

1 HB76  
2 197331-2  
3 By Representative England  
4 RFD: Health  
5 First Read: 05-MAR-19  
6 PFD: 03/04/2019

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
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8 Relating to persons licensed to distribute or  
9 dispense controlled substances; to amend Sections 20-2-58 and  
10 20-2-71, Code of Alabama 1975, to provide that a practitioner  
11 or pharmacist may not knowingly prescribe, administer, or  
12 dispense a controlled substance enumerated in Schedules I  
13 through V except for a legitimate medical purpose in the  
14 practitioner's regular practice of his or her profession; to  
15 provide further for the crime of unlawfully distributing or  
16 dispensing a controlled substance; and in connection therewith  
17 would have as its purpose or effect the requirement of a new  
18 or increased expenditure of local funds within the meaning of  
19 Amendment 621 of the Constitution of Alabama of 1901, now  
20 appearing as Section 111.05 of the Official Recompilation of  
21 the Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Sections 20-2-58 and 20-2-71, Code of  
24 Alabama 1975, are amended to read as follows:

25 "§20-2-58.

26 "(a) Except as otherwise provided in this section or  
27 as otherwise provided by law, a pharmacist may dispense

1 directly a controlled substance in Schedule II only pursuant  
2 to a written prescription signed by the practitioner. Except  
3 as provided in subsections (b) and (c), a prescription for a  
4 Schedule II controlled substance may be transmitted by the  
5 practitioner or the agent of the practitioner to a pharmacy  
6 via facsimile equipment; provided, the original written,  
7 signed prescription is presented to the pharmacist for review  
8 prior to the actual dispensing of the controlled substance.

9 "(b) A prescription written for a Schedule II  
10 narcotic substance to be compounded for the direct  
11 administration to a patient by parenteral, intravenous,  
12 intramuscular, subcutaneous, or intraspinal infusion may be  
13 transmitted by the practitioner or the agent of the  
14 practitioner to the home infusion pharmacy by facsimile. The  
15 facsimile shall serve as the original written prescription.

16 "(c) A prescription written for Schedule II  
17 substances for a resident of a long-term care facility may be  
18 transmitted by the practitioner or the agent of the  
19 practitioner to the dispensing pharmacy by facsimile. The  
20 facsimile shall serve as the original written prescription.

21 "(d) Each registered pharmacy shall maintain the  
22 inventories and records of controlled substances as follows:

23 "(1) Inventories and records of all controlled  
24 substances listed in Schedules I and II shall be maintained  
25 separately from all other records of the pharmacy, and  
26 prescriptions for the substances shall be maintained in a  
27 separate prescription file.

1           "(2) Inventories and records of controlled  
2 substances listed in Schedules III, IV, and V shall be  
3 maintained either separately from all other records of the  
4 pharmacy or in the form that the information required is  
5 readily retrievable from ordinary business records of the  
6 pharmacy, and prescriptions for the substances shall be  
7 maintained either in a separate prescription file for  
8 controlled substances listed in Schedules III, IV, and V only  
9 or in the form that they are readily retrievable from the  
10 other prescription records of the pharmacy.

11           "(e) Except when dispensed directly by a  
12 practitioner, other than a pharmacy, to an ultimate user, a  
13 controlled substance included in Schedule III or IV which is a  
14 prescription drug as determined under State Board of Health  
15 statute, ~~shall~~ may not be dispensed without a written or oral  
16 prescription of a practitioner. The prescription ~~shall~~ may not  
17 be filled or refilled more than six months after the date  
18 thereof or be refilled more than five times, unless renewed by  
19 the practitioner.

20           "~~(f) A controlled substance included in Schedule V~~  
21 ~~shall not be distributed or dispensed other than for a medical~~  
22 ~~purpose~~ A practitioner or pharmacist may not knowingly or  
23 intentionally prescribe, administer, or dispense a controlled  
24 substance enumerated in Schedules ~~¶~~ II through V except for a  
25 ~~legitimate medical purpose in the practitioner's regular~~  
26 ~~practice of his or her profession.~~ legitimate medical purpose

1 pursuant to a prescription by a practitioner acting in the  
2 usual course of his or her professional practice.

3 "(g) In an emergency situation, a pharmacist may  
4 dispense a Schedule II controlled substance for a resident of  
5 a long-term care facility, a patient receiving hospice  
6 services, or a patient receiving home health care services  
7 pursuant to an emergency oral prescription transmitted by the  
8 practitioner to the dispensing pharmacy. The quantity  
9 dispensed pursuant to an emergency oral prescription shall be  
10 limited to the amount adequate to treat the patient during the  
11 emergency period, not to exceed 72 hours. The practitioner,  
12 within seven days of the emergency oral prescription, shall  
13 provide the dispensing pharmacy with a written prescription  
14 for the quantity prescribed.

15 "§20-2-71.

16 "(a) It is unlawful for any person:

17 "~~(1) Who is subject to Article 3 of this chapter to~~  
18 knowingly or intentionally distribute or dispense distributes  
19 or dispenses a controlled substance in violation of Section  
20 20-2-58;

21 "(2) Who is a registrant to manufacture a controlled  
22 substance not authorized by his or her registration or to  
23 distribute or dispense a controlled substance not authorized  
24 by his or her registration to another registrant or other  
25 authorized person;

26 "(3) To refuse or fail to make, keep, or furnish any  
27 record, notification, order form, statement, invoice, or

1 information required under this chapter; provided, however,  
2 that upon the first conviction of a violator under this  
3 provision ~~said~~ the violator shall be guilty of a Class A  
4 misdemeanor. Subsequent convictions shall subject the violator  
5 to the felony penalty provision set forth in subsection (b) of  
6 this section.

7 "(4) To refuse an entry into any premises for any  
8 inspection authorized by this chapter; or

9 "(5) ~~Knowingly to~~ To knowingly keep or maintain any  
10 store, shop, warehouse, dwelling, building, vehicle, boat,  
11 aircraft, or other structure or place which is resorted to by  
12 persons using controlled substances in violation of this  
13 chapter for the purpose of using these substances or which is  
14 used for keeping or selling them in violation of this chapter.

15 "(b) Any person who violates this section is guilty  
16 of a Class B felony."

17 Section 2. Although this bill would have as its  
18 purpose or effect the requirement of a new or increased  
19 expenditure of local funds, the bill is excluded from further  
20 requirements and application under Amendment 621, now  
21 appearing as Section 111.05 of the Official Recompilation of  
22 the Constitution of Alabama of 1901, as amended, because the  
23 bill defines a new crime or amends the definition of an  
24 existing crime.

25 Section 3. This act shall become effective  
26 immediately following its passage and approval by the  
27 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Health ..... 05-MAR-19

Read for the second time and placed  
on the calendar 1 amendment ..... 03-APR-19

Read for the third time and passed  
as amended..... 16-APR-19

Yeas 92, Nays 0, Abstains 5

Jeff Woodard  
Clerk