



ARIZONA STATE SENATE
Fifty-Third Legislature, First Special Session

FINAL AMENDED
FACT SHEET FOR S.B. 1001/H.B. 2001

controlled substances; regulation; appropriation.

Purpose

Establishes requirements and prohibitions for prescribing, administering and dispensing schedule II opioids.

Background

According to the Arizona Department of Health Services (DHS), prescription opioid sales in the United States have risen by 300 percent in the last 15 years. In 2015, there were more than 33,000 opioid overdose deaths reported nationwide. In 2016, more than two Arizonans died each day due to opioid-related causes, and the number of deaths due to heroin has tripled overall since 2012 ([2016 Opioid Report](#)). Opioids include various prescription [pain medications](#) and other highly addictive substances such as heroin.

On June 5, 2017, Governor Doug Ducey issued a [Declaration of Emergency](#), and an Enhanced Surveillance Advisory, in response to the opioid overdose epidemic in Arizona. The Declaration of Emergency called for a statewide effort to reduce opioid deaths in the state, and directed DHS to: 1) provide consultation to the Governor on identifying and recommending necessary elements for an Enhanced Surveillance Advisory; 2) initiate emergency rulemaking to develop rules for opioid prescribing and treatment within health care institutions; 3) develop guidelines to educate healthcare providers on responsible prescribing practices; 4) develop and provide training to local law enforcement agencies regarding proper protocols for carrying, handling and administering naloxone hydrochloride (Naloxone) in overdose situations; and 5) provide [a report](#) to the Governor on related findings and recommendations that require legislative action.

As directed by the Governor's Declaration of Emergency, DHS adopted an emergency rule, [A.A.C. R9-10-120](#), that became effective July 28, 2017. The rule requires licensed health care institutions to: 1) establish, document, and implement policies and procedures for prescribing, ordering or administering opioids as part of treatment; 2) include specific processes related to opioids in a health care institution's quality management program; and 3) notify DHS of the death of a patient from an opioid overdose. DHS rules also specify requirements that must be met before prescribing opioids, ordering opioids or administering opioids for the treatment of a patient.

S.B. 1001 creates the Substance Abuse Disorder Services Fund (Fund), administered by the Arizona Health Care Cost Containment System (AHCCCS), and appropriates \$10,000,000 General Fund (GF) monies to the Fund in FY 2018. Additionally, S.B. 1001 appropriates \$400,600 to DHS and the Attorney General, respectively, for opioid education and prevention efforts.

Provisions

Good Samaritans

1. Prohibits a person from being criminally charged for the possession or use of a controlled substance or drug paraphernalia, or a preparatory offense, if the evidence was obtained as a result of a person seeking medical assistance, in good faith, for an individual experiencing a drug-related overdose.
2. Prohibits a person who experiences a drug-related overdose, who is need of medical assistance and for whom medical assistance is sought, from being criminally charged for the possession or use of a controlled substance or drug paraphernalia if the evidence was obtained as a result of the person's overdose and need for medical assistance.
3. Provides that the Good Samaritan immunity does not limit the admissibility of evidence related to an investigation or prosecution for any other crime, the ability to seize contraband or the ability to make an arrest for any other offense.
4. Specifies that the act of seeking medical assistance for an individual who experiences a drug-related overdose can be used as a mitigating factor in a criminal prosecution for a drug offense.
5. Specifies that the Good Samaritan immunity does not prohibit a person from being offered a diversion program for other offenses.
6. Requires municipalities that receive 911 telephone calls to report to DHS the number of calls received by individuals seeking medical assistance for someone experiencing a drug-related overdose and any related overdose deaths.
7. Repeals the Good Samaritan provisions on July 1, 2023.

Prescribers and Prescriptions

8. Prohibits podiatrists, dentists, allopathic physicians, physician assistants, osteopathic physicians, optometrists and homeopathic physicians from dispensing schedule II controlled substances that are opioids and establishes violations as an act of unprofessional conduct.
9. Stipulates that physician assistants, allopathic physicians, homeopathic physicians and osteopathic physicians may dispense schedule II controlled substances for medication-assisted treatment (MAT) for substance use disorders.
10. Establishes that the State Board of Optometry may censure, impose a civil penalty, prescribe probation, suspend, revoke or refuse to renew or issue the license, certificate or registration of an optometrist who dispenses a schedule II controlled substance that is an opioid.

