



STATE STATUTORY AND REGULATORY LIMITS: DIRECT DISPENSING OF CONTROLLED SUBSTANCES BY PRACTITIONERS TO ULTIMATE USERS

Research current as of January 2014. Revised on March 28, 2014.

This project was supported by Grant No. G1299ONDCP03A, awarded by the Office of National Drug Control Policy. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the Office of National Drug Control Policy or the United States Government.

© 2014 Research is current as of January 2014. Revised on March 28, 2014. In order to ensure that the information contained herein is as current as possible, research is conducted using nationwide legal database software and individual state legislative websites. Please contact Sarah Kelsey at (703) 836-6100, ext. 116 or skelsey@namsdl.org with any additional updates or information that may be relevant to this document. This document is intended for informational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS, 215 Lincoln Ave., Ste. 201, Santa Fe, NM 87501.

Background

As part of their efforts to combat a growing epidemic of prescription drug abuse, states are exploring a wide range of options that include revision and amendment of statutes and regulations relative to the prescribing and dispensing of controlled substances. This compilation's focus is on direct dispensing at doctor's offices, meaning the dispensing of a drug to an ultimate user by a medical practitioner other than a pharmacist. There are many categories of prescribers and dispensers, but the provisions cited in this document are restricted to those governing dispensing by practitioners in a doctor's office setting – physicians, nurse practitioners and physician assistants.

A prescriber is generally permitted to dispense if such dispensing (1) occurs within the normal course of practice and (2) occurs subsequent to securing any required registration certificates. Currently there are a limited number of specific restrictions or bans on direct dispensing in a doctor's office with most physicians retaining the authority to dispense and mid-level practitioners having the ability to dispense with appropriate supervision. Please note that this compilation does not include specific statutes and regulations relative to the following, unless such dispensing is governed by a more general provision, which may be cited below:

- 1) Dispensing by ophthalmologists, podiatrists, dentists, osteopaths, midwives or veterinarians;
- 2) Dispensing by pharmacists, even though some states define pharmacists as dispensing practitioners;
- 3) Dispensing of non-controlled substances;
- 4) Dispensing in correctional facilities;
- 5) Dispensing at substance abuse treatment clinics;
- 6) Emergency Services dispensing;
- 7) Administration of a substance in a doctor's office, in the hospital, in an out-patient facility or in a long-term-care facility; and
- 8) Specific direct dispensing limits imposed by managed care laws and worker's compensation statutes.

State Statutes & Regulations

Alabama

ALA. CODE § 20-2-63 (2014) – Physician Assistants may only dispense controlled substances in Schedules III, IV and V.

ALA. CODE § 20-2-253 (2014) – Nurse Practitioners may only dispense controlled substances in Schedules III, IV and V.

ALA. CODE § 20-2-260 (2014) – Authorizes the State Board of Medical Examiners (at a future date) to create a Limited Purpose Schedule II Permit that would authorize Physician Assistants and Nurse Practitioners to dispense controlled substances in Schedule II.

ALA. ADMIN. CODE r. 540-X-12-.07 (2014) - Physician Assistants may only dispense controlled substances in Schedules III, IV and V.

ALA. ADMIN. CODE r. 540-X-18-.07 (2014) - Nurse Practitioners may only dispense controlled substances in Schedules III, IV and V.

California

CAL. BUS. & PROF. CODE § 4170 (West 2014) – Prior to dispensing to a patient, a prescriber must offer that patient a written prescription, which the patient can then opt to take to a pharmacy.

CAL. BUS. & PROF. CODE § 4184 (West 2014) – Practitioners at non-profit or free clinics may not dispense Schedule II controlled substances.

CAL. HEALTH & SAFETY § 11158 CODE § 4184 (West 2014) – Direct dispensations of Schedule II controlled substances are limited to a maximum 72-hour supply.

Colorado

COLO. REV. STAT. ANN. § 12-38-111.6 (West 2014) – Advanced Practice Nurses are only permitted to dispense medication samples.

Delaware

DEL. CODE ANN. tit. 16, § 4739A (2014) – Practitioners may not dispense controlled substances beyond what is medically necessary for 72 hours of treatment.

Florida

FLA. STAT. ANN. § 465.0276 (West 2013) – Dispensing practitioners may not dispense controlled substances in Schedules II or III; multiple exceptions apply, including medication samples and post-surgical supplies for no more than a 14-day maximum supply.

Indiana

IND. CODE ANN. § 25-27.5-5-4 (West 2013) – Physician Assistants may not dispense a Schedule I controlled substance.

Iowa

IOWA. CODE. ANN. § 147.107 (West 2014) – A Physician Assistant may not dispense a controlled substance as an incident to the practice of a supervising physician or of the physician assistant unless (1) pharmacy services are unavailable or (2) the dispensing is in the best interest of the patient in completion of a course of therapy.

