ARIZONA HOUSE OF REPRESENTATIVES

SB 1001/HB 2001: controlled substances; regulation; appropriation

PRIME SPONSOR: Senator Yarbrough, LD 17

BILL STATUS: Chaptered

Legend:
ADHS – Arizona Department of Health Services
AHCCCS – Arizona Health Care Cost Containment System
CSPMP – Controlled Substances Prescription Monitoring Program
FDA – US Food and Drug Administration
MAT – Medication-Assisted Treatment
MME – Morphine Milligram Equivalent
Amendments – **BOLD** and ~~Stricken~~ (*Committee*)

Abstract
Relating to safety regulations and opioids.

Provisions

Good Samaritan

1. Prohibits a person from being charged or prosecuted with possession or use of a controlled substance, drug paraphernalia or a preparatory offense if the individual, in good faith, seeks medical assistance for themselves or a person experiencing a drug-related overdose. (Sec. 6)
2. Permits the act of seeking medical assistance to be used as a mitigating factor in a criminal prosecution. (Sec. 6)
3. Asserts this does not limit:
   a. The admissibility of evidence about a crime involving a defendant not covered by immunity or regarding any other crime; or
   b. Law enforcement's ability to make an arrest or seize contraband for any other crime.
      i. Repeals the immunity provisions on July 1, 2023 (Sec. 6, 7)
4. Allows a person receiving immunity to be offered a diversion program. (Sec. 6)
5. Defines *medical assistance* and *seeks medical assistance.* (Sec. 6)

Substance Use Disorder Services Fund (Fund)

6. Establishes the Fund administered by the Director of AHCCCS and appropriates $10M from the GF in FY 18. (Sec. 39, 42)
7. Appropriates $400,600 in FY 2018 from the Consumer Remediation Subaccount to each of the following:
   a. ADHS for the opioid prevention campaign; and
   b. The Attorney General to award community grants for opioid education and prevention efforts. (Sec. 44)
8. Requires AHCCCS to enter into agreements with one or more contractors for substance use disorder services. (Sec. 39)
9. Requires the contractor agreements to:
   a. Prohibit Fund monies from being used on Medicaid and CHIP eligible persons;
   b. Give preference to persons with lower income households;
   c. Coordinate benefits with any third parties legally responsible for service costs;

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

d. Submit monthly expenditure reports for reimbursement of services that may include an additional reimbursement for administration up to 8%; and
e. Not hold AHCCCS responsible for excess expenses incurred by a contractor. (Sec. 39)

10. Asserts AHCCCS is the payor of last resort for eligible persons. (Sec. 39)

11. Declares that on receipt of services, a person has assigned AHCCCS all rights to any type of benefit they are eligible to receive. (Sec. 39)

12. Asserts that the creation of the Fund does not establish a new entitlement or duty for AHCCCS to provide services or spend Fund monies. (Sec. 39)

Prescribing and Prescriptions

13. Prohibits the dispensing of schedule II drugs that are opioids by a:
    a. Podiatrist;
    b. Dentist;
    c. Allopathic Physician;
    d. Osteopathic Physician;
    e. Optometrist;
    f. Physician Assistant; or
    g. Homeopathic Physician. (Sec 10-15, 16, 18-21, 24-27)

14. Allows for the dispensing of schedule II drugs that are opioids for MAT by a:
    a. Physician Assistant;
    b. Allopathic;
    c. Osteopathic; and
    d. Homeopathic physicians. (Sec. 16, 21, 25, 27)

15. Requires the Nursing Board to adopt rules that prohibit Nurse Practitioners and Certified Nurse Midwives from dispensing schedule II drugs that are opioids, but permits them to dispense a schedule II drug for MAT. (Sec. 17)

16. Limits an initial prescription of a schedule II drug that is an opioid to a 5-day supply, except that a prescription following a surgical procedure is capped at a14-day supply. (Sec. 29)

17. Specifies that a health professional must abide by their statutory prescribing authority if it is more restrictive. (Sec. 29)

