201 KAR 25:090. Prescribing and dispensing controlled substances.

RELATES TO: KRS 218A.172, 218A.202, 218A.205
STATUTORY AUTHORITY: KRS 218A.205(3)(a), 311.410(4)
CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.410 establishes the Kentucky Board of Podiatry and authorizes it to make all rules and regulations, not inconsistent with KRS 311.390 to 311.510, as may be necessary to carry out KRS 311.390 to 311.510. KRS 218A.205(3)(a) requires the board to establish standards for prescribing and dispensing controlled substances. KRS 218A.172 requires the board to promulgate administrative regulations governing the prescribing or dispensing of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone. This administrative regulation establishes the standards for board licensees prescribing or dispensing controlled substances.

Section 1. Prescribing or Dispensing Authority.

(1) A podiatrist licensed by the board may prescribe and dispense controlled substances necessary for the treatment of a patient that comes within the practice of podiatry as defined by KRS 311.380(2) if the licensee:

(a) Has obtained a registration number from the Drug Enforcement Administration;

(b) Registers with and uses the Kentucky All-Schedule Prescription Electronic Reporting System (KASPER) as required by KRS 218A.202 and related administrative regulations promulgated by the Cabinet for Health and Family Services; and

(c) Follows the requirements of this administrative regulation.

(2) A podiatrist licensed by the board shall not prescribe or dispense:

(a) With the intent or knowledge that a medication will be used or is likely to be used for any purpose other than one that is necessary for medical treatment or therapeutic use;

(b) With the intent to evade any law governing the sale, use, or disposition of the medication;

(c) When the licensee knows or has reason to know that the abuse of the controlled substance is occurring or may result therefrom; or

(d) In amounts the licensee knows or has reason to know is excessive, under the circumstances.

Section 2. Prescribing or Dispensing Process.

(1) This administrative regulation governs the prescribing and dispensing of controlled substances listed in Schedule II through V as classified in 902 KAR 55:015.

(2) All prescribing or dispensing pursuant to this section shall be documented in the patient's file as required by Section 4 of this administrative regulation.

(3) If initially prescribing or dispensing a controlled substance, a licensee shall:

(a) Obtain a complete medical history and conduct a physical examination of the patient;

(b) Complete a written treatment plan which states the objectives of the treatment and includes an outline of any further diagnostic examinations, therapeutic, and laboratory results that may be required;

(c) Discuss the risks and benefits of the use of controlled substances with the patient or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence;

(d) Educate the patient or the patient's legal guardian or health care surrogate regarding proper use and disposal of any unused controlled substances;

(e) Verify that the patient is the person that he or she has identified himself or herself as being by requiring the person to produce proper government issued identification;

(f) QueryKASPER for all data available on the patient for the twelve (12) month period immediately preceding the patient encounter and appropriately use that data in the evaluation and treatment of the patient; and

(g) Obtain consent for the treatment from the patient in writing.

(4) If continuing a prescription or dispensing a controlled substance for the same medical complaint and related symptoms following completion of the initial supply, a podiatrist licensed by the board shall:

(a) Review the patient's plan of care at reasonable intervals applying clinically indicated protocols, based on the patient's individual circumstances;

(b) Provide any new information about the treatment to the patient; and

(c) Modify or terminate the treatment as appropriate;

(5) If the course of a patient's treatment with a controlled substance extends beyond three (3) months, the podiatrist licensed by the board shall, in addition to the requirements of subsection (3) of this section:

(a) Obtain and review a KASPER report for the patient no less than once every three (3) months for all available data on the patient for the twelve (12) month period immediately preceding the query; and

(b) Modify or terminate the treatment as appropriate.

Section 3. Limitations for Schedule II or Schedule III controlled substances containing hydrocodone.

(1) A podiatrist licensed by the board shall not issue a prescription for a Schedule II or Schedule III controlled substance containing hydrocodone for more than a three (3) day supply if the prescription is intended to treat pain as an acute medical condition, except as provided in KRS 218A.205(3)(b).

(2) A podiatrist licensed by the board shall not directly dispense more than a forty-eight (48) hour supply of a Schedule II or Schedule III controlled substance containing hydrocodone.

(3) If a patient continues to present with pain after the initial supply has been completed and the podiatrist licensed by the board believes that an additional amount of a Schedule II or Schedule III controlled substance containing hydrocodone is medically appropriate, the licensee shall follow the process established in Section 2 of this administrative regulation.

Section 4. Records. Podiatric medical records for patients being prescribed or dispensed controlled substances shall include, at a minimum:

(1) The patient's name;

(2) The patient's date of birth;

(3) The information concerning the patient's medical history and physical examination required by this administrative regulation;

(4) The diagnosis of the patient's condition;

(5) The procedures and treatments to be undertaken and their objectives;

(6) The date of the procedures or treatments;

(7) Whether local or general anesthetics were used, including the type and the amount administered;

(8) Diagnostic, therapeutic, and laboratory results;

(9) The findings and recommendations of any other evaluations or consultations;

(10) All medications prescribed or dispensed by the podiatrist licensed by the board, including the date, type, dosage, and quantity;

(11) Any post-treatment instructions from the podiatrist licensed by the board; and

(12) Documentation that the KASPER query required by this administrative regulation was completed.

Section 5. Exceptions. The professional standards established in this administrative regulation shall not apply to a podiatrist licensed by the board prescribing or dispensing a controlled substance to a patient:

(1) In an emergency situation;

(2) As part of the patient's hospice or end of life treatment;

(3) As part of the patient's treatment of cancer or pain associated with cancer;

(4) Admitted to a licensed hospital as an inpatient, outpatient, or observation patient, during and as part of a normal and expected part of the patient's course of care at that hospital;

(5) Admitted to a long-term care facility licensed under KRS Chapter 216B;

(6) For a single dose to relieve anxiety, pain, or discomfort related to a diagnostic test or procedure; or

(7) Qualifying under exemptions set forth in KRS 218A.172.

Section 6. Violations. Any violation of the professional standards established in this administrative regulation shall constitute a violation of KRS 311.480, which may result in the imposition of disciplinary sanctions including suspension, revocation, or fines by the board, pursuant to KRS 311.490 and 201 KAR 25:051.

(39 Ky.R. 676; 1391; eff. 2-1-2013; 45 Ky.R. 3472, 46 Ky.R. 421; eff. 8-19-2019; Crt eff.12-6-2019; Crt eff. 9-1-2026.)