ASSEMBLY, No. 1376

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman JAMEL C. HOLLEY
District 20 (Union)

SYNOPSIS

Requires primary care physicians, when developing or supplementing patient's medical history, to check prescription monitoring information and make verbal inquiries about patient's personal and familial experience with substance use disorders.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning primary care physicians and the development of patients' medical histories, and amending P.L.2015, c.74 and P.L.2017, c.8.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2017, c.8 (C.24:21-15.1) is amended to read as follows:

1. a. (1) A primary care physician, when developing or supplementing a patient's medical history, shall access prescription monitoring information in accordance with section 8 of P.L.2015, c.74 (C.45:1-46.1), and shall make appropriate verbal inquiries of the patient, in order to determine, to the fullest extent practicable, whether the patient or any of the patient's family members has ever experienced a substance use disorder or dependency. Using the information obtained from these inquiries, the primary care physician shall: (a) discuss with the patient the potential implications of the patient's personal and familial experiences with substance use disorders or dependencies, in terms of the patient's health and future medical care; (b) advise the patient about the dangers of substance use disorders and dependencies, and the benefits of seeking specialized counseling or treatment therefor; and (c) as deemed by the physician to be appropriate, provide the patient with referrals to persons or entities that can provide treatment or counseling for persons with substance use disorders or dependencies.

(2) A health care professional who is authorized to issue prescriptions shall, prior to issuing a prescription for an opioid drug which is a Schedule II controlled dangerous substance, discuss with a patient who is under 18 years of age and is an emancipated minor, or with the patient's parent or guardian if the patient is under 18 years of age and is not an emancipated minor, the risks of developing a physical or psychological dependence on the opioid drug and, if the prescriber deems it appropriate, such alternative treatments as may be available.

b. A prescriber who engages in a discussion required pursuant to subsection a. of this section shall include a note in the patient's medical record indicating that the discussion took place.

c. The discussion required under paragraph (2) of subsection a. of this section shall not be required prior to issuing a prescription to any patient who is currently receiving hospice care from a licensed hospice.

(cf: P.L.2017, c.8, s.1)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

2. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read as follows:

8. a. (1) Except as provided in subsection b. of this section, a practitioner or other person who is authorized by a practitioner to access prescription monitoring information pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access prescription monitoring information <u>whenever the practitioner is developing or supplementing a patient's medical history, as provided by paragraph (1) of subsection a. of section 1 of P.L.2017, c.8 (C.24:21-15.1), and</u>:

(a) the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance or any opioid to a new patient for acute or chronic pain;

(b) the first time a practitioner or other person prescribes a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance;

(c) if the practitioner or other person has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion, the first time the practitioner or other person prescribes a non-opioid drug other than a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance; and

(d) on or after the date that the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46), any time the practitioner or other person prescribes a Schedule II controlled dangerous substance for acute or chronic pain to a patient receiving care or treatment in the emergency department of a general hospital.

In addition, in any case in which a prescription is issued to a new patient, either on or after the effective date of P.L.2017, c.341 (C.45:16-9.4c et al.), for a Schedule II controlled dangerous substance or opioid drug that has been prescribed for acute or chronic pain, or for a benzodiazepine drug that is a Schedule III or IV controlled dangerous, the practitioner or other authorized person shall access prescription monitoring information on a quarterly basis during the period of time the patient continues to receive such prescription.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose

other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion.

(b) A pharmacist shall not dispense a prescription to a person other than the patient for whom the prescription is intended, unless the person picking up the prescription provides personal identification to the pharmacist, and the pharmacist, as required by subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs that identifying information into the Prescription Monitoring Program if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any reason other than delivering the substance to the patient for the treatment of an existing medical condition. The provisions of this subparagraph shall not take effect until the director determines that the Prescription Monitoring Program has the technical capacity to accept such information.

b. The provisions of subsection a. of this section shall not apply to:

(1) a veterinarian;

(2) a practitioner or the practitioner's agent administering methadone, or another controlled dangerous substance designated by the director as appropriate for treatment of a patient with a substance abuse disorder, as interim treatment for a patient on a waiting list for admission to an authorized substance abuse treatment program;

(3) a practitioner administering a controlled dangerous substance directly to a patient;

(4) a practitioner prescribing a controlled dangerous substance to be dispensed by an institutional pharmacy, as defined in N.J.A.C.13:39-9.2;

(5) a practitioner prescribing a controlled dangerous substance in the emergency department of a general hospital, provided that the quantity prescribed does not exceed a five-day supply of the substance; however, the exemption provided by this paragraph shall have no force or effect on or after the date on which the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46);

(6) a practitioner prescribing a controlled dangerous substance to a patient under the care of a hospice;

(7) a situation in which it is not reasonably possible for the practitioner or pharmacist to access the Prescription Monitoring Program in a timely manner, no other individual authorized to access the Prescription Monitoring Program is reasonably available, and the quantity of controlled dangerous substance prescribed or dispensed does not exceed a five-day supply of the substance;

(8) a practitioner or pharmacist acting in compliance with regulations promulgated by the director as to circumstances under

which consultation of the Prescription Monitoring Program would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of the patient;

(9) a situation in which the Prescription Monitoring Program is not operational as determined by the division or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation;

(10) a practitioner or pharmacist who has been granted a waiver due to technological limitations that are not reasonably within the control of the practitioner or pharmacist, or other exceptional circumstances demonstrated by the practitioner or pharmacist, pursuant to a process established in regulation, and in the discretion of the director; or

(11) a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation in a general hospital or a licensed ambulatory care facility or treatment for acute trauma in a general hospital or a licensed ambulatory care facility, so long as that operation or treatment was not part of care or treatment in the emergency department of a general hospital as provided in subsection a. of this section, when no more than a five-day supply is prescribed.

(cf: P.L.2017, c.341, s.4)

3. The State Board of Medical Examiners and the Division of Consumer Affairs in the Department of Law and Public Safety, shall each adopt rules and regulations, in consultation with each other, and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

STATEMENT

This bill would require primary care physicians to check prescription monitoring information and make appropriate verbal inquiries of a patient whenever the physician is developing or supplementing the patient's medical history, so that the physician may determine, to the fullest extent practicable, whether the patient has any personal or familial experience with substance use disorders or dependency.

The bill would further require a primary care physician to use the information obtained from these inquiries to: 1) discuss with the patient the potential implications of the patient's personal and familial experiences with substance use disorders or dependencies, in terms of the patient's health and future medical care; 2) advise

the patient about the dangers of substance use disorders and dependencies, and the benefits of seeking specialized counseling or treatment therefor; and 3) as deemed by the physician to be appropriate, provide the patient with referrals to persons or entities that can provide treatment or counseling for persons with substance use disorders or dependencies.