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An Act To Provide for Alternative Pain Treatment before Treatment with Opioids

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §285, sub-§16 is enacted to read:

16. Coverage for alternative pain treatment. If alternative pain treatment is covered by the group health plan, the plan may not:

A. Require a referral from an individual licensed under Title 32 whose scope of practice includes prescribing opioid medication as a condition of coverage for enrollees receiving alternative pain treatment in accordance with Title 32, section 2210, 2600-C, 3300-F, 3657 or 18308; or

B. Impose a cost on an enrollee for the covered alternative pain treatment that exceeds the cost of a visit to a primary care provider under the group health plan.

As used in this subsection, "alternative pain treatment" has the same meaning as in Title 32, sections 2210, 2600-C, 3300-F, 3657 and 18308.

Sec. 2. 22 MRSA §3174-BBB is enacted to read:

§ 3174-BBB. Coverage for alternative pain treatment

If alternative pain treatment is reimbursable by the MaineCare program, the program may not:

1. Require a referral. Require a referral from an individual licensed under Title 32 whose scope of practice includes prescribing opioid medication as a condition of coverage for members receiving alternative pain treatment in accordance with Title 32, section 2210, 2600-C, 3300-F, 3657 or 18308; or

2. Impose a cost exceeding cost of visit. Impose a cost on a member for the covered alternative pain treatment that exceeds the cost of a visit to a primary care provider under the MaineCare program.

As used in this section, "alternative pain treatment" has the same meaning as in Title 32, sections 2210, 2600-C, 3300-F, 3657 and 18308.

Sec. 3. 24-A MRSA §4320-L is enacted to read:

§ 4320-L. Coverage for alternative pain treatment

If alternative pain treatment is reimbursable by the carrier, the carrier may not:

1. Require a referral. Require a referral from an individual licensed under Title 32 whose scope of practice includes prescribing opioid medication as a condition of coverage for enrollees receiving alternative pain treatment in accordance with Title 32, section 2210, 2600-C, 3300-F, 3657 or 18308; or

2. Impose a cost exceeding cost of visit. Impose a cost on an enrollee for the covered alternative pain treatment that exceeds the cost of a visit to a primary care provider under the carrier's plan.

As used in this section, "alternative pain treatment" has the same meaning as in Title 32, sections 2210, 2600-C, 3300-F, 3657 and 18308.

Sec. 4. 32 MRSA §2210, sub-§2, as amended by PL 2017, c. 213, §13, is further amended to read:

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 and the alternative pain treatment requirements established in subsection 7 only:

A. When prescribing opioid medication to a patient for:

(1) Pain associated with active and aftercare cancer treatment;

(2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;

(3) End-of-life and hospice care;

(4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

Sec. 5. 32 MRSA §2210, sub-§7 is enacted to read:

7. Alternative pain treatment. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe opioid medication to a patient who does not have an active prescription for opioid medication unless the patient has completed 24 sessions of alternative pain treatment with an individual licensed under this Title whose scope of practice includes alternative pain treatment. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication shall discuss alternative pain treatment with a patient who has an active prescription for opioid medication.

For purposes of this subsection, "alternative pain treatment" means: acupuncture, as defined in section 12501, subsection 1; chiropractic methodologies, as defined in section 451, subsection 3; massage therapy, as defined in section 14301, subsection 4; occupational therapy, as defined in section 2272, subsection 12; physical therapy, as defined in section 3111, subsection 5; osteopathic manipulation from a practitioner licensed under chapter 36; or a chronic pain management program.

Sec. 6. 32 MRSA §2600-C, sub-§2, as amended by PL 2017, c. 213, §15, is further amended to read:

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 and the alternative pain treatment requirements established in subsection 7 only:

A. When prescribing opioid medication to a patient for:

- (1) Pain associated with active and aftercare cancer treatment;
- (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;
- (3) End-of-life and hospice care;
- (4) Medication-assisted treatment for substance use disorder; or
- (5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

Sec. 7. 32 MRSA §2600-C, sub-§7 is enacted to read:

7. Alternative pain treatment. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe opioid medication to a patient who does not have an active prescription for opioid medication unless the patient has completed 24 sessions of alternative pain treatment with an individual licensed under this Title whose scope of practice includes alternative pain treatment. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication shall discuss alternative pain treatment with a patient who has an active prescription for opioid medication.

For purposes of this subsection, "alternative pain treatment" means: acupuncture, as defined in section 12501, subsection 1; chiropractic methodologies, as defined in section 451, subsection 3; massage therapy, as defined in section 14301, subsection 4; occupational therapy, as defined in section 2272, subsection 12; physical therapy, as defined in section 3111, subsection 5; osteopathic manipulation from a practitioner licensed under this chapter; or a chronic pain management program.

