S-4850.3

SECOND SUBSTITUTE SENATE BILL 6150

State of Washington 65th Legislature 2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators Cleveland, Rivers, Carlyle, Kuderer, Fain, Hasegawa, Mullet, Saldaña, Conway, Van De Wege, Chase, Keiser, and Liias; by request of Governor Inslee)

AN ACT Relating to opioid use disorder treatment, prevention, and related services; amending RCW 71.24.585, 71.24.595, 71.24.560, 71.24.011, 69.41.095, 71.24.585, 71.24.595, 70.225.010, 70.225.040, and 70.168.090; amending 2005 c 70 s 1 (uncodified); adding new sections to chapter 71.24 RCW; adding a new section to chapter 70.225 RCW; adding a new section to chapter 74.09 RCW; creating a new section; and providing a contingent effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

PART I

NEW SECTION. **Sec. 1.** The legislature declares that opioid use disorder is a public health crisis. State agencies must increase access to evidence-based opioid use disorder treatment services, promote coordination of services within the substance use disorder treatment and recovery support system, strengthen partnerships between opioid use disorder treatment providers and their allied community partners, expand the use of the Washington state prescription monitoring program, and support comprehensive school and community-based substance use prevention services.

This act leverages the direction provided by the Washington state interagency opioid working plan in order to address the opioid epidemic challenging communities throughout the state.

Agencies administering state purchased health care programs, as defined in RCW 41.05.011, shall coordinate activities to implement the provisions of this act and the Washington state interagency opioid working plan, explore opportunities to address the opioid epidemic, and provide status updates as directed by the joint legislative executive committee on health care oversight to promote legislative and executive coordination.

PART II

Sec. 2. RCW 71.24.585 and 2017 c 297 s 12 are each amended to read as follows:

((~~The state of Washington declares that there is no fundamental right to medication-assisted treatment for opioid use disorder.~~)) (1) The state of Washington ((~~further~~)) declares that ((~~while~~)) medications used in the treatment of opioid use disorder are ((~~addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons with opioid use disorder~~)) the most effective intervention to reduce deaths from opioid overdose and keep people in treatment. The state of Washington recognizes medications approved by the federal food and drug administration as ((~~evidence-based for the management of opioid use disorder the medications approved by the federal food and drug administration for the~~)) an integral component of treatment ((~~of~~)) for opioid use disorder. ((~~Medication-assisted treatment should only be used for participants who are deemed appropriate to need this level of intervention.~~)) While medications have been shown to be the treatment of choice for persons with opioid use disorder, many individuals will also benefit from counseling and social supports. Providers must inform patients of all evidence-based treatment options available including both controlled and noncontrolled medications. ((~~The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.~~))

Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the ((~~clinical~~)) uses of these medications in the treatment of opioid use disorder.

((~~Further,~~)) (2) The department will promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, the department will prioritize state resources for the provision of treatment and recovery support services to:

(a) Entities which allow patients to maintain their use of medications for opioid use disorder while engaging in services; and

(b) Entities which allow patients to start on medications for opioid use disorder while enrolled in their services.

(3) The state declares that the main goals of ((~~opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in opioid treatment programs require treatment for an extended period of time. Opioid treatment programs shall provide a comprehensive transition program to eliminate substance use, including opioid use of program participants~~)) treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the health care authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The health care authority shall partner with the department of social and health services, the department of corrections, the department of health, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include, but are not limited to:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration. The authority's application for any such waiver must comply with all applicable federal requirements for obtaining such waiver; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The department shall replicate effective approaches such as opioid hub and spoke treatment networks to broaden outreach and patient navigation with allied opioid use disorder community partners, including but not limited to: Federally accredited opioid treatment programs and substance use disorder treatment facilities, jails, syringe exchange programs, community mental health centers, and primary care clinics.

(b) To carry out this subsection (6), the department shall work with the department of health and the health care authority to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs and substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers; and

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

(8) To achieve the goals in subsection (3) of this section, state agencies must work together to increase outreach and education about opioid overdoses to non-English speaking communities, this includes developing a plan to collect data on the number of overdoses for non-English speakers. The department of health must submit a report on the data collection plan with recommendations for implementation to the appropriate legislative committees by December 31, 2018.

