Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

SSB 5380

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

Sponsors: Senate Committee on Health & Long Term Care (originally sponsored by Senators Cleveland, Rivers, Frockt, Walsh, Keiser, King, Randall, O'Ban, Conway, Darneille, Saldaña, Das, Dhingra, Hunt, Wilson, C. and Zeiger; by request of Office of the Governor).

Brief Summary of Substitute Bill

- Modifies the protocols for using medications to treat opioid use disorder (OUD).
- Permits pharmacists to partially fill certain prescriptions upon patient request.
- Requires prescribers to discuss the risks of opioids with certain patients and provide the patient with the option to refuse an opioid prescription.
- Establishes new requirements for how electronic health records integrate with the prescription monitoring program (PMP) and how PMP data can be used.
- Requires the Health Care Authority and the Department of Health (DOH) to partner and work with other state agencies on initiatives that promote a statewide approach in addressing opioid use disorder.
- Permits the Secretary of the Health to issue a standing order for opioid reversal medication and requires pharmacists to provide written instructions about responding to an opioid overdose when the medication is dispensed.
- Allows hospital emergency departments to dispense opioid overdose reversal medication when a patient is at risk of opioid overdose.
- Requires city and county jails to provide medication-assisted treatment to incarcerated individuals with OUD in certain circumstances.

Hearing Date: 3/19/19

Staff: Kim Weidenaar (786-7120).

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.

Background:

Opioid Treatment Programs.
The Community Mental Health Services Act provides that: (1) there is no fundamental right to medication-assisted treatment (MAT) for opioid use disorder (OUD); (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 medications are prescribed, follow up must be included in the treatment plan in order to work towards the primary goal of abstinence.

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

Medications to Treat Opioid Use Disorder.
Medications used to treat OUD, also referred to as MAT, is a form of treatment which uses medications approved by the United States Food and Drug Administration (FDA). Methadone, buprenorphine, and naltrexone are common medications used to treat OUD.

Opioid Overdose Reversal 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 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.

Medications can be administered to rapidly restore breathing to an individual experiencing an opioid overdose. Narcan, naloxone, and evzio are common opioid overdose reversal medications.

State Opioid Response Plan.

Several state agency members of the Department of Health (DOH) Opioid Response Workgroup developed a statewide plan for opioid response. On September 30, 2016, the Governor signed Executive Order 16-09 Addressing the Opioid Use Public Health Crisis formally directing activities and state agencies to act 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. The workgroup meets quarterly and updates the plan annually.

Prescription Monitoring Program.
The 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.

Opioid Prescribing Rules.
In 2017 the Legislature passed Engrossed Substitute House Bill 1427 requiring the Medical Quality Assurance Commission; the Board of Osteopathic Medicine and Surgery; the Nursing Care Quality Assurance Commission; the Dental Quality Assurance Commission; and the Podiatric Medical Board to adopt new rules for prescribing opioids by January 1, 2019. The rules establish prescribing and documentation guidelines for varying pain levels acute, perioperative, subacute, and chronic and require PMP checks, documentation justifying a prescription, one hour of opioid prescribing continuing education, and providing the patient with resources regarding risks of opioid use and how to safely dispose of the drugs. The rules do not apply to palliative care, in-patient hospital care, procedural medications, and cancer related treatments.

Criminal Justice Treatment Account.
The state funds substance use disorder treatment for certain offenders of the criminal justice system.

Emergency Medications at Hospital Pharmacies.
A hospital may allow prepackaged emergency medications for patients being discharged from the emergency department to be prescribed by practitioners with prescriptive authority and distributed by these practitioners and registered nurses when: (1) community pharmacies and outpatient hospital services are not available within 15 miles by road; or (2) in the judgment of a practitioner and consistent with hospital policies, the patient has no reasonable ability to reach a local community or outpatient pharmacy.

The director of the hospital pharmacy must develop policies and procedures regarding the types of emergency medications to be prepackaged and the criteria under which prepackaged emergency medications may be prescribed and distributed, in addition to other requirements.

