted by the federal Controlled
186 Substance Act, 21 USC 801, as from time to time amended, as an oral
187 order or transmitted by facsimile machine. Such oral order or order
188 transmitted by facsimile machine shall be promptly reduced to writing
189 on a prescription blank or a hardcopy printout or created as an
190 electronic record and filed by the pharmacist filling it. No duplicate,
191 carbon or photographic copies and no printed or rubber-stamped
192 orders shall be considered valid prescriptions within the meaning of
193 this chapter.

194 [(c)] (e) Prescriptions for schedule II substances [, if in writing,] shall
195 be [signed] electronically transmitted by the prescribing practitioner at
196 the time of issuance and previously signed orders for such schedule II
197 substances shall not be considered valid prescriptions within the
198 meaning of this chapter. No practitioner shall prescribe, dispense or
199 administer schedule II sympathomimetic amines as anorectics, except
200 as may be authorized by regulations adopted by the Departments of
201 Public Health and Consumer Protection acting jointly. To the extent
202 permitted by the federal Controlled Substances Act, 21 USC 801, as
203 from time to time amended, in an emergency, the dispensing of
204 schedule II substances may be made upon the oral order of a
205 prescribing registrant known to or confirmed by the filling pharmacist
206 who shall promptly reduce the oral order to writing on a prescription
207 blank, provided, in such case, such oral order shall be confirmed by the
208 proper completion and mailing or delivery of a prescription prepared
209 by the prescribing registrant to the pharmacist filling such oral order
210 within seventy-two hours after the oral order has been given. Such
211 prescription of the registrant shall be affixed to the temporary
212 prescription prepared by the pharmacist and both prescriptions shall
213 be maintained on file as required in this chapter. The Department of
214 Public Health and the Department of Consumer Protection, acting
215 jointly, may adopt regulations, in accordance with chapter 54, allowing
216 practitioners to prescribe, dispense or administer schedule II
217 sympathomimetic amines as anorectics under certain specific
218 circumstances. Nothing in this subsection shall be construed to require

219 a licensed pharmacist to determine the diagnosis of a patient prior to
220 dispensing a prescription for such substances to a patient.

221 [(d) To the extent permitted by the federal Controlled Substances
222 Act, 21 USC 801, as from time to time amended, a prescribing
223 practitioner may issue an oral order or an electronically transmitted
224 prescription order and, except as otherwise provided by regulations
225 adopted pursuant to sections 21a-243, 21a-244 and 21a-244a, such oral
226 order or electronically transmitted prescription order shall be
227 promptly reduced to writing on a prescription blank or a hardcopy
228 printout or created as an electronic record and filed by the pharmacist
229 filling it. For the purposes of subsections (d) and (h) of this section the
230 term "electronically transmitted" means transmitted by facsimile
231 machine, computer modem or other similar electronic device.

232 (e) To the extent permitted by the federal Controlled Substances
233 Act, in an emergency the dispensing of schedule II substances may be
234 made upon the oral order of a prescribing registrant known to or
235 confirmed by the filling pharmacist who shall promptly reduce the
236 oral order to writing on a prescription blank, provided, in such cases
237 such oral order shall be confirmed by the proper completion and
238 mailing or delivery of a prescription prepared by the prescribing
239 registrant to the pharmacist filling such oral order within seventy-two
240 hours after the oral order has been given. Such prescription of the
241 registrant shall be affixed to the temporary prescription prepared by
242 the pharmacist and both prescriptions shall be maintained on file as
243 required in this chapter.]

244 (f) All prescriptions for controlled substances shall comply fully
245 with any additional requirements of the federal food and drug laws,
246 the federal Controlled Substances Act, and state laws and regulations
247 adopted under this chapter.

248 (g) Repealed by P.A. 82-419, S. 46, 47.

249 (h) Except when dispensed directly by a practitioner, other than a

250 pharmacy, to an ultimate user, a controlled substance included in
251 schedule III or IV, which is a prescription drug as determined under
252 federal food and drug laws, shall not be dispensed without a written,
253 electronically transmitted or oral prescription of a practitioner. The
254 prescription shall not be filled or refilled more than six months after
255 the date thereof or be refilled more than five times, unless renewed by
256 the practitioner.

257 (i) A controlled substance included in schedule V shall not be
258 distributed or dispensed other than for a medical purpose.