Sec. 3. RCW 71.24.595 and 2017 c 297 s 16 are each amended to read as follows:

(1) To achieve more medication options, the department shall work with the department of health and the health care authority and its medicaid managed care organizations, to eliminate barriers and promote access to all effective medications known to address opioid use disorders at state-certified opioid treatment programs. Medications should include, but not be limited to: Methadone, buprenorphine, and naltrexone. The department shall encourage the distribution of naloxone to patients who are at risk of an opioid overdose.

(2) The department, in consultation with opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for certified opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

((~~(2)~~)) (3) The department, in consultation with opioid treatment programs and counties, shall establish statewide operating standards for certified opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified and licensed opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located.

((~~(3)~~)) (4) The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

By October 1, 2018, the department shall work with the department of health, the health care authority, the accountable communities of

health, and community stakeholders to develop a plan for the coordinated purchasing and distribution of opioid overdose reversal medication across the state of Washington. The plan shall be developed in consultation with the University of Washington's alcohol and drug abuse institute and community agencies participating in the federal demonstration grant titled Washington state project to prevent prescription drug or opioid overdose.

NEW SECTION. **Sec. 5.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The department shall work with the department of health, the health care authority, contracted opioid hub and spoke networks, accountable communities of health, and drug task forces to develop a strategy to support rapid response teams to be deployed, within a short period of time, to communities identified as having a high number of fentanyl-related or other opioid-related overdoses, by local drug task forces, public health departments, or other local, regional, or state surveillance methods. The teams may be deployed in medical clinics, hospital emergency departments, or other community emergency response centers, and are expected to increase the capacity of medication-assisted treatment therapy prescribing and inductions. Team members may include, but are not limited to, nurse care managers, peers or care navigators, drug task forces, opioid treatment program clinicians, and medication-assisted treatment prescribers. The teams shall set goals around continued access to medication therapy for patients once the emergency is stabilized.

(2) The department shall work with the department of health and the health care authority to reduce barriers and promote medication treatment therapies for opioid use disorder in emergency departments and same-day referrals to opioid treatment programs, substance use disorder treatment facilities, and community-based medication treatment prescribers for individuals experiencing an overdose.

Sec. 6. RCW 71.24.560 and 2017 c 297 s 11 are each amended to read as follows:

(1) All approved opioid treatment programs that provide services to women who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant clients concerning the ((~~possible addiction and health risks that their treatment may have on their baby~~)) effects of opioid use and opioid

use disorder treatment medication may have on their baby, including the development of dependence and subsequent withdrawal. All pregnant clients must also be advised of the risks to both them and their baby associated with not remaining ((~~on the~~)) in an opioid treatment program. The information must be provided to these clients both verbally and in writing. The health education information provided to the pregnant clients must include referral options for the substance-exposed baby.

(2) The department shall adopt rules that require all opioid treatment programs to educate all pregnant women in their program on the benefits and risks of medication-assisted treatment to their fetus before they are provided these medications, as part of their treatment. The department shall also adopt rules that require all opioid treatment programs to educate women who become pregnant about the risks to both the mother and their fetus of not treating opioid use disorder. The department shall meet the requirements under this subsection within the appropriations provided for opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified opioid treatment programs.

Sec. 7. 2005 c 70 s 1 (uncodified) is amended to read as follows:

The legislature finds that drug use among pregnant women is a significant and growing concern statewide. ((~~The legislature further finds that methadone, although an effective alternative to other substance use treatments, can result in babies who are exposed to methadone while in uteri being born addicted and facing the painful effects of withdrawal.~~))

It is the intent of the legislature to notify all pregnant mothers who are receiving ((~~methadone treatment~~)) medication for treatment of opioid use disorder of the risks and benefits ((~~methadone~~)) such medication could have on their baby during pregnancy through birth and to inform them of the potential need for the newborn baby to be taken care of in a hospital setting or in a specialized supportive environment designed specifically to address ((~~newborn addiction problems~~)) and manage neonatal opioid or other drug withdrawal syndromes.

Sec. 8. RCW 71.24.011 and 1982 c 204 s 1 are each amended to read as follows:

This chapter may be known and cited as the community ((~~mental~~)) behavioral health services act.

