STATE OF NEW YORK

7999

IN SENATE

March 16, 2018

Introduced by Sens. HANNON, AKSHAR, AMEDORE, JACOBS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to limiting the initial prescription of a controlled substance for the alleviation of acute pain from a seven-day supply to a three-day supply and requiring the commissioner of health to develop guidelines for the prescribing of opioid antagonists; to amend the social services law, in relation to limiting medical assistance coverage for opioids; to amend the insurance law, in relation to limiting coverage for opioids; and to amend the public health law, in relation to establishing an opioid alternative pilot project

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "alternatives to opioids (ALTO) prescribing act".

§ 2. Paragraph (b) of subdivision 5 of section 3331 of the public health law, as added by section 1 of part C of chapter 71 of the laws of 2016, is amended and a new paragraph (d) is added to read as follows:

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a practitioner, within the scope of his or her professional opinion or discretion, may not prescribe more than a [~~seven-day~~] three-day supply of any schedule II, III, or IV opioid to an ultimate user upon the initial consultation or treatment of such user for acute pain. Upon any subsequent consultations for the same pain, the practitioner may issue, in accordance with paragraph (a) of this subdivision, any appropriate renewal, refill, or new prescription for the opioid or any other drug.

(d) Prior to issuing a prescription for any schedule II, III or IV opioid to an ultimate user upon the initial consultation or treatment of such user for chronic pain, the practitioner shall consider the recommendations of the federal centers for disease control and prevention including but not limited to the recommendation that nonpharmacologic therapy and nonopioids pharmacologic therapies are preferred for chronic

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD15063-02-8

pain, and that an initial opioid prescription should be immediate release opioids not exceeding fifty morphine milligram equivalents.

§ 3. The public health law is amended by adding a new section 3346 to read as follows:

§ 3346. Guidelines for prescribing of opioid antagonists. 1. The commissioner shall adopt guidelines for the prescribing of opioid antagonists which shall include, but not be limited to:

(a) when opioid antagonists should be prescribed to individuals to whom an opioid medication is also prescribed, which shall at a minimum provide for the prescribing of an opioid antagonist to any individual with a treatment plan that consists of opioid use for more than one month;

(b) identifying patients at risk of any opioid overdose and when prescribing an opioid antagonist to that patient or a person in a position to administer the opioid antagonists is appropriate; and

(c) information on how consumers can access opioid antagonists with or without a prescription.

2. In adopting these guidelines the commissioner shall consult with the state board of pharmacy as well as materials published by the substance abuse and mental health services administration of the United States department of health and human services, and other appropriate materials including medical journals subject to peer review and publications by medical associations.

§ 4. Subdivision 4 of section 365-a of the social services law is amended by adding a new paragraph (h) to read as follows:

(h) opioids prescribed to a patient initiating or being maintained on opioid treatment for pain which has lasted more than one month or past the time of normal tissue healing, unless the medical record contains a written treatment plan that includes: goals for pain management and functional improvement based on diagnosis; information on whether non-opioid therapies have been tried and optimized or are contraindicated; a statement that the prescriber has explained to the patient the risks of and alternatives to opioid treatment; an evaluation of the patient for risk factors of harm and misuse of opioids; an assessment of the patient's adherence to treatment with respect to other conditions treated by the same provider; the signature of the patient and/or an attestation by the prescriber that the patient verbally agreed to the treatment plan; and any other information required by the department. Such treatment plan shall also include a prescription for an opioid antagonist and information on the administration and use of such opioid antagonists. The treatment plan shall be updated twice within the year immediately following its initiation and annually thereafter. The requirements of this paragraph shall not apply in the case of patients who are being treated for cancer that is not in remission, who are in hospice or other end-of-life care, or whose pain is being treated as part of palliative care practices.

§ 5. Section 4303 of the insurance law is amended by adding a new subsection (rr) to read as follows:

(rr) Every contract issued by a corporation subject to the provisions of this article which provides medical, major medical or similar comprehensive-type coverage shall not be required to cover opioids prescribed to a patient initiating or being maintained on opioid treatment for pain which has lasted more than one month or past the time of normal tissue healing, unless the medical record contains a written treatment plan that includes: goals for pain management and functional improvement based on diagnosis; information on whether non-opioid therapies have

been tried and optimized or are contraindicated; a statement that the prescriber has explained to the patient the risks of and alternatives to opioid treatment; an evaluation of the patient for risk factors of harm and misuse of opioids; an assessment of the patient's adherence to treatment with respect to other conditions treated by the same provider; the signature of the patient and/or attestation by the prescriber that the patient verbally agreed to the treatment plan; and any other information required by the department. Such treatment plan shall also include a prescription for an opioid antagonist and information on the administration and use of such opioid antagonists. The treatment plan shall be updated twice within the year immediately following its initiation and annually thereafter. The requirements of this subsection shall not apply in the case of patients who are being treated for cancer that is not in remission, who are in hospice or other end-of-life care, or whose pain is being treated as part of palliative care practices.

