~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 4, 2019

**H. 3728**

Introduced by Reps. Fry, Alexander, Dillard, Erickson, Hewitt, Huggins, Norrell, Pendarvis, Ridgeway, Rutherford, Spires, Trantham, Weeks, West, Wooten, Yow, Henegan, Cogswell, Mack, R. Williams and Gilliard

S. Printed 4/4/19--H.

Read the first time January 23, 2019.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3728) to amend the Code of Laws of South Carolina, 1976, by adding Section 44‑130‑80 so as to require hospital emergency department physicians and pharmacists to submit certain, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking the bill in its entirety and inserting:

/ Whereas, the South Carolina General Assembly is committed to combatting the opioid epidemic occurring within this State; and

Whereas, the South Carolina General Assembly has enacted and is working to enact legislation aimed at stemming the misuse of opioids in South Carolina; and

Whereas, collecting information related to opioid use and misuse helps those working to better understand the complexities of substance abuse disorders and enables those working with patients suffering from this disease to develop strategies for treatment, education, and care; and

Whereas, the purpose of this legislation is to provide data to health care professionals treating patients who have been diagnosed with an opioid overdose and received an antidote in response to that overdose; and

Whereas, the South Carolina General Assembly intends for the information collected pursuant to this law to be used by health care professionals to assist patients in getting appropriate treatment including, but not limited to, treatment for substance abuse disorder; and

Whereas, the General Assembly intends further that the information collected pursuant to this law should not be used as the sole determining factor in a decision regarding whether to treat or refuse to treat a patient suffering from an opioid misuse. Now therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 130, Title 44 of the 1976 Code is amended by adding:

“Section 44‑130‑80. (A) If a person is administered an opioid antidote in a hospital emergency department or other health care facility and the supervising physician diagnoses the patient as having experienced an opioid overdose, the health care facility, as defined in Section 44-7-130, shall report to the department’s Bureau of Drug Control information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

(1) date the opioid antidote was administered; and

(2) name, address, and date of birth of the person to whom the opioid antidote was administered.

(B) The health care facility, as defined in Section 44-7-130, shall submit the information required pursuant to subsection (A) electronically or by facsimile to Drug Control within thirty days after a discharge diagnosis of an opioid overdose and administration of an opioid antidote.

(C)(1) After a health care facility, as defined in Section 44-7-130, submits the name, address, and date of birth of a person to whom an opioid antidote was administered as required by subsection (A), Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person.

(2) Drug Control also shall maintain data on the administering of opioid antidotes as required by this section including, but not limited to, the frequency with which opioid antidotes are administered in hospital emergency departments as required pursuant to subsection (A) and other health care facilities by geographic location.”

SECTION 2. Section 44‑130‑60 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) A first responder who administers an opioid antidote as provided in this section shall report to the department’s Bureau of Emergency Medical Services information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

(a) date the opioid antidote was administered; and

(b) name, address, and date of birth of the person to whom the opioid antidote was administered, if available.

(2) A first responder shall submit the information required pursuant to item (1) electronically or by facsimile to the Bureau of Emergency Services within thirty days of administration. The Bureau of Emergency Medical Services shall transmit the information to the department’s Bureau of Drug Control.

(3)(a) If a first responder submits the name, address, and date of birth of a person to whom an opioid antidote was administered, Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person.

(b) Drug Control also shall maintain data on the administering of opioid antidotes by first responders including, but not limited to, the frequency with which first responders administer opioid antidotes by geographic location, first responder, and dispenser.”

SECTION 3. Section 44‑53‑1640(A) of the 1976 Code is amended to read:

“(A) The Department of Health and Environmental Control, Bureau of Drug Control shall establish and maintain a program to monitor the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense these substances in this State and the administering of opioid antidotes pursuant to Sections 44‑130‑60 and 44‑130‑80.”