Kansas

KAN. STAT. ANN. § 65-1635 (2013) – Registered Nurses may only dispense if the principal office of the licensed supervising practitioner is located in a city that does not have a registered pharmacy within its boundaries.

KAN. STAT. ANN. § 65-28a08 (2013) – Physician Assistants are not permitted to dispense controlled substances but may distribute medication samples.

Kentucky

201 KY. ADMIN. REGS. 9:220 (2014) – Physicians may not dispense more than a 48-hour supply of controlled substances in Schedule II or a hydrocodone combination substance in Schedule III, except as part of a narcotic treatment program.

201 KY. ADMIN. REGS. 25:090 (2014) – Licensees may not dispense more than a 48-hour supply of controlled substances in Schedule II or a hydrocodone combination substance in Schedule III, except as part of a narcotic treatment program.

Louisiana

LA. ADMIN. CODE tit. 46, § 4506 (2014) – A Physician Assistant who has been delegated prescriptive authority shall not dispense medication.

LA. ADMIN. CODE tit. 46, § 6505, (2014) – Physicians may not dispense controlled substances; exceptions to the dispensing prohibition include dispensation of a single 48-hour supply of a controlled substance and a single 7-day supply of a non-narcotic, non-anorectic Schedule V controlled substance for purposes of assessing a therapeutic response.

Maine

02-383-2 ME. CODE R. § 7 (Weil 2014) – Physician Assistants may only dispense controlled substances in Schedules III through V and medication samples.

02-392-14 ME. CODE R. § 2 (Weil 2014) – Dispensers practicing in rural health clinics are not permitted to dispense Schedule II controlled substances.

Maryland

MD. CODE ANN. HEALTH OCC. § 8-508 (West 2014) – Certified Nurse Practitioners can dispense starter doses of controlled substances, with starter dose defined as a 72-hour quantity or less.

MD. CODE REGS. 10.13.01.04 (2014) – Licensees shall dispense to patients only when a pharmacy is not conveniently available to a patient; convenience is determined by the patient.

MD. CODE REGS. 10.27.07.10 (2014) – Certified Nurse Practitioners can dispense starter doses of controlled substances, with starter dose defined as a 72-hour quantity or less.

MD. CODE REGS. 10.32.03.08 (2014) – Physician Assistants can dispense starter doses of controlled substances, with starter dose defined as a 72-hour quantity or less.

Massachusetts

MASS. GEN. LAWS ANN. ch. 94C § 9 (West 2014) – Practitioner dispensing is limited to a single-dose quantity of a controlled substance that is essential to that patient’s treatment; the amount should not exceed a quantity necessary for immediate and proper treatment needed until such time the patient can fill a prescription at a pharmacy.

105 MASS. CODE REGS. 700.010 (2014) – Practitioners can dispense Schedule II through V sample medications in single doses/quantities essential for immediate treatment.

Michigan

MICH. COMP LAWS ANN. § 333.17048, 333.17076 & 333.17548 (West 2014) – Physician Assistants can dispense complimentary starter doses of Schedule II through V drugs.

MICH. COMP LAWS ANN. § 333.17745b (West 2014) – A prescriber who delegates dispensing of a prescription drug at a practice location cannot delegate the dispensing of more than a 72-hour supply of such drug.

Mississippi

MISS. CODE ANN. § 73-15-20 (West 2013) – Nurse Practitioners may not generally dispense controlled substances.

30-17-2615 MISS. CODE R. § 1.5 (Weil 2014) – Physician Assistants may not generally dispense controlled substances.

30-18-2840 MISS. CODE R. § 2.3 (Weil 2014) – Nurse Practitioners and Advanced Practice Registered Nurses may not generally dispense controlled substances.

Missouri

MO. CODE REGS. ANN. tit. 20, § 2150-5.100, 2200-4.200 (2014) – Registered Nurses and Advances Practice Registered Nurses who are part of a collaborative practice arrangement may dispense starter doses limited to a 72-hour quantity or less.

Montana

MONT. CODE ANN. § 37-2-104 (2013) – Direct dispensing is prohibited, with limited exceptions including (1) emergency dispensing (2) dispensing when no community pharmacy is available (3) dispensing of medication samples and (4) occasional dispensing that does not become part of the usual course of business.

MONT. CODE ANN. § 37-20-404 (2013) – As authorized by a supervising physician and subject to the same restrictions as other medical practitioners, direct dispensing of a Schedule II controlled substance by a Physician Assistant is limited to a 34 day supply.

Nevada

NEV. ADMIN. CODE § 639.280 (2013) – A Physician Assistant who is authorized to dispense is limited to dispensing a maximum 365- day supply.

NEV. ADMIN. CODE § 639.879 (2013) – An Advanced Practice Nurse who is authorized to dispense may only dispense a maximum 30-day supply of any controlled substance or dangerous drug.

