WEST virginia legislature

2024 regular session

Introduced

Senate Bill 362

By Senator Stuart

[Introduced January 12, 2024; referred

to the Committee on Health and Human Resources]

A BILL to amend and reenact §16-54-3 and §16-54-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-54-8a, all relating to the availability of prescription nonopioid medications available; and requiring the Department of Health and Human Resources to make information available to the public about the availability of such treatments.

Be it enacted by the Legislature of West Virginia:

ARTICLE 54. Opioid reduction Act.

§16-54-3. Opioid prescription notifications.

Prior to issuing a prescription for a Schedule II opioid drug, a practitioner shall:

(1) Advise the patient regarding the quantity of the Schedule II opioid drug and a patient’s option to fill the prescription in a lesser quantity; ~~and~~

(2) Inform the patient of the risks associated with the Schedule II opioid drug prescribed;

(3) Inform the patient or the patient's representative of available prescription nonopioid alternatives for the treatment of pain, which may include available prescription nonopioid medicinal drugs or drug products, interventional procedures or treatments, acupuncture, chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other appropriate therapy as determined by the health care practitioner;

(4) Discuss with the patient or the patient's representative the advantages and disadvantages of the use of prescription nonopioid alternatives, and whether the patient is at high risk of, or has a history of, controlled substance abuse or misuse and the patient's personal preferences;

(5) Provide the patient or the patient's representative, electronically or in printed form, with the educational pamphlet described in §16-54-8(g) of this code; and

(6) Document in the patient's record that prescription nonopioid alternatives were considered and discussed with the patient or the patient's representative and, to the extent that the health care practitioner prescribes or orders an opioid for the treatment of pain, document the reasons for such a prescription or order.

§16-54-8. Treatment of pain.

(a) The Legislature finds that every competent adult has the fundamental right of self-determination regarding decisions pertaining to their own health, including the right to refuse an opioid drug.

~~(a)~~ (b) When a patient seeks treatment:

(1) ~~a~~ A health care practitioner shall refer or prescribe to the patient any of the following treatment alternatives, as is appropriate based on the practitioner’s clinical judgment and the availability of the treatment, before starting a patient on a Schedule II opioid drug: physical therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code.

(2) The health care practitioner shall exercise their professional judgment in selecting appropriate treatment modalities for acute nonoperative, acute perioperative, subacute, or chronic pain in accordance with the most current Clinical Practice Guideline for Prescribing Opioids for Pain of the Centers for Disease Control and Prevention, including the use of nonopioid alternatives whenever reasonable, clinically appropriate, evidence-based alternatives exist.

(3) The health care practitioner should consider prescribing nonopioids as the first line of pain control in patients unless not clinically appropriate in accordance with the provisions of subdivision (2) of this section.

~~(b)~~ (c) Nothing in this section should be construed to require that all of the treatment alternatives set forth in §16-54-8~~(a)~~ (b)(1) of this code are required to be exhausted prior to the patient’s receiving a prescription for a Schedule II opioid drug.

~~(c)~~ (d) At a minimum, an insurance provider who offers an insurance product in this state, the Bureau for Medical Services, and the Public Employees Insurance Agency shall provide coverage for 20 visits per event of physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, when ordered or prescribed by a health care practitioner.

~~(d)~~ (e) A person may seek physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, prior to seeking treatment from any other health care practitioner. The licensed health care practitioner providing services pursuant to this section may prescribe within their scope of practice as defined in §16-54-1 of this code. A health care practitioner referral although permitted is not required as a condition of coverage by the Bureau for Medical Services the Public Employees Insurance Agency, and any insurance provider who offers an insurance product in this state. Any deductible, coinsurance, or copay required for any of these services may not be greater than the deductible, coinsurance, or copay required for a primary care visit.

~~(e)~~ (f) Nothing in this section precludes a practitioner from simultaneously prescribing a Schedule II opioid drug and prescribing or recommending any of the procedures set forth in §16-54-8~~(a)~~ (b)(1) of this code.

(g) The Department of Health and Human Resources shall develop and publish on its website an educational pamphlet regarding the use of prescription nonopioid alternatives for the treatment of acute nonoperative, acute perioperative, subacute, or chronic pain. The pamphlet shall, at a minimum, conform with the most current Clinical Practice Guideline for Prescribing Opioids for Pain of the Centers for Disease Control and Prevention and shall include:

(1) Information on available prescription nonopioid alternatives for the treatment of pain, including available prescription nonopioid medicinal drugs or drug products and nonpharmacological therapies.

(2) The advantages and disadvantages of the use of prescription nonopioid alternatives.

§16-54-8a. Coverage of nonopioid alternatives for the treatment of pain.

Notwithstanding any provision of law to the contrary, when a licensed health care practitioner prescribes a nonopioid medication for the treatment of acute nonoperative, acute perioperative, subacute, or chronic pain, it shall be unlawful for a health insurance carrier and for the purpose of this section, includes the Public Employees and Medicaid to deny coverage of the nonopioid prescription drug in favor of an opioid prescription drug.

NOTE: The purpose of this bill is to increase the availability of prescription nonopioid medications. The bill requires the Department of Health and Human Resources to make information available to the public about the availability of such treatments.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.