

2018 Regular Session

SENATE BILL NO. 90

BY SENATOR MILLS

HEALTH CARE. Provides relative to a voluntary nonopioid directive form. (8/1/18)

1 AN ACT

2 To enact Subpart D of Part 1 of Subchapter A of Chapter 5-D of Title 40 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 40:1156.1, relative to a voluntary
4 nonopioid directive form; to provide for voluntary prescription opioid opt-out
5 opportunity for patients; to provide for a form; to provide for access to the form; to
6 provide for immunity; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Subpart D of Part 1 of Subchapter A of Chapter 5-D of Title 40 of the
9 Louisiana Revised Statutes of 1950, comprised of R.S. 40:1156.1, is hereby enacted to read
10 as follows:

11 **SUBPART D. PRESCRIPTION NONOPIOID DIRECTIVE**

12 **§1156.1. Voluntary nonopioid directive; form; immunity**

13 **A. The Louisiana Department of Health, in consultation with the office**
14 **of behavioral health, shall establish a voluntary nonopioid directive form and**
15 **shall publish the form prominently on the department's website for public use.**

16 **B. Any person who does not wish to be issued a prescription or**
17 **medication order for an opioid may file the form with a prescribing**

1 practitioner. Upon receipt of a voluntary nonopioid directive form, a
2 prescribing practitioner shall document the receipt in the patient's medical
3 record.

4 C. The voluntary nonopioid directive form established by the
5 department shall allow a patient to appoint a duly authorized guardian or
6 health care representative to override a previously recorded voluntary
7 nonopioid directive form. The patient, duly authorized guardian, or health care
8 representative may revoke the directive, orally or in writing, for any reason, at
9 any time.

10 D. An electronically transmitted prescription to a pharmacy shall be
11 presumed to be valid for the purposes of this Section, and a pharmacist shall not
12 be held in violation of this Section for dispensing a controlled substance in
13 contradiction to a voluntary nonopioid form.

14 E. No prescribing practitioner acting with reasonable care shall be liable
15 for damages in a civil action or subject to criminal prosecution or be deemed to
16 have violated the standard of care for such prescribing practitioner for refusing
17 to issue a prescription or medication order for an opioid pursuant to a
18 voluntary nonopioid directive form.

19 F. No person acting in good faith as a duly authorized guardian or health
20 care representative shall be liable for damages in a civil action or subject to
21 criminal prosecution for revoking or overriding a voluntary nonopioid directive
22 form.

23 G. No emergency department prescribing practitioner acting with
24 reasonable care as the patient's practitioner or as the medical control officer for
25 emergency medical services personnel shall be liable for damages in a civil
26 action, subject to criminal prosecution, or deemed to have violated the standard
27 of care for a prescribing practitioner's profession for issuing a prescription for
28 or administering a controlled substance containing an opioid to a person who
29 has a voluntary nonopioid directive form, when, in such prescribing

1 **practitioner's professional medical judgment, a controlled substance containing**
 2 **an opioid is necessary and such prescribing practitioner had no knowledge of**
 3 **the patient's voluntary nonopioid directive form at the time of issuance or**
 4 **administration.**

5 **H. A prescribing practitioner who willfully fails to comply with a**
 6 **patient's voluntary nonopioid directive form may be subject to disciplinary**
 7 **action pursuant to rules promulgated by his health profession licensing board.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 90 Original

2018 Regular Session

Mills

Proposed law requires LDH to establish and post a voluntary nonopioid directive form on its website to allow a patient to voluntarily opt-out of receiving opioid prescriptions from his prescribing practitioner(s). Proposed law allows a patient to appoint a duly authorized guardian or health care representative to override an opt-out directive orally or in writing, for any reason, at any time.

Proposed law provides immunity from civil, criminal, and professional licensure sanctions for pharmacists who dispense an opioid based on an electronic prescription, prescribing practitioners acting with reasonable care for refusing to issue an opioid prescription, an authorized guardian or health care representative for revoking the nonopioid directive, and an emergency department prescribing practitioner or emergency medical services personnel for issuing a prescription for or administering a controlled substance containing an opioid.

Proposed law authorizes health professional licensing boards that regulate prescribers to promulgate rules regarding disciplinary action against a prescribing practitioner who willfully fails to comply with a patient's voluntary nonopioid directive form.

Effective August 1, 2018.

(Adds R.S. 40:1156.1)