SENATE BILL 569

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

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AN ACT

RELATING TO OPIOID ABUSE PREVENTION AND TREATMENT; ENACTING A NEW SECTION OF THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT TO PROVIDE FOR THE ESTABLISHMENT OF A PRESCRIPTION DRUG MONITORING PROGRAM TO MONITOR THE PRESCRIBING AND DISPENSING OF OPIATES; MANDATING THAT HEALTH FACILITIES THAT RECEIVE FINANCIAL ASSISTANCE PURSUANT TO THE RURAL PRIMARY HEALTH CARE ACT HAVE PHYSICIANS CERTIFIED AND AVAILABLE TO PROVIDE MEDICALLY ASSISTED TREATMENT FOR OPIOID ADDICTION; REQUIRING THE HUMAN SERVICES DEPARTMENT TO ESTABLISH A PROGRAM TO PROVIDE FREE VOUCHERS TO INDIGENT PERSONS TO RECEIVE MEDICALLY ASSISTED TREATMENT FOR OPIOID ADDICTION; ENACTING NEW SECTIONS OF THE HEALTH CARE PURCHASING ACT AND THE NEW MEXICO INSURANCE CODE TO PROVIDE THAT NO PRIOR AUTHORIZATION BE REQUIRED BY HEALTH COVERAGE ENTITIES FOR THE PROVISION OF BUPRENORPHINE TO TREAT OPIOID ADDICTION; MAKING AN APPROPRIATION.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the New Mexico Drug, Device and Cosmetic Act is enacted to read:

"[NEW MATERIAL] PRESCRIPTION MONITORING--RULEMAKING.--

A. The board shall establish and maintain a prescription drug monitoring program to monitor the prescribing and dispensing of opiates by practitioners in the state and to research the prescribing and dispensing of opiates. The board shall promulgate any rules necessary to implement the prescription drug monitoring program. The prescription drug monitoring program shall not interfere with the legal use of opiates. The prescription drug monitoring program shall be used to provide information to practitioners, dispensers and patients to help avoid the illegal use of controlled substances. This information shall include patient utilization reports prepared pursuant to board rules, which reports patient utilization of Schedule II or III controlled substances.

B. Before writing a prescription for a Schedule II or III controlled substance for a patient about whom the practitioner has a reasonable belief that the patient may be seeking the controlled substance for any reason other than the treatment of an existing medical condition for which it was prescribed, a practitioner, or other person authorized by the practitioner, shall obtain a patient utilization report

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regarding that patient's history for the preceding twelve months. The practitioner shall review the patient utilization report to assess whether the prescription for the controlled substance is necessary and appropriate.

C. The board shall require an applicant for a license to prescribe controlled substances to register in the prescription drug monitoring program and agree to participate in the program by providing and monitoring their patients' controlled substance use in accordance with the provisions of this section.

D. The board may issue a waiver from the provisions of this section to a practitioner who is unable to access patient utilization reports by electronic means. A practitioner who is unable to access patient utilization reports by electronic means shall obtain a waiver from the board on an annual basis, until the practitioner is able to access patient utilization reports by electronic means.

E. Unless a court of competent jurisdiction makes a finding of gross negligence, malice or criminal intent, neither the board nor any practitioner, dispenser or any person in proper possession of information pursuant to the provisions of this section shall be subject to civil liability, administrative action or other legal or equitable relief for any of the following acts or omissions:

(1) furnishing information pursuant to the

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provisions of this section;

(2) receiving, using or relying upon or not using or relying upon information received pursuant to this section;

(3) not furnishing information to the board; or

(4) furnishing information that was factually incorrect.

F. As used in this section:

(1) "dispenser" means a person that the board has authorized to dispense or distribute to the ultimate user a controlled substance or dangerous drug; "dispenser" does not mean a pharmacy that dispenses or distributes any controlled substance or dangerous drug for the purposes of:

(a) inpatient care;

(b) emergency department care for the immediate use of a controlled substance; or

(c) discharge of a patient from a health facility, where the pharmacy provides the patient with a supply of the drug intended for use within a maximum of seventy-two hours;

(2) "pharmacy" means a licensed place of business where drugs are compounded or dispensed and pharmaceutical care is provided; and

(3) "Schedule II or III controlled substance"

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means a drug or substance listed in Schedules II and III of the Controlled Substances Act."

