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Indicates New Matter

COMMITTEE AMENDMENT ADOPTED AND AMENDED

May 8, 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, Gilliard, Govan and B. Newton

S. Printed 5/8/19--S.

Read the first time April 10, 2019.

**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.

Amend Title To Conform

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

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. If no history exists, then Drug Control shall confirm that the antidote was administered in response to a verified opioid overdose. If the antidote was administered in error, then Drug Control shall document the error.

(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. Section 44-53-360(a), (b), and (d) of the 1976 Code is amended to read:

“Section 44-53-360. (a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the department by regulation, no controlled substance included in Schedule II may be dispensed without the written or electronic prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 44‑53‑340. No prescription for a controlled substance in Schedule II may be refilled.

(b) A pharmacist may dispense a controlled substance included in Schedule III, IV, or V pursuant to either a written or electronic prescription signed by a practitioner, or a facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner’s agent to the pharmacy, or pursuant to an oral prescription, reduced promptly to writing and filed by the pharmacist. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

(d) Unless specifically indicated in writing on the face of the prescription or noted in the electronic prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of ‘PRN’ or ‘ad lib’ or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur. Preprinted refill instructions on the face of a prescription shall be disregarded by the dispenser unless an affirmative marking or other indication is made by the prescriber.”

SECTION 6. Section 44‑53‑360(j) of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( )(A) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

(i) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

(ii) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility;

(iii) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient’s medical record;

(iv) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient’s medical record;

(v) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40; or

(vi) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care.

(B) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

(C) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (a) or (b) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

(D) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.”

SECTION 7. This act takes effect January 1, 2021.

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