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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT -- NON-OPIATE DIRECTIVE

Introduced By: Senators Satchell, Miller, Valverde, and McCaffrey

Date Introduced: February 04, 2020

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Section 21-28-3.33 of the General Laws in Chapter 21-28 entitled "Uniform Controlled Substances Act" is hereby amended to read as follows:

21-28-3.33. Voluntary non-opiate directive form.

(a) The department shall establish a voluntary non-opiate directive form. The form shall indicate to all practitioners that an individual shall not be administered or offered a prescription or medication order for an opiate. The form shall be posted on the department's searchable website. An individual may execute and file a voluntary non-opiate directive form with the department as provided by the director ~~with a practitioner licensed under chapter 37 of title 5 or other authority authorized by the director to accept the voluntary non-opiate directive form for filing~~. An individual may revoke the voluntary non-opiate directive form for any reason and may do so by written or oral means.

(b) The department shall promulgate regulations for the implementation of the voluntary non-opiate directive form that shall include, but not be limited to:

(1) The procedures to record the voluntary non-opiate directive form in the ~~individual's electronic health record and in the~~ prescription drug monitoring program established pursuant to § 21-28-3.18;

(2) A standard form for the recording and transmission of the voluntary non-opiate directive form that shall ~~include verification by a practitioner registered under chapter 37 of title 5~~

~~and that shall~~ comply with the written consent requirements of the Public Health Service Act, 42 U.S.C. § 290dd-2(b), and 42 C.F.R. Part 2; provided, however, that the voluntary non-opiate directive form shall also provide the basic procedures necessary to revoke the voluntary non-opiate directive form;

(3) The requirements for an individual to appoint a duly authorized guardian or health care proxy to override a previously recorded voluntary non-opiate directive form;

(4) The procedures to ensure that any recording, sharing, or distribution of data relative to the voluntary non-opiate directive form complies with all state and federal confidentiality laws; and

(5) Appropriate exemptions for pre-hospital emergency medical services providers and other medical personnel.

(c) A written prescription that is presented at an outpatient pharmacy or a prescription that is electronically transmitted to an outpatient pharmacy shall be presumed to be valid for the purposes of this section and a pharmacist in an outpatient setting shall not be held in violation of this section for dispensing a controlled substance in contradiction to a voluntary non-opiate directive form, except upon evidence that the pharmacist acted knowingly against the voluntary non-opiate directive form.

(d) No health care provider or employee of a health care provider acting in good faith shall be subject to criminal or civil liability or be considered to have engaged in unprofessional conduct for failing to offer or administer a prescription or medication order for an opiate under the voluntary non-opiate directive form.

(e) No person acting as an agent pursuant to a health care proxy shall be subject to criminal or civil liability for making a decision under subsection (b)(3) of this section in good faith.

(f) ~~The board of medical licensure and discipline~~ The department of health may limit, condition, or suspend the license of or assess fines against a licensed health care provider who recklessly or negligently fails to comply with a person's voluntary non-opiate directive form.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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This act would direct an individual to file a voluntary non-opiate directive form with the department of health and delete the requirement to file with a licensed practitioner or any other authority. This act would delete the requirement to record the non-opiate directive form in the individual's electronic health record. This act would also delete the requirement of including the verification of a registered practitioner on the standard form of recording and transmission. This act would replace the board of medical licensure and discipline with the department of health to impose any limits, conditions, suspensions or fines against any licensed health care provider for recklessly or negligently failing to comply with a person's voluntary non-opiate directive form.

This act would take effect upon passage.

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