SENATE, No. 2638

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED JUNE 4, 2018

Sponsored by:
Senator JOSEPH A. LAGANA
District 38 (Bergen and Passaic)

SYNOPSIS

Requires opioid antidote dispensation to be monitored under Prescription Monitoring Program, and authorizes certain entities to submit info regarding opioid antidote administration for inclusion in secondary, linked database; designated as "John Wagner's Law."

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the dispensation and administration of opioid antidotes, supplementing Title 45 of the Revised Statutes, and amending P.L.2015, c.74 and P.L.2007, c.244.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) a. Any hospital, emergency medical services provider, or law enforcement agency whose staff members administer an opioid antidote to a person suffering from an opioid overdose, in accordance with the provisions of the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et al.), may furnish to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety such information, in such a format and at such intervals, as the director shall prescribe by regulation, for inclusion in an electronic system that will be used to monitor the administration of opioid antidotes in this State. The opioid antidote administration monitoring system established pursuant to this subsection shall be cross-referenced with the electronic Prescription Monitoring Program system established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45), and shall be made available to any practitioner, pharmacist, or other person who accesses prescription monitoring information, pursuant to section 8 of P.L.2015, c.74 (C.45:1-46.1).

b. The Director of the Division of Consumer Affairs, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Commissioner of Health, shall adopt rules and regulations to effectuate the purposes of subsection a. of this section.

c. Notwithstanding the provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Director of the Division of Consumer Affairs shall adopt, immediately upon filing with the Office of Administrative Law, and no later than the 90th day after the effective date of this act, such regulations as the director deems necessary to implement the provisions of subsection a. of this section. Regulations adopted pursuant to this subsection shall be effective until the adoption of rules and regulations pursuant to subsection b. of this section, and shall be amended, adopted, or readopted by the director in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

d. As used in this section, "opioid antidote" means naloxone hydrochloride, or any other similarly acting drug approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

2. Section 8 of P.L.2015, c.74 (C.45:1-46.1) is amended to read as follows:

8. a. (1) Except as provided in subsection b. of this section, a practitioner or other person who is authorized by a practitioner to access prescription monitoring information pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46) shall access prescription monitoring information, as well as any linked opioid antidote administration information compiled pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill):

(a) the first time the practitioner or other person prescribes a Schedule II controlled dangerous substance or any opioid to a new patient for acute or chronic pain;

(b) the first time a practitioner or other person prescribes a benzodiazepine drug that is a Schedule III or Schedule IV controlled dangerous substance;

(c) if the practitioner or other person has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion, the first time the practitioner or other person prescribes a non-opioid drug other than a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance; and

(d) on or after the date that the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46), any time the practitioner or other person prescribes a Schedule II controlled dangerous substance for acute or chronic pain to a patient receiving care or treatment in the emergency department of a general hospital.

In addition, in any case in which a prescription is issued to a new patient, either on or after the effective date of P.L.2017, c.341 (C.45:16-9.4c et al.), for a Schedule II controlled dangerous substance or opioid drug that has been prescribed for acute or chronic pain, or for a benzodiazepine drug that is a Schedule III or IV controlled dangerous, the practitioner or other authorized person shall access prescription monitoring information, as well as any linked opioid antidote administration information compiled pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), on a quarterly basis during the period of time the patient continues to receive such prescription.

(2) (a) A pharmacist shall not dispense a Schedule II controlled dangerous substance, any opioid, or a benzodiazepine drug that is a Schedule III or IV controlled dangerous substance to any person without first accessing the prescription monitoring information, as authorized pursuant to subsection h. of section 26 of P.L.2007, c.244 (C.45:1-46), and any linked opioid antidote administration information compiled pursuant to section 1 of P.L. , c. (C.)

(pending before the Legislature as this bill), to determine if the person has received other prescriptions that indicate misuse, abuse, or diversion, or has been administered an opioid antidote in response to an opioid overdose, if the pharmacist has a reasonable belief that the person may be seeking **[**a**]** the controlled dangerous substance, in whole or in part, for any purpose other than the treatment of an existing medical condition, such as for purposes of misuse, abuse, or diversion.

