



2023 South Dakota Legislature

Senate Bill 122

Introduced by: **Senator Frye-Mueller**

1 **An Act to address the potential abuse of opiate and opioid drugs.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 34-20B be amended with a NEW SECTION:**

4 Before a practitioner may issue to a patient an initial prescription for a Schedule II
5 opiate or opioid drug, the practitioner must:

6 (1) Inform the patient of the risks associated with the drug;

7 (2) Document the patient's history with:

8 (a) Non-opiate and non-opioid pain medication;

9 (b) Non-pharmacological pain management; and

10 (c) Substance abuse;

11 (3) Conduct a physical examination of the patient;

12 (4) Develop a plan to address the cause of the patient's pain and monitor the patient's
13 progress; and

14 (5) Offer the patient the option of filling the prescription in a lesser quantity.

15 **Section 2. That chapter 34-20B be amended with a NEW SECTION:**

16 A prescription for a Schedule II opiate or opioid drug may not:

17 (1) Exceed four days, if the prescription is issued to a patient who presents in an
18 emergency room;

19 (2) Exceed four days, if the prescription is an initial prescription issued to an adult
20 patient who presents in a clinic or physician's office;

21 (3) Exceed seven days, if the prescription is a second or subsequent prescription issued
22 to an adult patient who presents in a clinic or physician's office, provided the
23 medical rationale is noted in the patient's record;

- 1 (4) Exceed three days, if the prescription is for a patient who is a minor, provided the
2 rationale for the prescription and the associated risks are discussed with the
3 minor's parent;
4 (5) Exceed three days, if the prescription is for a dental or optometric patient; or
5 (6) Exceed seven days, if issued by a practitioner with prescriptive authority, other
6 than a dentist, optometrist, or physician, provided the dosage is the lowest that,
7 in the judgment of the practitioner, offers the best course of treatment to the
8 patient.

9 **Section 3. That chapter 34-20B be amended with a NEW SECTION:**

- 10 If a patient's course of treatment requires the use of a Schedule II opiate or opioid
11 drug for a period exceeding thirty days, the practitioner shall:
12 (1) Perform another physical examination of the patient to determine the safety and
13 efficacy of continuing the treatment;
14 (2) Obtain a signed narcotics-use document from the patient under which the patient
15 agrees:
16 (a) To obtain the prescriptions only from the named practitioner;
17 (b) To fill the prescriptions only at a named pharmacy or branches of that
18 pharmacy;
19 (c) To notify the practitioner, within seventy-two hours, if any other practitioner
20 prescribes a Schedule II opiate or opioid drug for the patient; and
21 (d) That upon a breach of the terms set forth in the document, the practitioner
22 may, without being subject to any disciplinary action, terminate the
23 practitioner-patient relationship or continue to treat the patient but without
24 issuing any prescriptions for a Schedule II opiate or opioid drug; and
25 (3) Discuss with the patient, and with the patient's parent in the case of a minor
26 patient:
27 (a) The risk of becoming addicted to the drug;
28 (b) The risk of incurring a drug overdose;
29 (c) The risk of incurring a negative drug interaction; and
30 (d) Pain management alternatives.

31 **Section 4. That chapter 34-20B be amended with a NEW SECTION:**

- 32 Nothing in sections 1 through 3 of the Act is applicable in the case of medication
33 being prescribed for:

- 1 (1) A patient in a hospital;
- 2 (2) A person receiving cancer treatment;
- 3 (3) A person receiving hospice care;
- 4 (4) A person receiving palliative care;
- 5 (5) A resident of a long-term care facility; or
- 6 (6) A person receiving treatment for substance abuse, including opiate or opioid abuse.

7 **Section 5. That § 34-20B-113 be REPEALED:**

8 ~~If a provision of this chapter is held unconstitutional or invalid, all constitutional or~~
9 ~~valid provisions that are severable shall remain in effect. If a provision of this chapter is~~
10 ~~held unconstitutional or invalid in one or more of its applications, the provision shall remain~~
11 ~~in effect in all its valid applications that are severable.~~

12 **Section 6. That § 34-20B-114 be REPEALED:**

13 ~~This chapter may be cited as the State Drugs and Substances Control Act.~~