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Workers' Comp

Oklahoma Joins Growing Chorus of States Limiting Opioids

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4 MIN READ

By Brian Allen, VP of Government Affairs

Governor Mary Fallin signed SB1446 into law on May 2, 2018. The legislation, co-authored by Senator Anthony Sykes and Senator Dale Derby, tackles several important issues designed to curb opioid prescribing in the Sooner State. We applaud the efforts of the Oklahoma Legislature and Governor to reduce the number of opioids prescribed for their citizens.

The bill encompasses all opioid prescribing in the state, including opioid prescribing in the workers' compensation system. The legislation is effective on November 1, 2018.

The following is a summary of the more relevant sections of the bill that could have some impact on the treatment of injured workers.

- Requires one hour of continuing education in pain management or in opioid use and addiction prior to a provider renewing their license to practice
- Adds the over-prescribing of opioids to the list of activities considered unprofessional conduct by medical practitioners
- Adds a definition of acute pain to the Controlled Substances Act, defining it as “pain, whether resulting from disease, accidental or intentional trauma or other cause, that the practitioner reasonably expects to last only a short period of time.” Acute pain “does not include chronic pain, pain being treated as part of cancer care, hospice or other end-of-life care, or pain being treated as part of palliative care.”
- Adds a definition of chronic pain to the Controlled Substances Act, defining it as “pain that persists beyond the usual course of an acute disease or healing of an injury.” Chronic pain “may or may not be associated with an acute or chronic pathologic process that causes continuous or intermittent pain over months or years.”
- Adds a definition of initial prescription to the Controlled Substances Act, defining it as a “prescription issued to a patient who:
    - has never previously been issued a prescription for the drug or its pharmaceutical equivalent in the past year, or
    - requires a prescription for the drug or its pharmaceutical equivalent due to a surgical procedure or new acute event and has previously had a prescription for the drug or its pharmaceutical equivalent

within the past year."

- Establishes failure to check the prescription drug central repository an action subject to disciplinary action
- Allows the Oklahoma State Bureau of Narcotics and Drugs to provide unsolicited referrals to licensing boards about practitioners or pharmacists who exhibit behavior indicating potentially problematic opioid prescribing or dispensing patterns
- Limits initial prescriptions for acute pain to a maximum of seven days and the lowest effective dose possible
- Requires the physician to discuss the risks associated with using opioids to the patient prior to prescribing the initial fill and any subsequent fill of an opioid
- Prior to prescribing a Schedule II substance or any opioid, the practitioner shall:
    - Document the patient's response to non-pharmacological pain management approaches and the patient's substance abuse history
    - Conduct a physical exam
    - Develop a treatment plan with attention focused on determining the cause of pain
    - Verify the patient's prescription drug history in the central repository database
    - Limit the initial supply to seven days
    - If the patient is under 18, enter into a patient-provider agreement with a parent or guardian of the patient
    - If the patient is pregnant, enter into a patient-provider agreement
- Following the initial seven days, if the practitioner deems it is medically necessary and documents the need, a second seven day supply can be issued to the patient
- If a third prescription is necessary, the patient and practitioner must enter into an pain management agreement
- For chronic pain patients, if a Schedule II controlled substance or any opioid is prescribed for longer than three months, the practitioner shall:
    - Review no less than every three months the patient's progress toward the treatment goals and any new information about the causes of pain
    - Assess the patient for any signs of dependence or abuse of the prescribed medication(s)
    - Periodically make reasonable effort to wean the patient from the medication
    - At each prescription renewal verify the patient's prescription drug history in the central repository database
    - Monitor compliance with the pain-management agreement
- The requirements listed above shall not apply to a prescription for a patient who is currently in active treatment for cancer, receiving hospice care from a licensed hospice or palliative care, or is a resident of a long-term care facility, or to any medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.
- Practitioners must provide an informed consent notice to any patient who:
    - Is prescribed opioids for more than three months, or
    - Is concurrently prescribed benzodiazepines and opioids, or
    - Is prescribed a dose of opioids exceeding 100 morphine equivalent doses (MED)
- The legislation also requires the Insurance Department to evaluate the effectiveness of the legislation on reducing opioids and the impact on patient care and costs

A complete text of the signed legislation can be found here.

Should you have questions about this alert, or about any other regulatory or legislative initiative around the country, please contact Brian Allen, vice president of government affairs, at Brian.Allen@mitchell.com or at 801.903.5754.

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