SENATE BILL 2011
By Reeves

HOUSE BILL 2903

By Kumar

AN ACT to amend Tennessee Code Annotated, Title 53; Title 63; Title 68 and Title 71, relative to the use of drugs for the treatment of pain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-199, is amended by deleting the existing language and substituting:

(a) Except as otherwise provided in this section, the division of TennCare may, in its sole discretion, adopt or amend a state preferred drug list (PDL). The adoption or amendment of a PDL, and the recommendations of the TennCare pharmacy advisory committee to the bureau are not agency actions and do not require rulemaking.

(b) In establishing and maintaining the PDL, the division shall ensure that no non-opioid drug approved by the United States food and drug administration for the treatment or management of pain is disadvantaged or discouraged with respect to coverage relative to any opioid or narcotic drug for the treatment or management of pain on the PDL. Impermissible disadvantaging or discouragement includes, but is not limited to:

(1) Designating a non-opioid drug as a non-preferred drug if any opioid or narcotic drug is designated as a preferred drug; or

(2) Establishing more restrictive or more extensive utilization controls, including, but not limited to, prior authorization or step therapy requirements for a non-opioid drug that are more restrictive or more extensive than the least restrictive or extensive utilization controls applicable to an opioid or narcotic drug.

(c) This section applies to a non-opioid drug immediately upon its approval by the United States food and drug administration for the treatment or management of pain, regardless of whether the drug has been reviewed by the division for inclusion on the PDL. This section also applies to drugs being provided under a contract between the division and any managed care organization.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Division" means the division of TennCare; and

(2) "Non-opioid treatment" means a drug or biological product that is indicated to produce analgesia without acting on the body's opioid receptors.

(b) The division shall ensure that reimbursement is provided to a healthcare provider who provides a non-opioid treatment to a recipient under the medical assistance program.

(c) The division shall ensure that, to the extent permitted by law, a hospital that provides either inpatient or outpatient services to a recipient is reimbursed separately under the medical assistance program for any non-opioid treatment provided as a part of those services.

SECTION 3. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following as a new section:

Notwithstanding another law, when a licensed physician prescribes a non-opioid medication for the treatment of acute or chronic pain, a managed care organization or other health insurance issuer shall not deny coverage of the non-opioid prescription drug in favor of an opioid prescription drug.

SECTION 4. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) The department of health shall develop and publish on its website no later than September 30, 2024, an educational pamphlet regarding the use of non-opioid alternatives for the treatment of pain. The pamphlet must include, but is not limited to:

(1) Information on available non-opioid alternatives for the treatment of pain, including non-opioid medicinal drugs or drug products and non-pharmacological therapies; and

(2) The advantages and disadvantages of the use of non-opioid alternatives.

(b) The department of health shall work with the Tennessee opioid abatement council created by § 33-11-103, to explore and utilize, to the extent permissible by state and federal law, opioid abatement funding for educational and healthcare services related to non-opioid alternatives.

SECTION 5. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Department" means the department of health; and

(2) "Healthcare practitioner" means a person who is licensed, certified, registered, or permitted to deliver healthcare services in this state and who has the authority to prescribe controlled substances.

(b) Except in the provision of emergency services and care before providing anesthesia, prior to prescribing, ordering, dispensing, or administering an opioid drug listed as a Schedule II controlled substance for the treatment of pain, a healthcare practitioner shall:

(1) Inform the patient of available non-opioid alternatives for the treatment of pain, which may include non-opioid medicinal drugs or drug products, interventional procedures or treatments, acupuncture, chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other appropriate therapy as determined by the healthcare practitioner;

(2) Discuss the advantages and disadvantages of the use of non-opioid alternatives, including whether the patient is at a high risk of, or has a history of, controlled substance abuse or misuse and the patient's personal preferences; and

(3) Provide the patient with the educational pamphlet developed by the department pursuant to SECTION 4(a) and document the non-opioid alternatives considered in the patient's record.

SECTION 6. Section 4 of this act takes effect upon becoming a law, the public welfare requiring it. Section 5 of this act takes effect October 1, 2024, the public welfare requiring it. The remainder of this act takes effect July 1, 2024, the public welfare requiring it.