**South Carolina General Assembly**

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**S. 1265**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Talley

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Currently residing in the Senate Committee on **Medical Affairs**

Summary: Pain-Treating Drugs

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/17/2024 Senate Introduced and read first time (Senate Journal‑page 56)

 4/17/2024 Senate Referred to Committee on **Medical Affairs** (Senate Journal‑page 56)

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**VERSIONS OF THIS BILL**

[04/17/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1265_20240417.docx)

[04/25/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1265_20240425.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44‑53‑2000 SO AS TO PROVIDE DEFINITIONS FOR “HEALTH CARE PRACTITIONER” AND “NON‑OPIOID TREATMENT”; BY ADDING SECTION 44‑53‑2010 SO AS TO PROVIDE THAT HEALTHY CONNECTIONS MEDICAID MAY ADOPT OR AMEND A STATE PREFERRED DRUG LIST AND SHALL ENSURE THAT NO NON‑OPIOID DRUG APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION FOR THE TREATMENT OR MANAGEMENT OF PAIN IS DISADVANTAGED OR DISCOURAGED; BY ADDING SECTION 44‑53‑2020 SO AS TO PROVIDE THAT A MANAGED CARE ORGANIZATION OR OTHER HEALTH INSURANCE ISSUER SHALL NOT DENY COVERAGE OF THE NON‑OPIOID PRESCRIPTION DRUG IN FAVOR OF AN OPIOID PRESCRIPTION DRUG; BY ADDING SECTION 44‑53‑2030 SO AS TO PROVIDE THAT THE DEPARTMENT OF HEALTH SHALL DEVELOP AND PUBLISH AN EDUCATIONAL PAMPHLET REGARDING THE USE OF NON‑OPIOID ALTERNATIVES FOR PAIN TREATMENT; BY ADDING SECTION 44‑53‑2040 SO AS TO PROVIDE THAT, EXCEPT IN THE PROVISION OF EMERGENCY SERVICES AND CARE BEFORE PROVIDING ANESTHESIA, PRIOR TO PRESCRIBING, ORDERING, DISPENSING, OR ADMINISTERING AN OPIOID DRUG LISTED AS A SCHEDULE II CONTROLLED SUBSTANCE FOR THE TREATMENT OF PAIN, A HEALTH CARE PRACTITIONER SHALL INFORM THE PATIENT OF AVAILABLE NON‑OPIOID ALTERNATIVES, DISCUSS THE ADVANTAGES AND DISADVANTAGES OF THE USE OF NON‑OPIOID ALTERNATIVES, AND PROVIDE THE PATIENT WITH THE EDUCATIONAL PAMPHLET AND DOCUMENT THE NON‑OPIOID ALTERNATIVES CONSIDERED IN THE PATIENT’S RECORD.

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

SECTION 1. Chapter 53, Title 44 of the S.C. Code is amended by adding:

Article 20

Non‑opioid Treatments for Pain Management

 Section 44‑53‑2000. As used in this section:

 (1) “Department” means the Department of Health.

 (2) “Division” means the division of Healthy Connections Medicaid.

 (3) “Healthcare practitioner" means a person who is licensed, certified, registered, or permitted to deliver healthcare services in this State and who has the authority to prescribe controlled substances.

 (4) “Non‑opioid treatment” means a drug or biological product that is indicated to produce analgesia without acting on the body’s opioid receptors.

 (a) The division shall ensure that reimbursement is to a healthcare provider who provides a non‑opioid treatment to a recipient under the medical assistance program.

 (b) The division shall ensure that, to the extent permitted by law, a hospital that provides either inpatient or outpatient services to a recipient is reimbursed separately under the medical assistance program for any non‑opioid treatment as provided as a part of those services.

 Section 44‑53‑2010. (A) Except as otherwise provided in this section, Healthy Connections Medicaid may, in its sole discretion, adopt or amend a state preferred drug list (PDL). The adoption or amendment of a PDL and the recommendations of Healthy Connections Medicaid pharmacy advisory committee to the bureau are not agency actions and do not require rulemaking.

 (B) In establishing and maintaining the PDL, the Healthy Connections Medicaid shall ensure that no non‑opioid drug approved by the United States Food and Drug Administration for the treatment or management of pain is disadvantaged or discouraged with respect to coverage relative to any opioid or narcotic drug for the treatment or management of pain on the PDL. Impermissible disadvantaging or discouragement includes:

 (1) designating a non‑opioid drug as a non‑preferred drug if any opioid or narcotic drug is designated as a preferred drug; or

 (2) establishing more restrictive or more extensive utilization controls, including prior authorization or step therapy requirements for a non‑opioid drug that are more restrictive or more extensive than the least restrictive or extensive utilization controls applicable to an opioid or narcotic drug.

 (C) This section applies to a non‑opioid drug immediately upon its approval by the United States Food and Drug Administration for the treatment or management of pain, regardless of whether the drug has been reviewed by the division for inclusion on the PDL. This section also applies to drugs being provided under a contract between the division and any managed care organization.

 Section 44‑53‑2020. Notwithstanding any other law, when a licensed physician prescribes a non‑opioid medication for treatment of acute or chronic pain, a managed care organization or other health insurance issuer shall not deny coverage of the non‑opioid prescription drug in favor of an opioid prescription drug.

 Section 44‑53‑2030. (A) The Department of Health shall develop and publish on its website no later than September 30, 2024, an educational pamphlet regarding the use of non‑opioid alternatives for the treatment of pain. The pamphlet must include:

 (1) information on available non‑opioid alternatives for the treatment of pain, including non‑opioid medicinal drugs or drug products and non‑pharmacological therapies; and

 (2) the advantages and disadvantages of the use of non‑opioid alternatives.

 (B) The Department of Health shall work with the South Carolina Opioid Recovery Fund to explore and utilize, to the extent permissible by state and federal law, opioid abatement funding for educational and healthcare services related to non‑opioid alternatives.

 Section 44‑53‑2040. Except in the provision of emergency services and care before providing anesthesia, prior to prescribing, ordering, dispensing, or administering an opioid drug listed as a Schedule II controlled substance for the treatment of pain, a healthcare practitioner shall:

 (1) inform the patient of available non‑opioid alternatives for the treatment of pain, which may include non‑opioid medicinal drugs or drug prevention products, interventional procedures or treatments, acupuncture, chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other appropriate therapy as determined by the healthcare practitioner;

 (2) discuss the advantages and disadvantages of the use of non‑opioid alternatives, including whether the patient is at a high risk of, or has a history of, controlled substance abuse or misuse and the patient’s personal preferences; and

 (3) provide the patient with the educational pamphlet developed by the department pursuant to Section 44‑53‑2030(A) and document the non‑opioid alternatives considered in the patient’s record.

SECTION 2. This act takes effect on October 1, 2024.

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