

Committee: HHS

Drafter: ATB

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Committee Amendment “ ” to LD 1363, Resolve, Regarding Legislative Review of Portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program and Prescription of Opioid Medications, a Late-filed Major Substantive Rule of the Department of Health and Human Services

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program and Prescription of Opioid Medications, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if:

- 1. Early Refills.** In Section 4(B) of the rule, a new subparagraph 3 is added to allow for dispensers to provide an early refill of a prescription up to 48 hours before the refill date when, in the judgment of the dispenser, the early refill does not represent a pattern of early refill requests by the person. When early refill occurs, the subsequent refill date remains the same as if there had been no early refill.
- 2. Verification by dispensers.** In Section 4(B) of the rule, a new subparagraph 4 is added to allow for dispensers to contact prescribers to verify and document information about prescriptions by telephone.
- 3. Out-of-state prescriptions.** In Section 4(B) of the rule, a new subparagraph 5 is added to establish a process for a dispenser who receives a prescription for an opioid medication from an out-of-state prescriber that does not comply with the rules in this state. The pharmacist may fill the prescription if the pharmacist records an oral confirmation with the validity of the prescription from the out-of-state prescriber and documents any missing information such as diagnostic code, exemption code, and acute or chronic pain notation and the pharmacist makes a reasonable effort to determine that the oral confirmation came from the prescriber or prescriber’s agent, which may include a phone call to the prescriber’s telephone number listed in a telephone directory or other directory.
- 4. Delayed implementation of ICD-10 codes.** In Section 5(C)(1)(n) of the rule, the requirement for dispensers to provide information to the Prescription Monitoring Program on the exemption code and ICD-10 code must be delayed until July 1, 2018 and a waiver is available after that date from the Department of Health and Human Services for dispensers with good cause that are unable to comply with the requirement.

5. **Cancer aftercare.** In Section 4(A)(4)(b)(i) in the portion of the rule that is a routine technical rule, the Exemption Code A for cancer care and aftercare treatment must be amended to remove the six-month limit for aftercare cancer treatment post remission.
6. **Second prescriptions for opioids.** In Section 4(A)(4)(b)(i) in the portion of rule that is routine technical, the Exemption Code H must be amended so that when an individual is prescribed a second opioid after proving unable to tolerate a first opioid, the individual is not required to return the initial prescription to a pharmacy for collection prior to dispensation of the second prescription.

## SUMMARY

This amendment provides that the Department of Health and Human Services may finally adopt portions of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program and Prescription of Opioid Medications, a provisionally adopted major substantive rule only if the rule is modified.

The first required modification is to allow for dispensers to provide an early refill of a prescription up to 48 hours before the refill date when, in the judgment of the dispenser, the early refill does not represent a pattern of early refill requests by the person. When early refill occurs, the subsequent refill date remains the same as if there had been no early refill.

The second required modification is to allow for dispensers to contact prescribers to verify and document information about prescriptions by telephone.

The third required modification is to establish a process for a dispenser who receives a prescription for an opioid medication from an out-of-state prescriber that does not comply with the rules in this state. The pharmacist may fill the prescription if the pharmacist records an oral confirmation with the validity of the prescription from the out-of-state prescriber and documents any missing information such as diagnostic code, exemption code, and acute or chronic pain notation and the pharmacist makes a reasonable effort to determine that the oral confirmation came from the prescriber or prescriber's agent, which may include a phone call to the prescriber's telephone number listed in a telephone directory or other directory.

The fourth required modification is to delay the requirement for dispensers to provide information to the Prescription Monitoring Program on the exemption code and ICD-10 code until July 1, 2018 and allow the Department of Health and Human Services to approve waivers after July 1, 2018 for dispensers with good cause who are unable to comply with the requirement.

The fifth required modification is to the routine technical portions of the rule establishing Exemption Code A for cancer care and aftercare treatment. The Exemption Code in the rule must be amended to remove the six-month limit for aftercare cancer treatment post remission.

The sixth required modification is to the routine technical portions of the rule establishing Exemption Code H for circumstances when an individual is prescribed a second opioid after proving unable to tolerate a first opioid. The Exemption Code in the rule must be amended so that the individual is not required to return the initial prescription to a pharmacy for collection prior to dispensation of the second prescription.