

SB 273 A GUIDE FOR WV DENTISTS

OPIOID REDUCTION ACT

This Board publication is only issued in order to provide some guidance for Dentists concerning the Opioid Reduction Act (SB 273) which passed legislature on March 9, 2018. This law is effective Thursday, June 7, 2018.

A licensed dentist is identified as a Health care practitioner or practitioner by definition in SB 273 and is subject to the requirements of this bill.

§16-54-2 - Advanced Directive Info

(a) The office (Office of Drug Control Policy) shall establish a voluntary nonopioid advanced directive form. The form shall be available on the office's web site. The form shall indicate to a health care practitioner that an individual may not be administered or offered a prescription or medication order for an opioid. The advance directive shall be filed in the individual's medical record in either a health care facility or a private office of a practitioner, or both, and shall be transferred with the person from one practitioner to another or from one health care facility to another.

(b) An individual may revoke the voluntary nonopioid advanced directive form for any reason and may do so by written or oral means.

(c) A practitioner without actual knowledge of an advance directive as set forth in §16-54-2(a) of this code and who prescribes an opioid in a medical emergency situation is not civilly or criminally liable for failing to act in accordance with the directives unless the act or omission was the result of a practitioner's gross negligence or willful misconduct. For purposes of this section, a "medical emergency situation" shall mean an acute injury or illness that poses an immediate risk to a person's life or long-term health.

§16-54-3. Opioid prescription notifications.

Prior to issuing a prescription for an opioid, a practitioner shall:

- (1) Advise the patient regarding the quantity of the opioid and a patient's option to fill the prescription in a lesser quantity; and
- (2) Inform the patient of the risks associated with the opioid prescribed.

§16-54-4. Opioid prescription limitations.

(a) When issuing a prescription for an opioid to an adult patient seeking treatment in an emergency room for outpatient use, a health care practitioner may not issue a prescription for more than a four-day supply.

(b) When issuing a prescription for an opioid to an adult patient seeking treatment in an urgent care facility setting for outpatient use, a health care practitioner may not issue a prescription for more than a four-day supply: Provided, That an additional dosing for up to no more than a seven-day supply may be permitted, but only if the medical rationale for more than a four-day supply is documented in the medical record.

(c) A health care practitioner may not issue an opioid prescription to a minor for more than a three-day supply and shall discuss with the parent or guardian of the minor the risks associated with opioid use and the reasons why the prescription is necessary.

(d) A **dentist** or an optometrist may not issue an opioid prescription for more than a three-day supply at any time....

...(f) **Prior to issuing an initial opioid prescription**, a practitioner shall:

(1) Take and document the results of a thorough medical history, including the patient's experience with nonopioid medication, nonpharmacological pain management approaches, and substance abuse history;

(2) Conduct, *as appropriate*, and document the results of a physical examination;

(3) Develop a treatment plan, with particular attention focused on determining the cause of the patient's pain; and

(4) Access relevant prescription monitoring information under the Controlled Substances Monitoring Program Database.

(g) Notwithstanding any provision of this code or legislative rule to the contrary, no medication listed as a Schedule II controlled substance as set forth in §60A-2-206 of this code, may be prescribed by a practitioner for greater than a 30-day supply: Provided, That two additional prescriptions, each for a 30-day period for a total of a 90-day supply, may be prescribed if the practitioner accesses the West Virginia Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code: Provided, however, That the limitations in this section do not apply to cancer patients, patients receiving hospice care from a licensed hospice provider, patients receiving palliative care, a patient who is a resident of a long-term care facility, or a patient receiving medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(h) A practitioner is required to conduct and document the results of a physical examination every 90 days for any patient for whom he or she continues to treat with any Schedule II controlled substance as set forth in §60-2-206 of this code....

...(j) A prescription for any opioid drug listed on Schedule II as set forth in §60A-2-206 of this code for greater than a seven-day period shall require the patient to execute a narcotics contract with their prescribing practitioner. The contract shall be made a part of the patient's medical record. The narcotics contract is required to provide that:

(1) The patient agrees only to obtain scheduled medications from this particular prescribing practitioner;

(2) The patient agrees he or she will only fill those prescriptions at a single pharmacy which includes a pharmacy with more than one location;

(3) The patient agrees to notify the prescribing practitioner within 72 hours of any emergency where he or she is prescribed scheduled medication; and

(4) If the patient fails to honor the provisions of the narcotics contract, the prescribing practitioner may either terminate the provider-patient relationship or continue to treat the patient without prescribing a Schedule II opioid for the patient. Should the practitioner decide to terminate the relationship, he or she is required to do so pursuant to the provisions of this code and any rules promulgated hereunder. Termination of the relationship for the patient's failure to honor the provisions of the contract is not subject to any disciplinary action by the practitioner's licensing board.

