

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 1039

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2021

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1039.

As amended by the committee, this bill authorizes pharmacists to dispense HIV prophylaxis without an individual prescription under certain circumstances, and requires prescription benefits coverage for prophylaxis furnished under the bill.

HIV prophylaxis is a course of treatment involving certain drug combinations that can prevent HIV infection notwithstanding exposure to the virus under circumstances in which it is normally transmitted, such as through unprotected sexual contact, sharing needles, or other contact with an infected person's blood or bodily fluids. HIV prophylaxis includes both HIV preexposure prophylaxis (PrEP), which is taken by a person who anticipates engaging in conduct that risks HIV infection, and HIV postexposure prophylaxis (PEP), which is taken by a person who may have been exposed to HIV.

Under the bill, pharmacists will be permitted to furnish PrEP and PEP to patients without an individual prescription pursuant to a standing order issued by the Commissioner of Health or, if the commissioner is not a duly licensed physician, the Deputy Commissioner for Public Health Services. A standing order will be issued to a pharmacist upon request, provided that the pharmacist completes a training program approved by the State Board of Pharmacy in consultation with the Department of Health, and certifies that the pharmacist will meet the requirements set forth in the bill to furnish PrEP and PEP without an individual prescription. The training program is to include information about financial assistance programs available to patients to assist with the costs of PrEP and PEP.

The bill allows a patient to receive up to a 60-day supply of PrEP without an individual prescription in any given two-year period. Thereafter, to continue receiving PrEP, the patient will be required to obtain a prescription for the drugs. A pharmacist furnishing PrEP to a patient without an individual prescription will be required to document that the patient is HIV negative, as demonstrated by a test administered

in the past seven days, and that the patient does not report any signs or symptoms of acute HIV infection. If the patient does not have a current HIV test, the pharmacist may order a test. If the patient tests positive for HIV, the pharmacist will be required to provide the patient with information and resources concerning HIV treatment and comply with State and federal requirements for a positive HIV test, which includes certain reporting requirements.

Additionally, the pharmacist will be required to confirm that the patient is not taking any contraindicated medications, provide the patient with counseling on the ongoing use of PrEP, advise the patient that the patient will require a prescription to continue receiving PrEP, confirm the patient has not already been provided with a 60-day supply of PrEP without an individual prescription in the past two years, document the services provided, and notify the patient's primary care provider that the patient was furnished with PrEP, unless the patient does not consent to the pharmacist providing this notice.

Pharmacists may furnish a complete course of PEP to a patient who may have been exposed to HIV if the pharmacist confirms with the patient that the exposure to HIV occurred within the previous 72 hours, the patient otherwise meets the clinical criteria for PEP consistent with guidelines published by the federal Centers for Disease Control and Prevention (CDC), the pharmacist tests the patient for HIV, the pharmacist counsels the patient on the use of PEP consistent with CDC guidelines, the pharmacist informs the patient of the availability of PrEP, and the pharmacist notifies the patient's primary care provider the patient was furnished with PEP, unless the patient does not consent to the pharmacist providing this notice.

If a patient being furnished with PrEP or PEP does not have a primary care provider, or refuses to consent to the pharmacist providing notice to the primary care provider, the pharmacist will be required to provide the patient with a list of health care providers to contact regarding ongoing treatment using PrEP or follow-up care for PEP, as applicable. The DOH will be required to publish and maintain a current list of providers for pharmacists to use for this purpose, which list may be made available on the department's Internet website.

In no case will a patient be authorized to waive the consultation required under the bill to receive PrEP or PEP without an individual prescription.

The bill requires health benefits plans that include prescription benefits, as well as the State Employee's Health Benefits Plan, the School Employees' Health Benefits Plan, and Medicaid, to provide coverage for PrEP and PEP furnished under the bill without any prior authorization or step therapy requirements. If therapeutic equivalents to prevent HIV and AIDS are approved, the health plans may apply prior authorization or step therapy requirements to other versions of the treatment, provided at least one version is covered without prior authorization or step therapy. Health plans will not be authorized to

prohibit a pharmacist from dispensing PrEP and PEP. Health plans will not be required to provide coverage for PrEP furnished without an individual prescription in a quantity that exceeds a 60-day supply within a given two-year period. Health plans will not be required to cover PrEP or PEP furnished by a pharmacist at an out-of-network pharmacy unless the plan includes an out-of-network pharmacy benefit.

COMMITTEE AMENDMENTS

The committee amended the bill to remove language requiring the pharmacist to screen a patient seeking a course of PEP to determine whether the exposure to HIV occurred within the previous 72 hours, to instead provide that the pharmacist is to confirm with the patient that the exposure occurred within the past 72 hours.

The committee amended the bill to make a number of technical changes involving statutory structure and syntax.