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**STATUS INFORMATION**

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Summary: Controlled substances

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[3/23/2022](file:///p:\pprever\2021-22\1190_20220323.docx)

**A BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 2 TO CHAPTER 43, TITLE 40 SO AS TO TRANSFER CERTAIN RESPONSIBILITIES AND AUTHORITY OVER THE REGULATION OF CONTROLLED SUBSTANCES FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO THE STATE BOARD OF PHARMACY; TO AMEND SECTIONS 44‑53‑1630, 44‑53‑1640, AS AMENDED, AND 44‑130‑60, AS AMENDED, ALL RELATING TO CONTROLLED SUBSTANCES, SO AS TO MAKE CONFORMING CHANGES; AND TO REPEAL SECTIONS 44‑53‑280, 44‑53‑290, 44‑53‑300, 44‑53‑310, 44‑53‑320, 44‑53‑330, 44‑53‑340, 44‑53‑350, 44‑53‑360, 44‑53‑361, 44‑53‑362, 44‑53‑363, AND 44‑53‑365, ALL RELATING TO CONTROLLED SUBSTANCE REGULATION BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Chapter 43, Title 40 of the 1976 Code is amended by adding:

“Article 2

Regulation of Controlled Substances

Section 40‑43‑300. (A) The Board of Pharmacy may promulgate regulations and may charge reasonable fees relating to the license and control of the manufacture, distribution, and dispensing of controlled substances.

(B) No person engaged in a profession or occupation for which a license is required by law may be registered under this article unless the person holds a valid license of that profession or occupation.

(C) A class 20‑28 registration, as provided for by the board in regulation, expires October first of each year. The registration of a registrant who fails to renew by October first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20‑28, as provided for by the board in regulation, expire on April first of each year. The registration of a registrant who fails to renew by April first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(E) Refusal by the board to reinstate a canceled registration after payment of the renewal fee and penalty and presentation of an explanation constitutes a refusal to renew and the procedures under Section 40‑43‑340 apply.

(F) For class 20‑28 registrants, initial registrations issued before July first expire October first of that same year, and initial registrations issued on or after July first expire October first of the following year. For classes other than class 20‑28, initial registrations issued before January first expire April first of the following year, and initial registrations issued on or after January first expire April first of the following year.

Section 40‑43‑310. (A) Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain a registration issued by the Board of Pharmacy in accordance with its rules and regulations.

(B) Persons registered by the board under this article to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(C) The following persons need not register and may lawfully possess controlled substances under this article:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(D) The Board of Pharmacy may, by regulation, waive the requirement for registration of certain manufacturers, distributors or dispensers if it finds it consistent with the public health and safety.

(E) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(F) The board is authorized to inspect the establishment of a registrant or an applicant for a registration in accordance with the rules and regulations promulgated by it.

(G) The board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(H) The board may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from tate prosecution for possession and distribution of controlled substances to the extent of the authorization.

(I) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The board shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both:

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the board determines that the applicant will comply with standards established by the board respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 40‑43‑360 and the rules issued by the board on such drugs; and

(3) if the board determines that the applicant will comply with standards established by the board respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(J) Pursuant to the procedures set forth in Section 40‑43‑320, the board may issue a registration to a licensed nurse practitioner, certified nurse‑midwife, or clinical nurse specialist authorized to prescribe controlled substances by the State Board of Nursing for South Carolina, consistent with such prescription authorization. The board also may issue a registration, pursuant to the procedures set forth in Section 40‑43‑320, to a licensed physician assistant authorized to prescribe controlled substances by the State Board of Medical Examiners, consistent with such prescription authorization. A nurse practitioner, certified nurse‑midwife, clinical nurse specialist, or physician assistant registered by the board pursuant to this subsection may not acquire, possess, or dispense, other than by prescription, a controlled substance except as provided by law.

Section 40‑43‑320. (A) The Board of Pharmacy shall register an applicant to manufacture, distribute, or dispense controlled substances included in Sections 44‑53‑190, 44‑53‑210, 44‑53‑230, 44‑53‑250 and 44‑53‑270 if it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state or federal law;

(3) promotion and technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under federal and state laws relating to the manufacture, distribution or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances and the existence in the establishment of effective controls against diversion;

(6) such other factors as may be relevant to and consistent with the public health and safety; and

(7) licensing by a federal agency.

