HOUSE BILL REPORT
ESHB 2876

As Amended by the Senate

Title: An act relating to pain management.

Brief Description: Concerning pain management.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Green and Morrell).

Brief History:
Committee Activity:
Health Care & Wellness: 1/22/10 [DPS].
Floor Activity:
Passed House: 2/10/10, 97-0.
Senate Amended.
Passed Senate: 3/4/10, 37-10.
House Refuses to Concur.
Senate Amended.
Passed Senate: 3/11/10, 36-12.

Brief Summary of Engrossed Substitute Bill

- Requires certain health care boards and commissions to adopt rules regarding pain management.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

Staff: Jim Morishima (786-7191).

Background:

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.

Generally, pain management is the practice of medically treating people suffering from pain, including the management of long-term pain. Pharmacological interventions for pain often include the use of opioids. Because of the health risks associated with opioid use, there are several state rules and guidelines for prescribing such drugs.

For example, both the Medical Quality Assurance Commission (MQAC), the Board of Osteopathic Medicine and Surgery (BOMS), and the Podiatric Medical Board (PMB) have adopted guidelines for the treatment of pain with opioids. Additionally, the MQAC and the BOMS have adopted rules that require practitioners treating pain to be knowledgeable about the complex nature of pain, familiar with pain treatment terms used in the pain guidelines, and knowledgeable about acceptable pain treatment modalities. The rules also state that practitioners will not be disciplined based solely on the quantity or frequency of opioids prescribed as long as the care provided is consistent with currently acceptable medical practices.

Other guidelines for the treatment of pain were developed by the Agency Medical Director's Group, which was a consortium of agencies that purchase or regulate health care, including the Department of Corrections, the Department of Health (DOH), Department of Labor and Industries (L&I), the Department of Social and Health Services (DSHS), and the Health Care Authority in consultation with a panel of pain experts. The purpose of the guidelines is to assist primary care providers when prescribing opioids in a safe and effective manner and to assist primary care providers in treating patients whose morphine equivalent dose already exceeds 120 mg per day.

The DOH also hosts a work group on reducing opioid abuse and unintentional poisonings. The group consists of representatives from the DOH, the DSHS, the L&I, the MQAC, the Board of Pharmacy, the University of Washington, the Office of the Attorney General, and other public and private entities.

Summary of Engrossed Substitute Bill:

By December 1, 2010, the MQAC, the BOMS, and the PMB must repeal their rules on pain management. By June 30, 2011, the MQAC, the BOMS, the PMB, the Dental Quality Assurance Commission, and the Nursing Care Quality Assurance Commission must all adopt new rules on chronic, non-cancer pain management. The new rules must contain the following elements:

- dosing criteria, including a dosage amount that may not be exceeded without consultation with a pain management specialist;
- guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;
- guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and
- guidance on tracking the use of opioids.

The boards and commissions must adopt the new rules in consultation with the Agency Medical Directors' Group, the DOH, the University of Washington, and the largest associations representing the professions the boards and commissions regulate. The boards

and commissions adopting the rules must work collaboratively to ensure that the rules are as uniform as practicable.

The rules do not apply to:
- palliative, hospice, or other end-of-life care; or
- the management of acute pain caused by an injury or a surgical procedure, except to the extent that special requirements are needed for opioid-dependent patients.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:
- makes the date for repealing current pain management rules June 30, 2011 (instead of December 1, 2010), which aligns the repeal date with the date the new rules must be adopted;
- requires the dosing criteria in the new rules to include exigent circumstances under which dosage amounts may be exceeded without consultation with a pain management specialist;
- requires regarding specialty consultation to take into account to the extent practicable:
  - circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;
  - minimum training and experience sufficient to exempt practitioners from the consultation requirement;
  - methods for enhancing the availability of consultations;
  - allowing the efficient use of resources; and
  - minimizing the burden of practitioners and patients.
- provides an exemption from the rules for the management of acute pain caused by an injury or surgical procedure in all circumstances (the underlying bill provides the exemption only in circumstances where opioid-dependent patients are not involved);
- requires the guidance on tracking opioids in the new rules to focus on the emergency department (this requirement does not apply to Podiatric Physicians and Surgeons and Dentists); and
- requires proposed rules to be submitted to the appropriate committees of the Legislature on January 11, 2011.

Appropriation: None.

Fiscal Note: Requested on substitute bill on January 26, 2010.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support - from testimony on HB 2391, identical except for the title) There has been an increase in opioid addiction in Washington. Opioid addiction often begins with the treatment of pain. This is an issue plaguing medicine; opioid-related deaths exceed highway deaths. Mandatory education in pain management is a good beginning.

(In support with concerns - from testimony on HB 2391, identical except for the title) In the 1990s many states changed their laws to prevent under-prescription of opioids, which led to an increase in the number of opioid deaths. This is a public health emergency. Over-prescription of opioids leads to tolerance and addiction with no improved function. Mandatory education is not enough. Other tools are needed, such as dosing guidelines, screening tools, feedback tools, information exchanges, and access to specialized care.

(Opposed - from testimony on HB 2391, identical except for the title) The solution to this problem is to revive the prescription monitoring system. There are limits on what physicians can accept regarding mandatory continuing education. Physicians already have to complete a lot of continuing education on top of their other duties. Not all physicians even prescribe opioids and some of those who do are already experts. Education alone is not enough.

Persons Testifying: (In support) Representative Moeller, prime sponsor; and Michael Schiesser.

(In support with concerns) Alex Cahana; and Gary Franklin, Agency Medical Director's Group.

(Opposed) Susie Tracy, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.