S.243

Introduced by Senators Sirotkin and Ashe

Referred to Committee on

Date:

Subject: Health; prescription drugs; physicians; pharmacists; Vermont Prescription Monitoring System; continuing medical education; controlled substances; opioids; buprenorphine

Statement of purpose of bill as introduced: This bill proposes to increase the frequency with which health care providers query the Vermont Prescription Monitoring System when prescribing opioids to their patients. It would require the Commissioners of Health and of Public Safety to establish a statewide prescription drug disposal program. The bill would seek to increase the number of prescribers of buprenorphine to patients with a substance use disorder by encouraging care coordination with primary care providers, establishing a telemedicine pilot program, and requiring insurance reimbursement for certain pill counts conducted by pharmacists. It would also increase the amount of continuing medical education certain physicians must complete on the topic of prescribing controlled substances, including education on the use of complementary and alternative therapies instead of opioid controlled substances in treating chronic pain.

An act relating to combating opioid abuse in Vermont

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Vermont Prescription Monitoring System * * *

Sec. 1. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of chronic pain and for other medical conditions to be determined by the licensing authority. The standards developed by the licensing authorities shall be consistent with rules adopted by the Department of Health.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection. Failure to register with the VPMS may be considered unprofessional conduct under the provider's applicable licensing statutes.

(3) The Commissioner of Health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS. Failure to register with the VPMS may be considered unprofessional conduct under the dispenser's applicable licensing statutes.

(d)(1) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

~~(1)~~(A) ~~at least annually for patients who are receiving ongoing treatment with an~~ each time the provider issues a new or renewal prescription for an opioid Schedule II, III, or IV controlled substance to a patient;

~~(2)~~(B) when starting a patient on a Schedule II, III, or IV non-opioid controlled substance for nonpalliative long-term pain therapy of 90 days or more;

~~(3) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain;~~ and

~~(4)~~(C) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(2) Failure to query the VPMS as required by this section and by rules adopted by the Commissioner of Health pursuant to this section may be

considered unprofessional conduct under the provider's applicable licensing statutes.

(e) The Commissioner of Health shall, after consultation with the Unified Pain Management System Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS~~, including whether health care providers should be required to query the VPMS when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain~~.

(f)(1) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

~~(1)~~(A) query the VPMS; and

~~(2)~~(B) report to the VPMS, which shall be no less than once every ~~seven days~~ 24 hours.

(2) Failure to query or report to the VPMS as required by this subsection or rules adopted pursuant to this subsection may be considered unprofessional conduct under the provider's applicable licensing statutes.

(g) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

* * * Unused Drug Disposal Program * * *

Sec. 2. STATEWIDE UNUSED PRESCRIPTION DRUG DISPOSAL PROGRAM

Safe disposal of unused prescription drugs is an essential part of reducing prescription drug abuse and diversion in Vermont. 2013 Acts and Resolves No. 75, Sec. 16 directed the Commissioners of Health and of Public Safety to make recommendations in January 2014 for a statewide drug disposal program at no charge to the consumer, and to implement the program within six months. The Commissioners provided a report describing options but have not implemented any of them to date. The delay has set back Vermont's efforts to curtail prescription drug abuse and diversion due to unused prescription drugs by as much as two years, and it is of the utmost importance that a program be put in place as soon as possible. The federal government enacted new regulations in 2014 that expanded the opportunities for drug disposal, including allowing for drug disposal at pharmacies and certain other locations. The Commissioners shall implement one or more of the options described in the 2014 report, or develop and implement a new drug disposal model, to be

fully operational statewide on or before January 1, 2017. On or before October 1, 2016, the Commissioners shall notify the House Committees on Health Care, on Human Services, and on Judiciary, the Senate Committees on Health and Welfare and on Judiciary, and the Health Reform Oversight Committee which model they will implement and their strategy for informing Vermont residents about the new statewide drug disposal program.

* * * Expanding Access to Substance Abuse Treatment with Buprenorphine * * *

Sec. 3. 18 V.S.A. chapter 93 is amended to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

Subchapter 1. Regional Opioid Addiction Treatment System

§ 4751. PURPOSE

It is the purpose of this ~~chapter~~ subchapter to authorize the ~~department of health~~ Department of Health to establish a regional system of opioid addiction treatment.

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Subchapter 2. Opioid Addiction Treatment Care Coordination

§ 4771. CARE COORDINATION

(a) In addition to participation in the regional system of opioid addiction treatment established pursuant to subchapter 1 of this chapter, health care providers may coordinate patient care in order to provide to the maximum

number of patients high quality opioid addiction treatment with buprenorphine or a drug containing buprenorphine.

(b) Care for patients with opioid addiction may be provided by a care coordination team comprising the patient's primary care provider, a qualified addiction medicine physician or nurse practitioner as described in subsection (c) of this section, and members of a medication-assisted treatment team affiliated with the Blueprint for Health.

(c)(1) A primary care provider participating in the care coordination team and prescribing buprenorphine or a drug containing buprenorphine pursuant to this section shall meet federal requirements for prescribing buprenorphine or a drug containing buprenorphine to treat opioid addiction and shall see the patient he or she is treating for opioid addiction for an office visit at least once every three months.

(2) A qualified addiction medicine physician participating in a care coordination team pursuant to this section shall be a physician who is board-certified in addiction medicine. The qualified physician shall see the patient for addiction-related treatment other than the prescription of buprenorphine or a drug containing buprenorphine and shall advise the patient's primary care physician.