Sec. 9. RCW 69.41.095 and 2015 c 205 s 2 are each amended to read as follows:

(1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose reversal medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by prescription, collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription, standing order, or protocol ((~~order~~)) is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose reversal medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose reversal medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose reversal medication pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with subsection (1)(a) of this section and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate ((~~medication~~)) medical attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a prescription ((~~or~~)), collaborative drug therapy agreement, standing order, or protocol issued by a practitioner in accordance with subsection (1) of this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or

disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose reversal medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose reversal medication pursuant to subsection (2) or (5)(a) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose reversal medication pursuant to subsection (3) of this section.

(5) The secretary or his or her designee may issue a standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. The standing order may be limited to specific areas in the state or issued statewide.

(a) A pharmacist shall dispense an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection, consistent with the pharmacist's responsibilities to dispense prescribed legend drugs, and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medical attention must be conspicuously displayed.

(b) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection (5). The department, in coordination with the appropriate entity or entities, shall develop a training module that provides training regarding the identification of a person suffering from an opioid-related overdose and the use of opioid overdose reversal medications. The training must be available electronically and in a variety of media from the department.

(c) This subsection (5) does not create a private cause of action. Notwithstanding any other provision of law, neither the state nor the secretary nor the secretary's designee has any civil

liability for issuing standing orders or for any other actions taken pursuant to this chapter or for the outcomes of issuing standing orders or any other actions taken pursuant to this chapter. Neither the secretary nor the secretary's designee is subject to any criminal liability or professional disciplinary action for issuing standing orders or for any other actions taken pursuant to this chapter or for the outcomes of issuing standing orders or any other actions taken pursuant to this chapter.

(d) For purposes of this subsection (5), "standing order" means an order prescribing medication by the secretary or the secretary's designee. Such standing order can only be issued by a practitioner as defined in this chapter.

(6) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section shall ensure that directions for use are provided.

(7) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose reversal medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a drug by designated and trained staff or volunteers of an organization or entity, as well as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment.

Sec. 10. RCW 71.24.585 and 2017 c 297 s 12 are each amended to read as follows:

((~~The state of Washington declares that there is no fundamental right to medication-assisted treatment for opioid use disorder.~~)) (1) The state of Washington ((~~further~~)) declares that ((~~while~~)) medications used in the treatment of opioid use disorder are ((~~addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons with opioid use disorder~~)) the most effective intervention to reduce deaths from opioid overdose and keep people in treatment. The state of Washington recognizes medications approved by the federal food and drug administration as ((~~evidence-based for the management of opioid use disorder the medications approved by the federal food and drug administration for the~~)) an integral component of treatment ((~~of~~)) for opioid use disorder. ((~~Medication-assisted treatment should only be used for participants who are deemed appropriate to need this level of intervention.~~)) While medications have been shown to be the treatment of choice for persons with opioid use disorder, many individuals will also benefit from counseling and social supports. Providers must inform patients of all evidence-based treatment options available. ((~~The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.~~)) Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the ((~~clinical~~)) uses of these medications in the treatment of opioid use disorder.

((~~Further,~~)) (2) The authority will promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, the authority will prioritize state resources for the provision of treatment and recovery support services to:

(a) Entities which allow patients to maintain their use of medications for opioid use disorder while engaging in services; and

(b) Entities which allow patients to start on medications for opioid use disorder while enrolled in their services.

(3) The state declares that the main goals of ((~~opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in opioid treatment programs require treatment for an extended period of time. Opioid treatment programs shall provide a comprehensive transition program to eliminate substance use, including opioid use of program participants~~)) treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the health care authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The authority shall partner with the department of social and health services, the department of corrections, the department of health, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include, but are not limited to:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration. The authority's application for any such waiver

must comply with all applicable federal requirements for obtaining such waiver; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The authority shall replicate effective approaches such as opioid hub and spoke treatment networks to broaden outreach and patient navigation with allied opioid use disorder community partners, including but not limited to: Federally accredited opioid treatment programs and substance use disorder treatment facilities, jails, syringe exchange programs, community mental health centers, and primary care clinics.