(B) A registration granted under subsection (A) shall not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(C) Within the discretion of the board, practitioners may be registered to dispense one or more controlled substances in Schedules II through V if they are authorized to dispense drugs under the law of this State. Such practitioners, properly registered with the board to dispense controlled substances, may also conduct research with nonnarcotic controlled substances in Schedules II through V without additional registration as a researcher, provided that prior to engaging in such research, the practitioner shall notify the board in writing of the scope of such research and the name of the controlled substances to be utilized. Practitioners desiring to conduct research with Schedule I controlled substances or with narcotic controlled substances in Schedules II through V shall first obtain a separate researcher registration from the board.

(D) The board shall permit persons to apply for registration within sixty days after June 17, 1971, who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substances prior to June 17, 1971, and who are registered by the State.

(E) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this article.

Section 40‑43‑330. (A) An application for a registration or a registration granted pursuant to Section 40‑43‑320 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the Board of Pharmacy upon a finding that the registrant:

(1) has materially falsified any application filed pursuant to this article;

(2) has been convicted of a felony or misdemeanor under any state or federal law relating to any controlled substance;

(3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) has failed to comply with any standard referred to in Section 40‑43‑310(I).

(B) The board may place a registrant who violates this article on probation or levy a civil fine of not more than two thousand five hundred dollars, or both. Fines generated pursuant to this section must be remitted to the State Treasurer for deposit to the benefit of the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department’s addiction center facilities.

(C) The board may suspend, deny, or revoke the registration of any registrant or applicant for the conviction of any felony or misdemeanor involving moral turpitude.

(D) The board may suspend, deny, or revoke the registration of any registrant or applicant for violation of any of the rules and regulations issued by the board relating to controlled substances.

(E) The board may suspend, deny, or revoke the registration of any registrant or applicant if it finds that the security provided for the storage of controlled substances is inadequate to the extent that repeated diversions by theft have occurred.

(F) The board may suspend, deny, or revoke the registration of any registrant or applicant upon a finding by the board that the registrant or applicant has violated any statutory provision of this article or Article 3, Chapter 53, Title 44.

Section 40‑43‑340. (A) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the Board of Pharmacy shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis for the order to show cause and shall call upon the applicant or registrant to appear before the board at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(B) The board, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 40‑43‑330, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. A failure to comply with a standard referred to in Section 40‑43‑310(I) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. The suspension shall continue in effect until withdrawn by the board or dissolved by a court of competent jurisdiction.

(C) In the event the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the suspension or revocation is withdrawn by the board or dissolved by a court of competent jurisdiction, unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances shall be forfeited to the State.

(D) After proper hearing of either a formal or informal nature, the board, upon its own motion or otherwise, may tender to any respondent in an action brought under subsection (A), an offer of an administrative consent order if it is found that such administrative consent order properly serves the interests of justice. Such order may contain total or partial revocation of a portion or all of the registration to be affected; assessment of a civil fine and a probationary registration period as provided in Section 40‑43‑330; terms of any probationary registration; and any other terms affecting such registration as may be agreed upon and consented to by the parties to the order. Such order shall become effective on the date signed by the administrative hearing officer designated by the board unless another date is specified within the order. Violation of such order by the respondent thereto at any time subsequent to the effective date of the order and prior to the expiration of the order or the probationary registration period set forth therein shall cause the registration affected by such order to be revoked, after notice of such revocation is mailed to the respondent at his last known address.

Section 40‑43‑350. Upon the conviction of any person of the violation of any provision of this article, a certified copy of the judgment of conviction shall be sent by the clerk of the court to the licensing board by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. Upon final order of the Board of Pharmacy suspending, denying, modifying, or revoking the controlled substances registration of any registrant or applicant under this article, or upon the execution and approval of an administrative consent order provided for by Section 40‑43‑340, the board shall forward a copy of the order to the licensing board by whom the affected registrant or applicant has been licensed or registered to practice his profession or carry on his business, if such licensing board be in existence.

Section 40‑43‑360. Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record‑keeping and inventory requirements of federal law and with any additional rules the board issues.

Section 40‑43‑370. (A) Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form prescribed by the Board of Pharmacy. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

(B) Nothing contained in subsection (A) shall apply:

(1) to the administering or dispensing of such substances to a patient by a practitioner in the course of his professional practice; however, such practitioner shall comply with the requirements of Section 40‑43‑360;

(2) to the distribution or dispensing of such substances by a pharmacist to an ultimate user pursuant to a written prescription issued by a practitioner authorized to issue such prescription; however, such pharmacist shall comply with the requirements of Section 40‑43‑360.