SECTION 2. A new section of the Health Care Purchasing Act is enacted to read:

"[NEW MATERIAL] NO PRIOR AUTHORIZATION REQUIREMENT FOR BUPRENORPHINE.--Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that provides coverage for medically assisted treatment of opioid addiction using buprenorphine shall not require a prior authorization before providing access to buprenorphine. Nothing in this section shall be construed to preclude a group coverage provider from monitoring the prescribing of buprenorphine through audits or other means."

SECTION 3. A new section of the Rural Primary Health Care Act is enacted to read:

"[NEW MATERIAL] STATE-FUNDED HEALTH FACILITIES--REQUIREMENT FOR BUPRENORPHINE MEDICALLY ASSISTED OPIOID ADDICTION TREATMENT.--A health facility that has at least two full-time-equivalent physicians on staff and that receives financial assistance or employs any staff member who receives financial assistance pursuant to the Rural Primary Health Care Act shall have on staff at least one physician who is certified and available to provide buprenorphine medically assisted treatment for opioid addiction."

SECTION 4. A new section of the Public Assistance Act is

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enacted to read:

"[NEW MATERIAL] OPIOID ADDICTION--VOUCHER PROGRAM FOR MEDICALLY ASSISTED TREATMENT.--The department shall establish and implement a program whereby the department provides to uninsured individuals with incomes below two hundred percent of the federal poverty level vouchers to permit the bearer to receive free medically assisted treatment for opioid addiction when prescribed by a physician who is certified to prescribe buprenorphine. The vouchers shall fund buprenorphine treatment for a total duration of six months or less for each patient, with a total daily dose not to exceed sixteen milligrams."

SECTION 5. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"[NEW MATERIAL] NO PRIOR AUTHORIZATION REQUIREMENT FOR BUPRENORPHINE.--An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that provides coverage for medically assisted treatment of opioid addiction using buprenorphine shall not require a prior authorization before providing access to buprenorphine. Nothing in this section shall be construed to preclude an insurer from monitoring the prescribing of buprenorphine through audits or other means."

SECTION 6. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

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"[NEW MATERIAL] NO PRIOR AUTHORIZATION REQUIREMENT FOR BUPRENORPHINE.--A blanket or group health insurance policy or contract that is delivered, issued for delivery or renewed in this state that provides coverage for medically assisted treatment of opioid addiction using buprenorphine shall not require a prior authorization before providing access to buprenorphine. Nothing in this section shall be construed to preclude an insurer from monitoring the prescribing of buprenorphine through audits or other means."

SECTION 7. A new section of the Health Maintenance Organization Law is enacted to read:

"[NEW MATERIAL] NO PRIOR AUTHORIZATION REQUIREMENT FOR BUPRENORPHINE.--An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state that provides coverage for medically assisted treatment of opioid addiction using buprenorphine shall not require a prior authorization before providing access to buprenorphine. Nothing in this section shall be construed to preclude a health maintenance organization from monitoring the prescribing of buprenorphine through audits or other means."

SECTION 8. A new section of Chapter 59A, Article 47 NMSA 1978 is enacted to read:

"[NEW MATERIAL] NO PRIOR AUTHORIZATION REQUIREMENT FOR BUPRENORPHINE.--An individual or group health insurance policy,

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health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that provides coverage for medically assisted treatment of opioid addiction using buprenorphine shall not require a prior authorization before providing access to buprenorphine. Nothing in this section shall be construed to preclude a health care plan issuer from monitoring the prescribing of buprenorphine through audits or other means."

SECTION 9. APPROPRIATION.--Five million dollars ($5,000,000) is appropriated from the general fund to the human services department for expenditure in fiscal year 2012 to fund a program that provides vouchers for medically assisted treatment for opioid addiction to individuals who are indigent and uninsured when prescribed by a physician who is certified to prescribe buprenorphine. Any unexpended or unencumbered balance remaining at the end of fiscal year 2012 shall revert to the general fund.

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