(b) A pharmacist shall not dispense a prescription to a person other than the patient for whom the prescription is intended, unless the person picking up the prescription provides personal identification to the pharmacist, and the pharmacist, as required by subsection b. of section 25 of P.L.2007, c.244 (C.45:1-45), inputs that identifying information into the Prescription Monitoring Program if the pharmacist has a reasonable belief that the person may be seeking a controlled dangerous substance, in whole or in part, for any reason other than delivering the substance to the patient for the treatment of an existing medical condition. The provisions of this subparagraph shall not take effect until the director determines that the Prescription Monitoring Program has the technical capacity to accept such information.

b. The provisions of subsection a. of this section shall not apply to:

(1) a veterinarian;

(2) a practitioner or the practitioner's agent administering methadone, or another controlled dangerous substance designated by the director as appropriate for treatment of a patient with a substance abuse disorder, as interim treatment for a patient on a waiting list for admission to an authorized substance abuse treatment program;

(3) a practitioner administering a controlled dangerous substance directly to a patient;

(4) a practitioner prescribing a controlled dangerous substance to be dispensed by an institutional pharmacy, as defined in N.J.A.C.13:39-9.2;

(5) a practitioner prescribing a controlled dangerous substance in the emergency department of a general hospital, provided that the quantity prescribed does not exceed a five-day supply of the substance; however, the exemption provided by this paragraph shall have no force or effect on or after the date on which the division first makes prescription monitoring information available on an electronic system that collects and displays health information, pursuant to subsection q. of section 26 of P.L.2007, c.244 (C.45:1-46);

(6) a practitioner prescribing a controlled dangerous substance to a patient under the care of a hospice;

(7) a situation in which it is not reasonably possible for the practitioner or pharmacist to access the Prescription Monitoring

Program in a timely manner, no other individual authorized to access the Prescription Monitoring Program is reasonably available, and the quantity of controlled dangerous substance prescribed or dispensed does not exceed a five-day supply of the substance;

(8) a practitioner or pharmacist acting in compliance with regulations promulgated by the director as to circumstances under which consultation of the Prescription Monitoring Program would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of the patient;

(9) a situation in which the Prescription Monitoring Program is not operational as determined by the division or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation;

(10) a practitioner or pharmacist who has been granted a waiver due to technological limitations that are not reasonably within the control of the practitioner or pharmacist, or other exceptional circumstances demonstrated by the practitioner or pharmacist, pursuant to a process established in regulation, and in the discretion of the director; or

(11) a practitioner who is prescribing a controlled dangerous substance to a patient immediately after the patient has undergone an operation in a general hospital or a licensed ambulatory care facility or treatment for acute trauma in a general hospital or a licensed ambulatory care facility, so long as that operation or treatment was not part of care or treatment in the emergency department of a general hospital as provided in subsection a. of this section, when no more than a five-day supply is prescribed.

(cf: P.L.2017, c.341, s.4)

3. Section 27 of P.L.2007, c.244 (C.45:1-47) is amended to read as follows:

27. Prescription Monitoring Program; provisions for expansion.

a. Notwithstanding the provisions of section 25 of P.L.2007, c.244 (C.45:1-45) to the contrary, the director:

(1) shall adopt a regulation to expand the Prescription Monitoring Program to include information about each prescription that is dispensed for an opioid antidote, as defined in section 1 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) may adopt a regulation **[**to expand**]** expanding the program to require pharmacies to include information about each prescription dispensed for **[**a**]** any other prescription drug that is not a controlled dangerous substance. In determining whether pharmacies should be required to submit to the program information about a prescription drug other than a controlled dangerous substance, the director shall consider: the actual or relative potential for abuse; scientific evidence of its pharmacological effect, if known; the state of current scientific knowledge regarding the drug;

its history and current pattern of abuse, including its use to potentiate or enhance the effects of controlled dangerous substances that are subject to abuse; the scope, duration and significance of abuse; what, if any, risk to the public health; and its psychic or physiological dependence liability.

b. **[**At the time the**]** Whenever a notice to expand the program pursuant to paragraph (2) of subsection a. of this section is published in the New Jersey Register, the director shall provide a copy of the notice of proposed rule making to the chairpersons of the standing legislative reference committees on health of the Senate and General Assembly.

(cf: P.L.2017, c.341, s.5)

4. This act shall take effect immediately.

STATEMENT

This bill would add naloxone hydrochloride, and other opioid antidotes, to the list of prescription drugs that are to be monitored as part of the State's Prescription Monitoring Program (PMP). Although the PMP focuses on monitoring the dispensation of controlled dangerous substances in the State, and although opioid antidotes are not considered to be controlled dangerous substances, information related to the dispensation of opioid antidotes is nonetheless relevant to determinations regarding the prescription and dispensation of controlled dangerous substances.

The bill would additionally authorize hospitals, emergency medical services providers, and law enforcement agencies that are engaged in the administration of opioid antidotes pursuant to the "Overdose Prevention Act," P.L.2013, c.46 (C.24:6J-1 et seq.), to provide the Director of the Division of Consumer Affairs (DCA) in the Department of Law and Public Safety with such information as the director may prescribe by regulation, for inclusion in a secondary electronic system that would be established by the DCA to monitor the administration of opioid antidotes in the State. The opioid antidote administration system established by the bill would be cross-referenced with the State PMP, and would be made available to any practitioner, pharmacist, or other person who accesses prescription monitoring information.