Section 40‑43‑380. (A) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the board by regulation, no controlled substance included in Schedule II may be dispensed without the written or electronic prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 40‑43‑360. No prescription for a controlled substance in Schedule II may be refilled.

(B) A pharmacist may dispense a controlled substance included in Schedule III, IV, or V pursuant to either a written or electronic prescription signed by a practitioner, or a facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner’s agent to the pharmacy, or pursuant to an oral prescription, reduced promptly to writing and filed by the pharmacist. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

(C) No controlled substances included in any schedule may be distributed or dispensed for other than a medical purpose. No practitioner may dispense a Schedule II narcotic controlled substance for the purpose of maintaining the addiction of a narcotic dependent person outside of a facility or program approved by the Department of Health and Environmental Control. No practitioner may dispense a controlled substance outside of a bona fide practitioner‑patient relationship.

(D) Unless specifically indicated in writing on the face of the prescription or noted in the electronic prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of ‘PRN’ or ‘ad lib’ or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur. Preprinted refill instructions on the face of a prescription shall be disregarded by the dispenser unless an affirmative marking or other indication is made by the prescriber.

(E) Prescriptions for controlled substances in Schedule II with the exception of transdermal patches and surgically implanted drug delivery systems, must not exceed a thirty‑one‑day supply. Prescriptions for Schedule II substances must be dispensed within ninety days of the date of issue, after which time they are void. Prescriptions for controlled substances in Schedules III through V, inclusive, must not exceed a ninety‑day supply.

(F) Preprinted prescriptions for controlled substances in any schedule are prohibited.

(G) The Board of Pharmacy shall, by rules and regulations, specify the manner by which prescriptions are filed.

(H) A prescription, in order to be effective in legalizing the possession of a controlled substance and eliminating the need for registration of the recipient, must be issued for legitimate medical purposes. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding liability rests with the pharmacist who fills and ultimately dispenses the prescription. An order purporting to be a prescription issued to a drug dependent person, not in the course of generally accepted medical treatment, but for the purpose of providing the user with controlled substances sufficient to maintain his dependence upon the substance, or to provide him with quantities of controlled substances in great excess of normal dosage ranges as recommended by the manufacturer of the substance, is not a prescription within the meaning and intent of this article; and the person filling or dispensing such an order, as well as the person issuing it, shall be deemed in violation of this section.

(I) Excepting a mail order prescription dispensed in compliance with this chapter for which the dispenser requires proper identification of the recipient, a prescription for a controlled substance in Schedules II through V may not be filled unless the dispenser knows the recipient or requires the recipient to produce a government-issued photographic identification, and the dispenser notes the identification source and number on the prescription, or in a readily retrievable log including:

(1) prescription number;

(2) date prescription filled;

(3) number and type of identification;

(4) initials of person obtaining and recording information.

(J)(1) Initial opioid prescriptions for acute pain management or postoperative pain management must not exceed a seven‑day supply, except when clinically indicated for cancer pain, chronic pain, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication‑assisted treatment for substance use disorder. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new opioid prescription.

(2) This subsection does not apply to opioid prescriptions issued by a practitioner who orders an opioid prescription to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility.

(3) A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection is immune from any civil liability or disciplinary action from the practitioner’s professional licensing board.

(4) As used in this subsection:

(a) ‘Acute pain’ means pain that a practitioner reasonably expects to last for three months or less, whether resulting from disease, accident, intentional trauma, or other cause. The term does not include ‘chronic pain’ or pain being treated as part of cancer care, chronic care, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication‑assisted treatment for substance use disorder.

(b) ‘Chronic pain’ means pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.

(c) ‘Postoperative pain’ means acute pain experienced immediately after a surgical procedure.

(d) ‘Surgical procedure’ means a procedure performed for the purpose of altering the human body by incision or destruction of tissues as part of the practice of medicine such as diagnostic or therapeutic treatment of conditions or disease processes by use of instruments and includes lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light‑based, electromagnetic, or chemical means.