(b) To carry out this subsection (6), the authority shall work with the department of health to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs and substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers; and

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

Sec. 11. RCW 71.24.595 and 2017 c 297 s 16 are each amended to read as follows:

(1) To achieve more medication options, the authority shall work with the department of health and the authority's medicaid managed care organizations, to eliminate barriers and promote access to all effective medications known to address opioid use disorders at state-certified opioid treatment programs. Medications should include, but not be limited to: Methadone, buprenorphine, and naltrexone. The authority shall encourage the distribution of naloxone to patients who are at risk of an opioid overdose.

(2) The department, in consultation with opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for certified opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

((~~(2)~~)) (3) The department, in consultation with opioid treatment programs and counties, shall establish statewide operating standards for certified opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified and licensed opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located.

((~~(3)~~)) (4) The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

NEW SECTION. **Sec. 12.** A new section is added to chapter 71.24 RCW to read as follows:

By October 1, 2018, the authority shall work with the department of health, the accountable communities of health, and community stakeholders to develop a plan for the coordinated purchasing and distribution of opioid overdose reversal medication across the state of Washington. The plan shall be developed in consultation with the University of Washington's alcohol and drug abuse institute and community agencies participating in the federal demonstration grant titled Washington state project to prevent prescription drug or opioid overdose.

NEW SECTION. **Sec. 13.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall work with the department, contracted opioid hub and spoke networks, accountable communities of health, and drug task forces to develop a strategy to support rapid response teams to be deployed, within a short period of time, to communities identified as having a high number of fentanyl-related or other opioid-related overdoses, by local drug task forces, public health departments, or other local, regional, or state surveillance methods. The teams may be deployed in medical clinics, hospital emergency departments, or other community emergency response centers, and are expected to increase the capacity of medication-assisted treatment therapy prescribing and inductions. Team members may include, but are not limited to, nurse care managers, peers or care navigators, drug task forces, opioid treatment program clinicians, and medication-assisted treatment prescribers. The teams shall set goals around continued access to medication therapy for patients once the emergency is stabilized.

(2) The authority shall work with the department to reduce barriers and promote medication treatment therapies for opioid use disorder in emergency departments and same-day referrals to opioid treatment programs, substance use disorder treatment facilities, and community-based medication treatment prescribers for individuals experiencing an overdose.

PART III

Sec. 14. RCW 70.225.010 and 2007 c 259 s 42 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

(2) "Department" means the department of health.

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

(5) "Prescriber" means any person authorized to order or prescribe legend drugs or schedule II, III, IV, or V controlled substances to the ultimate user.

(6) "Requestor" means any person or entity requesting, accessing, or receiving information from the prescription monitoring program under RCW 70.225.040 (3), (4), or (5).

Sec. 15. RCW 70.225.040 and 2017 c 297 s 9 are each amended to read as follows:

(1) ((~~Prescription~~)) All information submitted to the ((~~department must be~~)) prescription monitoring program is confidential, ((~~in compliance with~~)) exempt from public inspection, copying, and disclosure under chapter 42.56 RCW, not subject to subpoena or discovery in any civil action, and protected under chapter 70.02 RCW and federal health care information privacy requirements ((~~and not subject to disclosure~~)), except as provided in subsections (3), (4), and (5) of this section. Such confidentiality and exemption from disclosure continues whenever information from the prescription monitoring program is provided to a requestor under subsection (3), (4), or (5) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of ((~~patients and patient~~)) all information collected, recorded, transmitted, and maintained including, but not limited to, the prescriber, requestor, dispenser, patient, and persons who received prescriptions from dispensers, is not disclosed to persons except as in subsections (3), (4), and (5) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of

federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or the director's designee within the health care authority regarding medicaid clients and members of the health care authority self-funded or self-insured health plans for the purposes of quality improvement, patient safety, and care coordination. The information may not be used for contracting or value-based purchasing decisions;

(g) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(h) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(i) Other entities under grand jury subpoena or court order;

(j) Personnel of the department for purposes of:

(i) Assessing prescribing practices, including controlled substances related to mortality and morbidity;

(ii) Providing quality improvement feedback to ((~~providers~~)) prescribers, including comparison of their respective data to aggregate data for ((~~providers~~)) prescribers with the same type of license and same specialty; and

(iii) Administration and enforcement of this chapter or chapter 69.50 RCW;

(k) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

(l) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if:

(i) The facility or entity is licensed by the department or is operated by the federal government or a federally recognized Indian tribe; and

(ii) The facility or entity is a trading partner with the state's health information exchange;

(m) A health care provider group of five or more ((~~providers~~)) prescribers or dispensers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if:

(i) All the ((~~providers~~)) prescribers or dispensers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe; and

(ii) The provider group is a trading partner with the state's health information exchange;

(n) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as in RCW 70.05.010; and

(o) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:

(i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and

(ii) Notice to providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.