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11. Directs the Board of Nursing to adopt rules that prohibit registered nurse practitioners and certified nurse midwives from dispensing schedule II controlled substances that are opioids, but that permit prescribing opioids for MAT for substance abuse disorders.
12. Limits an initial prescription for a schedule II controlled substance that is an opioid to a 5-day supply and permits a 14-day supply for initial prescriptions following a surgical procedure.
13. Establishes that initial prescription supply limitations do not apply if the patient:
 - a) has an active oncology diagnosis;
 - b) has a traumatic injury, excluding a surgical procedure;
 - c) is receiving hospice care, end-of-life care, palliative care, treatment for burns or skilled nursing care;
 - d) is receiving MAT for a substance use disorder; or
 - e) is an infant being weaned off opioids at the time of hospital discharge.
14. Specifies that a health professional whose schedule II controlled substance prescribing authority is otherwise more restrictive is subject to the more restrictive prescribing requirements.
15. Prohibits a health professional who is authorized to prescribe controlled substances from issuing a new prescription order for a schedule II controlled substance that is an opioid and that exceeds 90 morphine milligram equivalents (MMEs), unless the prescription is:
 - a) a continuation of a prior prescription order issued within the previous 60 days;
 - b) an opioid with a maximum approved total daily dose in the labeling as approved by the United States Food and Drug Administration (FDA);
 - c) for a patient who has an active oncology diagnosis or a traumatic injury, not including a surgical procedure;
 - d) for a patient who is hospitalized;
 - e) for a patient who is receiving hospice care, end-of-life care, palliative care, skilled nursing facility care or treatment for burns; or
 - f) for a patient who is receiving MAT for a substance use disorder.
16. Directs a health professional who believes a patient requires more than 90 MMEs per day to consult with a licensed physician who is a board-certified pain specialist, and specifies that the consultation may occur by telephone or through telemedicine.
17. Permits a health professional to prescribe in excess of the 90 MME limitation if the consulting physician is not available for consult within 48 hours, and provides that the consultation may occur subsequent to the prescription being issued.
18. Exempts specified physicians who are also board-certified pain specialists from consultation requirements.
19. Requires that a health professional additionally prescribe Naloxone, or another opioid antagonist, to a patient who is prescribed more than 90 MMEs per day.

20. Requires that a non-emergency prescription order for a schedule II opioid dispensed directly by a pharmacist must have a red cap and warning label.
21. Requires an electronic prescription to a pharmacy for a schedule II drug that is an opioid in Maricopa, Pima, Pinal, Yavapai, Mohave and Yuma counties beginning January 1, 2019.
22. Requires an electronic prescription to a pharmacy for a schedule II drug that is an opioid in Greenlee, La Paz, Graham, Santa Cruz, Gila, Apache, Navajo, Cochise and Coconino counties beginning July 1, 2019.
23. Requires the Board of Pharmacy to adopt rules to establish a waiver process for electronic prescription requirements for medical practitioners who lack adequate access to broadband or face other hardships that prevent compliance.
24. Exempts MAT prescriptions from the electronic prescription requirements.
25. Directs the Director of the Board of Pharmacy to provide a report to the Governor and the presiding officer in each legislative chamber, by September 1, 2018, regarding the ability of health care providers to access and use electronic prescribing tools and comply with electronic prescribing requirements.

Prior Authorization

26. Permits a health care services plan, or its utilization review agent, to impose a prior authorization requirement for services provided to an enrollee, except for the following:
 - a) emergency ambulance services;
 - b) emergency services;
 - c) health care services occurring after an initial medical screening examination; and
 - d) immediately necessary stabilizing treatment.
27. Establishes that a health care services plan that imposes a prior authorization requirement must do all of the following:
 - a) make a list of prior authorization requirements available to all providers on its website or provider portal that clearly identifies the specific services, devices or drugs that require prior authorization, including specific information a provider must submit for a prior authorization request to be considered complete;
 - b) permit providers to access the prior authorization request form electronically;
 - c) accept prior authorization requests through a secure electronic transmission; and
 - d) provide at least two forms of access for making a prior authorization request and have emergency after-hours procedures.
28. Requires health care services plans to accept and respond to prior authorization prescription requests for prescriptions through a secure electronic transmission beginning January 1, 2020.

