Limits on Prescribing Controlled Substances

By Joe Anne Hart, FDA Chief Legislative Officer

Earlier this year, the governor announced support for placing limits on prescribing opioids in response to the national attention brought on from the significant amount of deaths recorded from opioid abuse and overdose. Legislation was filed by Sen. Lizbeth Benacquisto (R-Fort Myers) and Rep. Jim Boyd (R-Bradenton) to place limits on prescribing controlled substances, in addition to some other changes impacting health care providers.

CS/CS/HB 21 requires all health care providers who are authorized to prescribe controlled substances to complete a board-approved two-hour continuing education (CE) course, if not already required by their practice act. All health care providers registered with the United States Drug Enforcement Agency (DEA) to prescribe controlled substances must complete the CE course by **Jan. 31, 2019**, and at each subsequent licensure renewal. The course will be offered by a statewide professional association of physicians in this state that is accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category I Credit or the American Osteopathic Category 1-A continuing medical education requirement. The course may be taken in a long-distance format (online) and must be included in the CE required for the biennial renewal of a health care provider's license. The Department of Health (DOH) may not renew the individual's license of a prescriber who fails to complete this CE requirement. The FDA supported the two-hour CE training for controlled substances during session, but opposed the requirement that CE only be provided by one statewide professional association group. The FDA supported the original language in the bill that allowed each health care board to facilitate the CE course for controlled substances training. The FDA offered the following amendment language by Rep. Perry Thurston (D-Fort Lauderdale) to go back to the original language, but the amendment failed.

CS/CS/HB 21 limits the prescribing of a Schedule II controlled substance to a three-day limit. However, health care providers will be allowed to prescribe up to a seven-day supply if they write "acute pain exception" on their patient's prescription and adequately document the exception in their patient's record and indicate the acute medical condition and lack of alternative treatment. The bill creates a definition for "acute pain" when prescribing controlled substances to mean "the normal, predicted, physiological and time-limited response to an adverse chemical, thermal or mechanical stimulus associated with surgery, trauma or acute illness." The bill does delineate exceptions for acute pain to include cancer, a terminal condition, palliative care and traumatic injury, and directs the health care boards to adopt rules to establish guidelines for prescribing controlled substances for acute pain.

The bill requires all health care providers to check the prescription drug database before prescribing or dispensing Schedules II, III, IV and V controlled substances for a patient who is 16 years old or older. The bill provides an exemption for checking the database when prescribing or dispensing a "nonopioid controlled substance" listed in Schedule V of s. 893.03 or 21 U.S.C. 812. The bill defines "nonopioid controlled substance" as a controlled substance that does not contain any amount of a substance listed as an opioid in s. 893.03 or 21 U.S.C. 812. The bill authorizes the DOH to issue a nondisciplinary citation to any prescriber or dispenser who fails to consult the prescription drug monitoring program database for the first offense and eliminates the requirement for the first offense be referred to the regulatory board for disciplinary action. The DOH is authorized to share and exchange database information with other states if certain conditions are met, and authorizes the database to interface with health care provider and facility electronic health records systems. Information contained in the prescription drug monitoring program database will be purged to eliminate information in the database that is more than four years old. Based on the significant number of anticipated inquiries to the database, the bill appropriates close to $1 million to revamp the prescription drug monitoring program database and potentially contract with a third-party vendor with experience administering these types of databases.

CS/CS/HB 21 was signed into law by the governor on March 19 and becomes effective on July 1, 2018.

If you have any questions, please contact FDA Director of Third Party Payer and Professional Affairs Casey Stoutamire at 850.350.7202 or cstoutamire@floridadental.org, or FDA Chief Legislative Officer Joe Anne Hart at 850.350.7205 or jahart@floridadental.org.

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