SENATE BILL REPORT
ESHB 2489

As Reported by Senate Committee On:
Health & Long Term Care, February 19, 2018

Title: An act relating to opioid use disorder treatment, prevention, and related services.

Brief Description: Concerning opioid use disorder treatment, prevention, and related services.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Rodne, Harris, Caldier, Macri, Robinson, Jinkins, Muri, Kagi, McBride, Wylie, Peterson, Slatter, Hayes, Sawyer, Pollet, Doglio, Kloba, Tharinger, Ormsby, Johnson and Kilduff; by request of Governor Inslee).

Brief History: Passed House: 2/09/18, 98-0.
Committee Activity: Health & Long Term Care: 2/15/18, 2/19/18 [DPA-WM].

Brief Summary of Amended Bill

- Modifies the protocols for using medication-assisted treatment for opioid use disorder.
- Requires the Department of Social and Health Services (DSHS), the Health Care Authority (HCA), and the Department of Health (DOH) to partner on initiatives that promote a statewide approach in addressing opioid use disorder.
- Permits the Secretary of Health to issue a standing order for opioid reversal medication.
- Establishes new requirements for how electronic health records integrate with the prescription monitoring program (PMP) and how PMP data can be used.
- Requires the DSHS, in conjunction with others, to develop strategies to support rapid response teams in certain identified communities and to create a program to connect certified peer counselors (CPCs) with individuals who have had a nonfatal overdose.
- Allows hospital emergency departments to dispense opioid overdose reversal medication when a patient is at risk of opioid overdose.
- Permits pharmacists to partially fill a prescription for a Schedule II controlled substance.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Requires certain health care practitioners to complete one hour of continuing education regarding best practices in opioid prescribing, register for the PMP, and sign an attestation that the practitioner has reviewed the rules for prescribing opioids, in order to prescribe opioids.
- Requires practitioners who prescribe an opioid for the first time during the course of treatment for outpatient use to discuss risks of opioid use with the patient.
- Removes approval and verification requirements for electronic prescription systems.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Cleveland, Chair; Kuderer, Vice Chair; Rivers, Ranking Member; Bailey, Conway, Fain, Keiser, Mullet and Van De Wege.

Staff: LeighBeth Merrick (786-7445)

Background: Opioid Treatment Programs. Currently, the statute provides that there is no fundamental right to medication-assisted treatment for opioid use disorder and treatment should only be used for participants who are deemed appropriate to need this level of intervention. Alternative options, like abstinence, should be considered when developing a treatment plan; if medications are prescribed, follow up must be included in the treatment plan in order to work towards the primary goal of abstinence.

DSHS certifies opiate substitution treatment programs.

CPCs. Since 2005, DSHS has administered a peer support program that trains and qualifies mental health consumers as CPCs. A consumer is someone who has applied for, is eligible for, or who has received mental health services. CPCs use their experiences to support peers through recovery.

PMP. DOH maintains a PMP to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances. Information submitted for each prescription must include at least a patient identifier, the drug dispensed, the date of dispensing, the quantity dispensed, the prescriber, and the dispenser. With certain exceptions, prescription information submitted to DOH is confidential. The exceptions allow DOH to provide data in the PMP to prescribers; dispensers, individuals who request their own records; health profession's licensing, certification and regulatory agencies; law enforcement; DSHS and the HCA regarding Medicaid recipients; Department of Labor and Industries regarding workers' compensation claimants; Department of Corrections regarding committed offenders; entities under court order; DOH personnel; drug testing laboratory personnel; a health care facility or provider group of five or more providers; and public or private entities for statistical, research, or educational purposes after removing identifying information; local health jurisdictions; and the coordinated care electronic tracking program.

Opioid Prescribing. It is unlawful to possess, deliver, or dispense a legend drug except pursuant to a prescription issued by a health care provider who has prescriptive authority under Washington law. Providers with prescriptive authority include allopathic and osteopathic physicians and physician assistants, advanced registered nurse practitioners, dentists, naturopaths, optometrists, podiatric physicians, and veterinarians.

By January 1, 2019, the following disciplining authorities must adopt rules establishing requirements for prescribing opioids: the Medical Quality Assurance Commission; the Board of Osteopathic Medicine and Surgery; the Nursing Care Quality Assurance Commission; the Dental Quality Assurance Commission; and the Podiatric Medical Board. The rules must address prescribing limitations, mandatory PMP checks, patient notification, and may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

Summary of Amended Bill: Opioid Use Disorder Treatment. DSHS is required to promote the use of medication therapies and other evidence-based strategies that address opioid use disorder, prioritize state resources for the provision of treatment and recovery support services that allow patients to maintain or begin medication therapies while engaging in services, and replicate approaches like the opioid hub and spoke treatment networks.

Opioid treatment programs that utilize medication assistance must educate pregnant clients about the effects that opioid use and medication therapy may have on their baby.

HCA is permitted to solicit, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis. By October 1, 2018, HCA must report their recommendations for addressing nonpharmacologic treatment options for acute, sub-acute, and chronic pain that is not related to cancer to the Legislature.

DOH must work with state agencies to develop a data collection plan for determining the number of opioid-related overdoses of non-English speakers, and submit the recommendations for implementation to the appropriate legislative committees by December 31, 2018.