§16-54-5. Subsequent prescriptions; limitations.

(a) No fewer than six days after issuing the initial prescription as set forth in §16-54-4 of this code, the practitioner, after consultation with the patient, may issue a subsequent prescription for an opioid to the patient if:

(1) The subsequent prescription would not be deemed an initial prescription pursuant to §16-54-4 of this code;

(2) The practitioner determines the prescription is necessary and appropriate to the patient's treatment needs and documents the rationale for the issuance of the subsequent prescription; and

(3) The practitioner determines that issuance of the subsequent prescription does not present an undue risk of abuse, addiction, or diversion and documents that determination.

(b) Prior to issuing the subsequent prescription of the course of treatment, a practitioner shall discuss with the patient, or the patient's parent or guardian if the patient is under 18 years of age, the risks associated with the drug being prescribed. This discussion shall include:

(1) The risks of addiction and overdose associated with opioid drugs and the dangers of taking opioid drugs with alcohol, benzodiazepines, and other central nervous system depressants;

(2) The reasons why the prescription is necessary;

(3) Alternative treatments that may be available; and

(4) Risks associated with the use of the drugs being prescribed, specifically that opioids are highly addictive, even when taken as prescribed, that there is a risk of developing a physical or psychological dependence on the controlled substance, and that the risks of taking more opioids than prescribed, or mixing sedatives, benzodiazepines, or alcohol with opioids, can result in fatal respiratory depression.

(c) The discussion as set forth in §16-54-5(b) of this code shall be included in a notation in the patient's medical record.

§16-54-6. Ongoing treatment; referral to pain clinic or pain specialist.

(a) At the time of the issuance of the third prescription for a prescription opioid the practitioner shall consider referring the patient to a pain clinic or a pain specialist. The practitioner shall discuss the benefits of seeking treatment through a pain clinic or a pain specialist and provide him or her with an understanding of any risks associated by choosing not to pursue that as an option.

(b) If the patient declines to seek treatment from a pain clinic or a pain specialist and opts to remain a patient of the practitioner, and the practitioner continues to prescribe an opioid for pain as provided in this code, the practitioner shall:

(1) Note in the patient's medical records that the patient knowingly declined treatment from a pain clinic or pain specialist;

(2) Review, at a minimum of every three months, the course of treatment, any new information about the etiology of the pain, and the patient's progress toward treatment objectives and document the results of that review;

(3) Assess the patient prior to every renewal to determine whether the patient is experiencing problems associated with physical and psychological dependence and document the results of that assessment; and

(4) Periodically make reasonable efforts, unless clinically contraindicated, to either stop the use of the controlled substance, decrease the dosage, try other drugs or treatment modalities in an effort to

reduce the potential for abuse or the development of physical or psychological dependence, and document with specificity the efforts undertaken.

§16-5-7 Exceptions

(a) This article does not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice provider or palliative care provider, or is a resident of a long-term care facility, or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(b) A practitioner may prescribe an initial seven-day supply of an opioid to a post-surgery patient immediately following a surgical procedure. Based upon the medical judgment of the practitioner, a subsequent prescription may be prescribed by the practitioner pursuant to the provisions of this code. Nothing in this section authorizes a practitioner to prescribe any medication which he or she is not permitted to prescribe pursuant to their practice act.

(c) A practitioner who acquires a patient after January 1, 2018, who is currently being prescribed an opioid from another practitioner shall be required to access the Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code. Any prescription would not be deemed an initial prescription pursuant to the provisions of this section. The practitioner shall otherwise treat the patient as set forth in this code.

(d) This article does not apply to an existing practitioner-patient relationship established before January 1, 2018, where there is an established and current opioid treatment plan which is reflected in the patient's medical records.

§16-54-8. Treatment of pain.

