# HB1528

LRB09708734RLC48863b

## 97TH GENERAL ASSEMBLY

## State of Illinois

## 2011 and 2012

### HB1528

Introduced 2/15/2011, by Rep. Lou Lang

## SYNOPSIS AS INTRODUCED:

720 ILCS 570/303.05
720 ILCS 570/311.5 new
720 ILCS 570/312 from Ch. 56 1/2, par. 1312

Amends the Illinois Controlled Substances Act. Makes various changes relating to mid-level practitioner registration. Provides that a prescriber who is otherwise authorized to prescribe controlled substances in Illinois may issue an electronic prescription for Schedule II, III, IV, and V controlled substances if done in accordance with federal rules for electronic prescriptions for controlled substances. Provides that physicians may issue multiple prescriptions (3 sequential 30-day supplies) for the same Schedule II controlled substances authorizing up to a 90-day supply. Makes other changes.

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A BILL FOR

AN ACT concerning controlled substances.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 5. The Illinois Controlled Substances Act is amended by changing Sections 303.05 and 312 and by adding Section 311.5 as follows:

(720 ILCS 570/303.05)

Sec. 303.05. Mid-level practitioner registration.

(a) The Department of Financial and Professional Regulation shall register licensed physician assistants and licensed advanced practice nurses to prescribe and dispense controlled substances under Section 303 and euthanasia agencies to purchase, store, or administer animal euthanasia drugs under the following circumstances:

(1) with respect to physician assistants,

(A) the physician assistant has been delegated <u>written</u> authority to prescribe any Schedule III through V controlled substances by a physician licensed to practice medicine in all its branches in accordance with Section 7.5 of the Physician Assistant Practice Act of 1987; and the physician assistant has completed the appropriate application forms and has paid the required fees as set by rule; or

(B) the physician assistant has been delegated authority by a supervising physician licensed to practice medicine in all its branches to prescribe or dispense Schedule II controlled substances through a written delegation of authority and under the following conditions:

(i) no more than 5 Schedule II controlled substances by oral dosage may be delegated;

(ii) any delegation must be of controlled substances prescribed by the supervising physician;

(iii) all prescriptions must be limited to no more than a 30-day oral dosage, with any continuation authorized only after prior approval of the supervising physician;

(iv) the physician assistant must discuss the condition of any patients for whom a controlled substance is prescribed monthly with the delegating physician; and

(v) the physician assistant must have completed the appropriate application forms and paid the required fees as set by rule;

(2) with respect to advanced practice nurses,

(A) the advanced practice nurse has been delegated authority to prescribe any Schedule III through V controlled substances by a physician licensed to

practice medicine in all its branches or a podiatrist in accordance with Sections 65-35 and ~~Section~~ 65-40 of the Nurse Practice Act. The advanced practice nurse has completed the appropriate application forms and has paid the required fees as set by rule; or

(B) the advanced practice nurse has been delegated authority by a collaborating physician licensed to practice medicine in all its branches to prescribe or dispense Schedule II controlled substances through a written delegation of authority and under the following conditions:

(i) no more than 5 Schedule II controlled substances by oral dosage may be delegated;

(ii) any delegation must be of controlled substances prescribed by the collaborating physician;

(iii) all prescriptions must be limited to no more than a 30-day oral dosage, with any continuation authorized only after prior approval of the collaborating physician;

(iv) the advanced practice nurse must discuss the condition of any patients for whom a controlled substance is prescribed monthly with the delegating physician or in the course of review as required by the Nurse Practice Act; and

(v) the advanced practice nurse must have

completed the appropriate application forms and paid the required fees as set by rule; or

(3) with respect to animal euthanasia agencies, the euthanasia agency has obtained a license from the Department of Financial and Professional Regulation and obtained a registration number from the Department.

(b) The mid-level practitioner shall only be licensed to prescribe those schedules of controlled substances for which a licensed physician or licensed podiatrist has delegated prescriptive authority, except that an animal euthanasia agency does not have any prescriptive authority. A physician assistant and an advanced practice nurse are prohibited from prescribing medications and controlled substances not set forth in the required written delegation of authority.

(c) Upon completion of all registration requirements, physician assistants, advanced practice nurses, and animal euthanasia agencies may ~~shall~~ be issued a mid-level practitioner controlled substances license for Illinois.

(Source: P.A. 95-639, eff. 10-5-07; 96-189, eff. 8-10-09; 96-268, eff. 8-11-09; 96-1000, eff. 7-2-10.)

(720 ILCS 570/311.5 new)

Sec. 311.5. Electronic prescriptions for controlled substances. Notwithstanding any other Section in this Act, a prescriber who is otherwise authorized to prescribe controlled substances in Illinois may issue an electronic prescription for

Schedule II, III, IV, and V controlled substances if done in accordance with the federal rules for electronic prescriptions for controlled substances, as set forth in 21 C.F.R. Parts 1300, 1304, 1306, and 1311.

