



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1082

S.P. 314

In Senate, March 5, 2019

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

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Representative STANLEY of Medway and
Senators: LIBBY of Androscoggin, VITELLI of Sagadahoc.

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

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

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

5 A. Require a referral from an individual licensed under Title 32 whose scope of
6 practice includes prescribing opioid medication as a condition of coverage for
7 enrollees receiving alternative pain treatment in accordance with Title 32, section
8 2210, 2600-C, 3300-F, 3657 or 18308; or

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

11 As used in this subsection, "alternative pain treatment" has the same meaning as in Title
12 32, sections 2210, 2600-C, 3300-F, 3657 and 18308.

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

14 **§3174-BBB. Coverage for alternative pain treatment**

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

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

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

24 As used in this section, "alternative pain treatment" has the same meaning as in Title
25 32, sections 2210, 2600-C, 3300-F, 3657 and 18308.

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

27 **§4320-L. Coverage for alternative pain treatment**

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

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

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

1 As used in this section, "alternative pain treatment" has the same meaning as in Title
2 32, sections 2210, 2600-C, 3300-F, 3657 and 18308.

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

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

9 A. When prescribing opioid medication to a patient for:

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

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

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

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

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

32 For purposes of this subsection, "alternative pain treatment" means: acupuncture, as
33 defined in section 12501, subsection 1; chiropractic methodologies, as defined in section
34 451, subsection 3; massage therapy, as defined in section 14301, subsection 4;
35 occupational therapy, as defined in section 2272, subsection 12; physical therapy, as
36 defined in section 3111, subsection 5; osteopathic manipulation from a practitioner
37 licensed under chapter 36; or a chronic pain management program.

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

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

5 A. When prescribing opioid medication to a patient for:

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

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

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

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

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

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

17 As used in this paragraph, "administer" has the same meaning as in Title 22, section
18 7246, subsection 1-B.

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

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

28 For purposes of this subsection, "alternative pain treatment" means: acupuncture, as
29 defined in section 12501, subsection 1; chiropractic methodologies, as defined in section
30 451, subsection 3; massage therapy, as defined in section 14301, subsection 4;
31 occupational therapy, as defined in section 2272, subsection 12; physical therapy, as
32 defined in section 3111, subsection 5; osteopathic manipulation from a practitioner
33 licensed under this chapter; or a chronic pain management program.

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

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

- 1 A. When prescribing opioid medication to a patient for:
2 (1) Pain associated with active and aftercare cancer treatment;
3 (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph
4 A, in conjunction with a serious illness, as defined in Title 22, section 1726,
5 subsection 1, paragraph B;
6 (3) End-of-life and hospice care;
7 (4) Medication-assisted treatment for substance use disorder; or
8 (5) Other circumstances determined in rule by the Department of Health and
9 Human Services pursuant to Title 22, section 7254, subsection 2; and
10 B. When directly ordering or administering a benzodiazepine or opioid medication to
11 a person in an emergency room setting, an inpatient hospital setting, a long-term care
12 facility or a residential care facility or in connection with a surgical procedure.
13 As used in this paragraph, "administer" has the same meaning as in Title 22, section
14 7246, subsection 1-B.

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

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

24 For purposes of this subsection, "alternative pain treatment" means: acupuncture, as
25 defined in section 12501, subsection 1; chiropractic methodologies, as defined in section
26 451, subsection 3; massage therapy, as defined in section 14301, subsection 4;
27 occupational therapy, as defined in section 2272, subsection 12; physical therapy, as
28 defined in section 3111, subsection 5; osteopathic manipulation from a practitioner
29 licensed under chapter 36; or a chronic pain management program.

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

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

- 36 A. When prescribing opioid medication to a patient for:
37 (1) Pain associated with active and aftercare cancer treatment;

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

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

11 As used in this paragraph, "administer" has the same meaning as in Title 22, section
12 7246, subsection 1-B.

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

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

22 For purposes of this subsection, "alternative pain treatment" means: acupuncture, as
23 defined in section 12501, subsection 1; chiropractic methodologies, as defined in section
24 451, subsection 3; massage therapy, as defined in section 14301, subsection 4;
25 occupational therapy, as defined in section 2272, subsection 12; physical therapy, as
26 defined in section 3111, subsection 5; osteopathic manipulation from a practitioner
27 licensed under chapter 36; or a chronic pain management program.

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

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

- 34 A. When prescribing opioid medication to a patient for:
 - 35 (1) Pain associated with active and aftercare cancer treatment;
 - 36 (2) Palliative care, as defined in Title 22, section 1726, subsection 1, paragraph
 - 37 A, in conjunction with a serious illness, as defined in Title 22, section 1726,
 - 38 subsection 1, paragraph B;
 - 39 (3) End-of-life and hospice care;

- 1 (4) Medication-assisted treatment for substance use disorder; or
2 (5) Other circumstances determined in rule by the Department of Health and
3 Human Services pursuant to Title 22, section 7254, subsection 2; and
4 B. When directly ordering or administering a benzodiazepine or opioid medication to
5 a person in an emergency room setting, an inpatient hospital setting, a long-term care
6 facility or a residential care facility or in connection with a surgical procedure.
7 As used in this paragraph, "administer" has the same meaning as in Title 22, section
8 7246, subsection 1-B.

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

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

18 For purposes of this subsection, "alternative pain treatment" means: acupuncture, as
19 defined in section 12501, subsection 1; chiropractic methodologies, as defined in section
20 451, subsection 3; massage therapy, as defined in section 14301, subsection 4;
21 occupational therapy, as defined in section 2272, subsection 12; physical therapy, as
22 defined in section 3111, subsection 5; osteopathic manipulation from a practitioner
23 licensed under chapter 36; or a chronic pain management program.

24 SUMMARY

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