

New Arizona Opioid Laws and Rulemaking: Prescription Monitoring

Arizona has recently passed new law, and issued new regulations, governing physician duties and requirements in prescribing opioid analgesics or benzodiazepines. Physicians who prescribe these medications should be aware of this change in the law, and the resulting requirements.

A. R. S. § 36-2606¹ Now Requires Physicians to Consult PMP's

The law mandates that, beginning October 1, 2017, physicians must consult a prescription monitoring program (PMP) prior to prescribing an opioid analgesics or benzodiazepine in schedules II-IV. SB 1283 requires the physician to obtain a patient utilization report for the preceding twelve (12) months from the controlled substances PMP central database tracking system.

The law provides that the prescriber is not required to check a PMP (1) if the patient is receiving hospice care or is being treated for cancer or cancer-related illness, (2) if a medical practitioner will administer the controlled substance, (3) if the patient is receiving the controlled substance during the course of inpatient or residential treatment in a hospital, nursing care facility or mental health facility, or (4) if a licensed dentist is prescribing the controlled substances for no more than five days after oral surgery.

Emergency Rule Expands Opioid Prescription Requirements

On July 28, 2017, the Arizona Department of Health Services implemented an emergency rule governing opioid prescribing and treatment.² Under this rule, a licensed Arizona health care institution³ must establish and implement plans and procedures for prescribing or ordering an opioid or administering an opioid. This rule does not apply to a health care institution's prescription, ordering, or administration of opioids as part of treatment for a patient with a terminal condition.

These policies and procedures must address the personnel who may prescribe or order an opioid or administer an opioid in treating a patient and the required knowledge and qualifications of these personnel. The rule further requires policies and procedures to include provisions on how, when, and by whom (1) a patient's profile on a PMP is reviewed, (2) a substance abuse risk assessment of a patient is conducted, (3) the potential risks, adverse outcomes and complications associated with the use of opioids are explained to a patient or the patient's representative, (4) alternatives to a prescribed opioid are explained to a patient or the patient's representative, (5)

¹ SB 1283 (2016), signed by Arizona Governor Doug Ducey in 2016 amended A. R. S. § 36-2606.

² 9 AZ Adc. Ch.10, Ariz. Admin. Code R9-10-120.

³ A health care institution, or facility, means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. § 36-151 and hospice service agencies.

informed consent is obtained from a patient or the patient's representative, (6) a patient receiving an opioid is monitored, and (7) these required actions are documented.

The rule further requires licensed health care facilities to establish, document, and implement policies and procedures for prescribing or ordering an opioid, or administering an opioid as part of treatment, for a patient being prescribed an opioid, or for whom opioid administration is being ordered, for longer than a 30-calendar-day period to include the frequency of (1) face-to-face interactions with the patient, (2) substance abuse risk assessments of the patient, (3) renewals of a prescription for an opioid without a face-to-face interaction with the patient, and (4) the monitoring of treatment's effectiveness.

Under the rule, health care facility administrators shall also ensure that, before prescribing an opioid or ordering the administration of an opioid as part of the treatment for a patient, an individual authorized by policies and procedures to prescribe or order an opioid in treating a patient: (1) conducts a physical examination of the patient, (2) reviews the patient's profile on the Arizona PMP, (3) conducts a substance abuse risk assessment of a patient, (4) develops a treatment plan for the patient based on a plethora of factors outlined in the rule, (5) explains to the patient the risks and benefits associated with the use of opioids, (6) explains alternatives to a prescribed opioid, and (7) obtains informed consent from the patient or the patient's representative that includes patient identifying information.

Conclusion:

Physicians who prescribe opioids, and health care institutions licensed by Arizona's Department of Health Services, should be aware of this new law, and new rule. Licensed facilities that employ personnel who prescribe opioids, should update their policies and procedures to comply with these new requirements. This summary does not encapsulate the full requirements under these laws, and it is not a substitute for legal advice. If you have any questions regarding these new laws, or would like assistance with updating your policies and procedures to conform to these requirements, please feel free to contact the Milligan Lawless attorney with whom you usually work.