(720 ILCS 570/312) (from Ch. 56 1/2, par. 1312)

Sec. 312. Requirements for dispensing controlled substances.

(a) A practitioner, in good faith, may dispense a Schedule II controlled substance, which is a narcotic drug listed in Section 206 of this Act; or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers; phenmetrazine and its salts; or pentazocine; and Schedule III, IV, or V controlled substances to any person upon a written or electronic prescription of any prescriber, dated and signed by the person prescribing (or electronically validated in compliance with Section 311.5) on the day when issued and bearing the name and address of the patient for whom, or the owner of the animal for which the controlled substance is dispensed, and the full name, address and registry number under the laws of the United States relating to controlled substances of the prescriber, if he or she is required by those laws to be registered. If the prescription is for an animal it shall state the species of animal for which it is ordered. The practitioner filling the prescription shall, unless otherwise permitted, write the date

of filling and his or her own signature on the face of the written prescription or, alternatively, shall indicate such filling using a unique identifier as defined in paragraph (v) of Section 3 of the Pharmacy Practice Act. The written prescription shall be retained on file by the practitioner who filled it or pharmacy in which the prescription was filled for a period of 2 years, so as to be readily accessible for inspection or removal by any officer or employee engaged in the enforcement of this Act. Whenever the practitioner's or pharmacy's copy of any prescription is removed by an officer or employee engaged in the enforcement of this Act, for the purpose of investigation or as evidence, such officer or employee shall give to the practitioner or pharmacy a receipt in lieu thereof. If the specific prescription is machine or computer generated and printed at the prescriber's office, the date does not need to be handwritten. A prescription for a Schedule II controlled substance shall not be issued for ~~filled~~ more than a 30 day supply, except as provided in subsection (a-5), and shall be valid for up to 90 days after the date of issuance. A written prescription for Schedule III, IV or V controlled substances shall not be filled or refilled more than 6 months after the date thereof or refilled more than 5 times unless renewed, in writing, by the prescriber.

(a-5) Physicians may issue multiple prescriptions (3 sequential 30-day supplies) for the same Schedule II controlled substance, authorizing up to a 90-day supply. Before

authorizing a 90-day supply of a Schedule II controlled substance, the physician must meet both of the following conditions:

(1) Each separate prescription must be issued for a legitimate medical purpose by an individual physician acting in the usual course of professional practice.

(2) The individual physician must provide written instructions on each prescription (other than the first prescription, if the prescribing physician intends for the prescription to be filled immediately) indicating the earliest date on which a pharmacy may fill that prescription.

(b) In lieu of a written prescription required by this Section, a pharmacist, in good faith, may dispense Schedule III, IV, or V substances to any person either upon receiving a facsimile of a written, signed prescription transmitted by the prescriber or the prescriber's agent or upon a lawful oral prescription of a prescriber which oral prescription shall be reduced promptly to writing by the pharmacist and such written memorandum thereof shall be dated on the day when such oral prescription is received by the pharmacist and shall bear the full name and address of the ultimate user for whom, or of the owner of the animal for which the controlled substance is dispensed, and the full name, address, and registry number under the law of the United States relating to controlled substances of the prescriber prescribing if he or she is

required by those laws to be so registered, and the pharmacist filling such oral prescription shall write the date of filling and his or her own signature on the face of such written memorandum thereof. The facsimile copy of the prescription or written memorandum of the oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of not less than two years, so as to be readily accessible for inspection by any officer or employee engaged in the enforcement of this Act in the same manner as a written prescription. The facsimile copy of the prescription or oral prescription and the written memorandum thereof shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed, in writing, by the prescriber.

(c) Except for any non-prescription targeted methamphetamine precursor regulated by the Methamphetamine Precursor Control Act, a controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose and not for the purpose of evading this Act, and then:

(1) only personally by a person registered to dispense a Schedule V controlled substance and then only to his or her patients, or

(2) only personally by a pharmacist, and then only to a person over 21 years of age who has identified himself or herself to the pharmacist by means of 2 positive documents

of identification.

(3) the dispenser shall record the name and address of the purchaser, the name and quantity of the product, the date and time of the sale, and the dispenser's signature.

(4) no person shall purchase or be dispensed more than 120 milliliters or more than 120 grams of any Schedule V substance which contains codeine, dihydrocodeine, or any salts thereof, or ethylmorphine, or any salts thereof, in any 96 hour period. The purchaser shall sign a form, approved by the Department of Financial and Professional Regulation, attesting that he or she has not purchased any Schedule V controlled substances within the immediately preceding 96 hours.

(5) (Blank). ~~a copy of the records of sale, including all information required by paragraph (3), shall be forwarded to the Department of Professional Regulation at its principal office by the 15th day of the following month.~~

(6) all records of purchases and sales shall be maintained for not less than 2 years.

