

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

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2 ENROLLED, An Act,

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

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

20 "§20-2-58.

21 "(a) Except as otherwise provided in this section or
22 as otherwise provided by law, a pharmacist may dispense
23 directly a controlled substance in Schedule II only pursuant
24 to a written prescription signed by the practitioner. Except
25 as provided in subsections (b) and (c), a prescription for a

1 Schedule II controlled substance may be transmitted by the
2 practitioner or the agent of the practitioner to a pharmacy
3 via facsimile equipment; provided, the original written,
4 signed prescription is presented to the pharmacist for review
5 prior to the actual dispensing of the controlled substance.

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

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

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

20 "(1) Inventories and records of all controlled
21 substances listed in Schedules I and II shall be maintained
22 separately from all other records of the pharmacy, and
23 prescriptions for the substances shall be maintained in a
24 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 ~~I~~ II through V except for a
25 ~~legitimate medical purpose in the practitioner's regular~~

1 ~~practice of his or her profession.~~ legitimate medical purpose
2 pursuant to a prescription by a practitioner acting in the
3 usual course of his or her professional practice.

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

16 "§20-2-71.

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

18 "(1) ~~Who is subject to Article 3 of this chapter to~~
19 knowingly or intentionally distribute or dispense distributes
20 or dispenses a controlled substance in violation of Section
21 20-2-58;

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

1 by his or her registration to another registrant or other
2 authorized person;

3 "(3) To refuse or fail to make, keep, or furnish any
4 record, notification, order form, statement, invoice, or
5 information required under this chapter; provided, however,
6 that upon the first conviction of a violator under this
7 provision ~~said~~ the violator shall be guilty of a Class A
8 misdemeanor. Subsequent convictions shall subject the violator
9 to the felony penalty provision set forth in subsection (b) of
10 this section.

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

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

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

21 Section 2. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of

1 the Constitution of Alabama of 1901, as amended, because the
2 bill defines a new crime or amends the definition of an
3 existing crime.

4 Section 3. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