259 (j) A pharmacy may sell and dispense controlled substances upon
260 the prescription of a prescribing practitioner, as defined in subdivision
261 (22) of section 20-571.

262 (k) Pharmacies shall file filled prescriptions for controlled
263 substances separately from other prescriptions. All schedule II
264 prescriptions shall be filed in a separate file or in an electronic file. All
265 schedule III, IV and V prescriptions shall be filed in another separate
266 file or in an electronic file, except as otherwise provided for in
267 regulations adopted pursuant to section 21a-243, 21a-244 or 21a-244a.
268 All written controlled substance prescriptions shall, immediately upon
269 filling, be filed chronologically and consecutively.

270 (l) Any pharmacy may transfer prescriptions for controlled
271 substances included in schedules III, IV and V to any other pharmacy
272 in accordance with the requirements set forth in the federal Controlled
273 Substances Act 21 USC 801 et seq. and the regulations promulgated
274 thereunder, as from time to time amended.

275 (m) A practitioner authorized to prescribe controlled substances
276 shall not prescribe anabolic steroids for the sole purpose of enhancing
277 a patient's athletic ability or performance.

278 (n) Each pharmacy, as defined in section 20-571, shall accept an
279 electronically transmitted prescription for a controlled substance from
280 a practitioner, as defined in section 21a-316. All records shall be kept

281 on the premises of the pharmacy and maintained current and separate
282 from other business records in such form as to be readily available at
283 the pharmacy for inspection by the Commissioner of Consumer
284 Protection, his or her authorized agent or other persons, as authorized
285 in section 21a-265, at reasonable times and shall be kept on file for
286 three years. Prescription records received from the practitioner
287 electronically may be stored electronically, provided the files are
288 maintained in the pharmacy computer system for not less than three
289 years. If the electronically transmitted prescription is printed, it shall
290 be filed as required in subsection (l) of this section.

291 Sec. 4. (NEW) (*Effective October 1, 2017*) (a) As used in this section:

292 (1) "Opioid drug" has the same meaning as provided in 42 CFR 8.2,
293 as amended from time to time;

294 (2) "Prescribing practitioner" has the same meaning as provided in
295 section 20-14c of the general statutes; and

296 (3) "Voluntary nonopioid directive form" means a form that is
297 voluntarily filed by a patient with a prescribing practitioner that
298 indicates such patient's request to not be issued a prescription or
299 medication order for an opioid drug.

300 (b) The Department of Public Health, in consultation with the
301 Departments of Consumer Protection and Mental Health and
302 Addiction Services, shall establish a voluntary nonopioid directive
303 form and publish such form on its Internet web site for public use. Any
304 person who does not wish to be issued a prescription or medication
305 order for an opioid drug may file such form with a prescribing
306 practitioner. Upon receipt of a voluntary nonopioid directive form, a
307 prescribing practitioner shall document such receipt in the patient's
308 medical record.

309 (c) The voluntary nonopioid directive form established by the
310 department shall allow a patient to appoint a duly authorized
311 guardian or health care proxy to override a previously recorded

312 voluntary nonopioid directive form. Such patient, duly authorized
313 guardian or health care proxy may revoke the directive, orally or in
314 writing, for any reason, at any time.

315 (d) An electronically transmitted prescription to a pharmacy shall be
316 presumed to be valid for the purposes of this section and a pharmacist
317 shall not be held in violation of this section for dispensing a controlled
318 substance in contradiction to a voluntary nonopioid directive form.

319 (e) No prescribing practitioner acting with reasonable care shall be
320 liable for damages in a civil action or subject to criminal prosecution or
321 be deemed to have violated the standard of care for such prescribing
322 practitioner for refusing to issue a prescription or medication order for
323 an opioid pursuant to a voluntary nonopioid directive form.

324 (f) No person acting in good faith as a duly authorized guardian or
325 health care proxy shall be liable for damages in a civil action or subject
326 to criminal prosecution for revoking or overriding a voluntary
327 nonopioid directive form.

328 (g) A prescribing practitioner who wilfully fails to comply with a
329 patient's voluntary nonopioid directive form may be subject to
330 disciplinary action pursuant to section 19a-17 of the general statutes.