§ 6. Section 3216 of the insurance law is amended by adding a new subsection (n) to read as follows:

(n) No policy of accident and health insurance delivered or issued for delivery in this state shall provide for reimbursement or coverage of opioids prescribed to a patient initiating or being maintained on opioid treatment for pain which has lasted more than one month or past the time of normal tissue healing, unless the medical record contains a written treatment plan that includes: goals for pain management and functional improvement based on diagnosis; information on whether non-opioid therapies have been tried and optimized or are contraindicated; a statement that the prescriber has explained to the patient the risks of and alternatives to opioid treatment; an evaluation of the patient for risk factors of harm and misuse of opioids; an assessment of the patient's adherence to treatment with respect to other conditions treated by the same provider; the signature of the patient and/or attestation by the prescriber that the patient verbally agreed to the treatment plan; and any other information required by the department. Such treatment plan shall also include a prescription for an opioid antagonist and information on the administration and use of such opioid antagonists. The treatment plan shall be updated twice within the year immediately following its initiation and annually thereafter. The requirements of this subsection shall not apply in the case of patients who are being treated for cancer that is not in remission, who are in hospice or other end-of-life care, or whose pain is being treated as part of palliative care practices.

§ 7. Section 3221 of the insurance law is amended by adding a new subsection (j-1) to read as follows:

(j-1) No policy of group or blanket accident and health insurance delivered or issued for delivery in this state shall provide for reimbursement or coverage of opioids prescribed to a patient initiating or being maintained on opioid treatment for pain which has lasted more than one month or past the time of normal tissue healing, unless the medical record contains a written treatment plan that includes: goals for pain management and functional improvement based on diagnosis; information on whether non-opioid therapies have been tried and optimized or are contraindicated; a statement that the prescriber has explained to the patient the risks of and alternatives to opioid treatment; an evaluation of the patient for risk factors of harm and misuse of opioids; an assessment of the patient's adherence to treatment with respect to other conditions treated by the same provider; the signature of the patient and/or attestation by the prescriber that the patient

verbally agreed to the treatment plan; and any other information required by the department. Such treatment plan shall also include a prescription for an opioid antagonist and information on the administration and use of such opioid antagonists. The treatment plan shall be updated twice within the year immediately following its initiation and annually thereafter. The requirements of this subsection shall not apply in the case of patients who are being treated for cancer that is not in remission, who are in hospice or other end-of-life care, or whose pain is being treated as part of palliative care practices.

§ 8. Subparagraph (v) of paragraph (a) of subdivision 2 of section 3343-a of the public health law, as added by section 2 of part A of chapter 447 of the laws of 2012, is amended to read as follows:

(v) a practitioner prescribing a controlled substance in the emergency department of a general hospital, provided that the quantity of controlled substance prescribed does not exceed a [~~five~~] three day supply if the controlled substance were used in accordance with the directions for use;

§ 9. The public health law is amended by adding a new section 2827 to read as follows:

§ 2827. Opioid alternative pilot project. There shall be established an opioid alternative pilot project whereby the commissioner, in consultation with the commissioner of alcoholism and substance abuse services, shall identify at least five acute care emergency departments in the state to participate in the opioid alternative pilot project. While traditionally opioids have been the primary treatment for acute pain in emergency departments, they are not always necessary or the most effective treatment and the side effects of misuse and addiction can be deadly. The opioid alternative pilot project shall be designed to reduce the use of opioids in emergency departments by using a multimodal treatment approach to pain including coordination across providers, pharmacies, clinical staff and administrators, as well as looking at new procedures, methods of treatment and less addictive alternatives. Within one year of the effective date of this section the participants in the project shall report to the commissioner, the speaker of the assembly and the temporary president of the senate on the effectiveness of the opioid alternative pilot project in reducing opioid use and any recommendations for expansions of or alterations to the project.

§ 10. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that sections five, six and seven of this act shall take effect on the first of January next succeeding the date on which this act shall have become a law and shall apply to all policies issued, modified or renewed on and after such date.