18. Exempts initial prescriptions from time limitations if a patient:
    a. Is receiving Hospice care;
    b. Is receiving End-of-life care;
    c. Is receiving Palliative care;
    d. Is receiving skilled nursing facility care
    e. Is receiving treatment for burns
    f. Is receiving MAT for a substance use disorder
    g. Is an infant being weaned off opioids at the time of hospital discharge; or
    h. Has an active oncology diagnosis or a traumatic injury. (Sec. 29)

19. Prohibits a health professional from issuing a new prescription for a schedule II drug that contains more than 90 MMEs per day. (Sec. 29)

20. Provides exemptions to the 90 MME limitation for:
    a. A continuation of a prior prescription order that was issued within the previous 60 days;

b. An opioid labeled with a maximum daily dose that is approved by the FDA; and
c. A patient who is receiving:
    i. Hospice care;
    ii. End-of-life care;
    iii. Palliative care;
    iv. Skilled nursing facility care;
    v. Treatment for burns;
    vi. MAT for substance use disorders; or
    vii. Has an active oncology diagnosis or a traumatic injury. (Sec. 29)

21. Directs a health professional to consult a board-certified allopathic or osteopathic physician with opioid training if a non-exempt patient needs more than 90 MMEs per day. (Sec. 29)
22. Allows consultation by telephone or through telemedicine. (Sec. 29)
23. Authorizes the health professional to prescribe the appropriate amount if the consulting physician is unavailable to consult within 48 hours of the request. (Sec. 29)
24. Allows osteopathic and allopathic physicians that are board certified in pain to prescribe up to 90 MMEs per day without a consultation. (Sec. 29)
25. States that a non-emergency prescription order for a schedule II drug dispensed directly by a pharmacist must have a red cap and warning label. (Sec. 37)
26. Requires an electronic prescription to a pharmacy for a schedule II controlled substance that is an opioid in Maricopa, Pima, Pinal, Yavapai, Mohave and Yuma counties beginning January 1, 2019. (Sec. 37)
27. Requires an electronic prescription to a pharmacy for a schedule II controlled substance that is an opioid in Greenlee, La Paz, Graham, Santa Cruz, Gila, Apache, Navajo, Cochise and Coconino counties beginning July 1, 2019. (Sec. 37)
28. Requires the Pharmacy Board to adopt rules to establish a waiver process for electronic prescription requirements. (Sec. 37)
29. Exempts MAT prescriptions from the electronic prescription mandate. (Sec. 32)
30. Defines *initial prescription, MAT* and *prescription order*. (Sec. 1, 3, 9, 23, 28, 29, 33, 37)

ADHS and Health Care Facilities

31. Specifies a health care institution must refer a patient who was treated for a drug overdose and discharged to a behavioral health services provider. (Sec. 32)
32. Directs a hospice service agency to adopt policies and procedures regarding proper drug disposal. (Sec. 33)
33. Requires a pain management clinic to abide by the same licensure requirements as a health care institution beginning January 1, 2019.
    a. Pain management clinics must submit required documentation to ADHS. (Sec. 34)
34. Requires ADHS to adopt rules for pain management clinics that cover:
    a. Informed consent requirements;

b. Medical director responsibilities;
c. Record maintenance;
d. Reporting requirements; and
e. Physical examination requirements. (Sec. 34)

35. Directs a pain a management clinic to:
    a. Annually submit documentation to ADHS for license renewal;
    b. Comply with ADHS rules; and
    c. Employ a medical director who is a licensed allopathic or osteopathic physician with an unencumbered and unrestricted license. (Sec. 34)

36. Defines *pain management clinic*. (Sec. 34)

Opioid Antagonists

37. Requires a health professional to prescribe an opioid antagonist to a patient that receives a prescription with more than 90 MMEs per day. (Sec. 29)

38. Allows a county health department to provide an opioid antagonist to a person who is at risk of or experiencing a drug overdose. (Sec. 31)

