

SENATE BILL REPORT

ESHB 1427

As Passed Senate - Amended, April 19, 2017

Title: An act relating to opioid treatment programs.

Brief Description: Concerning opioid treatment programs.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Peterson and Pollet).

Brief History: Passed House: 3/03/17, 82-15.

Committee Activity: Health Care: 3/21/17, 3/28/17 [DP, DNP, w/oRec].

Ways & Means: 4/03/17, 4/04/17 [DPA, DNP, w/oRec].

Floor Activity:

Passed Senate - Amended: 4/12/17, 46-3; 4/19/17, 49-0.

Brief Summary of Bill (As Amended by Senate)

- Requires the boards and commissions of the health care professions with prescriptive authority to adopt rules establishing requirements for prescribing opioid drugs.
- Expands access to the Prescription Monitoring Program (PMP) by allowing health care facilities and provider groups to receive data for quality improvement purposes and by allowing local health officers to receive data in order to provide patients with care after an overdose event.
- Allows the PMP to provide notice to the patient's health care provider after an overdose event.
- Declares that a person who lawfully possesses or uses lawfully prescribed medication for the treatment of opioid use disorder must be treated the same in judicial and administrative proceedings as other persons who lawfully use medications.
- Updates language and terminology related to opioid treatment.
- Removes the limitation on opioid treatment program size and removes the requirement for more than one public hearing in the county or area where a proposed facility is located.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Provides that the state recognizes as the main goal of opiate substitution treatment is total abstinence from substance use for the individuals who participate in a treatment program and recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

SENATE COMMITTEE ON HEALTH CARE

Majority Report: Do pass.

Signed by Senators Rivers, Chair; Becker, Vice Chair; Cleveland, Ranking Minority Member; Kuderer, Assistant Ranking Minority Member; Conway, Keiser and Mullet.

Minority Report: Do not pass.

Signed by Senator Miloscia.

Minority Report: That it be referred without recommendation.

Signed by Senators Bailey and O'Ban.

Staff: Kathleen Buchli (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Bailey, Becker, Fain, Miloscia, Padden, Rivers, Schoesler, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senator Ranker, Ranking Minority Member.

Minority Report: That it be referred without recommendation.

Signed by Senators Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Billig, Carlyle, Conway, Darneille, Hasegawa, Keiser and Pedersen.

Staff: Travis Sugarman (786-7446)

Background: The Community Mental Health Services Act (Act) addresses opiate substitution programs and makes a series of declarations relating to these programs, including that there is no fundamental right to opiate substitution treatment, that this treatment should only be used for participants who are deemed appropriate to need this level of intervention, and that this treatment should not be the first treatment intervention. The primary goal of opiate substitution treatment is total abstinence from substance use.

The Department of Social and Health Services (DSHS) certifies opiate substitution treatment programs to dispense opiate substitution drugs for the treatment of opiate addiction and to

provide a comprehensive range of medical and rehabilitative services. In determining whether a program should be certified, DSHS must:

- consult with the legislative authorities in the counties and cities where the program is proposed to be located;
- ensure that programs are sited in accordance with county or city land use ordinances, which may include reasonable conditions on their siting but may not preclude the siting of essential public facilities;
- demonstrate a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in the community—no program may exceed 350 participants unless authorized by the county;
- consider whether the program is able to provide the appropriate services to assist the persons who utilize the program in meeting the goals of the Act, including abstinence from opiates and opiate substitutes; and
- hold at least one public hearing in the county in which the facility is to be located and one hearing in the area in which the facility is to be located.

The Department of Health (DOH) maintains a Prescription Monitoring Program (PMP) to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances. Information submitted for each prescription must include at least a patient identifier, the drug dispensed, the date of dispensing, the quantity dispensed, the prescriber, and the dispenser. With certain exceptions, prescription information submitted to DOH is confidential. The exceptions allow DOH to provide data in the PMP to certain providers and groups named in statute including health care facilities or provider groups in order to provide medical or pharmaceutical care to the facility's patients.