331 Sec. 5. Section 20-14o of the general statutes is repealed and the
332 following is substituted in lieu thereof (*Effective July 1, 2017*):

333 (a) As used in this section:

334 (1) "Opioid drug" has the same meaning as provided in 42 CFR 8.2,
335 as amended from time to time;

336 (2) "Adult" means a person who is at least eighteen years of age;

337 (3) "Prescribing practitioner" has the same meaning as provided in
338 section 20-14c;

339 (4) "Minor" means a person who is under eighteen years of age;

340 (5) "Opioid agonist" means a medication that binds to the opiate
341 receptors and provides relief to individuals in treatment for abuse of or
342 dependence on an opioid drug;

343 (6) "Opiate receptor" means a specific site on a cell surface that
344 interacts in a highly selective fashion with an opioid drug;

345 (7) "Palliative care" means specialized medical care to improve the
346 quality of life of patients and their families facing the problems
347 associated with a life-threatening illness; and

348 (8) "Opioid antagonist" has the same meaning as provided in section
349 17a-714a.

350 (b) When issuing a prescription for an opioid drug to an adult
351 patient for the first time for outpatient use, a prescribing practitioner
352 who is authorized to prescribe an opioid drug shall not issue a
353 prescription for more than a seven-day supply of such drug, as
354 recommended in the National Centers for Disease Control and
355 Prevention's Guideline for Prescribing Opioids for Chronic Pain.

356 (c) A prescribing practitioner shall not issue a prescription for an
357 opioid drug to a minor for more than a seven-day supply of such drug
358 at any time. [When issuing a prescription for an opioid drug to a minor
359 for less than a seven-day supply of such drug, the prescribing
360 practitioner shall discuss the risks associated with use of an opioid
361 drug, including, but not limited to, the risks of addiction and overdose
362 associated with opioid drugs and the dangers of taking opioid drugs
363 with alcohol, benzodiazepines and other central nervous system
364 depressants, and the reasons why the prescription is necessary with (1)
365 the minor, and (2) the custodial parent, guardian or other person
366 having legal custody of the minor if such parent, guardian or other
367 person is present at the time of issuance.]

368 (d) Notwithstanding the provisions of subsections (b) and (c) of this
369 section, if, in the professional medical judgment of a prescribing
370 practitioner, more than a seven-day supply of an opioid drug is

371 required to treat an adult patient's or minor patient's acute medical
 372 condition, as determined by the prescribing practitioner, or is
 373 necessary for the treatment of chronic pain, pain associated with a
 374 cancer diagnoses or for palliative care, then the prescribing practitioner
 375 may issue a prescription for the quantity needed to treat the acute
 376 medical condition, chronic pain, pain associated with a cancer
 377 diagnosis or pain experienced while the patient is in palliative care.
 378 The condition triggering the prescription of an opioid drug for more
 379 than a seven-day supply shall be documented in the patient's medical
 380 record and the practitioner shall indicate that an alternative to the
 381 opioid drug was not appropriate to address the medical condition.

382 (e) The provisions of subsections (b), (c) and (d) of this section shall
 383 not apply to medications designed for the treatment of abuse of or
 384 dependence on an opioid drug, including, but not limited to, opioid
 385 agonists and opioid antagonists.

386 (f) When issuing a prescription for an opioid drug to an adult or
 387 minor patient, the prescribing practitioner shall discuss with the
 388 patient the risks associated with the use of such opioid drug,
 389 including, but not limited to, the risks of addiction and overdose
 390 associated with opioid drugs and the dangers of taking opioid drugs
 391 with alcohol, benzodiazepines and other central nervous system
 392 depressants, and the reasons the prescription is necessary, and, if
 393 applicable, with the custodial parent, guardian or other person having
 394 legal custody of the minor if such parent, guardian or other person is
 395 present at the time of issuance of the prescription.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	21a-254(j)
Sec. 2	<i>from passage</i>	21a-262
Sec. 3	<i>January 1, 2018</i>	21a-249
Sec. 4	<i>October 1, 2017</i>	New section
Sec. 5	<i>July 1, 2017</i>	20-14o

Statement of Legislative Commissioners:

In Section 3, Subsecs. (b), (c), (d) and (n), several references to electronic transmissions of prescriptions were changed for consistency with each other and with the defined term in Subsec. (b), and Subsec. (c) was restructured for clarity.

GL *Joint Favorable Subst. -LCO*