# ASSEMBLY, No. 640

# STATE OF NEW JERSEY

## 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**
**Assemblyman DAVID W. WOLFE**
**District 10 (Ocean)**
**Assemblyman GREGORY P. MCGUCKIN**
**District 10 (Ocean)**

**Co-Sponsored by:**
**Assemblyman Peterson**

**SYNOPSIS**

Requires health care practitioners prescribing opioid medications on first-time basis, or to minor children, to limit amount of prescribed medication to seven-day supply, except in certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.

**AN ACT** concerning prescriptions for opioid medications, amending various parts of the statutory law, and supplementing Title 24 of the Revised Statutes.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) a. (1) The first time that a health care practitioner prescribes an opioid medication to an adult patient, for outpatient use, the health care practitioner shall not prescribe more than a seven-day supply.

(2) Whenever a health care practitioner prescribes an opioid medication to a minor patient, the health care practitioner shall not prescribe more than a seven-day supply.

(3) Before prescribing opioid medication in accordance with paragraph (1) or (2) of this subsection, the health care practitioner shall discuss with the adult patient, or with the parent or guardian of the minor patient, as appropriate, the risks associated with opioid use, and the reasons why the opioid medication is necessary.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, if a health care practitioner determines, in the practitioner's professional medical judgment, that the prescription of more than a seven-day supply of opioid medication is necessary to treat an adult or minor patient's acute medical condition, or is necessary to provide the adult or minor patient with adequate management of chronic pain, treatment of pain associated with a cancer diagnosis, or palliative care, the health care practitioner may issue a prescription for the quantity of opioid medication that is needed to treat such acute medical condition, chronic pain, cancer-related pain, or pain experienced while in palliative care. The quantity of opioid medication prescribed under this subsection shall not exceed the amounts specified in section 1 of P.L.1997, c.249 (C.45:9-22.19), and shall be consistent with any other applicable State and federal prescribing requirements. The condition triggering the prescription of more than a seven-day supply of opioid medication shall be documented in the patient's medical record, and the health care practitioner shall also indicate therein that a non-opioid alternative was not appropriate to treat the medical condition.

c. This section shall not apply to the issuance of prescriptions for any medications that are designed for use in the treatment of substance abuse or opioid dependence.

2. Section 1 of P.L.1997, c.249 (C.45:9-22.19) is amended to read as follows:

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined <u>thus</u> is new matter.**

1. a. [A] Except as provided by subsection c. of this section, a physician licensed pursuant to chapter 9 of Title 45 of the Revised Statutes may prescribe a Schedule II controlled dangerous substance for the use of a patient in any quantity which does not exceed a 30-day supply, as defined by regulations adopted by the State Board of Medical Examiners in consultation with the Department of Health [and Senior Services]. The physician shall document the diagnosis and the medical need for the prescription in the patient's medical record, in accordance with guidelines established by the State Board of Medical Examiners.

b. [A] Except as provided by subsection c. of this section, a physician may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled dangerous substance, provided that the following conditions are met:

(1) each separate prescription is issued for a legitimate medical purpose by the physician acting in the usual course of professional practice;

(2) the physician provides written instructions on each prescription, other than the first prescription if it is to be filled immediately, indicating the earliest date on which a pharmacy may fill each prescription;

(3) the physician determines that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse; and

(4) the physician complies with all other applicable State and federal laws and regulations.

c. Notwithstanding the provisions of subsections a. and b. of this section to the contrary, whenever a physician prescribes a Schedule II opioid medication to an adult patient for the first time, or prescribes a Schedule II opioid medication to a minor patient, the physician shall comply with the prescribing parameters and supply limitations specified in section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).

(cf: P.L.2009, c.165, s.1)

3. Section 10 of P.L.1991, c.378 (C.45:9-27.19) is amended to read as follows:

10. A physician assistant may order, prescribe, dispense, and administer medications and medical devices to the extent delegated by a supervising physician.

a. Controlled dangerous substances may only be ordered or prescribed if:

(1) a supervising physician has authorized a physician assistant to order or prescribe Schedule II, III, IV, or V controlled dangerous substances in order to:

(a) continue or reissue an order or prescription for a controlled dangerous substance issued by the supervising physician;

(b) otherwise adjust the dosage of an order or prescription for a controlled dangerous substance originally ordered or prescribed by the supervising physician, provided there is prior consultation with the supervising physician;

(c) initiate an order or prescription for a controlled dangerous substance for a patient, provided there is prior consultation with the supervising physician if the order or prescription is not pursuant to subparagraph (d) of this paragraph; or

(d) initiate an order or prescription for a controlled dangerous substance as part of a treatment plan for a patient with a terminal illness, which for the purposes of this subparagraph means a medical condition that results in a patient's life expectancy being 12 months or less as determined by the supervising physician;

(2) the physician assistant has registered with, and obtained authorization to order or prescribe controlled dangerous substances from, the federal Drug Enforcement Administration and any other appropriate State and federal agencies; **[**and**]**

(3) the physician assistant complies with all requirements which the board shall establish by regulation for the ordering, prescription, or administration of controlled dangerous substances, all applicable educational program requirements, and continuing professional education programs approved pursuant to section 16 of P.L.1991, c.378 (C.45:9-27.25) ; and

(4) the physician assistant complies with the applicable prescribing parameters and supply limitations established by section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill) when prescribing a Schedule II opioid medication.

b. (Deleted by amendment, P.L.2015, c.224)

c. (Deleted by amendment, P.L.2015, c.224)

d. In the case of an order or prescription for a controlled dangerous substance, the physician assistant shall print on the order or prescription the physician assistant's Drug Enforcement Administration registration number.

e. The dispensing of medication or a medical device by a physician assistant shall comply with relevant federal and State regulations, and shall occur only if: (1) pharmacy services are not reasonably available; (2) it is in the best interest of the patient; or (3) the physician assistant is rendering emergency medical assistance.

f. A physician assistant may request, receive, and sign for prescription drug samples and may distribute those samples to patients.