New Hampshire

N.H. REV. STAT. ANN. § 318-B:10 (2014) – Practitioners can dispense controlled drugs to patients under their care but are limited to a 48-hour supply of any Schedule II controlled substance or a 7-day supply of any Schedule III, IV or V controlled substance.

New Jersey

N.J. ADMIN. CODE § 13:37-7.10 (2014) – An Advanced Practice Nurse may dispense, pursuant to a joint practice protocol, no more than a 7-day supply of any medication and may not dispense the same medication more than once in a 30-day period; exceptions include (1) a dispenser whose practice is located 10 miles or more from a pharmacy or (2) oncologic-related dispensing.

N.J. ADMIN. CODE § 45:9-22.11 (2014) – A Physician shall not dispense more than a 7-day supply of any dangerous drugs or medicines to any patient with exceptions that include (1) a dispenser whose practice is located 10 miles or more from a pharmacy or (2) oncologic-related dispensing.

New York

N.Y. PUB. HEALTH § 3331 (McKinney 2014) – No more than a thirty day supply or, pursuant to regulations of the commissioner enumerating conditions warranting specified greater supplies, no more than a three month supply of a schedule II, III or IV substance may be dispensed by an authorized practitioner at one time.

N.Y. COMP. CODES R. & REGS. tit. 10, § 80.71 (2014) – Practitioners can dispense up to a 30-day supply of medication.

North Carolina

21 N.C. ADMIN. CODE 32M.0109 (2014) – Nurse Practitioners can only dispense up to a 30-day supply of a Schedule II, IIN, III or IIIN controlled substance.

21 N.C. ADMIN. CODE 36.0809 (2014) – Nurse Practitioners can only dispense up to a 30-day supply of a Schedule II, IIN, III or IIIN controlled substance.

Oklahoma

OKLA. STAT. ANN. tit. 59, § 519.6 (West 2013) – A Physician Assistant cannot dispense drugs but is permitted to distribute professional samples.

OKLA. STAT. ANN. tit. 59, § 567.3a (West 2013) – Nurse Practitioners cannot dispense drugs but are permitted to distribute professional samples.

OKLA. STAT. ANN. tit. 63, § 2-312 (West 2013) – An Advanced Practice Nurse is limited to dispensing Schedule III, IV and V controlled substances.

OKLA. ADMIN. CODE § 435:15-11-1 (2014) – A Physician Assistant cannot dispense drugs but is permitted to distribute professional samples.

Tennessee

TENN. CODE ANN. § 63-1-313 (West 2014) – No practitioner dispensing is permitted in pain management clinics, except Schedule IV and Schedule V samples up to a 72-hour maximum supply.

TENN. CODE ANN. § 63-7-123 (West 2014) – A Nurse Practitioner can only dispense Schedule II or III opioids for a maximum 30-day supply unless a higher amount is specifically approved after consultation with the supervising physician.

TENN. CODE ANN. § 63-19-107 (West 2014) – Physician Assistants can only dispense Schedule II or III opioids for a maximum 30-day course of treatment unless a higher amount is specifically approved after consultation with the supervising physician.

Utah

UTAH CODE ANN. § 58-17b-610 (West 2013) – Prescribers are permitted to supply the immediate needs of their patients with controlled substance drug samples that amount to no more than a 30-day supply; dispensing of Schedule II controlled substances, opioids or benzodiazepines are not permitted.

Virginia

18 VA. ADMIN. CODE § 85-50-140 (2014) – Physician Assistants with prescriptive authority are limited to dispensations of manufacturers' samples.

18 VA. ADMIN. CODE § 90-40-120 (2014) – Pursuant to a written practice agreement, Nurse Practitioners with prescriptive authority are limited to dispensations of manufacturers' samples.

West Virginia

W. VA. CODE ANN. § 16-5H-4 (West 2014) – Practitioners at pain management clinics may not dispense more than a 72-hour supply of a controlled substance.

Wisconsin

WIS. ADMIN. CODE NURSING § 8.09 (2014) – Advanced Practice Nurses must restrict actual dispensing to complimentary samples; Advanced Practice Nurse prescribers may dispense drugs to a patient if the patient is being treated at least 30 miles from the nearest pharmacy.

© 2014 Research is current as of January 2014. Revised on March 28, 2014. In order to ensure that the information contained herein is as current as possible, research is conducted using nationwide legal database software and individual state legislative websites. Please contact Sarah Kelsey at (703) 836-6100, ext. 116 or skelsey@namsdl.org with any additional updates or information that may be relevant to this document. This document is intended for informational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS, 215 Lincoln Ave., Ste. 201, Santa Fe, NM 87501.

Wyoming

WYO. STAT. ANN. § 33-26-510 (2013) – Physicians practicing in rural areas may delegate dispensing authority of pre-packaged medication to a Physician Assistant.