39. Permits an ancillary law enforcement employee to administer opioid antagonists. (Sec. 35)

40. Defines *ancillary law enforcement employee*. (Sec. 35)

Pharmacists and the CSPMP

41. Adds the requirement for pharmacists to check the CSPMP before dispensing a schedule II drug or benzodiazepine.
    a. Requires the Pharmacy Board to establish a one-year waiver process regarding utilization reports. (Sec. 39)

42. Permits health regulatory boards to receive information from the CSPMP regardless of if there is an open investigation or complaint. (Sec. 38)

43. Eliminates the exemption that allows a health professional to not check the CSPMP if prescribing no more than a five-day supply and the CSPMP has been reviewed in the last 30 days. (Sec. 39)

44. Modifies the definition of *delegate* by including a pharmacy technician trainee, pharmacy technician or pharmacy intern and defines *dispenser*. (Sec. 38, 39)

Veterinarians

45. Creates a duty to report for a veterinarian who reasonably suspects or believes an individual is attempting to fraudulently obtain controlled substances. (Sec. 22)
    a. Requires the report to contain identifying information and be made with law enforcement within two days. (Sec. 22)

46. Provides immunity from civil liability to a veterinarian who is acting in good faith. (Sec. 22)

47. Specifies the veterinarian records must be provided to law enforcement on request.
    a. Requested veterinarian records are limited to those pertaining to the ongoing investigation initiated by the duty to report. (Sec. 22)

48. Requires a veterinarian who dispenses a schedule II drug to:
    a. Limit initial prescriptions to a 5-day supply;
    b. Limit prescriptions for benzodiazepine to a 14-day supply; and
    c. Limit prescriptions for an animal with a chronic condition to one 30-day supply at a time after the other prescription limits have been adhered to. (Sec. 23)

49. Asserts that prescriptions filled at a pharmacy are not subject to time limitations. (Sec. 23)

50. Defines *chronic condition*. (Sec. 23)

Prior Authorization

51. Allows a health care services plan to impose a prior authorization requirement, except for:
    a. Emergency ambulance services;
    b. Emergency services;
    c. Health care services occurring after an initial medical screening examination; and
    d. Immediately necessary stabilizing treatment. (Sec. 9)

52. Requires a health care services plan to allow at least one type of MAT to be available without prior authorization. (Sec. 9)

53. Specifies that a health care services plan containing prior authorization requirements must:
    a. Make a list of requirements available to all providers on its website or provider portal;
    b. Permit providers to access the prior authorization request form;
    c. Accept prior authorization requests through a secure electronic transmission; and
    d. Provide at least two points of access for making a request. (Sec. 9)

54. Requires a health care services plan to accept and respond to prior authorization prescription requests for prescriptions electronically beginning January 1, 2020. (Sec. 9)

55. Permits a health care services plan to enter into contractual agreements with providers who cannot comply with electronic requirements. (Sec. 9)

56. Provides the following timeline for prior authorization requirements:
    a. For a request concerning urgent health care services, notification of authorization or adverse determination within no later than 5 days of receipt of all information.
    b. For requests concerning health care services that are not urgent, notification of authorization or adverse determination within 14 days of receipt of all information.
        i. Requires a health care services plan to provide an electronic receipt acknowledging the information was received. (Sec. 9)

57. Directs a prior authorization notification to state whether a request was approved, denied or incomplete. (Sec. 9)

58. Requires a health care services plan to state the reason for a denial and allow a provider the opportunity to submit additional information for an incomplete prior authorization request. (Sec. 9)

59. Provides a health care services plan 5 days to review and respond to an urgent health care service request and 14 days for a non-urgent request. (Sec. 9)

60. Specifies that the failure of a health care services plan to comply with deadlines and notifications will result in a prior authorization request being granted. (Sec. 9)

61. Asserts that a granted prior authorization request is binding, may be relied on by an enrollee and may not be changed or withdrawn unless fraud has occurred. (Sec. 9)

62. Permits an enrollee and a health care services plan to exercise review and repeal rights if a request is denied. (Sec. 9)

