

# Louisiana Revised Statutes of 1950

## Title 40 – Public Health and Safety

### Chapter 5 – Miscellaneous Health Provisions

#### Part I. Venereal Diseases

##### §1064.1 Expedited partner therapy

- A. The purpose of this Section is to allow for the provision of medications or prescriptions by any physician licensed to practice medicine in this state or any advanced practice registered nurse who is licensed to practice nursing in this state, or any physician assistant who is licensed to practice in this state, provided such physician or nurse or physician assistant has the authority to write prescriptions in this state, to individuals who may have been exposed to gonorrhea or chlamydia. Expedited partner therapy is hereby authorized absent a doctor-patient relationship and absent clinical assessment.
- B. Notwithstanding any other provisions of law to the contrary, any physician or any advanced practice registered nurse who diagnoses or does a nurse clinical assessment or any physician assistant who performs an examination of a case of chlamydia or gonorrhea in an individual patient may prescribe, furnish, or otherwise provide prescription antibiotic drugs to that patient's sexual partner or partners absent a doctor-patient relationship or absent an advanced practice registered nurse-patient relationship and without examination or nurse clinical assessment or physician assistant examination of that patient's sexual partner or partners.
- C. If expedited partner therapy is chosen as an alternative, the patient with a case of chlamydia or gonorrhea will be given a written document that he agrees to give to his sexual contact. The document will contain, but will not be limited to, the following information:
  - (1) The sexual contact should be examined and treated by a physician, advanced practice registered nurse or physician assistant, if at all possible.
  - (2) The medicine or prescription for medicine given to the sexual contact by the patient should not be taken by the contact if the contact has a history of allergy to the antibiotic or to the pharmaceutical class of antibiotic in which case the sexual contact should be examined and treated by a physician, advanced practice registered nurse or physician assistant and offered another type of antibiotic treatment.
  - (3) The medicine or prescription for medicine given to the sexual contact by the patient should not be taken by the contact if the contact is pregnant, in which case the sexual contact should be examined by the prenatal health care provider.
- D. Any pharmacist licensed to practice pharmacy in this state may recognize a prescription authorized by this Section as valid notwithstanding any other provision of law or administrative rule to the contrary.
- E. The provisions of this Section which relate to expedited partner therapy shall be implemented according to rules promulgated by the secretary of the Department of Health and Hospitals in accordance with the Administrative Procedure Act.

*(Added by Act 449 of 2008 Legislature, effective June 25, 2008)*

*[Editor's Note: The administrative rule required by Subsection E was promulgated by the Department of Health and Hospitals at LAC 51:II.117.H, effective February 20, 2009.]*

(end of Part I of Chapter 5)

# Louisiana Revised Statutes of 1950

## Title 40 – Public Health and Safety

### Chapter 5 – Miscellaneous Health Provisions

#### Part VII-A. Legend Drugs

*[Editor's Note: The Legend Drug Code Imprint Law was created by Act 872 of 1982 Legislature, and was effective January 1, 1984. Subsequent amendments are noted herein.]*

#### §1237. Definitions

For the purpose of this Part:

- (1) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer, distributor, or both. The National Drug Code may be used as a code imprint.
- (2) "Distributor" means any corporation, person, or entity not engaged in the manufacture of a legend drug product, who distributes for resale and distribution a legend drug product under the label of such corporation, person, or entity.
- (3) "Legend drug" means any drug or drug product bearing on the label of the manufacturer or distributor, as required by the Federal Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without prescription."
- (4) "Solid dosage forms" means capsules or tablets intended for oral administration.

#### §1238. Legend drug imprint

- A. No legend drug in solid dosage form may be manufactured or distributed for sale in this state unless there is clearly marked or imprinted on the dosage form a code imprint identifying the drug and the manufacturer or distributor of the drug. The Louisiana Department of Health and Hospitals, upon application by a manufacturer or distributor, may exempt a particular drug product from the requirement to be imprinted on the grounds that imprinting is not feasible because of said product's size, texture, or other unique characteristics.
- B. On or before January 1, 1984, manufacturers or distributors of legend drugs shall provide to the Department of Health and Hospitals a list of their legend drugs and the description of the code imprint each bears. The department shall provide for the distribution of the information required to be submitted under this Part to all poison control centers in the state. The department shall provide to any licensed health care provider, upon request, lists of legend drugs and code imprints provided to the department under this Section, but may charge a reasonable fee to cover copying and postage costs. Manufacturers and distributors shall provide updated lists to the department annually or as changes or revisions occur.
- C. A legend drug that does not meet the above requirements shall be deemed misbranded.
- D. Whoever manufactures or distributes for sale or otherwise provides to any other person for dispensing any legend drug in solid dosage form that fails to comply with this Section shall be fined twenty-five thousand dollars, or imprisoned for five years, or both.
- E. The provisions of Subsections A, B, C, and D of this Section shall not apply to any of the following:
  - (1) Drugs purchased by a pharmacy, pharmacist, or licensed wholesaler prior to January 1, 1984, and held in stock for resale.
  - (2) Drugs which are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and which are to be used solely by the patient for whom prescribed.

