

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
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As Engrossed: H2/24/21
A Bill

HOUSE BILL 1247

By: Representative Gonzales

For An Act To Be Entitled

AN ACT TO MODIFY PHYSICIAN DISPENSING; TO ALLOW
DELEGATION OF PHYSICIAN DISPENSING; AND FOR OTHER
PURPOSES.

Subtitle

TO MODIFY PHYSICIAN DISPENSING; AND TO
ALLOW DELEGATION OF PHYSICIAN DISPENSING.

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

SECTION 1. Arkansas Code § 17-95-102 is amended to read as follows:

17-95-102. Legend drugs.

(a) ~~A dispensing physician is~~ As used in this section, a "dispensing physician" means 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., who purchases *legend drugs* to be dispensed to his or her patients for the patients' personal use and administration outside the physician's office.

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

(c) The dispensing physician shall:

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

(2) (A) *Keep records of all receipts and distributions of legend drugs.*

(B) The records shall be subject to inspection by the proper enforcement authority and shall be readily accessible for inspection



and maintained in a central registry; and

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

- (A) Patient's name and address;
- (B) Prescribing physician's address and narcotic registry number issued by the United States Drug Enforcement Administration;
- (C) Date of dispensing; and
- (D) Directions and cautionary statements, if any, as required by law.

(d)(1) 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 before April 12, 2013, 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 the Prescription Drug Monitoring Program Act, § 20-7-601 et seq., concerning the reporting requirements to the Prescription Drug Monitoring Program.

(4) This section does not apply to a prescription for:

- (i) A ~~prescription for a~~ topical medication;
- (ii) Naloxone;
- (iii) Nicotine ~~nicotine~~ replacement therapy products; ~~or;~~
- (iv) Contraceptives; ~~contraceptives is exempt from subdivision (d)(3) of this section~~
- (v) Acute care medication; or
- (vi) Initial treatment for maintenance medication.

(e) The ~~board~~ Arkansas State Medical Board shall enforce the provisions of this section and is authorized and directed to adopt rules to carry out ~~its purpose~~ the purpose of this section.

(f) As used in this section:

(1)(A) "Acute care medication" means a legend drug that is not a controlled substance and is prescribed for no more than fourteen (14) days of therapy.

(B) "Acute care medication" includes the following oral medications:

- (i) Medications to treat infections;
- (ii) Anti-inflammatory medications;
- (iii) Antinausea medications;
- (iv) Antihistamines; and
- (v) Cough medications;

(2) "Initial treatment" means the first prescription written for a specific prescription medication intended to initiate therapy on such medication; and

(3) "Maintenance medication" means a legend drug that:

(A) Is not a controlled substance;

(B) Is prescribed for no more than thirty (30) days; and

(C) Is used to treat one (1) of the following medical

conditions:

(i) Hypertension;

(ii) Diabetes mellitus; or

(iii) Hypercholesterolemia.

/s/Gonzales