(3)(A) A qualified addiction medicine nurse practitioner participating in a care coordination team pursuant to this section shall be an advanced practice

registered nurse who is certified as a nurse practitioner and who satisfies one or more of the following conditions:

(i) has completed not fewer than 24 hours of classroom or interactive training in the treatment and management of opioid-dependent patients for substance use disorders provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Commissioner of Health deems appropriate; or

(ii) has such other training and experience as the Commissioner of Health determines will demonstrate the ability of the nurse practitioner to treat and manage opioid dependent patients.

(B) The qualified nurse practitioner shall see the patient for addiction-related treatment other than the prescription of buprenorphine or a drug containing buprenorphine and shall advise the patient's primary care physician.

(d) The primary care provider, qualified addiction medicine physician or nurse practitioner, and medication-assisted treatment team members shall coordinate the patient's care and shall communicate with one another as often as needed to ensure that the patient receives the highest quality of care.

(e) The Director of the Blueprint for Health shall consider increasing payments to primary care providers participating in the Blueprint who choose to engage in care coordination by prescribing buprenorphine or a drug containing buprenorphine for patients with opioid addiction pursuant to this section.

Sec. 4. TELEMEDICINE FOR TREATMENT OF SUBSTANCE USE DISORDER; PILOT

The Green Mountain Care Board and Department of Vermont Health Access shall develop a pilot program to enable a patient taking buprenorphine or a drug containing buprenorphine for a substance use disorder to receive treatment from an addiction medicine specialist delivered through telemedicine at a health care facility that is capable of providing a secure telemedicine connection and whose location is convenient to the patient. The Board and the Department shall ensure that both the specialist and the hosting facility receive appropriate compensation for services rendered. On or before January 15, 2017 and annually thereafter, the Board and the Department shall provide a progress report on the pilot program to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

Sec. 5. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

(a) ~~A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.~~

~~(b)~~ As used in this section:

(1) "Health insurer" is defined by 18 V.S.A. § 9402.

(2) "Pharmacy benefit manager" means an entity that performs pharmacy benefit management. "Pharmacy benefit management" means an arrangement for the procurement of prescription drugs at negotiated dispensing rates, the administration or management of prescription drug benefits provided by a health insurance plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

(A) mail service pharmacy;

(B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

(E) certain patient compliance, therapeutic intervention, and generic substitution programs; and

(F) disease management programs.

(3) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

(b) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.

(c) This section shall apply to Medicaid and any other public health care assistance program.

(d)(1) A health insurer and pharmacy benefit manager doing business in Vermont shall reimburse a licensed pharmacist or a pharmacy technician under the supervision of a licensed pharmacist for conducting pill counts, pursuant to an order from a health care provider, of opioid controlled substances prescribed by the health care provider to his or her patients. The health insurer or pharmacy benefit manager shall determine the reimbursement amount, which shall be at least $10.00 per pill count for each prescribed medication

counted. The pharmacist or pharmacy technician shall promptly report the results of the pill count to the health care provider who ordered it.

(2) Nothing in this subsection shall be construed to require a licensed pharmacist or pharmacy technician to conduct a pill count.

Sec. 6. BOARD OF PHARMACY; RULEMAKING

The Board of Pharmacy, in consultation with the Department of Health, shall adopt rules or procedures, or both, as appropriate, to provide guidance to licensed pharmacists and pharmacy technicians conducting pill counts of controlled substances pursuant to 8 V.S.A. § 4089j(d). The Board's rules or procedures, or both, shall take effect on or before July 1, 2017.

* * * Continuing Medical Education * * *

Sec. 7. 26 V.S.A. § 1400(b) is amended to read:

(b)(1) A licensee for renewal of an active license to practice medicine shall have completed continuing medical education which shall meet minimum criteria as established by rule, by the ~~board~~ Board, by August 31, 2012 and which shall be in effect for the renewal of licenses to practice medicine expiring after August 31, 2014. The ~~board~~ Board shall require a minimum of 10 hours of continuing medical education by rule.

(A) At least one hour of continuing medical education for all licensees shall be on the topic of hospice care, palliative care, or pain management services, or a combination of these.

(B) At least one hour of continuing medical education for all licensees who prescribe controlled substances shall be on the topic of safe and effective prescribing of controlled substances. Licensees who prescribe or are likely to prescribe opioid controlled substances, as determined by the Board, shall complete at least one additional hour of continuing medical education on the appropriate use of opioids, including the use of complementary and alternative therapies instead of opioid controlled substances to treat chronic pain.

(2) The training provided by the continuing medical education shall be designed to assure that the licensee has updated his or her knowledge and skills in his or her own specialties and also has kept abreast of advances in other fields for which patient referrals may be appropriate. The ~~board~~ Board shall require evidence of current professional competence in recognizing the need for timely appropriate consultations and referrals to assure fully informed patient choice of treatment options, including treatments such as those offered by hospice, palliative care, and pain management services.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Secs. 1 (VPMS) and 3 (opioid addiction treatment care coordination) shall take effect on July 1, 2016.

(b) Secs. 2 (statewide drug disposal program), 4 (telemedicine pilot), 6 (Board of Pharmacy; rulemaking), and this section shall take effect on passage.

(c) Sec. 5 (pharmacist reimbursement for pill counts) shall take effect on July 1, 2017.

(d) Sec. 7 (continuing medical education) shall take effect on passage and shall apply beginning with the licensing period that begins on December 1, 2016.