BILL ANALYSIS

Senate Research Center
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S.B. 1094
By: Creighton
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature has worked over a number of years to implement policies seeking to address prescription drug abuse. Legislation was passed cracking down on pill mills. Legislation has been passed and is currently being worked on this session to strengthen the state's prescription drug monitoring program. What the legislature has not yet addressed is access to abuse-deterrent formulations.

Pharmaceutical companies are coming to the table just like other stakeholders. And it is not just branded pharmaceutical manufacturers. Over six manufacturers, both branded and generic companies, currently have over a dozen abuse deterrent opioids under development. Several manufacturers have products on the market with an United States Food and Drug Administration approved abuse deterrent label and still others have products on the market with abuse deterrent properties but who still need to do further studies in order to achieve the labeling requirement.

These products are not the complete solution; they are one tool that law enforcement, doctors, patients, and health plans have in helping address prescription drug abuse and misuse as well as the over $70 billion in additional annual medical costs attributed specifically to opioid misuse and abuse.

We know that patients diagnosed with opioid abuse are over six times more expensive in terms of their healthcare costs than patients who are non-abusers.

Abuse deterrent opioids should be part of a comprehensive approach to tackling opioid abuse and misuse.

Currently, there are two different types of release of opioids on the market: Immediate release, which is short acting and meant to help alleviate immediate pain or spikes of pain, and extended release, which is long acting and meant to sustain a constant level of pain relief over a longer period of time.

Extended release versions make up only 10 percent of the opioid market right now, but because they have higher quantities of the active ingredient, they are prime targets for abuse.

Abuse deterrent opioids seek to alleviate abuse and misuse that arises from tampering with a product to get access to more of the active ingredient and get that quicker high: chewing the tablets, crushing them down and either smoking or snorting them, or melting them down or dissolving them into a solution so they can be injected.

Abuse deterrent opioids can have one or more of these technologies.

Texas should require these products be covered by health plans, that the prior authorization procedures for these products are no more stringent or burdensome than it is for non-abuse deterrent opioids being covered by a plan. And finally, patients should not have to fail first or step through an opioid without abuse deterrent properties before they can access one that is abuse deterrent.

As proposed, S.B. 1094 amends current law relating to health benefit plan coverage for abuse-deterrent opioid analgesic drugs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 1369, Insurance Code, by adding Subchapter H, as follows:

SUBCHAPTER H. COVERAGE FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUGS

Sec. 1369.351. DEFINITIONS. In this subchapter:

(1) Defines "abuse-deterrent opioid analgesic drug."

(2) Defines "opioid analgesic drug."

Sec. 1369.352. APPLICABILITY OF SUBCHAPTER. (a) Provides that this subchapter applies only to a health benefit plan, including a small employer health benefit plan written under Chapter 1501 (Health Insurance Portability and Availability Act), that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 842 (Group Hospital Service Corporations);

(3) a fraternal benefit society operating under Chapter 885 (Fraternal Benefit Societies);

(4) a stipulated premium company operating under Chapter 884 (Stipulated Premium Insurance Companies);

(5) a reciprocal exchange operating under Chapter 942 (Reciprocal and Interinsurance Exchanges);

(6) a health maintenance organization operating under Chapter 843 (Health Maintenance Organizations);

(7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846 (Multiple Employer Welfare Arrangements); or

(8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844 (Certification of Certain Nonprofit Health Corporations).

(b) Provides that this subchapter applies, notwithstanding Section 1501.251 (Exception From Certain Mandated Benefit Requirements) or any other law, to a small employer health benefit plan subject to Chapter 1501 (Health Insurance Portability and Availability Act).

(c) Provides that, notwithstanding Sections 1507.004 (Standard Health Benefit Plans Authorized; Minimum Requirement) and 1507.053 (State-Mandated Health

Benefits), or any other law, this subchapter applies to a consumer choice of benefits plan issued under Chapter 1507 (Consumer Choice of Benefits Plans).

Sec. 1369.353. EXCEPTIONS. (a) Provides that this subchapter does not apply to:

(1) a health benefit plan that provides coverage only:

(A) for a specified disease or for another limited benefit other than for cancer;

(B) for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

(D) as a supplement to a liability insurance policy;

(E) for credit insurance;

(F) for dental or vision care; or

(G) for indemnity for hospital confinement;

(2) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), as amended;

(3) a workers' compensation insurance policy;

(4) medical payment insurance coverage provided under a motor vehicle insurance policy; or

(5) a long-term care insurance policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Section 1369.102 (Applicability of Subchapter).

(b) Provides that this subchapter does not apply to:

(1) a Medicaid managed care program operated under Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code;

(2) a Medicaid program operated under Chapter 32 (Medical Assistance Program), Human Resources Code; or

(3) the state child health plan operated under Chapter 62 (Child Health Plan for Certain Low-Income Children) or 63 (Health Benefits Plan for Certain Children), Health and Safety Code.

Sec. 1369.354. REQUIRED COVERAGE FOR ABUSE-DETERRENT OPIOID ANALGESIC DRUGS. (a) Requires that a health benefit plan provide coverage for abuse-deterrent opioid analgesic drugs.

(b) Prohibits a health benefit plan issuer from reducing or limiting a payment to a health care professional, or otherwise penalizing the professional, because the professional prescribes or dispenses an abuse-deterrent opioid analgesic drug.

Sec. 1369.355. PRIOR AUTHORIZATION. (a) Provides that a health benefit plan may require prior authorization for an abuse-deterrent opioid analgesic drug in the same manner that the health benefit plan requires prior authorization for an opioid analgesic drug that does not have abuse-deterrent properties.

(b) Prohibits a health benefit plan from requiring an enrollee to use an opioid analgesic drug that does not have abuse-deterrent properties before prior authorization for an abuse-deterrent opioid analgesic drug may be given.

SECTION 2. Provides that Subchapter H, Chapter 1369, Insurance Code, as added by this Act, applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2016. Provides that a health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2016, is covered by the law in effect at the time the plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2015.