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H.B. 175
1st Sub. (Buff)

Representative Steve Eliason proposes the following substitute bill:

OPIOID ABUSE PREVENTION AND TREATMENT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Brian E. Shiozawa

Cosponsors:	Craig Hall	Michael E. Noel
Rebecca Chavez-Houck	Sandra Hollins	
Brad M. Daw	Michael S. Kennedy	

LONG TITLE

General Description:

This bill requires controlled substance prescribers to receive training in a nationally recognized opioid abuse screening method, requires reimbursement for the screening services, and prohibits prior authorization of certain drugs.

Highlighted Provisions:

This bill:

- requires controlled substance prescribers to receive training in a nationally recognized opioid abuse screening method;
- permits controlled substance prescribers to fulfill continuing education requirements through training in the screening method;
- permits controlled substance prescribers who receive a DATA 2000 waiver to use the waiver to fulfill certain continuing education requirements;
- prohibits Medicaid from requiring prior authorization for certain drugs used to treat opiate addiction;

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- prohibits the Public Employees' Benefit and Insurance Program from requiring preauthorization for certain drugs used to treat opiate addiction;
- requires Medicaid reimbursement to health care providers for screening services;
- requires the Public Employees' Benefit and Insurance Program to reimburse health care providers for screening services; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-2.4, as last amended by Laws of Utah 2016, Chapters 168 and 279

58-37-6.5, as repealed and reenacted by Laws of Utah 2013, Chapter 450

ENACTS:

26-18-21, Utah Code Annotated 1953

49-20-414, Utah Code Annotated 1953

49-20-415, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-18-2.4** is amended to read:

26-18-2.4. Medicaid drug program -- Preferred drug list.

(1) A Medicaid drug program developed by the department under Subsection 26-18-2.3(2)(f):

(a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) may include placing some drugs, except the drugs described in Subsection (2), on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection (3) for psychotropic drugs;

(d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, and except as provided in [~~Subsection~~] Subsections (3) and (4), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:

(i) on the preferred drug list on the date that this act takes effect; or

(ii) added to the preferred drug list after this act takes effect; and

(e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements established under Subsections (1)(c) and (d) which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;

(ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and

(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

(2) (a) For purposes of this Subsection (2):

(i) "Immunosuppressive drug":

(A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and

(B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.

(ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using

a particular psychotropic drug.

(b) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.

(c) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the Department of Health a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;

(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;

(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;

(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;

(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or

(vi) other valid reasons as determined by the department.

(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with

Subsection (2)(f).

(3) (a) For purposes of this Subsection (3), "psychotropic drug" means the following classes of drugs:

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iii) anti-convulsant/mood stabilizer;

(iv) anti-anxiety; and

(v) attention deficit hyperactivity disorder stimulant.

(b) The department shall develop a preferred drug list for psychotropic drugs. Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing "dispense as written" on the prescription for the psychotropic drug. A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall:

(i) establish a system to:

(A) track health care provider prescribing patterns for psychotropic drugs;

(B) educate health care providers who are not complying with the preferred drug list; and

(C) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list; and

(ii) determine whether health care provider compliance with the preferred drug list is at least:

(A) 55% of prescriptions by July 1, 2017;

(B) 65% of prescriptions by July 1, 2018; and

(C) 75% of prescriptions by July 1, 2019.

(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least $750,000 General Fund savings.

(e) The department shall report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee before November 30, 2016, and before each November 30 thereafter regarding compliance with and savings from implementation of this Subsection (3).

(4) (a) Neither the department's Medicaid program nor a managed care organization that contracts with the state's medical assistance program may require prior authorization for a prescription or a prescription renewal for a drug that is:

(i) preferred;

(ii) approved by the United States Food and Drug Administration for the treatment of opiate addiction; and

(iii) prescribed to treat opiate addiction and not pain.

(b) The department may conduct a Drug Utilization Review, as defined in Section 26-18-101, if there is an allegation of fraud, waste, or abuse of Subsection (4)(a).

Section 2. Section **26-18-21** is enacted to read:

26-18-21. Screening, Brief Intervention, and Referral to Treatment Medicaid reimbursement.

(1) As used in this section:

(a) "Controlled substance prescriber" means a controlled substance prescriber, as that term is defined in Section 58-37-6.5, who:

(i) has a record of having completed SBIRT training, in accordance with Subsection 58-37-6.5(2), before providing the SBIRT services; and

(ii) is a Medicaid enrolled health care provider.