The HCA, DSHS, and DOH are authorized to partner on:

- developing a statewide approach to leverage Medicaid funding to treat opioid addiction and provide emergency overdose treatment;
- seeking alternative funding through a Medicaid demonstration waiver to fund an opioid response treatment for persons eligible for Medicaid or during the time of incarceration;
- promoting coordination between medication treatment prescribers and state-certified substance use disorder agencies;
- reviewing and promoting positive outcomes associated with accountable communities for health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington State Opioid Response Plan;
- promoting access to all effective medications known to address opioid use disorder at state certified treatment programs;
- creating a plan for coordinated purchasing and distribution of opioid overdose reversal medication across the state;

- establishing a plan to support medication therapies in emergency departments, and same-day referrals to substance use disorder treatment facilities and community-based medication-assisted treatment prescribers; and
- creating a program to connect CPCs with individuals who have had a nonfatal overdose within 48 hours of the overdose.

The Secretary of Health, or their designee, is authorized to issue a standing order for opioid reversal medication to any person at risk of experiencing an opioid related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose.

Hospital emergency departments may dispense opioid overdose reversal medication when the practitioner determines the patient is at risk of an opioid overdose and it is authorized by the hospital's policies and procedures.

PMP and Other Data Systems. Dispensers are required to submit the necessary prescription information to the PMP no later than one business day after the date the prescription was dispensed.

By December 1, 2018, all federally certified electronic health record (EHR) system vendors must ensure that their system can fully integrate with the PMP. Health care providers that use one of the three largest EHRs, as demonstrated by market share, must demonstrate that the EHR is able to integrate by July 1, 2019. DOH shall convene a workgroup to study EHR best practices, and the challenges of PMP integration, and report its findings to the Legislature by November 15, 2018.

For the purposes of quality improvement, patient safety, and care coordination, the HCA director may access PMP information for members of HCA self-funded or self-insured health plans. Licensed community behavioral health agencies may access PMP information for the purposes of providing care to their patients and quality improvement purposes.

DOH is required to establish a separate electronic emergency medical services data system for all licensed ambulance and aid services to report patient encounter data which would include information about fatal and non-fatal overdoses.

Opioid Prescribing. Pharmacists are permitted to partially fill a Schedule II controlled substance prescription. The partial fill must be requested by the patient or the prescribing practitioner, and the total quantity dispensed in all partial fillings must not exceed the quantity prescribed.

When prescribing an opioid for the first time during a patient's course of outpatient treatment, practitioners must have a discussion with the patient about the risks of opioids and pain management alternatives. DOH must create a statement that warns individuals about the risks of opioid use and abuse, and provide information about the safe disposal of opioids. Practitioners must hand the statement out during the discussion with the patient and document the discussion in the patient's health record.

Beginning January 1, 2019, in order to prescribe opioids, all licensed prescribers, except veterinarians, must:

1. complete a one time, one hour continuing education training regarding best practices for prescribing of opioids; and
2. following licensure or at the time of renewal:
    a. register for the PMP or provide proof of registration; and
    b. sign an attestation that the practitioner has reviewed the rules for prescribing opioids adopted by the practitioner's disciplinary authority.

EFFECT OF HEALTH & LONG TERM CARE COMMITTEE AMENDMENT(S):

- Adds substance use disorder treatment facilities to the list of allied opioid use disorder community partners.
- Clarifies that treatment options available include both controlled and non-controlled medications.
- Requires DOH to develop a data collection plan for determining the number of opioid related overdoses for non-English speakers.
- Removes approval and verification requirements for electronic prescription systems.
- Clarifies the requirements for prescriber discussions with the patient for first-time opioid prescriptions.
- Exempts prescribers who attest to completing opioid continuing medical education or prescribers who are permitted and providing medication-assisted treatment from having to take the one-time one hour training.
- Adds language that the EHRs' pricing must be in alignment with current industry pricing for PMP integration.
- Limits PMP integration requirements to the top three EHRs with the largest market share in the state, and extends the due date to July 1, 2019.
- Requires DOH and HCA to convene a stakeholder workgroup to study best practices regarding data sharing, and the challenges associated with PMP integration.
- Requires DOH to submit a report to the Legislature with the workgroup's findings by November 15, 2018.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Treatment and preventative services provisions are strong and will help more people. It is important we get these services to people. There are still some concerns with the PMP integration requirements. This should be amended to include the stakeholder workgroup that the Senate version proposed. The cost estimate for the PMP integration is $30,000 to $40,000 per organization. There are cost-effective integration options available that should be

considered. The patient education requirements should be better clarified to allow for telemedicine and e-prescribing.

OTHER: There is strong evidence to support the measures in this bill will decrease fatal overdoses, and lead to better clinical decision-making and patient outcomes. The PMP integration is a good idea, but must be feasible. The one portal system that Washington currently uses is currently challenging and makes is costly to implement. The workgroup that was proposed in the Senate version should be reconsidered to address this.

Persons Testifying: PRO: Branden Pearson, Chief Information and Technology Officer, Southwest Washington Accountable Community of Health; Jonathan Seib, Washington Academy of Family Physicians; Lisa Thatcher, Washington State Hospital Association; Jason McGill, Governor's Office; Katie Kolan, Washington State Medical Association.

OTHER: Alexandra Montano, Policy Advisor, Washington State Board of Health; Jennifer Stoll, Oregon Community Health Information Network (OCHIN); Kate Tudor, Washington Association of Community and Migrant Health Centers.

Persons Signed In To Testify But Not Testifying: No one.