Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 2489

Brief Description: Concerning opioid use disorder treatment, prevention, and related services.

Sponsors: Representatives Cody, Rodne, Harris, Caldier, Macri, Robinson, Jinkins, Muri, Kagi, McBride, Wylie, Peterson, Slatter, Hayes, Sawyer, Pollet, Doglio, Kloba, Tharinger, Ormsby, Johnson and Kilduff; by request of Governor Inslee.

Brief Summary of Bill

- Modifies the protocols for using medication-assisted treatment for opioid use disorder.
- Requires the Department of Social and Health Services, the Health Care Authority, and the Department of Health to partner on initiatives that promote a statewide approach in addressing opioid use disorder.
- Permits the Secretary of Health to issue a standing order for opioid reversal medication.
- Establishes new requirements for how electronic health records integrate with the prescription monitoring program (PMP) and how PMP data can be used.

Hearing Date: 1/19/18

Staff: Kim Weidenaar (786-7120).

Background:

Opioid Treatment Programs.
The Community Mental Health Services Act provides that: (1) there is no fundamental right to medication-assisted treatment for opioid use disorder; (2) treatment should only be used for participants who are deemed appropriate to need this level of intervention; (3) alternative options, like abstinence, should be considered when developing a treatment plan; (4) that the main goal of opiate substitution treatment is total abstinence, but recognizes additional goals of reduced morbidity and restoration of the ability to lead a productive and fulfilling life; and (5) if

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medications are prescribed, follow up must be included in the treatment plan in order to work towards the primary goal of abstinence.

The Hub and Spoke Model is a term used to describe a treatment network used to provide care for opioid use disorder. Hubs are regional centers serving a defined geographical area that support spokes. Hubs are responsible for ensuring that medication assisted treatments are available. Spokes are facilities that provide behavioral health treatment and primary health care to patients referred to them by the hub.

The Department of Social and Health Services (DSHS) certifies opiate substitution treatment programs.

Washington State Opioid Response Plan.
In 2016 several state agency members of the Department of Health's Opioid Response Workgroup developed a statewide working plan for opioid response. On September 30, 2016, Governor Jay Inslee signed Executive Order 16-09, Addressing the Opioid Use Public Health Crisis, formally directing activities and state agencies in accordance with the Washington State Opioid Response Plan. In November 2016, state agency members revised the Washington State Opioid Response Plan to align with the executive order and activities directed by federal grants received in 2016.

Prescription Monitoring Program.
The Department of Health (DOH) maintains a prescription monitoring program (PMP) to monitor the prescribing and dispensing of all Schedule II, III, IV, and V controlled substances. Each time one of these drugs is dispensed, the dispenser must electronically submit the following information to the PMP:

- a patient identifier;
- the drug dispensed;
- the dispensing date;
- the quantity dispensed;
- the prescriber; and
- the dispenser.

Prescribers are not required to query the PMP prior to prescribing a controlled substance. Generally, prescription information submitted to the DOH is confidential; however, data in the PMP may be accessed by:

- a person authorized to prescribe or dispense a controlled substance or legend drug for the purpose of providing medical or pharmaceutical care for his or her patients;
- a person requesting his or her own PMP information;
- a health professional licensing, certification, or regulatory agency;
- an appropriate law enforcement or prosecutorial official;
- an authorized practitioner of the DSHS or the Health Care Authority regarding Medicaid recipients;
- the Director of the Department of Labor and Industries (or designee) regarding workers' compensation claimants;
- the Secretary of the Department of Corrections (DOC) (or designee) regarding offenders in the custody of the DOC;
- an entity under grand jury subpoena or court order;

- personnel of the DOH for administration of the PMP or the Uniform Controlled Substances Act;
- certain medical test sites licensed by the DOH;
- a health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity if the facility or entity is licensed by the DOH or operated by the federal government or federally recognized Indian tribe, and the facility or entity is a trading partner with the Health Information Exchange (HIE);
- a health care provider group of five or more providers for the purpose of providing medical or pharmaceutical care to the patients of the provider group if all of the providers in the group are licensed and the provider group is a trading partner with the HIE;
- the local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event; and
- the coordinated care electronic tracking program, often referred to as the seven best practices in emergency medicine.

A dispenser or practitioner acting in good faith is immune from civil, criminal, or administrative liability for requesting, receiving, or using information from the PMP.

Opioid Overdose Medication.
A health care practitioner may prescribe, dispense, distribute, and deliver an opioid overdose medication: (1) directly to a person at risk of experiencing an opioid-related overdose; or (2) by collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person in a position to assist a person at risk of experiencing an opioid-related overdose. The practitioner must inform the recipient that as soon as possible after administration, the person at risk of experiencing an overdose should be transported to a hospital or a first responder should be summoned.

Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose medication pursuant to a practitioner's prescription or order. A pharmacist may dispense an opioid overdose medication pursuant to such a prescription and may administer an opioid overdose medication. The pharmacist must provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention.

The following individuals are not subject to civil or criminal liability or disciplinary action under the Uniform Disciplinary Act (UDA) for their authorized actions related to opioid overdose medications or the outcomes of their authorized actions if they act in good faith and with reasonable care: practitioners who prescribe, dispense, distribute, or deliver an opioid overdose medication; pharmacists who dispense an opioid overdose medication; and persons who possess, store, distribute, or administer an opioid overdose medication.

