A BILL FOR AN ACT

RELATING TO THE ELECTRONIC PRESCRIPTION ACCOUNTABILITY SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that Act 153, Session Laws Hawaii 2018, requires all prescribers of controlled substances to query the electronic prescription accountability system, prior to issuing a prescription for certain controlled substances, to reduce the risk of abuse of or addiction to a controlled substance. The electronic prescription accountability system, also known as the prescription drug monitoring program, is a useful tool for health care providers when determining which controlled substances a patient has been prescribed.

The legislature notes that although prescribers have taken steps to implement this law, some concerns have been raised about the applicability of the law to certain patient populations. The legislature further finds that the law should not apply in inpatient settings, where a patient is in a hospital or nursing home and is directly administered a prescription under the supervision of a health care provider.
The law should also not apply to initial prescriptions for patients being treated for post-operative pain with a limited three-day supply, for consistency with a 2016 Centers for Disease Control and Prevention recommendation on acute pain management. An exemption for patients with a terminal disease who are receiving hospice or other types of palliative care is also appropriate to reduce barriers to this end-of-life choice. Therefore, requiring a health care provider to consult the electronic prescription accountability system under these circumstances may cause a delay in the provision of appropriate care to the patient.

The legislature additionally finds that existing law requires prescribing health care providers to adopt and maintain informed consent policies for opioid therapy patients. Providers have since adopted these policies; however, concerns have been raised about requiring a patient to complete the informed consent process in certain situations, such as where the patient is in intensive care, is being monitored, or otherwise lacks the capacity to provide consent.

The purpose of this Act is to:
(1) Specify that a health care provider shall not be required to consult the electronic prescription accountability system when a patient is in an inpatient setting, in post-operative care, or has a terminal disease and is receiving hospice or other palliative care; and

(2) Clarify that an informed consent agreement is not required for patients whose prescription will be directly administered under the supervision of a health care provider.

SECTION 2. Section 329-38.2 Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) No prescriber shall prescribe a schedule II, III, or IV controlled substance without first requesting, receiving, and considering records of the ultimate user from the state electronic prescription accountability system as needed to reduce the risk of abuse of or addiction to a controlled substance, as needed to avoid harmful drug interactions, or as otherwise medically necessary; provided that this subsection shall not apply to any prescription:
(1) [Any prescription for] For a supply of three days or less that is made in an emergency situation, by an emergency medical provider, or in an emergency room; [and]

(2) [Any prescription written] That will be administered directly to a patient under the supervision of a health care provider licensed to practice within the State; provided that a medically-indicated query of the electronic prescription accountability system is made when the patient is initially admitted for inpatient care at a hospital;

(3) That is an initial prescription for a patient being treated for post-operative pain; provided that the prescription is limited to a three-day supply with no refills;

(4) For a patient with a terminal disease receiving hospice or other types of palliative care; provided that for purposes of this paragraph, "terminal disease" means an incurable and irreversible disease that will, within reasonable medical judgment, produce death within six months; or
(5) Prescribed while the state electronic prescription accountability system is nonfunctional."

SECTION 3. Section 329-38.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) For the purposes of this section, "qualifying opioid therapy patient" means:

(1) A patient requiring opioid treatment for more than three months;

(2) A patient who is prescribed benzodiazepines and opioids together; or

(3) A patient who is prescribed a dose of opioids that exceeds ninety morphine equivalent doses.

This term shall not apply to an individual who lacks capacity as defined in section 327E-2 and who is receiving treatment at a hospital under the supervision of a licensed health care provider."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.
Report Title:
Electronic Prescription Accountability System; Hospice; Palliative Care; Opioid Therapy; Informed Consent Process

Description:
Specifies that a health care provider shall not be required to consult the electronic prescription accountability system for patients when the prescription will be directly administered under the supervision of a health care provider, provided that the system is consulted when the patients are initially admitted at a hospital; for patients in post-operative care with a prescription limited to a three-day supply; or for patients with a terminal disease receiving hospice or other palliative care. Clarifies that an informed consent agreement is not necessary for patients whose prescription will be directly administered under the supervision of a health care provider. (SD1)

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