Summary of Bill:

Opioid Use Disorder Treatment.
The state declares that substance use disorders are medical conditions and should be treated in a manner similar to other medical conditions by using interventions that are supported by evidence. This includes using medications approved by the United States Food and Drug Administration (FDA) for the treatment of Opioid use disorder (OUD). All individuals experiencing opioid use disorder should be offered evidence-supported treatments such as behavioral counseling and social supports. Providers must inform patients of all evidence-based treatment options. Opioid use disorder treatment programs may order, possess, dispense, and administer opioid overdose reversal medication and medications approved by the FDA to treat OUD. Registered nurses and licensed practical nurses may dispense up to a 31-day supply of FDA approved medications to patients receiving OUD treatment.

Opioid Use Disorder Treatment for Pregnant and Parenting Individuals.
Opioid treatment programs that provide services to individuals who are pregnant must provide information about the effects opioid use and OUD medication may have on their baby. The Department of Health (DOH) must adopt rules requiring all opioid treatment programs to educate pregnant individuals about the risks to the parent and the fetus of not treating OUD. If a

pregnant Medicaid client is identified at risk for OUD, the Health Care Authority (HCA), through the managed care organizations, must provide outreach to the individual. The HCA is required to provide recommendations to the Office of Financial Management by October 1, 2019, on how to better support individuals with OUD who have recently given birth, and newborns of individuals with OUD.

Opioid Prescribing.
Pharmacists are permitted to partially fill a Schedule II controlled substance prescription. The partial fill must be requested by the patient or the prescribing practitioner, and the total quantity dispensed in all partial fillings must not exceed the quantity prescribed. By January 1, 2020, the boards and commissions for the various prescribers must adopt or amend their rules to require opioid prescribers to inform patients of their right to refuse opioid prescriptions. If a patient indicates a desire to not receive an opioid, the prescriber must document the patients request and avoid ordering or prescribing opioids for the patient. The DOH must update its patient materials to reflect a patient's right to refuse an opioid prescription or order.

When prescribing an opioid for the first time during a patient's course of outpatient treatment, practitioners must have a discussion with the patient about the risks of opioids, and about pain management alternatives, and provide patients with a warning statement created by the DOH. Practitioners must document the discussion in the patient's health record. The DOH must review the science, data, and best practices regarding the use of opioids and their associated risks and update the warning as needed.

Electronic prescription systems are no longer required to be approved by the Pharmacy Commission. Pharmacists in charge are no longer required to establish or verify policies to ensure integrity and confidentiality of prescription information electronically transmitted, which employees no longer have to sign and comply with.

Prescription Monitoring Program.
Dispensers are required to submit the necessary prescription information to the prescription monitoring program (PMP) no later than one business day after the date the prescription is dispensed, or as required by DOH rule, whichever is sooner.

The DOH must collaborate with health professional and facility associations, EHR vendors, and other stakeholders to:

- assess the current status of EHR and PMP integration;
- study best practices regarding data sharing with other states, including security standards and challenges with integration;
- provide a detailed overview of alternatives to PMP integration with EHRs, in addition to the state health information exchange model;
- explore financial assistance options for achieving widespread adoption of platform integration;
- conduct security assessments of other commonly use platforms for integrating PMP data with certified EHRs for possible use in Washington;
- assess improvements to the PMP to establish a modality to identify patients that do not wish to receive opioids;
- provide recommendations for increasing the accessibility of the stand-alone PMP portal; and

- formulate a comprehensive strategy to facilitate integration of the PMP with the EHRs in Washington in advance of the federal Medicaid mandate to check the PMP before prescribing controlled substances.

The results of this collaboration must be included in the annual report to the Legislature on PMP integration with EHRs.

Prescription Monitoring Program data may be provided to:
- a health professional licensing, certification, or regulatory agency or entity for use in legal proceedings regarding the license;
- the HCA director, or designee, for Medicaid recipients and members of the HCA's self-funded and self-insured health plans;
- DOH personnel to assess the public health impacts of OUD and to identify possible interventions;
- a licensed, certified or accredited behavioral health facility;
- public or private entities for statistical research, or educational purposes after removing any unique identifiers;
- the Washington State Medical Association for uses solely in its coordinated quality improvement program;
- the Department of Social and Health Services (DSHS), the Department of Labor and Industries, and the HCA for data analysis and research approved by Washington State Institutional Review Board for public health purposes to improve the prevention or treatment of substance use disorders; and
- the largest health professional associations representing each of the prescribing professions for the purposes of quality improvement.
-

The DOH may also enter into agreements to exchange PMP data with PMPs in other states.

