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**ENGROSSED SUBSTITUTE SENATE BILL 6127**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Liias, Rivers, Muzzall, Randall, Frame, Hasegawa, Kuderer, Lovick, Nobles, and Pedersen)

AN ACT Relating to increasing access to human immunodeficiency virus postexposure prophylaxis drugs or therapies; amending RCW 70.41.480; reenacting and amending RCW 41.05.017; adding a new section to chapter 70.41 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 74.09 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 70.41 RCW to read as follows:

(1) A hospital must adopt a policy and have procedures in place, that conform with the guidelines issued by the centers for disease control and prevention, for the dispensing of human immunodeficiency virus postexposure prophylaxis drugs or therapies.

(2) This policy must ensure that hospital staff dispense or deliver to a patient, with a patient's informed consent, a five-day supply of human immunodeficiency virus postexposure prophylaxis drugs or therapies following the patient's possible exposure to human immunodeficiency virus, unless medically contraindicated, inconsistent with care and treatment standards, or inconsistent with centers for disease control and prevention guidelines. When available, hospitals shall dispense or deliver generic human immunodeficiency virus postexposure prophylaxis drugs or therapies.

(3) Nothing in this section shall be construed to alter the coverage for reimbursement of postexposure prophylaxis drugs through:

(a) The crime victims' compensation program, established in chapter 7.68 RCW, for drugs dispensed or delivered to sexual assault victims; or

(b) The industrial insurance act for drugs dispensed or delivered to a worker exposed to the human immunodeficiency virus through the course of employment.

**Sec.**  RCW 70.41.480 and 2022 c 25 s 1 are each amended to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available, including medication for opioid overdose reversal and for the treatment for opioid use disorder as appropriate. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter 18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department in the following circumstances:

(a) During times when community or outpatient hospital pharmacy services are not available within 15 miles by road; ((~~or~~))

(b) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy; or

(c) When a patient is identified as needing human immunodeficiency virus postexposure prophylaxis drugs or therapies.

(3) A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a 48 hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within 48 hours((~~. In no case may the policy allow a supply exceeding 96 hours be dispensed~~)), or when antibiotics or human immunodeficiency virus postexposure prophylaxis drugs or therapies are required;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

(4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

(5) Nothing in this section restricts the authority of a practitioner in a hospital emergency department to distribute opioid overdose reversal medication under RCW 69.41.095.

(6) A practitioner or a nurse in a hospital emergency department must dispense or distribute opioid overdose reversal medication in compliance with RCW 70.41.485.

(7) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency department patients, including those drugs, substances or immediate precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Opioid overdose reversal medication" has the same meaning as provided in RCW 69.41.095.

(d) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011(29).

(e) "Nurse" means a registered nurse or licensed practical nurse as defined in chapter 18.79 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, for nongrandfathered health plans issued or renewed on or after January 1, 2025, a health carrier may not impose cost sharing or require prior authorization for the drugs that comprise at least one regimen recommended by the centers for disease control and prevention for human immunodeficiency virus postexposure prophylaxis.

(2) For a health plan that is offered as a qualifying health plan for a health savings account, the health carrier must establish the plan's cost sharing for the coverage required by this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under the internal revenue service laws and regulations.

(3) Notwithstanding the coverage requirements of this section, a health plan shall reimburse a hospital that bills for a five-day supply of any human immunodeficiency virus postexposure prophylaxis drugs or therapies dispensed or delivered to a patient in the emergency department for take-home use, pursuant to section 1 of this act, as a separate reimbursable expense. This reimbursable expense is separate from any bundled payment for emergency department services.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) All medicaid contracted managed care organizations shall provide coverage without prior authorization for the drugs that comprise at least one regimen recommended by the centers for disease control and prevention for human immunodeficiency virus postexposure prophylaxis.

(2) Notwithstanding the coverage requirements of this section, a medicaid contracted managed care organization shall reimburse a hospital that bills for a five-day supply of any human immunodeficiency virus postexposure prophylaxis drugs or therapies dispensed or delivered to a patient in the emergency department for take-home use, pursuant to section 1 of this act, as a separate reimbursable expense. This reimbursable expense is separate from any bundled payment for emergency department services.

**Sec.**  RCW 41.05.017 and 2022 c 236 s 3, 2022 c 228 s 2, and 2022 c 10 s 2 and are each reenacted and amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128, 48.43.780, 48.43.435, 48.43.815, section 3 of this act, and chapter 48.49 RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2025.

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