(K)(1) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

(a) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

(b) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice care program, home infusion pharmacy, outpatient dialysis facility, or residential care facility;

(c) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient’s medical record;

(d) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient’s medical record;

(e) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40;

(f) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care or for a patient who is receiving services from a facility established pursuant to Section 44‑11‑10; or

(g) a practitioner who issues an oral authorization in the case of an emergency situation.

(2) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

(3) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (1) or (2) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

(4) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.

(L)(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper‑resistant prescription pads which contain one or more industry‑recognized features designed to prevent all of the following:

(a) unauthorized copying of a completed or blank prescription form;

(b) erasure or modification of information written on the prescription by the prescriber; and

(c) use of counterfeit prescription forms.

(2) Prescription orders transmitted by facsimile, orally, or electronically are exempt from the tamper‑resistant prescription pad requirements of this section.

(3) The tamper‑resistant prescription pad requirements do not apply to refill prescriptions of an original written prescription that was presented to a pharmacy before the effective date of this act.

(4) The exceptions set forth in Section 1927(k)(3) of the Social Security Act, 42 U.S.C. Section 1396r‑8(k)(3), concerning nursing facilities, hospitals, and other institutional and clinical settings, are exempt from the tamper‑resistant prescription pad requirements of this section.

(5) If a written prescription is not submitted on a tamper‑resistant prescription form meeting the requirements of this section, a pharmacy may fill the prescription in full as written on an emergency basis as long as the pharmacy receives a verbal, facsimile, electronic, or compliant written prescription from the prescriber within seventy‑two hours after the date on which the prescription was filled.

Section 40‑43‑390. (A) A prescriber shall:

(1) offer a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient if one or more of the following conditions are present:

(a) the prescription dosage for the patient is fifty or more morphine milligram equivalents of an opioid medication per day;

(b) an opioid medication is prescribed concurrently with a prescription for benzodiazepine; or

(c) the patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant;

(2) consistent with the existing standard of care, provide education to patients receiving a prescription pursuant to item (1) on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression; and

(3) consistent with the existing standard of care, provide education on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to one or more persons designated by the patient or, for a patient who is a minor, to the patient’s parent or guardian.

(B) A prescriber who fails to offer a prescription, as required by subsection (A)(1), or fails to provide the education and use information required by subsections (A)(2) and (3) may be subject to discipline by the appropriate licensing board. This section does not create a private right of action against a prescriber and does not limit a prescriber’s liability for negligent failure to diagnose or treat a patient.

Section 40‑43‑400. (A) A controlled substance manufacturer, distributer, or reverse distributer; a narcotic treatment program; a hospital or clinic with an onsite pharmacy; or a retail pharmacy operating in the State may apply to be registered as a collector by the federal Drug Enforcement Administration, pursuant to 21 C.F.R. 1317.40, to receive Schedule II, III, IV, and V controlled substances from an ultimate user, or a person entitled to dispose of an ultimate user decedent’s property, as part of law enforcement take‑back events or collector mail‑back programs. A collector must comply with any state and federal requirements to ensure the safe disposal of controlled substances and to prevent diversion of collected controlled substances, including as provided in 21 C.F.R. Part 1317.

(B) The Board of Pharmacy shall develop guidance for pharmacies and other entities qualified to register as a collector to encourage participation. The board shall coordinate with law enforcement, health care providers, and the U.S. Drug Enforcement Administration to encourage registration as a collector and to promote public awareness of controlled substance take‑back events and mail‑back programs.

Section 40‑43‑410. (A) Except as provided in subsection (C), before issuing, for a minor, the first prescription in a single course of treatment for an opioid analgesic, regardless of whether the dosage is modified during that course of treatment, a prescriber shall:

(1) as part of the prescriber’s examination of the minor, assess whether the minor has ever suffered from or is currently suffering from a mental health or substance abuse disorder and whether the minor has taken or is currently taking prescription drugs for treatment of a mental health or substance abuse disorder;

(2) discuss with the minor and the minor’s parent, guardian, or another adult authorized to consent to the minor’s medical treatment all of the following:

(a) the risks of addiction and overdose associated with opioid analgesics;

(b) the increased risk of addiction to controlled substances of individuals suffering from both mental health and substance abuse disorders;

(c) the dangers of taking opioid analgesics with benzodiazepines, alcohol, or other central nervous system depressants;

(d) any other information in the patient counseling information section of the labeling for the opioid analgesic required pursuant to 21 C.F.R. 201.57(c)(18); and

(3) obtain written consent for the prescription from the minor’s parent, guardian, or, subject to subsection (E), another adult authorized to consent to the minor’s medical treatment.

