

2019 -- H 5434

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Representatives Amore, Serodio, Ruggiero, and Kazarian

Date Introduced: February 14, 2019

Referred To: House Health, Education & Welfare

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28-3.20 of the General Laws in Chapter 21-28 entitled "Uniform
2 Controlled Substances Act" is hereby amended to read as follows:

3 **21-28-3.20. Authority of practitioner to prescribe, administer, and dispense.**

4 (a) A practitioner, in good faith and in the course of his or her professional practice only,
5 may prescribe, administer, and dispense controlled substances, or he or she may cause the
6 controlled substances to be administered by a nurse or intern under his or her direction and
7 supervision.

8 (b) The prescription-monitoring program shall be reviewed prior to starting any opioid. A
9 prescribing practitioner, or designee as authorized by § 21-28-3.32(a)(3), shall review the
10 prescription-monitoring program prior to refilling or initiating opioid therapy with an intrathecal
11 pump. For patients the prescribing practitioner is maintaining on continuous opioid therapy for
12 pain for three (3) months or longer, the prescribing practitioner shall review information from the
13 prescription-monitoring program at least every three (3) months. Documentation of that review
14 shall be noted in the patient's medical record.

15 (c) The director of health shall develop regulations for prescribing practitioners on
16 appropriate limits of opioid use in acute pain management. Initial prescriptions of opioids for
17 acute pain management of outpatient adults shall not exceed thirty (30) morphine milligram
18 equivalents (MMEs) total daily dose per day for a maximum total of twenty (20) doses, and, for
19 pediatric patients, the appropriate opioid dosage maximum per the department of health.

1 (d) For the purposes of this section, acute pain management shall not include chronic pain
2 management, pain associated with a cancer diagnosis, palliative or nursing home care, [chronic](#)
3 [intractable pain](#), or other exception in accordance with department of health regulations;

4 [\(1\) "Chronic intractable pain" means pain that is: excruciating; constant; incurable, and of](#)
5 [such severity that it dominates virtually every conscious moment; produces mental and physical](#)
6 [debilitation; and may produce a desire to commit suicide for the sole purpose of stopping the](#)
7 [pain.](#)

8 (e) Subsection (c) shall not apply to medications designed for the treatment of substance
9 abuse or opioid dependence.

10 (f) On or before September 1, 2018, the director of health shall develop, and make
11 available to health-care practitioners, information on best practices for co-prescribing opioid
12 antagonists to patients. The best practices information shall identify situations in which co-
13 prescribing an opioid antagonist may be appropriate, including, but not limited to:

14 (1) In conjunction with a prescription for an opioid medication, under circumstances in
15 which the health-care practitioner determines the patient is at an elevated risk for an opioid drug
16 overdose;

17 (2) In conjunction with medications prescribed pursuant to a course of medication
18 therapy management for the treatment of a substance use disorder involving opioids; or

19 (3) Under any other circumstances in which a health-care practitioner identifies a patient
20 as being at an elevated risk for an opioid drug overdose.

21 (g) The best practices information developed pursuant to subsection (f) of this section
22 shall include guidelines for determining when a patient is at an elevated risk for an opioid drug
23 overdose, including, but not limited to, situations in which the patient:

24 (1) Meets the criteria provided in the opioid overdose toolkit published by the federal
25 substance abuse and mental health service administration;

26 (2) Is receiving high-dose, extended-release, or long-acting opioid medications;

27 (3) Has a documented history of an alcohol or substance use disorder, or a mental health
28 disorder;

29 (4) Has a respiratory ailment or other co-morbidity that may be exacerbated by the use of
30 opioid medications;

31 (5) Has a known history of intravenous drug use or misuse of prescription opioids;

32 (6) Has received emergency medical care or been hospitalized for an opioid overdose; or

33 (7) Uses opioids with antidepressants, benzodiazepines, alcohol, or other drugs.

34 (h) On or before September 1, 2018, the director of health and the secretary of the

1 executive office of health and human services shall develop strategies that include:

2 (1) Allowing practitioners in non-pharmacy settings to prescribe and dispense opioid
3 antagonists; and

4 (2) Ensuring that opioid antagonists that are distributed in a non-pharmacy setting are
5 eligible for reimbursement from any health insurance carrier, as defined under chapters 18, 19,
6 20, and 41 of title 27, and the Rhode Island medical assistance program, as defined under chapter
7 7.2 of title 42.

8 SECTION 2. Chapter 21-28 of the General Laws entitled "Uniform Controlled
9 Substances Act" is hereby amended by adding thereto the following section:

10 **21-28-3.20.1. Authority of practitioner to prescribe, administer, and dispense --**
11 **Cancer, palliative care and chronic intractable pain.**

12 (a) A practitioner, in good faith and in the course of his or her professional practice
13 managing pain associated with a cancer diagnosis, palliative or nursing home care, chronic
14 intractable pain, or other condition allowed by department of health regulations pursuant to the
15 exception in § 21-28-3.20(d), may prescribe, administer, and dispense controlled substances, or
16 he or she may cause the controlled substances to be administered by a nurse or intern under his or
17 her direction and supervision without regard to the 2016 CDC Guideline for Prescribing Opioids
18 for Chronic Pain.

19 (b) For the purposes of this section "chronic intractable pain" means pain that is:
20 excruciating; constant; incurable, and of such severity that it dominates virtually every conscious
21 moment; produces mental and physical debilitation; and may produce a desire to commit suicide
22 for the sole purpose of stopping the pain. A diagnosis of chronic intractable pain made by a
23 physician licensed in any of the United States or the District of Columbia, and supported by
24 written documentation of the diagnosis by the treating physician, shall constitute proof that the
25 patient suffers from chronic and intractable pain.

26 (c) Practitioners, in the course of their professional practice, shall not refuse treatment to
27 chronic intractable pain patients for the sole reason that these patients require intensive treatment.

28 (d) Pharmacists, upon receiving the proper documentation that a person suffers from
29 chronic intractable pain, shall not refuse to fill a prescription related to the diagnosis.
30 Documentation related to the filling of a prescription under this subsection shall only be required
31 by the pharmacist upon the initial filling of the prescription.

32 (e) The director of health shall promulgate rules and regulations necessary to ensure that
33 pain management associated with a cancer diagnosis, palliative or nursing home care, chronic
34 intractable pain, or other condition allowed by department of health regulations pursuant to the

1 exception created in § 21-28-3.20(d), as may be necessary to effectuate the provisions of this
2 section.

3 (d) Rules and regulations promulgated herein shall take into consideration the
4 individualized needs of patients covered by this section and make provisions for practitioners
5 acting in good faith, and in the course of their profession, and managing pain associated with their
6 patients' illness, to use their best judgment notwithstanding any state or federal laws, rule or
7 regulation to the contrary.

8 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

1 This act would exclude chronic intractable pain from the definition of "acute pain
2 management", for purposes of prescribing, administering and dispensing controlled substances by
3 a practitioner. The act would prescribe new guidelines for the treatment of "chronic intractable
4 pain" based upon 2016 CDC Guideline for Prescribing Opioids for Chronic Pain.

5 This act would take effect upon passage.

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