(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)(l) of this section or a provider group identified under subsection (3)(m) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:

(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and

(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.

(5)(a) The department may publish or provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Indirect patient identifiers may be provided for research that has been approved by the Washington state institutional review board and by the department through a data-sharing agreement.

(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association.

(ii) For the purposes of this subsection, "indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination.

(6) Persons authorized in subsections (3), (4), and (5) of this section to receive data in the prescription monitoring program from the department, acting in good faith, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for acting under this chapter.

NEW SECTION. **Sec. 16.** A new section is added to chapter 70.225 RCW to read as follows:

(1) A vendor that sells a federally certified electronic health records system for use in the state of Washington must ensure their

system can integrate with the prescription monitoring program utilizing the state health information exchange by December 1, 2018. The vendor may not charge an ongoing fee or a fee based on the number of transactions or providers using such integration by one of their customers. Total costs of connection must not impose an unreasonable cost burden on any facility or entity identified in RCW 70.225.040(3)(l) or provider group identified in RCW 70.225.040(3)(m) utilizing the electronic health record, and must be consistent with current industry pricing structures. For the purposes of this section, "fully integrate" means that the electronic health record system must:

(a) Send information to the prescription monitoring program without physician intervention using one of the standard transmission and content standards supported by the state health information exchange for all controlled substances;

(b) Make current information from the prescription monitoring program available to a provider within the workflow of the electronic health records system; and

(c) Make information available in a way that is unlikely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information, in accordance with the information blocking provisions of the federal 21st century cures act, P.L. 114-255.

(2) A facility or entity identified in RCW 70.225.040(3)(l) or provider group identified in RCW 70.225.040(3)(m) that uses one of the three largest, in terms of market share, electronic health record vendors operating in Washington state must demonstrate that the facility's or entity's federally certified electronic health record is able to use the state health information exchange to fully integrate data to and from the prescription monitoring program, confirmed by the state health information exchange by July 1, 2019, if their federally certified electronic health records system vendor is able to comply with subsection (1) of this section by December 1, 2018.

(3)(a) The department shall convene a work group to study best practices regarding data sharing, including security standards, and the challenges with connectivity and prescription monitoring program integration with electronic health records using the state health information exchange. The work group must:

(i) Provide a detailed overview of alternatives to prescription monitoring program integration with electronic health records in addition to the state health information exchange model;

(ii) Provide recommendations for increasing the accessibility of the stand-alone prescription monitoring program portal;

(iii) Review other states' data sharing models for communicating state prescription data to providers;

(iv) Survey all facilities or entities identified in RCW 70.225.040(3)(l) or provider groups identified in RCW 70.225.040(3)(m) about the status of their federally certified electronic health record's ability to use the state health information exchange to fully integrate data to and from the prescription monitoring program; and

(v) Provide recommendations for improving small and rural electronic health record integration to the prescription monitoring program.

(b) The work group must invite the chair and ranking member, or their designees, from each of the legislative health care committees, and a representative from the largest professional association for physicians and hospitals in the state. As needed, the work group may invite a representative from the health care authority and the office of the chief information officer. The department must submit, in compliance with RCW 43.01.036, a report to the legislature detailing the work group's findings by November 15, 2018.

Sec. 17. RCW 70.168.090 and 2010 c 52 s 5 are each amended to read as follows:

(1)(a) By July 1991, the department shall establish a statewide data registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The department shall collect additional data on traumatic brain injury should additional data requirements be enacted by the legislature. The registry shall be used to improve the availability and delivery of prehospital and hospital trauma care services. Specific data elements of the registry shall be defined by rule by the department. To the extent possible, the department shall coordinate data collection from hospitals for the trauma registry with the health care data system authorized in chapter 70.170 RCW. Every hospital, facility, or health care provider authorized to provide level I, II, III, IV, or V trauma care services, level I, II, or III pediatric

trauma care services, level I, level I-pediatric, II, or III trauma-related rehabilitative services, and prehospital trauma-related services in the state shall furnish data to the registry. All other hospitals and prehospital providers shall furnish trauma data as required by the department by rule.