63. Requires a health care services plan to honor a granted prior authorization request related to a chronic pain condition for six months after the request approval date or the last day of the enrollee's insurance coverage, whichever happens first. (Sec. 9)

64. Allows a health care services plan that has granted a prior authorization request to ask a provider to submit information indicating that an enrollee's chronic pain condition has not changed and treatment is not affecting the enrollee's health.
    a. Permits an insurance plan to terminate a prior authorization request if a provider does not respond within five business days. (Sec. 9)

65. Excludes certain medications and controlled substances from prior authorization request for a chronic pain condition. (Sec. 9)

66. Allows a six-month prior authorization request for chronic pain to be granted for more than six months and the use of an approved substitute drug. (Sec.9)

67. Defines terms. (Sec. 9)

Reporting Requirements

68. Requires the Director of the Pharmacy Board to report on the ability of providers to comply with the electronic prescription requirements by September 1, 2018. (Sec. 41)

69. Requires each hospital or health care facility that provides substance abuse treatment to submit a report to ADHS by September 1, 2018, and each quarter thereafter, that includes:
    a. Identifying information;
    b. Facility type;
    c. The number of available substance abuse beds; and
    d. The number of days at capacity and unable to accept substance abuse treatment referrals. (Sec. 30)

70. States that the report form may be signed electronically and must contain an attestation by the signer that the information in the form is correct. (Sec. 30)

71. Requires the report to be filed electronically, unless a written request for an exemption is made to ADHS. (Sec. 30)

72. Requires ADHS to submit a report regarding the availability of substance abuse treatment beds and the information submitted by hospitals and health care facilities by January 1, 2019, and each quarter thereafter. (Sec. 30)

73. Requires ADHS to request outpatient substance abuse treatment providers to report on outpatient treatment capacity on a quarterly basis. (Sec. 30)

74. Requires the Director of the Office of Youth, Faith and Family to report on expansion feasibility of the Arizona Angel Initiative by January 1, 2019. (Sec. 42)

75. Requires all reports to be submitted to the Legislature and the Executive. (Sec. 30, 41, 42)

Miscellaneous

76. Makes a person convicted of fraud involving the manufacture, sale or marketing of opioids ineligible for probation, pardon, sentence suspension or release until specific conditions are met. (Sec. 5)

77. Requires students enrolled in a medical program that may make them eligible for a DEA number to take at least three hours of opioid-related clinical education. (Sec. 8)

78. Requires health professionals with prescribing authority and pharmacists to complete at least three hours of opioid, substance use or addiction-related continuing medical education each license renewal cycle. (Sec. 29)

79. Requires a city, town or county that has adopted standards for sober living homes to develop policies and procedures that allow a person on MAT to continue receiving treatment while residing in the sober living home. (Sec. 1, 3)

80. Requires each County Board of Supervisors to establish at least one drop-off location where a person can drop off legal or illegal drugs or substance and drug paraphernalia and receive a referral to a substance abuse facility in their respective county by January 1, 2019. (Sec. 4)

81. Requires a city, town or county to report to ADHS the number of phone calls they receive regarding opioid overdoses covered by good Samaritan laws. (Sec. 2, 4)

82. Requires ADHS, in conjunction with the Office of Youth, Faith and Family to:
    a. Develop opioid abuse prevention campaign strategies to reach specified populations; and
    b. Engage external partners for age-appropriate awareness. (Sec. 30)

83. Permits communication efforts to use a variety of mediums and requires prevention components to include the effects and consequences of drug abuse. (Sec. 30)

84. Contains an applicability clause. (Sec. 45)

85. Makes technical and conforming changes. (Sec. 1, 3, 5, 10-17, 19-21, 23-27, 34, 36, 38)

Additional Information

Governor Ducey declared a state of emergency regarding opioids on June 5, 2017. As a result of the Governor's declaration, ADHS put together a group of stakeholders and produced an Opioid Action Plan to help deal with the opioid crisis.