Summary of Bill:

Opioid Treatment.
Agencies administering state purchased health care programs are required to implement provisions of the act and the Washington State Interagency Opioid Working Plan, and provide status updates as directed by the Joint Legislative Executive Committee on Health Care Oversight.

The stated purposes of the Community Mental Health Act are expanded to recognize medications approved by the Federal Food and Drug Administration as evidence based treatment of opioid use disorder. The main goals of treatment are identified as cessation of unprescribed opioid use in addition to the goals of reduced morbidity and restoration of the ability to lead a productive and fulfilling life.

The Department of Social and Health Services (DSHS) must promote the use of Medication-Assisted Treatment (MAT) and other evidence based strategies, and must prioritize state resources for treatment and recovery services to entities that allow patients to maintain their use of MAT while engaging in services or to start using MAT while enrolled in services.

The Health Care Authority (HCA) is required to partner with the DSHS, the Department of Health (DOH), and the Department of Corrections (DOC) to develop a statewide approach to leverage Medicaid funding to treat opioid addiction and emergency overdose treatment. Funding sources may include seeking a Section 1115 demonstration waiver from the centers for Medicare and Medicaid services to fund opioid response treatment for persons eligible for Medicaid at or during the time of incarceration, and soliciting private funds, grants, or donations. By October 2018 the HCA must report to the Legislature their recommendations for covering nonpharmacologic treatment options for chronic pain that is not related to cancer.

The DSHS must replicate effective treatment approaches such as the opioid hub and spoke treatment networks to broaden outreach and patient navigation. The DSHS must collaborate with the DOH, the HCA, and Medicaid Managed Care Organizations to eliminate barriers and promote access to all effective medications known to address opioid use disorder at state-certified opioid treatment programs. The DSHS must work with DOH and HCA to: (1) reduce barriers and promote MAT in emergency departments and same day referrals; and (2) promote coordination between MAT prescribers and state-certified substance use disorder treatment agencies to increase patient choice in receiving medication and counseling, and address challenges presented for individuals needing treatment for multiple substance use disorders simultaneously.

State agencies are directed to review and promote positive outcomes from the accountable communities of health (ACH) funded opioid projects, and other collaborations set forth in the Washington interagency opioid working plan.

All approved opioid treatment programs that provide services to women who are pregnant must disseminate up-to-date information to all pregnant clients on what the effects of opioid use and opioid replacement therapy may have on their baby.

The DSHS, in conjunction with others, must develop strategies to support rapid response teams in communities identified as having a high number of fentanyl- or opioid-related overdoses.

The title of the "Community Mental Health Services Act" is changed to the "Community Behavioral Health Services Act." References to "methadone" are replaced with "opioid replacement therapy," and "newborn addiction problems" is changed to "neonatal abstinence syndrome."

Opioid Overdose Reversal Medication.

By October 1, 2018, the DSHS must work with the DOH, the HCA, the ACHs, and stakeholders to develop a plan for the coordinated purchase and distribution of opioid overdose reversal medication across the state.

The Secretary of Health (Secretary) or designee is permitted to issue a state-wide standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Pharmacists may dispense and administer opioid overdose reversal medication pursuant to a state-wide standing order. When dispensing, a pharmacist must provide written instructions on the proper response to opioid-related overdose. The DOH must develop a training module for the use of opioid overdose reversal medications. The Secretary or designee are not subject to civil or criminal liability or professional disciplinary action for issuing the standing order.

References to "opioid overdose medication" are changed to "opioid overdose reversal medication."

Prescription Monitoring Program and Other Data Systems.
All information submitted to the Prescription Monitoring Program (PMP) is confidential and exempt from public inspection, and not subject to subpoena or discover in any civil action. These confidentiality provisions continue whenever information from the PMP is provided to a person or entity requesting, accessing, or receiving information in the PMP. The HCA Director or designee for members of the HCA self-funded or self-insured plans may access the PMP for quality improvement, patient safety, and care coordination. Licensed practitioners of health carriers and plans may access the PMP to ensure patient safety of any individual enrolled in a health plan with the carrier.

The DOH may publish or provide data to public or private entities after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Indirect patient identifiers may be provided for research approved by the State Institutional Review Board and by agreement through a data-sharing agreement.

By December 1, 2018, all federally certified electronic health record (EHR) system vendors must ensure that their system can fully integrate with the PMP. Health care providers must demonstrate that the EHR is able to integrate by January 1, 2019. If the EHR is not able to comply by December 1, 2018, then the health care provider must demonstrate that the EHR is able to integrate by January 1, 2020. The vendors may not charge an ongoing fee or a fee based on the number of transactions or providers using such integration, and the total costs of connection must not impose an unreasonable burden on the provider utilizing the EHR.

By July 1, 2019, the DOH must establish a statewide electronic emergency medical services data system and adopt rules requiring every licensed ambulance and aid service report and furnish patient encounter data to the electronic emergency medical services data system. The system must be used to improve availability and delivery of emergency medical services, and must include data on fatal and nonfatal overdoses and drug poisoning.

Appropriation: None.

Fiscal Note: Requested on January 9, 2018.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.