(b) The department may respond to requests for data and other information from the registry for special studies and analysis consistent with requirements for confidentiality of patient and quality assurance records. The department may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) By July 1, 2019, the department shall establish a statewide electronic emergency medical services data system and adopt rules requiring that every licensed ambulance and aid service report and furnish patient encounter data to the electronic emergency medical services data system managed by the department. The data system must be used to improve the availability and delivery of prehospital emergency medical services. Specific data elements of the data system and secure transport method, such as the state health information exchange, shall be defined by rule by the department, and must include data on fatal and nonfatal overdoses or drug poisoning.

(3) In each emergency medical services and trauma care planning and service region, a regional emergency medical services and trauma care systems quality assurance program shall be established by those facilities authorized to provide levels I, II, and III trauma care services. The systems quality assurance program shall evaluate trauma care delivery, patient care outcomes, and compliance with the requirements of this chapter. The systems quality assurance program may also evaluate emergency cardiac and stroke care delivery. The emergency medical services medical program director and all other health care providers and facilities who provide trauma and emergency cardiac and stroke care services within the region shall be invited to participate in the regional emergency medical services and trauma care quality assurance program.

((~~(3)~~)) (4) Data elements related to the identification of individual patient's, provider's and facility's care outcomes shall be confidential, shall be exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence.

((~~(4)~~)) (5) Patient care quality assurance proceedings, records, and reports developed pursuant to this section are confidential, exempt from chapter 42.56 RCW, and are not subject to discovery by subpoena or admissible as evidence. In any civil action, except, after in camera review, pursuant to a court order which provides for the protection of sensitive information of interested parties including the department: (a) In actions arising out of the department's designation of a hospital or health care facility pursuant to RCW 70.168.070; (b) in actions arising out of the department's revocation or suspension of designation status of a hospital or health care facility under RCW 70.168.070; (c) in actions arising out of the department's licensing or verification of an ambulance or aid service pursuant to RCW 18.73.030 or 70.168.080; (d) in actions arising out of the certification of a medical program director pursuant to RCW 18.71.212; or ((~~(c)~~)) (e) in actions arising out of the restriction or revocation of the clinical or staff privileges of a health care provider as defined in RCW 7.70.020 (1) and (2), subject to any further restrictions on disclosure in RCW 4.24.250 that may apply. Information that identifies individual patients shall not be publicly disclosed without the patient's consent.

NEW SECTION. **Sec. 18.** A new section is added to chapter 74.09 RCW to read as follows:

(1) By October 2018, the health care authority shall develop and recommend for coverage nonpharmacologic treatments for chronic noncancer pain and shall report to the governor and the appropriate committees of the legislature, including any requests for funding necessary to implement the recommendations under this section. The recommendations must contain the following elements:

(a) A list of chronic, acute, and subacute conditions for which nonpharmacologic treatments will be covered;

(b) A list of which nonpharmacologic treatments will be covered for each chronic condition specified as eligible for coverage;

(c) Recommendations as to the duration, amount, and type of treatment eligible for coverage by condition;

(d) A financial model that is scalable based on the types of conditions covered and the amount of allowed services per condition;

(e) Guidance on the type of providers eligible to provide these treatments; and

(f) Recommendations regarding the need to add any provider types to the list of currently eligible medicaid provider types.

(2) The health care authority shall ensure only treatments that are supported by evidence for the treatment of the specific chronic, acute, or subacute pain conditions listed will be eligible for coverage recommendations.

NEW SECTION. **Sec. 19.** (1) Sections 2 through 5 of this act take effect only if chapter . . . (House Bill No. 1388 or Senate Bill No. 5259), Laws of 2018 is not enacted by March 9, 2018.

(2) Sections 10 through 13 of this act take effect only if chapter . . . (House Bill No. 1388 or Senate Bill No. 5259), Laws of 2018 is enacted by March 9, 2018.

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