In 2011, the Medical Quality Assurance Commission, the Board of Osteopathic Medicine and Surgery, the Podiatric Medical Board, the Dental Quality Assurance Commission, and the Nursing Care Quality Assurance Commission were required to adopt rules on chronic, noncancer pain management. The rules do not apply to palliative, hospice, or end-of-life care, or to the management of acute pain caused by an injury or surgical procedure. The rules contain:

- dosing criteria, including a dosage amount that may not be exceeded without consultation with a pain management specialist, and special circumstances under which the dosage may be exceeded without a consultation;
- guidance on when to seek specialty consultation and ways in which electronic specialty consultation may be sought;
- guidance on tracking clinical progress by using assessment tools; and
- guidance on tracking the use of opioids.

Summary of Amended Bill: The persons who may be provided PMP data include the following:

- DOH personnel in order to assess prescribing practices and provide quality improvement feedback to providers, including comparison of their respective data to aggregate data for providers with the same type of license and specialty;
- health care facilities or provider groups for quality improvement purposes;
- health care facilities or provider groups that are operated by the federal government or federally recognized Indian tribes;

- local health officers in order to provide patient follow-up and care coordination following an overdose event; and
- EDIE in order to provide PMP data to emergency department personnel when the patient registered in the emergency department and to provide notice to the patient's prescribing health care provider that the patient has had an overdose event.

On at least a quarterly basis, DOH must provide health care facilities and provider groups with facility and individual prescriber information to be used for internal quality improvement feedback purposes; this may not be used as the sole basis for any medical staff sanction or adverse employment action.

DOH may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington State Hospital Association to use in connection with its coordinated quality improvement program.

The boards and commissions of the health care professions with prescriptive authority must adopt rules on the prescribing of opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment. In establishing the rules, the boards or commissions must consult with the agency medical directors' group, DOH, the University of Washington, and professional associations.

DOH must annually report to the Governor and the Legislature on the number of facilities, entities, or provider groups that have used the State Health Information Exchange to integrate their electronic health records with the PMP.

References to opiate substitution treatment programs, opiate addiction, methadone treatment, and addicted babies are changed to opioid treatment programs, opioid use disorder, methadone treatment, and substance-exposed baby, respectively. The state recognizes medications approved by the federal food and drug administration as evidence-based for the management of opioid use disorder. The main goal of substitution treatment is total abstinence from substance use for the individuals who participate in a treatment program, but recognizes the additional goals of reduce morbidity, and restoration of the ability to lead a productive and fulfilling life.

Health care providers must inform patients of all treatment options available and the provider and patient must consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.

Persons who lawfully possess or use medication for the treatment of opioid use disorder must be treated the same in judicial and administrative proceedings as a person lawfully possessing and using other lawfully prescribed medications.

The limitation on program size is removed. Counties may impose a maximum capacity for a program of not less than 350 participants if necessary to address specific local conditions. The requirement that a public hearing be held in the area in which the proposed facility is to be located is removed.

Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Health Care):

PRO: The bill relates to the siting of opiate substitution treatment programs and provides that there will be one hearing in the county that the program will be located in—this has been worked out with the counties and cities. This also addresses the issues relating to using the word abstinence in statute. There is concern that medication assisted treatment does not fit into the definition of abstinence and the bill contains language that declares that a person possessing lawfully prescribed medication for the treatment of opioid use disorder must be treated the same in judicial and administrative proceedings as a person possessing other lawfully prescribed medications. This will make it easier to site facilities and this addresses the opioid epidemic. Medication assisted treatment is the gold standard of care and helps people transition to society. Siting challenges make it difficult to provide these programs and the changes in the bill will expand access to treatment. This bill puts into statute what is the standard of care for opioid use disorder. It will increase access to care. We need to remove the stigma associated with these programs. This does not preclude abstinence.

Persons Testifying (Health Care): PRO: Representative Eileen Cody, Prime Sponsor; Brad Finegood, King County; Susie Tracy, Evergreen Treatment Services.

Persons Signed In To Testify But Not Testifying (Health Care): No one.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.*

PRO: This is a simple bill but deals with complicated issues of dealing with opiate addiction. This bill attempts to update language and treatment options to match current terminology and research. It really strives to de-stigmatize treatment for opiate addiction. The bill allows for increased treatment options. In certain areas only 20 percent of the need is being met.

Persons Testifying (Ways & Means): PRO: Susie Tracy, Evergreen Treatment Services, Therapeutic Health Services, Acadia Health Care.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.