(7) no person shall obtain or attempt to obtain within any consecutive 96 hour period any Schedule V substances of more than 120 milliliters or more than 120 grams containing codeine, dihydrocodeine or any of its salts, or ethylmorphine or any of its salts. Any person obtaining any such preparations or combination of preparations in excess

of this limitation shall be in unlawful possession of such controlled substance.

(8) a person qualified to dispense controlled substances under this Act and registered thereunder shall at no time maintain or keep in stock a quantity of Schedule V controlled substances ~~defined and listed in Section 212 (b) (1), (2) or (3)~~ in excess of 4.5 liters for each substance; a pharmacy shall at no time maintain or keep in stock a quantity of Schedule V controlled substances as defined in excess of 4.5 liters for each substance, plus the additional quantity of controlled substances necessary to fill the largest number of prescription orders filled by that pharmacy for such controlled substances in any one week in the previous year. These limitations shall not apply to Schedule V controlled substances which Federal law prohibits from being dispensed without a prescription.

(9) no person shall distribute or dispense butyl nitrite for inhalation or other introduction into the human body for euphoric or physical effect.

(d) Every practitioner shall keep a record or log of controlled substances received by him or her and a record of all such controlled substances administered, dispensed or professionally used by him or her otherwise than by prescription. It shall, however, be sufficient compliance with this paragraph if any practitioner utilizing controlled substances listed in Schedules III, IV and V shall keep a

record of all those substances dispensed and distributed by him or her other than those controlled substances which are administered by the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject. A practitioner who dispenses, other than by administering, a controlled substance in Schedule II, which is a narcotic drug listed in Section 206 of this Act, or which contains any quantity of amphetamine or methamphetamine, their salts, optical isomers or salts of optical isomers, pentazocine, or methaqualone shall do so only upon the issuance of a written prescription blank or electronic prescription issued by a prescriber.

(e) Whenever a manufacturer distributes a controlled substance in a package prepared by him or her, and whenever a wholesale distributor distributes a controlled substance in a package prepared by him or her or the manufacturer, he or she shall securely affix to each package in which that substance is contained a label showing in legible English the name and address of the manufacturer, the distributor and the quantity, kind and form of controlled substance contained therein. No person except a pharmacist and only for the purposes of filling a prescription under this Act, shall alter, deface or remove any label so affixed.

(f) Whenever a practitioner dispenses any controlled substance except a non-prescription Schedule V product or a

non-prescription targeted methamphetamine precursor regulated by the Methamphetamine Precursor Control Act, he or she shall affix to the container in which such substance is sold or dispensed, a label indicating the date of initial filling, the practitioner's name and address, the name of the patient, the name of the prescriber, the directions for use and cautionary statements, if any, contained in any prescription or required by law, the proprietary name or names or the established name of the controlled substance, and the dosage and quantity, except as otherwise authorized by regulation by the Department of Financial and Professional Regulation. No person shall alter, deface or remove any label so affixed as long as the specific medication remains in the container.

(g) A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner, or other persons authorized under this Act, and the owner of any animal for which such substance has been prescribed or dispensed by a veterinarian, may lawfully possess such substance only in the container in which it was delivered to him or her by the person dispensing such substance.

(h) The responsibility for the proper prescribing or dispensing of controlled substances that are under the prescriber's direct control is upon the prescriber. The ~~and the~~ responsibility for the proper filling of a prescription for controlled substance drugs rests with the pharmacist. An order purporting to be a prescription issued to any individual, which

is not in the regular course of professional treatment nor part of an authorized methadone maintenance program, nor in legitimate and authorized research instituted by any accredited hospital, educational institution, charitable foundation, or federal, state or local governmental agency, and which is intended to provide that individual with controlled substances sufficient to maintain that individual's or any other individual's physical or psychological addiction, habitual or customary use, dependence, or diversion of that controlled substance is not a prescription within the meaning and intent of this Act; and the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

(i) A prescriber shall not preprint or cause to be preprinted a prescription for any controlled substance; nor shall any practitioner issue, fill or cause to be issued or filled, a preprinted prescription for any controlled substance.

(i-5) A prescriber may use a machine or electronic device to individually generate a printed prescription, but the prescriber is still required to affix his or her manual signature.

(j) No person shall manufacture, dispense, deliver, possess with intent to deliver, prescribe, or administer or cause to be administered under his or her direction any anabolic steroid, for any use in humans other than the

treatment of disease in accordance with the order of a physician licensed to practice medicine in all its branches for a valid medical purpose in the course of professional practice. The use of anabolic steroids for the purpose of hormonal manipulation that is intended to increase muscle mass, strength or weight without a medical necessity to do so, or for the intended purpose of improving physical appearance or performance in any form of exercise, sport, or game, is not a valid medical purpose or in the course of professional practice.

(Source: P.A. 96-166, eff. 1-1-10.)