#### §1238.1 Sale, distribution, or possession of legend drug without prescription or order prohibited; exceptions; penalties

- A. It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician or licensed health care practitioner as defined in R.S. 40:961(31). This Section shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment.
- B. *(Added by Act 287 of 2007 Legislature; Repealed by Act 360 of 2010 Legislature)*

- C. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

*(Added by Act 565 of 2006 Legislature)*

### **§1238.2 Prescription requirements; penalties**

- A. A prescription, in order to be effective in legalizing the possession of legend drugs, shall be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. An order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this Section. Any person who knows or should know that he or she is filling such a prescription or order to a drug abuser or habitual user of legend drugs, as well as the person issuing the prescription, may be charged with a violation of this Section. A legitimate medical purpose shall include use of the drug in the course of a bona fide research program in conjunction with a hospital or university.
- B. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

*(Added by Act 565 of 2006 Legislature)*

### **§1238.3 Obtaining legend drugs by misrepresentation or fraud; penalties**

- A. It shall be unlawful for any person knowingly or intentionally to acquire or obtain possession of a legend drug by misrepresentation, fraud, forgery, deception, or subterfuge.
- B. Any person who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

*(Added by Act 565 of 2006 Legislature)*

### **§1238.4 Prescriptions; electronic questionnaires**

- A. As used in this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:
- (1) "Electronic questionnaire" means a computer-assisted system for collecting a person's health care data.
  - (2) "Valid physician-patient relationship" means a medical relationship that exists when the practitioner has conducted at least one medical evaluation with a person in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners.
- B. A prescription issued solely upon the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, shall be considered issued outside the context of a valid physician-patient relationship and shall not be a valid prescription.
- C. If a pharmacist knowingly dispenses a prescription authorized solely on the result of an electronic questionnaire, he shall be in violation of this Section.
- D. A pharmacist who knows that a prescription has been authorized in the absence of a valid physician-patient relationship, or otherwise in violation of the prescriber's standard of practice, shall not fill such prescription.
- E. A pharmacist who dispenses prescription drugs in violation of this Section is not acting in the best interest of the patient and is dispensing outside the course of the professional practice of pharmacy.
- F. A pharmacist who violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years and may be sentenced to pay a fine of not more than five thousand dollars.

*(Added by Act 318 of 2007 Legislature)*

(end of Part VII-A of Chapter 5)

(end of Chapter 5)

# Louisiana Revised Statutes of 1950

## Title 40 – Public Health and Safety

### Chapter 5 – Miscellaneous Health Provisions

#### Part LXXV. Louisiana Telehealth Access Act

*[Editor's Note: The Louisiana Telehealth Access Act was created by Act 442 of the 2014 Legislature, and was effective August 1, 2014. Subsequent amendments are noted herein.]*

#### **§1300.381. Short title**

This Part shall be known and may be cited as the “Louisiana Telehealth Access Act.”

#### **§1300.382. Legislative findings**

The legislature hereby finds and declares the following:

- (1) As an innovative form of health care, telehealth is extremely valuable because it enhances access to care, particularly in rural locations and other medically underserved areas; makes delivery of care more cost-effective; and distributes limited provider resources more efficiently.
- (2) Many patients with limited access to traditional health care can be diagnosed and treated sooner through telehealth than they would be otherwise, resulting in improved outcomes and less costly treatments due to early detection and prevention.
- (3) Telehealth services could potentially address a great unmet need for health care by persons who have limited access to both traditional healthcare settings and to telemedicine as currently defined in Louisiana law.
- (4) If this state is to achieve much needed improvement in health outcomes, a prudent and responsible policy for doing so would be to balance patient safety and access to care through expanding access to telehealth services for the people of Louisiana.

#### **§1300.383. Definitions**

- (1) “Asynchronous store and forward transfer” means the transmission of a patient’s medical information from an originating site to the provider at the distant site without the patient being present.
- (2) “Distant site” means the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunications system.
- (3) “Healthcare provider” means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide health care or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, or licensed clinical laboratory scientist.
- (4) “Originating site” means the location of the patient at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.
- (5) “Synchronous interaction” means communication through interactive technology that enables a healthcare provider and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.
- (6) “Telehealth” means a mode of delivering healthcare services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

#### **§1300.384. Telehealth; rulemaking required**

- A. Each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider, as defined in this Part, may promulgate, in accordance with the

Administrative Procedure Act, any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity,

- B. The rules shall, at a minimum, provide for all of the following:
  - (1) Application of all laws regarding the confidentiality of healthcare information and the patient's rights to the patient's medical information created during telehealth interactions.
  - (2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.
  - (3)
    - (a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in Louisiana. The rules shall ensure that any such healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in Louisiana as determined by the respective Louisiana licensing agency, board, or commission.
    - (b) Each state agency and professional or occupational licensing board or commission is authorized to provide by rule for a reasonable fee for the license or registration provided for in this Subsection.
  - (4) Exemption from the telehealth license or registration required by this Subsection for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.
- C. Nothing in this Part shall be construed to authorize a state agency or professional or occupational licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

(end of Part LXXV of Chapter 5)

(end of Chapter 5)