(a) When patients seek treatment for any of the myriad conditions that cause pain, a health care practitioner shall refer or prescribe to a patient any of the following treatment alternatives, based on the practitioner's clinical judgment and the availability of the treatment, before starting a patient on an opioid: physical therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code.

(b) Nothing in this section should be construed to require that all of the treatment alternatives set forth in §16-54-8(a) of this code are required to be exhausted prior to the patient receiving a prescription for an opioid.

(c) At a minimum, an insurance provider who offers an insurance product in this state, the Bureau for Medical Services, and the Public Employees Insurance Agency shall provide coverage for 20 visits per event of physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, when ordered by a health care practitioner to treat conditions that cause chronic pain.

(d) A patient may seek treatment for physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, prior to seeking treatment from a practitioner and a practitioner referral is not required as a condition of coverage by the Bureau for Medical Services, the Public Employees Insurance Agency, and any insurance provider who offers an insurance product in this state. Any deductible, coinsurance, or co-pay required for any of these services may not be greater than the deductible, coinsurance, or co-pay required for a primary care visit....

...§16-54-9. Discipline.

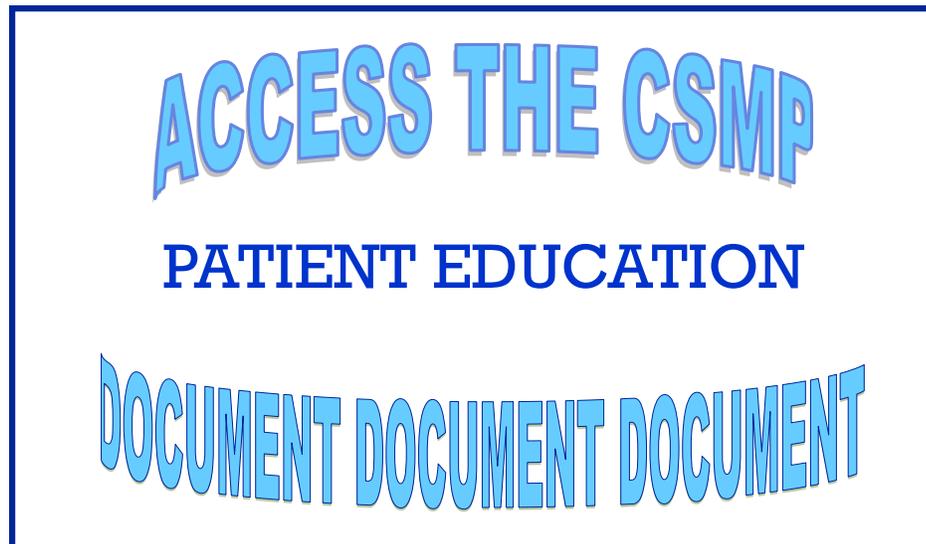
A violation of this article is grounds for disciplinary action by the board that regulates the health care practitioner who commits the violation.

LEGISLATIVE PURPOSE

The purpose of this bill is to reduce the number of opioids. It requires reports to licensing boards regarding abnormal prescribing practices; requires the Board of Pharmacy to report quarterly to various licensing boards; and permits the investigation and discipline for abnormal prescribing and dispensing of prescription drugs. The bill adds substances to Schedule I, II and IV of the Uniform Controlled Substances Act. And the bill allows licensing boards who regulate prescribers to investigate abnormal prescribing and dispensing of prescription drugs based upon information. This legislation was requested by Governor Justice.

THIS PUBLICATION DOES NOT INCLUDE THE LANGUAGE OF THE ENTIRE BILL. THE BOARD URGES ITS LICENSEES TO REVIEW THE ENTIRE BILL, WHICH MAY BE OBTAINED AT THE LEGISLATIVE WEBSITE.

http://www.wvlegislature.gov/Bill_Text_HTML/2018_SESSIONS/RS/bills/SB273%20SUB2%20ENR.pdf



LOOK FOR FAQ'S CONCERNING SB273 ON THE BOARD'S WEBSITE

REQUIRED CSMP ACCESS

Dentists who prescribe or dispense Schedule II, III or IV controlled substances in the course of their professional practice are required to register with the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or other electronic access to the program database. Newly licensed dentists are required to register within 30 days of licensure.