(b) "SBIRT" means the same as that term is defined in Section 58-37-6.5.

(2) The department shall reimburse a controlled substance prescriber who provides SBIRT services to a Medicaid enrollee who is 13 years of age or older for the SBIRT services.

Section 3. Section **49-20-414** is enacted to read:

49-20-414. Screening, Brief Intervention, and Referral to Treatment program reimbursement.

(1) As used in this section:

(a) "Controlled substance prescriber" means a controlled substance prescriber, as that term is defined in Section 58-37-6.5, who:

(i) has a record of having completed SBIRT training, in accordance with Subsection 58-37-6.5(2), before providing the SBIRT services; and

(ii) is a program enrolled controlled substance prescriber.

(b) "SBIRT" means the same as that term is defined in Section 58-37-6.5.

(2) The health program offered to the state employee risk pool under Section 49-20-202 shall reimburse a controlled substance prescriber who provides SBIRT services to a covered individual who is 13 years of age or older for the SBIRT services.

Section 4. Section **49-20-415** is enacted to read:

49-20-415. Prior authorization of drugs used to treat opiate addiction.

The program shall designate at least one drug that:

(1) is included in the program's formulary;

(2) is approved by the United States Food and Drug Administration for the treatment of opiate addiction;

(3) is prescribed to treat opiate addiction and not pain; and

(4) a prescriber may prescribe without obtaining prior authorization.

Section 5. Section **58-37-6.5** is amended to read:

58-37-6.5. Continuing education for controlled substance prescribers.

(1) For the purposes of this section:

(a) "Controlled substance prescriber" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe schedule II controlled substances and schedule III controlled substances that are applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

(b) "D.O." means an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(b)~~] (c) "FDA" means the United States Food and Drug Administration.

[~~(c)~~] (d) "M.D." means a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act.

[~~(d) "D.O." means an osteopathic physician and surgeon licensed under Title 58,~~

~~Chapter 68, Utah Osteopathic Medical Practice Act.~~]

(e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration or defined by the division, in consultation with the Division of Substance Abuse and Mental Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Beginning with the licensing period that begins after January 1, 2014, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least four continuing education hours per licensing period that satisfy the requirements of Subsections (3) and (4).

(b) (i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection (5).

(ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i), fulfills the continuing education hours requirement in Subsection (4) for the licensing period in which the class was completed.

(iii) A controlled substance prescriber:

(A) need only take the SBIRT-training class once during the controlled substance prescriber's licensure in the state; and

(B) shall provide a completion record of the SBIRT-training class in order to be reimbursed for SBIRT services to patients, in accordance with Section 26-18-21 and Section 49-20-414.

(3) As provided in Subsection 58-37f-402(8), the online tutorial and passing the online test described in Section 58-37f-402 shall count as 1/2 hour of continuing professional education under Subsection (2) per licensing period.

(4) A controlled substance prescriber shall complete at least 3.5 hours of continuing education [~~hours~~] in one or more controlled substance prescribing classes, except dentists who shall complete at least [~~2 such~~] two hours, that satisfy the requirements of Subsections (5) and (7).

(5) A controlled substance prescribing class shall:

(a) satisfy the division's requirements for the continuing education required for the renewal of the controlled substance prescriber's respective license type;

(b) be delivered by an accredited or approved continuing education provider recognized by the division as offering continuing education appropriate for the controlled substance prescriber's respective license type; and

(c) include a postcourse knowledge assessment.

(6) An M.D. or D.O. completing continuing professional education hours under Subsection (4) shall complete those hours in classes that qualify for the American Medical Association Physician's Recognition Award Category 1 Credit.

(7) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:

(a) the scope of the controlled substance abuse problem in Utah and the nation;

(b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;

(c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;

(d) patient record documentation for controlled substance and opioid prescribing; and

(e) office policies, procedures, and implementation.

(8) (a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (5) and (7) for an M.D. or D.O.

(b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (5) and (7) for a controlled substance prescriber other than an M.D. or D.O.

(c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections (5) and (7) for a controlled substance prescriber.

(9) A controlled substance prescribing class required under this section:

(a) may be held:

(i) in conjunction with other continuing professional education programs; and

(ii) online; and

(b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.

(10) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(11) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection (4) for two consecutive licensing periods.