SECTION 4. Section 44‑53‑1645(A) of the 1976 Code is amended to read:

“(A) A practitioner, or the practitioner’s authorized delegate, shall review a patient’s controlled substance prescription history and history of the administering of an opioid antidote to the patient pursuant to Section 44‑130‑60 or 44‑130‑80, as maintained in the prescription monitoring program, before the practitioner issues a prescription for a Schedule II controlled substance. If an authorized delegate reviews a patient’s controlled substance prescription history and history of the administering of an opioid antidote to the patient as provided in this subsection, the practitioner must consult with the authorized delegate regarding the prescription and opioid antidote administering history before issuing a prescription for a Schedule II controlled substance. The consultation must be documented in the patient’s medical record.”

SECTION 5. This act takes effect one year after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 23, 2019State Expenditure**

This bill requires DHEC to include and maintain information in the prescription monitoring program on the administering of opioid antidotes in a hospital emergency department or by a first responder. DHEC indicates that upgrades to the prescription monitoring program to receive this information from hospitals and first responders will increase one-time federal funds expenditures in FY 2019-20 by $36,067. These expenditures will provide access for first responders to the prescription monitoring program through an expansion of the existing emergency medical system program. Additionally, the bill will require recurring general fund expenditures of $7,500 beginning in FY 2019-20 to maintain functionality between the emergency medical system and the prescription monitoring program. For these estimates on the additional cost of the bill requirements, DHEC relies on cost data from their current emergency medical system and prescription monitoring program vendors.

The prescription monitoring program is currently supported by a combination of federal funds and other funds. Federal funding for this program will end on August 31, 2019. Salary and fringe benefits for personnel support of the PMP total $416,711. Of this total, $283,363 comes from federal funding. In addition, operating costs for the PMP total $667,037. These costs include the upkeep of the Enhanced User Interface, which will be used by authorized personnel to identify and deter drug diversion. Also included in these costs are the upkeep of the central repository for all Schedule II-IV controlled substance prescriptions dispensed in the state, and security measures for data collection, transmission, and dissemination. Of this total, $500,278 comes from federal funding.

DHEC has submitted a $1,083,748 budget request to continue the operation of the prescription monitoring system. This budget request is included in the Governor’s Executive Budget at $1,083,748 to replace the lost grant funding for the prescription monitoring program. If the budget request is included in the appropriation act for FY 2019-20, the expenditure impact of this bill amounts to $36,067 in non-recurring federal funds and $7,500 in recurring general fund expenditures beginning in FY 2019-20 as detailed above.

If the $1,083,748 appropriation request is not funded for FY 2019-20, DHEC indicates that the department will require additional recurring general funds of $1,091,248 and $36,067 in non-recurring funds in order to continue the current prescription monitoring program and make the changes required by this bill.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑130‑80 SO AS TO REQUIRE HOSPITAL EMERGENCY DEPARTMENT PHYSICIANS AND PHARMACISTS TO SUBMIT CERTAIN INFORMATION TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (DHEC) FOR INCLUSION IN THE PRESCRIPTION MONITORING PROGRAM WHEN A PERSON IS ADMINISTERED AN OPIOID ANTIDOTE; TO AMEND SECTION 44‑130‑60, RELATING TO THE AUTHORITY OF FIRST RESPONDERS TO ADMINISTER OPIOID ANTIDOTES, SO AS TO REQUIRE FIRST RESPONDERS TO SUBMIT CERTAIN INFORMATION TO DHEC FOR INCLUSION IN THE PRESCRIPTION MONITORING PROGRAM; TO AMEND SECTION 44‑53‑1640, RELATING TO THE PRESCRIPTION MONITORING PROGRAM, SO AS TO REQUIRE THE PROGRAM TO MONITOR THE ADMINISTERING OF OPIOID ANTIDOTES BY FIRST RESPONDERS AND IN EMERGENCY HEALTH CARE SETTINGS; AND TO AMEND SECTION 44‑53‑1645, RELATING TO THE REQUIREMENT OF PRACTITIONERS TO REVIEW A PATIENT’S CONTROLLED SUBSTANCE PRESCRIPTION HISTORY BEFORE PRESCRIBING A SCHEDULE II CONTROLLED SUBSTANCE, SO AS TO ALSO REQUIRE A REVIEW OF ANY INCIDENTS IN WHICH THE PATIENT HAS BEEN ADMINISTERED AN OPIOID ANTIDOTE BY A FIRST RESPONDER OR IN AN EMERGENCY HEALTH CARE SETTING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 130, Title 44 of the 1976 Code is amended by adding:

“Section 44‑130‑80. (A) If a person is administered an opioid antidote in a hospital emergency department or other health care facility and the supervising physician diagnoses the patient as having experienced an opioid overdose, the supervising physician, the supervising physician’s authorized delegate, or the institutional pharmacy’s pharmacist‑in‑charge shall report to the department’s Bureau of Drug Control information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

(1) date the opioid antidote was administered;

(2) dosage of opioid antidote administered and route of administration; and

(3) name, address, and date of birth of the person to whom the opioid antidote was administered, if available.

(B) The supervising physician, the supervising physician’s authorized delegate, or the institutional pharmacy’s pharmacist‑in‑charge shall submit the information required pursuant to subsection (A) electronically to Drug Control within three business days after a discharge diagnosis of an opioid overdose and administration of an opioid antidote.

(C)(1) After a supervising physician, the supervising physician’s authorized delegate, or the institutional pharmacy’s pharmacist‑in‑charge submits the name, address, and date of birth of a person to whom an opioid antidote was administered as required by subsection (A), Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person.

(2) Drug Control also shall maintain data on the administering of opioid antidotes as required by this section including, but not limited to, the frequency with which opioid antidotes are administered in hospital emergency departments as required pursuant to subsection (A) and other health care facilities by geographic location.”

SECTION 2. Section 44‑130‑60 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) A first responder who administers an opioid antidote as provided in this section shall report to the department’s Bureau of Drug Control information regarding the opioid antidote administered for inclusion in the prescription monitoring program. The information submitted must include:

(a) date the opioid antidote was administered;

(b) dosage of opioid antidote administered and route of administration;

(c) name, address, and date of birth of the person to whom the opioid antidote was administered, if available; and

(d) dispenser from which the opioid antidote was obtained.

(2) A first responder shall submit the information required pursuant to item (1) electronically to Drug Control within seventy‑two hours of administration.

(3)(a) If a first responder submits the name, address, and date of birth of a person to whom an opioid antidote was administered, Drug Control shall verify whether any prescription history of the person appears in the prescription monitoring program and, if prescription history exists, shall document for review by a practitioner or an authorized delegate the date on which the opioid antidote was administered to the person.

(b) Drug Control also shall maintain data on the administering of opioid antidotes by first responders including, but not limited to, the frequency with which first responders administer opioid antidotes by geographic location, first responder, and dispenser.”

SECTION 3. Section 44‑53‑1640(A) of the 1976 Code is amended to read:

“(A) The Department of Health and Environmental Control, Bureau of Drug Control shall establish and maintain a program to monitor the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense these substances in this State and the administering of opioid antidotes pursuant to Sections 44‑130‑60 and 44‑130‑80.”

SECTION 4. Section 44‑53‑1645(A) of the 1976 Code is amended to read:

“(A) A practitioner, or the practitioner’s authorized delegate, shall review a patient’s controlled substance prescription history and history of the administering of an opioid antidote to the patient pursuant to Section 44‑130‑60 or 44‑130‑80, as maintained in the prescription monitoring program, before the practitioner issues a prescription for a Schedule II controlled substance. If an authorized delegate reviews a patient’s controlled substance prescription history and history of the administering of an opioid antidote to the patient as provided in this subsection, the practitioner must consult with the authorized delegate regarding the prescription and opioid antidote administering history before issuing a prescription for a Schedule II controlled substance. The consultation must be documented in the patient’s medical record.”

SECTION 5. This act takes effect upon approval by the Governor.

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