(B) The prescriber shall record the consent required pursuant to subsection (A)(3) on a ‘Start Talking!’ consent form developed by the State Board of Medical Examiners. The form must be separate from any other document the prescriber uses to obtain informed consent for other treatment provided to the minor and must contain:

(1) the name and quantity of the opioid analgesic being prescribed and the amount of the initial dose;

(2) a statement indicating that a controlled substance is a drug or other substance that the United States Drug Enforcement Administration has identified as having a potential for abuse;

(3) a statement certifying that the prescriber discussed with the minor and the minor’s parent, guardian, or another adult authorized to consent to the minor’s medical treatment the matters described in subsection (A)(2);

(4) the number of refills, if any, authorized by the prescription; and

(5) the signature of the minor’s parent, guardian, or another adult authorized to consent to the minor’s medical treatment and the date of signing.

(C)(1) The requirements set forth in subsection (A) do not apply if the minor’s treatment with an opioid analgesic:

(a) is associated with or incident to a medical emergency;

(b) is associated with or incident to surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis;

(c) is associated with pain management treatment for palliative care, cancer care, or hematological disorders including, but not limited to, sickle cell disease;

(d) is associated with the treatment of neonatal abstinence syndrome;

(e) in the prescriber’s professional judgment, fulfilling the requirements of subsection (A) would be a detriment to the minor’s health or safety;

(f) except as provided in subsection (D), the treatment is rendered in a hospital, emergency facility, ambulatory surgical facility, nursing home, pediatric respite care program, residential care facility, freestanding rehabilitation facility, or similar institutional facility;

(g) is ordered by a practitioner issuing a prescription for a Schedule II controlled substance to treat a hospice‑certified patient;

(h) is ordered by a practitioner issuing a prescription for a Schedule II controlled substance that does not exceed a five‑day supply for a patient; or

(i) is ordered by a practitioner prescribing a Schedule II controlled substance for a patient with whom the practitioner has an established relationship for the treatment of a chronic condition; however, the practitioner must review the patient’s controlled substance history maintained in the prescription drug monitoring program at least every three months.

(2) The requirements of subsection (A) do not apply to a prescription for an opioid analgesic that a prescriber issues to a minor at the time of discharge from a facility or other location described in item (1)(f).

(D) The exemption provided pursuant to subsection (C)(1)(f) does not apply to treatment rendered in a prescriber’s office that is located on the premises of or adjacent to a facility or other location described in that subsection.

(E) If the individual who signs the consent form required pursuant to subsection (A)(3) is another adult authorized to consent to the minor’s medical treatment, the prescriber shall prescribe no more than a single, seventy‑two hour supply and indicate on the prescription the quantity that is to be dispensed pursuant to the prescription.

(F) A signed ‘Start Talking!’ consent form obtained pursuant to this section must be maintained in the minor’s medical record.

(G)(1) As used in this section:

(a) ‘Another adult authorized to consent to the minor’s medical treatment’ means an adult to whom a minor’s parent or guardian has given written authorization to consent to the minor’s medical treatment.

(b) ‘Medical emergency’ means a situation that in a prescriber’s good faith medical judgment creates an immediate threat of serious risk to the life or physical health of a minor.

(c) ‘Minor’ means an individual under eighteen years of age who is not emancipated.

(2) For purposes of this section, an individual under eighteen years of age is emancipated only if the individual has married, has entered the Armed Forces of the United States, has become employed and self‑sustaining, or otherwise has become independent from the care and control of the individual’s parent, guardian, or custodian.

Section 40‑43‑420. (A) It is unlawful for a person to take or exercise control over a controlled substance, the immediate precursor of a controlled substance, or ephedrine, pseudoephedrine, or phenylpropanolamine belonging to another person or entity with the intent to deprive the person or entity of the controlled substance, the immediate precursor, or ephedrine, pseudoephedrine, or phenylpropanolamine.

(B) A person who knowingly and intentionally violates subsection (A):

(1) for a first offense, is guilty of a felony and, upon conviction, must be imprisoned for not more than five years or fined not more than five thousand dollars, or both; and

(2) for a second or subsequent violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years or fined not more than ten thousand dollars, or both.”

