COMMITTEE REPORT

February 20, 2020

**H. 4711**

Introduced by Reps. Fry, Hewitt, Pendarvis, Oremus, McKnight, Huggins, Wooten, Bennett, Bales, McCravy, Ridgeway, Mack, Bailey, Johnson, Elliott, Dillard, Trantham, G.R. Smith, B. Newton, Mace, Hosey, Anderson, Taylor, Ligon and Erickson

S. Printed 2/20/20--H.

Read the first time January 14, 2020.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4711) to amend the Code of Laws of South Carolina, 1976, by adding Section 44‑53‑361 so as to require prescribers to offer a prescription for naloxone to, 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 all after the enacting words and inserting:

/ SECTION 1. Article 3, Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Section 44‑53‑361. (A) A prescriber shall do the following when writing a prescription for an opioid medication:

(1) offer a prescription for a drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient and document the offer in the patient’s medical record when one or more of the following conditions are present:

(a) the prescription dosage for the patient is ninety or more morphine milligram equivalents of an opioid medication per day;

(b) an opioid medication is prescribed concurrently with a prescription for benzodiazepine; or

(c) the patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant;

(2) consistent with the existing standard of care, provide education to patients receiving a prescription pursuant to item (1) on overdose prevention and the use of a drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression; and

(3) consistent with the existing standard of care, provide education on overdose prevention and the use of a drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to one or more persons designated by the patient, or, for a patient who is a minor, to the minor’s parent or guardian.

(B) A prescriber who fails to offer a prescription, as required by subsection (A)(1), or fails to provide the education and use information required by subsections (A)(2) and (3) may be referred to the appropriate licensing board solely for the imposition of administrative sanctions deemed appropriate by that board. This section does not create a private right of action against a prescriber, and does not limit a prescriber’s liability for the negligent failure to diagnose or treat a patient.”

SECTION 2. This act takes effect upon 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**

**Updated for additional Agency Response on January 29, 2020**

**Introduced on January 14, 2020**

**State Expenditure**

This bill requires prescribers to offer a prescription for naloxone hydrochloride or a similar drug for the complete or partial reversal of opioid depression when certain conditions exist. The bill adds requirements for the prescribing physician to provide education to patients. Any prescriber that fails to provide this education to a patient will be referred to the appropriate licensing board for the imposition of administrative sanctions.

**Department of Health and Environmental Control.** Naloxone hydrochloride is a Schedule IV drug, which is monitored as part of DHEC’s prescription monitoring program. This bill does not materially alter the oversight or regulatory duties of DHEC. Therefore, this bill will have no expenditure impact on the agency.

**Department of Labor, Licensing and Regulation.** The licensing boards for prescribers are under the regulation of LLR. This bill does not materially alter the oversight or regulatory duties of the boards. Therefore, this bill will have no expenditure impact on LLR.

**Department of Disabilities and Special Needs.** DDSN has authority over all of the state's services and programs for the treatment and training of persons with intellectual disability, related disabilities, head injuries, and spinal cord injuries. DDSN indicates the provisions of this bill would apply to less than one percent of the patients in their regional centers, and any increase in expenses would be minimal. Therefore, this bill will have no expenditure impact on DDSN.

**Department of Mental Health.** DMH has jurisdiction over all of the State's mental hospitals, clinics and centers, joint State and community sponsored mental health clinics and centers and facilities for the treatment and care of alcohol and drug addicts, including the authority to name each facility. Currently, DMH does not prescribe opiates outside of the hospital setting in which patients being prescribed an opioid would be under the care and supervision of medical professionals. DMH indicates the provisions of this bill will not materially alter their current practices. Therefore, this bill will not have an expenditure impact on DMH.

**Prefiled on November 20, 2019**

**State Expenditure**

This bill requires prescribers to offer a prescription for naloxone hydrochloride or a similar drug for the complete or partial reversal of opioid depression when certain conditions exist. The bill adds requirements for the prescribing physician to provide education to patients. Any prescriber that fails to provide this education to a patient will be referred to the appropriate licensing board for the imposition of administrative sanctions.

**Department of Health and Environmental Control.** Naloxone hydrochloride is a Schedule IV drug, which is monitored as part of DHEC’s prescription monitoring program. This bill does not materially alter the oversight or regulatory duties of DHEC. Therefore, this bill will have no expenditure impact on the agency.

**Department of Labor, Licensing and Regulation.** The licensing boards for prescribers are under the regulation of LLR. This bill does not materially alter the oversight or regulatory duties of the boards. Therefore, this bill will have no expenditure impact on LLR.

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 44‑53‑361 SO AS TO REQUIRE PRESCRIBERS TO OFFER A PRESCRIPTION FOR NALOXONE TO A PATIENT UNDER CERTAIN CIRCUMSTANCES AND FOR OTHER PURPOSES.

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

SECTION 1. Article 3, Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Section 44‑53‑361. (A) A prescriber shall do the following:

(1) offer a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient when one or more of the following conditions are present:

(a) the prescription dosage for the patient is ninety or more morphine milligram equivalents of an opioid medication per day;

(b) an opioid medication is prescribed concurrently with a prescription for benzodiazepine; or

(c) the patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant;

(2) consistent with the existing standard of care, provide education to patients receiving a prescription pursuant to item (1) on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression; and

(3) consistent with the existing standard of care, provide education on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to one or more persons designated by the patient, or, for a patient who is a minor, to the minor’s parent or guardian.

(B) A prescriber who fails to offer a prescription, as required by subsection (A)(1), or fails to provide the education and use information required by subsections (A)(2) and (3) must be referred to the appropriate licensing board solely for the imposition of administrative sanctions deemed appropriate by that board. This section does not create a private right of action against a prescriber, and does not limit a prescriber’s liability for the negligent failure to diagnose or treat a patient.”

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

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