COMMITTEE REPORT

March 8, 2018

**H. 4603**

Introduced by Reps. Bedingfield, Alexander, Dillard, Douglas, Erickson, Fry, Henderson, Hewitt, Huggins, Spires, West, Norrell, Weeks, Rutherford and Atwater

S. Printed 3/8/18--H.

Read the first time January 10, 2018.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4603) to amend Section 44‑53‑360, Code of Laws of South Carolina, 1976, relating to prescribing limitations, so as to limit initial prescriptions of an opioid medication, 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, SECTION 1, by striking Section 44-53-360( )(1) and inserting:

/ “( )(1) Initial opioid prescriptions for acute pain management must not exceed a five‑day supply. Initial opioid prescriptions for postoperative pain management must not exceed a fourteen‑day supply, except when clinically indicated for chronic pain, cancer pain, hospice care, palliative care, or medication‑assisted treatment for substance abuse. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new opioid prescription. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 10, 2018**

**State Expenditure**

This bill limits initial opioid prescriptions for acute or postoperative pain management to a five-day supply, except in certain conditions and when the prescription is to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility. This bill also states that a practitioner who acts in accordance with the limitation on prescriptions as set forth in this bill is immune from any disciplinary action from the practitioner’s professional licensing board. Opioids legally prescribed for pain management exist as Schedule II, III, IV, and V controlled substances. Current law limits prescriptions for Schedule II controlled substances to a thirty-one day supply and prescriptions for Schedule III, IV, and V controlled substances to a ninety-day supply. However, current law does not place a restriction on initial opioid prescriptions.

**Department of Health and Environmental Control.** Prescriptions for controlled substances in Schedule II, III, and IV are monitored by the South Carolina Reporting & Identification Prescription Tracking System (SCRIPTS). Prescriptions for Schedule V medications contain low doses of a controlled substance and include over-the-counter medications. Therefore, prescriptions for Schedule V drugs do not warrant oversight by SCRIPTS. The Department of Health and Environmental Control’s (DHEC) Bureau of Drug Control maintains SCRIPTS. The limitations required by this bill will be managed by current department staff. Therefore, this bill has no expenditure impact on the general fund, federal funds, or other funds.

**Department of Labor, Licensing and Regulation.** This bill states that a practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection is immune from any disciplinary action from the practitioner’s professional licensing board. The bill requires the Board of Medical Examiners to perform activities that will be conducted in the normal course of agency business. Therefore, this bill does not have an expenditure impact on the general fund, federal funds, or other funds.

**Department of Health and Human Services.** Pursuant to Executive Order 2017-43 issued December 18, 2017, the Department of Health and Human Services (DHHS) has been charged with establishing a policy with a five-day prescription limitation on initial opioid prescriptions for acute and postoperative pain management. This policy is to be established no later than March 1, 2018 and will be applicable to all programs administered by DHHS, including Medicaid reimbursement. Therefore, this bill has no expenditure impact to the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 44‑53‑360, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PRESCRIBING LIMITATIONS, SO AS TO LIMIT INITIAL PRESCRIPTIONS OF AN OPIOID MEDICATION FOR ACUTE PAIN MANAGEMENT OR POSTOPERATIVE PAIN MANAGEMENT TO A FIVE‑DAY SUPPLY, WITH EXCEPTIONS.

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

SECTION 1. Section 44‑53‑360 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) Initial opioid prescriptions for acute pain management or postoperative pain management must not exceed a five‑day supply, except when clinically indicated for chronic pain, cancer pain, hospice care, palliative care, or medication‑assisted treatment for substance abuse. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new opioid prescription.

(2) This subsection does not apply to opioid prescriptions issued by a practitioner who orders an opioid prescription to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility.

(3) A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection is immune from any civil liability or disciplinary action from the practitioner’s professional licensing board.

(4) As used in this subsection:

(A) ‘Acute pain’ means pain that a practitioner reasonably expects to last for three months or less, whether resulting from disease, accident, intentional trauma, or other cause. The term does not include ‘chronic pain’ or pain being treated as part of cancer care, chronic care, hospice care, palliative care, or medication‑assisted treatment for substance use disorder.

(B) ‘Chronic pain’ means pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.

(C) ‘Postoperative pain’ means acute pain experienced immediately after a surgical procedure.

(D) ‘Surgical procedure’ means a procedure performed for the purpose of altering the human body by incision or destruction of tissues as part of the practice of medicine such as diagnostic or therapeutic treatment of conditions or disease processes by use of instruments and includes lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light‑based, electromagnetic, or chemical means.”

SECTION 2. This act takes effect upon approval by the Governor.

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