State Opioid Response Plan.
The Secretary of Health (Secretary) is responsible for coordinating the statewide response plan and must work in partnership with the HCA to execute the plan. State agencies shall promote positive outcomes associated with the accountable communities of health, local law enforcement, and human service collaborations to address OUD. In addition the work already underway by the State Opioid Response Plan, HCA, and DOH are provided with additional directives.

The HCA is authorized to:
- work with other state agencies and stakeholders to develop value-based payment strategies for the ongoing care of persons with opioid and other substance use disorders;
- promote the use of medication assisted treatment (MAT) and other evidence-based strategies to address the opioid epidemic and by January 1, 2020, prioritize state resources be provided to treatment settings that allow patients to use MAT while engaging in services;
- seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis;
- partner with the DSHS, Department of Corrections, the DOH, the Department of Children, Youth, and Families to develop a statewide approach to leveraging Medicaid funding to treat OUD and provide emergency overdose treatment;

- replicate effective approaches to broaden outreach and patient navigation with allied OUD community partners;
- work with the DOH to promote coordination between OUD treatment providers;
- work with stakeholders to develop a set of recommendations for the Governor and the Legislature regarding a standard set of services needed to support individuals with OUD in treatment programs and identify what is needed to implement the recommendations;
- partner with the DOH and other state agencies to replicate effective approaches for linking individuals who have had a non-fatal overdose with treatment opportunities, including connecting them to certified peer counselors;
- implement a law enforcement assisted diversion program in two or more geographic areas of the state;
- work with the DOH and managed care organizations to promote access to OUD medications at state-certified opioid treatment centers, and encourage the distribution of naloxone to patients who are at risk of an opioid overdose;
- work with the DOH, the accountable communities of health, and community stakeholders to develop a plan for coordinating purchasing and distributing opioid overdose reversal medication; and
- recommend coverage options for non-pharmacologic treatment options for acute, subacute, and chronic non-cancer pain.

The DOH is authorized to:
- display on its website a warning statement about the risks of opioids and information about the safe disposal of opioids;
- ensure training is available electronically and in a variety of media identifying a person suffering from an opioid-related overdose and the use of opioid overdose reversal medication;
- establish an electronic emergency medical services data system for all licensed ambulance and aid services to report patient encounter data including data on suspected drug overdoses to engage individuals in treatment or other support services such as peer professionals;
- work with state agencies to develop a plan to increase outreach and education about opioid overdoses to non-English speaking communities and submit the plan with to the appropriate legislative committees by July 1, 2020;
- coordinate with the HCA on a strategy to rapidly deploy a response team to a local community identified as having a high number of fentanyl-related or other drug overdoses; and
- work with the HCA to reduce barriers and promote the use of medication treatment therapies for OUD in emergency departments and same-day referrals to treatment programs.

Opioid Overdose Reversal Medication.
The Secretary, or designee, is authorized to issue a standing order for opioid reversal medication 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. Prescribers and dispensers are authorized to provide opioid overdose reversal medication pursuant to a standing order or a collaborative drug therapy agreement to any person at risk of experiencing an opioid overdose or to any person in a position to assist a person at risk of experiencing an opioid overdose. When a pharmacist dispenses an opioid overdose reversal medication, the pharmacist

must provide written instructions on the proper response to an opioid-related overdose which must include seeking medical attention.

Hospital emergency departments may dispense opioid overdose reversal medication when the practitioner determines the patient is at risk of an opioid overdose and it is authorized by the hospital's policies and procedures. The Pharmacy Commission prescription labeling requirements do not apply to opioid overdose reversal medications dispensed, distributed, or delivered from an emergency department.

Criminal Justice.
Any region or county that uses state Criminal Justice Treatment Account funds to support a therapeutic court must allow therapeutic court participants to use MAT when it is medically appropriate. By January 1, 2021, city and county jails in Washington must adopt requirements for addressing the behavioral health needs of incarcerated individuals with OUD. The requirements must include developing policies and practices that provide medication for the treatment of OUD to individuals in custody who were receiving MAT pursuant to a valid prescription before incarceration and to provide MAT to incarcerated individuals with OUD 30 days before release if a health care practitioner determiners treatment is medically appropriate. City and county jails must also make every possible effort to directly connect incarcerated individuals receiving MAT in jail to an appropriate provider or treatment site in the geographic region in which the individual will reside before release.

Appropriation: None.

Fiscal Note: Available.

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