B. Sections 40‑43‑10 to 40‑43‑200 are designated as Article 1, General Provisions.

SECTION 2.A. Section 44‑53‑1630(4) of the 1976 Code is amended to read:

“(4) ~~‘Drug control’ means the Department of Health and Environmental Control, Bureau of Drug Control~~ ‘Board of Pharmacy’ means the South Carolina Board of Pharmacy as established pursuant to Chapter 43, Title 40.”

B. Section 44‑53‑1640 of the 1976 Code, as last amended by Act 65 of 2019, is further amended to read:

“Section 44‑53‑1640. (A) The ~~Department of Health and Environmental Control, Bureau of Drug Control~~ Board of Pharmacy shall establish and maintain a program to monitor the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense these substances in this State and the administering of opioid antidotes pursuant to Sections 44‑130‑60 and 44‑130‑80.

(B)(1) A dispenser shall submit to ~~drug control~~ the Board of Pharmacy, by electronic means, information regarding each prescription dispensed for a controlled substance. The following information must be submitted for each prescription:

(a) dispenser DEA registration number;

(b) date drug was dispensed;

(c) prescription number;

(d) whether prescription is new or a refill;

(e) NDC code for drug dispensed;

(f) quantity dispensed;

(g) approximate number of days supplied;

(h) patient name;

(i) patient address;

(j) patient date of birth;

(k) prescriber DEA registration number;

(l) date prescription issued by prescriber.

(2) A dispenser shall submit daily to the ~~department~~ board the information required pursuant to subsection (B)(1) in accordance with transmission methods and protocols provided in the latest edition of the ‘ASAP Telecommunications Format for Controlled Substances’, developed by the American Society for Automation in Pharmacy.

(3) ~~Drug control~~ The Board of Pharmacy may issue a waiver to a dispenser who is unable to submit prescription information by electronic means. The waiver may permit the dispenser to submit prescription information by paper form or other means if all information required pursuant to subsection (B)(1) is submitted in this alternative format.”

SECTION 3. Section 44‑130‑60(D)(2) and (3) of the 1976 Code, as last amended by Act 65 of 2019, is further amended to read:

“(2) A first responder shall submit the information required pursuant to item (1) electronically or by facsimile to the Bureau of Emergency Services within thirty days of administration. The Bureau of Emergency Medical Services shall transmit the information to the ~~department’s Bureau of Drug Control~~ Board of Pharmacy.

(3)(a) If a first responder submits the name, address, and date of birth of a person to whom an opioid antidote was administered, ~~Drug Control~~ the Board of Pharmacy shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person. If no history exists, then ~~Drug Control~~ the Board of Pharmacy shall confirm that the antidote was administered in response to a verified opioid overdose. If the antidote was administered in error, then ~~Drug Control~~ the Board of Pharmacy shall document the error.

(b) ~~Drug Control~~ The Board of Pharmacy also shall maintain data on the administering of opioid antidotes by first responders including, but not limited to, the frequency with which first responders administer opioid antidotes by geographic location, first responder, and dispenser.”

SECTION 4. Sections 44‑53‑280, 44‑53‑290, 44‑53‑300, 44‑53‑310, 44‑53‑320, 44‑53‑330, 44‑53‑340, 44‑53‑350, 44‑53‑360, 44‑53‑361, 44‑53‑362, 44‑53‑363, and 44‑53‑365 of the 1976 Code are repealed.

SECTION 5.(A) The employees, authorized appropriations, and assets and liabilities of the Department of Health and Environmental Control designated for the Bureau of Drug Control and other programs relating to controlled substance regulation and implementation of all such duties under the laws of this State, including Sections 44‑53‑290 to 44‑53‑365, are transferred to the Department of Labor, Licensing and Regulation for purposes of implementing the provisions of this act. Classified or unclassified personnel employed by the Department of Health and Environmental Control to perform duties related to the provisions repealed by SECTION 4 on the effective date of this act, either by contract or by employment at will, shall become employees of the Department of Labor, Licensing and Regulation with the same employment status, compensation, classification, and grade level as applicable.

(B) Applicable regulations promulgated by the Department of Health and Environmental Control are continued and are considered to be promulgated by the Department of Labor, Licensing and Regulation.

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 8. This act takes effect upon approval by the Governor.

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