SENATE BILL 100

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

William P. Soules

AN ACT

RELATING TO OPIOID OVERDOSE; REQUIRING HEALTH CARE PROVIDERS WHO PRESCRIBE, DISTRIBUTE OR DISPENSE OPIOIDS TO BE TRAINED ON THE USE OF NALOXONE; REQUIRING THE COUNSELING OF PATIENTS ON THE RISKS OF OVERDOSE AND ABOUT OPIOID OVERDOSE REVERSAL MEDICATION; REQUIRING PHARMACISTS AND PHARMACIST CLINICIANS WHO PRESCRIBE OPIOIDS UNDER A WRITTEN PROTOCOL TO BE TRAINED ON THE USE OF NALOXONE; RELEASING CERTAIN PERSONS FROM CIVIL LIABILITY OR CRIMINAL PROSECUTION FOR ADMINISTERING, PRESCRIBING, DISPENSING OR DISTRIBUTING, DIRECTLY OR INDIRECTLY, AN OPIOID ANTAGONIST; AUTHORIZING NON-PATIENT-SPECIFIC STANDING ORDERS TO DISPENSE NALOXONE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 24-2D-2 NMSA 1978 (being Laws 1999,

Chapter 126, Section 2, as amended) is amended to read:

"24-2D-2. DEFINITIONS.--As used in the Pain Relief Act:

A. "accepted guideline" means the most current clinical pain management guideline developed by the American geriatrics society or the American pain society or a clinical pain management guideline based on evidence and expert opinion that has been accepted by the New Mexico medical board;

B. "acute pain" means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and generally time-limited;

C. "board" means the licensing board of a health care provider;

D. "chronic pain" means pain that persists after reasonable medical efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition;

E. "clinical expert" means a person who by reason of specialized education or substantial relevant experience in pain management has knowledge regarding current standards, practices and guidelines;

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F. "disciplinary action" means any formal action taken by a board against a health care provider, upon a finding of probable cause that the health care provider has engaged in conduct that violates the board's practice act;

G. "health care provider" means a person who is licensed or otherwise authorized by law to provide health care in the ordinary course of business or practice of the person's profession and who has prescriptive authority within the limits of the person's license;

H. "opioid analgesic" means buprenorphine, butorphanol, codeine, hydrocodone, hydromorphine, levorphanol, meperidine, methadone, morphine, nalbuphine, oxycodone, oxymorphone, pentazocine and propoxyphene as well as their brand names, isomers and combinations;

I. "opioid antagonist" means a drug approved by the federal food and drug administration that when administered negates or neutralizes in whole or in part the pharmacological effects of an opioid analgesic in the body, including naloxone and such other medications approved by the board of pharmacy for the reversal of opioid analgesic overdoses;

[~~H.~~] J. "pain" means acute and chronic pain; and

[~~I.~~] K. "therapeutic purpose" means the use of pharmaceutical and non-pharmaceutical medical treatment that conforms substantially to accepted guidelines for pain management."

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SECTION 2. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] REQUIREMENTS FOR HEALTH CARE PROVIDERS WHO PRESCRIBE, DISTRIBUTE OR DISPENSE OPIOID ANALGESICS.--

A. Effective January 1, 2017, no health care provider shall prescribe, distribute or dispense an opioid analgesic unless such person has completed opioid overdose prevention training on the use of naloxone.

B. The board responsible for regulatory oversight of each category of health care provider who is licensed or otherwise authorized to prescribe, distribute or dispense opioid analgesics shall promulgate rules regarding the opioid overdose prevention training required in Subsection A of this section, allow such training to be completed online and make such training available at no cost to such health care providers.

C. A health care provider who prescribes, distributes or dispenses an opioid analgesic for the first time to a patient shall counsel the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist. With respect to a patient to whom an opioid analgesic has previously been prescribed, distributed or dispensed by the health care provider, the health care provider shall counsel the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist on the

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first occasion that the health care provider prescribes, distributes or dispenses an opioid analgesic each calendar year.

D. A health care provider who prescribes an opioid analgesic for a patient shall offer the patient a prescription for naloxone, within the scope of the health care provider's authorized practice, unless otherwise indicated in the professional judgment of the health care provider."

SECTION 3. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] REQUIREMENTS FOR PRESCRIBING PURSUANT TO WRITTEN PROTOCOL OR DISPENSING OPIOID ANALGESICS BY PERSONS REGULATED BY THE BOARD OF PHARMACY.--

A. Effective January 1, 2017, a person licensed or otherwise authorized by the board of pharmacy to prescribe pursuant to written protocol or dispense an opioid analgesic shall not prescribe or dispense an opioid analgesic unless such person has completed opioid overdose prevention training on the use of naloxone.

B. The board of pharmacy shall promulgate rules regarding the opioid overdose prevention training required in Subsection A of this section, allow such training to be completed online and make such training available at no cost to its licensees."

SECTION 4. A new section of the Pain Relief Act is

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enacted to read:

"[NEW MATERIAL] RELEASE FROM LIABILITY.--

A. A person licensed or otherwise authorized to prescribe, distribute or dispense an opioid antagonist shall not be subject to civil liability or criminal prosecution for prescribing, dispensing or distributing, directly or indirectly, an opioid antagonist to a person at risk of experiencing an opioid-related overdose, or to a family member, friend or other person in a position to assist a person experiencing, or at risk of experiencing, an opioid-related overdose.

B. A person who comes to the aid or rescue of another person may administer an opioid antagonist to that other person if the rescuer:

(1) in good faith, believes the other person is experiencing a drug overdose; and

(2) acts with reasonable care in administering the drug to the other person.

C. A person who administers an opioid antagonist to another person pursuant to Subsection B of this section shall not be subject to civil liability or criminal prosecution as a result of the administration of the drug."

SECTION 5. A new section of the Pain Relief Act is enacted to read:

"[NEW MATERIAL] NON-PATIENT-SPECIFIC STANDING ORDERS TO

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DISPENSE NALOXONE.--

A. The secretary of health shall direct the medical director of the department of health to initiate non-patient-specific standing orders to dispense naloxone with a sufficient number of retail pharmacies to ensure that the public throughout the state has access to opioid antagonists on weekdays, after hours and on weekends.

B. The medical director of a hospital or a health plan may initiate non-patient-specific standing orders to dispense naloxone to one or more retail pharmacies to ensure that the public has access to opioid antagonists throughout the state on weekdays, after hours and on weekends. For purposes of this subsection, "health plan" means a health maintenance organization, provider service network or third-party payer or its agent."

SECTION 6. REPEAL.--Sections 24-23-1 and 24-23-2 NMSA 1978 (being Laws 2001, Chapter 228, Sections 1 and 2) are repealed.

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