

Stricken language would be deleted from and underlined language would be added to present law.  
Act 1169 of the Regular Session

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: S4/2/13 S4/4/13 S4/5/13

# A Bill

SENATE BILL 968

By: Senator Maloch

## For An Act To Be Entitled

AN ACT TO REGULATE PHYSICIAN DISPENSING OF LEGEND DRUGS; TO AUTHORIZE THE STATE MEDICAL BOARD TO REGULATE PHYSICIAN DISPENSING OF LEGEND DRUGS; AND FOR OTHER PURPOSES.

### Subtitle

TO REGULATE PHYSICIAN DISPENSING OF LEGEND DRUGS; AND TO AUTHORIZE THE STATE MEDICAL BOARD TO REGULATE PHYSICIAN DISPENSING OF LEGEND DRUGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 17-95-102(d), concerning the ability of a physician to dispense legend drugs is amended to read as follows:*

*(d)(1) ~~No~~ A physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., shall not dispense legend drugs without prior approval by the Arkansas State Medical Board after application to the board and on the showing of need.*

*(2) Licensed physicians who were dispensing in the ordinary course of their practice ~~for the twelve (12) months immediately prior to July 4, 1983~~ before the effective date of this act, shall be exempt from the requirements of this subsection.*

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



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

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

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

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

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

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

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

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

(I) The procedures the physician has implemented to:

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

(ii) Monitor and guard against potential drug interactions;

(iii) Store and safeguard the legend drugs; and

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

(4) A prescription for a topical medication is exempt from subdivision (d)(3) of this section.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act regulates the dispensing of legend drugs; that physicians and patients require certainty about the prescriptive authority of physicians and the availability of legend drugs; that a delay between the passage of this act and the effectiveness of this act will create uncertainty about the prescriptive authority of physicians and the availability of legend drugs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the

preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Maloch

**APPROVED: 04/12/2013**