SENATE BILL 601

By Dickerson

AN ACT to amend Tennessee Code Annotated, Title 56 and Title 71, relative to abuse-deterrent opioid analgesic drug products.

WHEREAS, the abuse of opioids is a serious problem that affects the health, social, and economic welfare of the State; and

WHEREAS, an estimated 2.1 million people in the United States suffered from substance use disorders related to prescription opioid pain relievers in 2012; and

WHEREAS, the number of unintentional overdose deaths from prescription pain relievers has more than quadrupled since 1999; and

WHEREAS, it is imperative for people suffering from pain to get the relief they need while minimizing the potential for negative consequences; now, therefore,

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

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following language as a new, appropriately designated section:

(a) As used in this section:

(1) "Abuse-deterrent opioid analgesic drug product" means a brand or generic opioid analgesic drug product approved by the federal food and drug administration (FDA) with abuse-deterrence labeling claims that indicate the drug product is expected to result in a meaningful reduction in abuse;

(2) "Cost sharing" means any dollar limit, copayment, coinsurance, deductible, or other limitation applied to a covered benefit in health insurance coverage;

(3) "Covered individual" means an individual on whose behalf a health insurance entity is obligated to pay benefits or provide services pursuant to health insurance coverage;

(4) "Dispenser" has the meaning provided in § 53-10-302;

(5) "Health insurance coverage":

(A) Has the meaning provided in § 56-7-109(a); and

(B) Includes any coverage provided to TennCare recipients under Title XIX of the federal Social Security Act (42 U.S.C. § 1396 et seq.), or any successor to the TennCare program administered pursuant to the federal medicaid laws;

(6) "Health insurance entity":

(A) Has the meaning provided in § 56-7-109(a); and

(B) Includes the TennCare bureau and any entity that meets the requirements of subdivision (a)(6)(A) that contracts directly with the TennCare bureau;

(7) "Opioid analgesic drug product" means a drug product that contains an opioid agonist and that is indicated by the FDA for the treatment of pain, whether in an immediate-release or extended-release formulation and whether or not the drug product contains other drug substances; and

(8) "Prescriber" means an individual licensed as a medical doctor, podiatrist, dentist, optometrist, veterinarian, osteopathic physician, or physician assistant who has the authority to issue prescriptions for controlled substances, or an advanced practice nurse with a certificate of fitness to prescribe and the required supervisory relationship with a physician.

(b) Health insurance coverage shall provide coverage for abuse-deterrent opioid analgesic drug products. To the extent that abuse-deterrent opioid analgesic drug products are not already covered by health insurance coverage, coverage under this

section shall be included in health insurance policies that are delivered, executed, issued, amended, adjusted, or renewed in this state, or outside this state if insuring residents of this state, on or after July 1, 2015.

(c) A health insurance entity shall not:

(1) Impose cost-sharing requirements on coverage for abuse-deterrent opioid analgesic drug products that exceed the lowest applicable cost-sharing requirements for coverage of any other opioid analgesic drug product;

(2) Require that a covered individual first use an opioid analgesic drug product without abuse-deterrence labeling claims before providing coverage for an abuse-deterrent opioid analgesic drug product; or

(3) Increase cost-sharing requirements for all opioid analgesic drug products for purposes of compliance with subdivision (c)(1).

(d) A health insurance entity shall not create disincentives for prescribers or dispensers to discourage the prescribing or dispensing of abuse-deterrent opioid analgesic drug products.

(e) This section shall not prohibit a health insurance entity from using utilization review, including preauthorization, for abuse-deterrent opioid analgesic drug products in accordance with the Health Care Service Utilization Review Act, compiled in chapter 6, part 7, of this title; provided, that the same utilization review requirements are applied to all opioid analgesic drug products.

SECTION 2. This act shall not apply to health plans preempted from state regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. § 1001 et seq.).

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.