Sec. 8. 32 MRSA §3300-F, sub-§2, as amended by PL 2017, c. 213, §17, is further amended to read:

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 and the alternative pain treatment requirements established in subsection 7 only:

A. When prescribing opioid medication to a patient for:

- (1) Pain associated with active and aftercare cancer treatment;
- (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;
- (3) End-of-life and hospice care;
- (4) Medication-assisted treatment for substance use disorder; or
- (5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

Sec. 9. 32 MRSA §3300-F, sub-§7 is enacted to read:

7. Alternative pain treatment. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe opioid medication to a patient who does not have an active prescription for opioid medication unless the patient has completed 24 sessions of alternative pain treatment with an individual licensed under this Title whose scope of practice includes alternative pain treatment. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication shall discuss alternative pain treatment with a patient who has an active prescription for opioid medication.

For purposes of this subsection, "alternative pain treatment" means: acupuncture, as defined in section 12501, subsection 1; chiropractic methodologies, as defined in section 451, subsection 3; massage therapy, as defined in section 14301, subsection 4; occupational therapy, as defined in section 2272, subsection 12; physical therapy, as defined in section 3111, subsection 5; osteopathic manipulation from a practitioner licensed under chapter 36; or a chronic pain management program.

Sec. 10. 32 MRSA §3657, sub-§2, as amended by PL 2017, c. 213, §19, is further amended to read:

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 and the alternative pain treatment requirements established in subsection 7 only:

A. When prescribing opioid medication to a patient for:

- (1) Pain associated with active and aftercare cancer treatment;
- (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;
- (3) End-of-life and hospice care;
- (4) Medication-assisted treatment for substance use disorder; or
- (5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

Sec. 11. 32 MRSA §3657, sub-§7 is enacted to read:

7. Alternative pain treatment. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe opioid medication to a patient who does not have an active prescription for opioid medication unless the patient has completed 24 sessions of alternative pain treatment with an individual licensed under this Title whose scope of practice includes alternative pain treatment. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication shall discuss alternative pain treatment with a patient who has an active prescription for opioid medication.

For purposes of this subsection, "alternative pain treatment" means: acupuncture, as defined in section 12501, subsection 1; chiropractic methodologies, as defined in section 451, subsection 3; massage therapy, as defined in section 14301, subsection 4; occupational therapy, as defined in section 2272, subsection 12; physical therapy, as defined in section 3111, subsection 5; osteopathic manipulation from a practitioner licensed under chapter 36; or a chronic pain management program.

Sec. 12. 32 MRSA §18308, sub-§2, as amended by PL 2017, c. 213, §21, is further amended to read:

2. Exceptions. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication is exempt from the limits on opioid medication prescribing established in subsection 1 and the alternative pain treatment requirements established in subsection 7 only:

A. When prescribing opioid medication to a patient for:

- (1) Pain associated with active and aftercare cancer treatment;
- (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph A, in conjunction with a serious illness, as defined in Title 22, section 1726, subsection 1, paragraph B;
- (3) End-of-life and hospice care;
- (4) Medication-assisted treatment for substance use disorder; or

(5) Other circumstances determined in rule by the Department of Health and Human Services pursuant to Title 22, section 7254, subsection 2; and

B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility or in connection with a surgical procedure.

As used in this paragraph, "administer" has the same meaning as in Title 22, section 7246, subsection 1-B.

Sec. 13. 32 MRSA §18308, sub-§7 is enacted to read:

7. Alternative pain treatment. Except as provided in subsection 2, an individual licensed under this chapter whose scope of practice includes prescribing opioid medication may not prescribe opioid medication to a patient who does not have an active prescription for opioid medication unless the patient has completed 24 sessions of alternative pain treatment with an individual licensed under this Title whose scope of practice includes alternative pain treatment. An individual licensed under this chapter whose scope of practice includes prescribing opioid medication shall discuss alternative pain treatment with a patient who has an active prescription for opioid medication.

For purposes of this subsection, "alternative pain treatment" means: acupuncture, as defined in section 12501, subsection 1; chiropractic methodologies, as defined in section 451, subsection 3; massage therapy, as defined in section 14301, subsection 4; occupational therapy, as defined in section 2272, subsection 12; physical therapy, as defined in section 3111, subsection 5; osteopathic manipulation from a practitioner licensed under chapter 36; or a chronic pain management program.

SUMMARY

This bill prohibits an individual licensed to prescribe opioid medication from prescribing opioid medication to a patient who does not have an active prescription for opioid medication unless the patient has completed 24 sessions of alternative pain treatment. This bill exempts from this requirement patients who have pain associated with cancer treatment, palliative care in conjunction with a serious illness, end-of-life and hospice care, medication-assisted treatment for substance use disorder and other circumstances determined in rule by the Department of Health and Human Services. This bill requires an individual licensed to prescribe opioid medication to discuss alternative pain treatment with a patient who has an active prescription for opioid medication. This bill also provides that a referral from an individual licensed under the Maine Revised Statutes, Title 32 whose scope of practice includes prescribing opioid medication is not required for coverage for alternative pain treatment and that the cost of covered alternative pain treatment may not exceed the cost of a visit to a primary care provider.