(cf: P.L.2015, c.224, s.7)

4. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to read as follows:

10. a. In addition to all other tasks which a registered professional nurse may, by law, perform, an advanced practice

nurse may manage preventive care services and diagnose and manage deviations from wellness and long-term illnesses, consistent with the needs of the patient and within the scope of practice of the advanced practice nurse, by:

(1) initiating laboratory and other diagnostic tests;

(2) prescribing or ordering medications and devices, as authorized by subsections b. and c. , and in accordance with the provisions of subsection g., of this section; and

(3) prescribing or ordering treatments, including referrals to other licensed health care professionals, and performing specific procedures in accordance with the provisions of this subsection.

b. An advanced practice nurse may order medications and devices in the inpatient setting, subject to the following conditions:

(1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate an order for a controlled dangerous substance;

(2) the order is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

(3) the advanced practice nurse authorizes the order by signing the nurse's own name, printing the name and certification number, and printing the collaborating physician's name;

(4) the physician is present or readily available through electronic communications;

(5) the charts and records of the patients treated by the advanced practice nurse are reviewed by the collaborating physician and the advanced practice nurse within the period of time specified by rule adopted by the Commissioner of Health pursuant to section 13 of P.L.1991, c.377 (C.45:11-52);

(6) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated, and signed at least annually by both parties; and

(7) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy and addiction prevention and management, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.

c. An advanced practice nurse may prescribe medications and devices in all other medically appropriate settings, subject to the following conditions:

(1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with

the collaborating physician is required to initiate a prescription for a controlled dangerous substance;

(2) the prescription is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;

(3) the advanced practice nurse writes the prescription on a New Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), signs the nurse's own name to the prescription and prints the nurse's name and certification number;

(4) the prescription is dated and includes the name of the patient and the name, address, and telephone number of the collaborating physician;

(5) the physician is present or readily available through electronic communications;

(6) the charts and records of the patients treated by the advanced practice nurse are periodically reviewed by the collaborating physician and the advanced practice nurse;

(7) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated, and signed at least annually by both parties; and

(8) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy and addiction prevention and management, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.

d. The joint protocols employed pursuant to subsections b. and c. of this section shall conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85 (C.45:11-49.2), as applicable.

e. (Deleted by amendment, P.L.2004, c.122.)

f. An attending advanced practice nurse may determine and certify the cause of death of the nurse's patient and execute the death certification pursuant to R.S.26:6-8 if no collaborating physician is available to do so and the nurse is the patient's primary caregiver.

<u>g. When prescribing a Schedule II opioid medication, an advanced practice nurse shall comply with the applicable prescribing parameters and supply limitations established by section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).</u>

(cf: P.L.2015, c.38, s.3)

5. This act shall take effect immediately.

STATEMENT

This bill would provide certain limits on the amount of opioid medication that may be prescribed to a patient.

The bill would specify, in particular, that the first time a health care practitioner prescribes an opioid medication to an adult patient, for outpatient use, and whenever a health care practitioner prescribes an opioid medication to a minor patient, the health care practitioner will be prohibited from prescribing more than a seven-day supply of the medication. The bill would also require a health care practitioner, before prescribing opioid medication under the bill's provisions, to discuss with the adult patient, or with the parent or guardian of the minor patient, as appropriate, the risks associated with opioid use, and the reasons why the opioid medication is necessary.

The bill would amend the various practice laws applicable to physicians, advanced practice nurses, and physician assistants – each of whom are authorized to prescribe medications – in order to clarify that the prescription of opioid medications must be done in compliance with the bill's new prescribing parameters and supply limitations.

The bill would specify, however, that if a prescribing health care practitioner determines, in the practitioner's professional medical judgment, that the prescription of more than a seven-day supply of opioid medication is necessary to treat an adult patient's or minor patient's acute medical condition, or is necessary to provide the patient with appropriate management of chronic pain, treatment of pain associated with a cancer diagnosis, or palliative care, the health care practitioner will be authorized to issue a prescription, consistent with all other applicable State and federal prescribing requirements, for the quantity of opioid medication that is needed to treat such acute medical condition, chronic pain, cancer-related pain, or pain experienced while in palliative care. The condition triggering the prescription of more than a seven-day supply of opioid medication would need to be documented in the patient's medical record, and the health care practitioner would be required to indicate that a non-opioid alternative was not appropriate to address the medical condition.

The bill's provisions would not apply to any medications that are designed for use in the treatment of substance abuse or opioid dependence.