29. Allows health care services plans, beginning January 1, 2020, to enter into contractual arrangements with providers to process and respond to prior authorization requests that are not submitted electronically due to a provider's related financial hardship or lack of internet connectivity.
30. Establishes the following notification requirements for health care services plans that contain a prior authorization requirement:
 - a) for a request concerning urgent health care services, notification of authorization or adverse determination must occur within 5 days of receipt of all information supporting the preauthorization request;
 - b) for requests concerning health care services that are not urgent, notification of authorization or adverse determination must occur within 14 days of receipt of all information supporting the preauthorization request; and
 - c) a health care services plan must provide an electronic receipt acknowledging that the supporting information was received, unless return contact information was not provided.
31. Requires that a prior authorization notification state whether a request was approved, denied or incomplete.
32. Directs a health care services plan to state the specific reason a prior authorization request is denied and grants a provider the opportunity to submit additional information for an incomplete prior authorization request.
33. Stipulates that a prior authorization request is deemed granted if a health care services plan fails to comply with the request deadline and notification requirements.
34. States that a granted prior authorization request is binding, may be relied on by an enrollee and the provider and may not be modified or rescinded unless there is evidence of fraud or misrepresentation by the provider.
35. Allows an enrollee and a health care services plan to exercise their review and repeal rights if a prior authorization request is denied.
36. 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 is earliest.
37. Permits a health care services plan that has granted a prior authorization to further request that a provider submit information indicating that an enrollee's chronic pain condition has not changed and continuation of the treatment is not negatively affecting the enrollee's health.
38. Allows a health care services plan to terminate a prior authorization request related to a chronic pain condition if a provider does not respond within five business days of receipt of the request.

39. Excludes the following from prior authorization request requirements related to a chronic pain condition:
 - a) prescription medications that the FDA recommends be used for a period of less than six months; and
 - b) any opioid, benzodiazepine, schedule I or schedule II controlled substance.
40. Permits a six-month prior authorization request for chronic pain to be granted for more than six months and permits the use of an FDA-approved substitute drug.
41. Requires health care services plans to make at least one modality of MAT available without prior authorization.
42. Applies prior authorization provisions to health care service plans issued or renewed after December 31, 2018.

Veterinarians

43. Requires a veterinarian who reasonably suspects or believes that an individual is attempting to obtain controlled substances for a reason other than to treat an animal to report the suspicion to local law enforcement within 48 hours.
44. Requires that the report include specified identifying information and states that veterinary records pertaining to the investigation must be provided to law enforcement upon request.
45. Grants immunity from civil liability to a veterinarian who makes a report in good faith.
46. Requires a veterinarian who dispenses a schedule II drug or a benzodiazepine to comply with all of the following:
 - a) limit initial schedule II prescriptions to a 5-day supply at a dosage that is clinically appropriate for the animal being treated;
 - b) limit initial prescriptions for benzodiazepine to a 14-day supply at a dosage that is clinically appropriate for the animal being treated; and
 - c) limit prescriptions for an animal with a chronic condition to one, 30-day supply at a time after the initial prescription limits have been exhausted.
47. Specifies that initial prescriptions that are filled at a pharmacy are not subject to the supply time limitations.

Controlled Substances Prescription Monitoring Program (CSPMP)

48. Directs the Board of Pharmacy (Board) to notify pharmacists of their responsibility to register with the Board and be granted access to the CSPMP, and directs the Board to grant CSPMP access to qualified pharmacists.
49. Requires pharmacists to check the CSPMP and obtain a patient utilization report for the previous 12 months before dispensing a new prescription for a schedule II drug or benzodiazepine.

50. Directs the Board to establish a waiver process, for up to one year from the effective date of this legislation, to provide a pharmacist a waiver from the aforementioned requirement due to technological limitations or other exceptional circumstances.
51. Allows health regulatory boards to receive information from the CSPMP regardless of if there is an open investigation or complaint.
52. Eliminates the exemption that allows a health professional to not check the CSPMP if prescribing no more than a 5-day supply and the CSPMP has been reviewed in the last 30 days.

DHS and Health Care Facilities

53. Requires, beginning September 1, 2018, each hospital and health care facility in the state that provides substance abuse treatment to provide a quarterly report to DHS that includes the name, address and type of facility where the treatment is provided, the number of treatment beds available and the number of days in the quarter that the hospital or facility was at capacity and unable to accept referrals for substance abuse treatment.
54. Permits the report form to be signed electronically and requires an attestation by the signer that the information in the form is correct.
55. Requires the report to be filed electronically on a website designated by DHS, unless a written request for an exemption is made to DHS.
56. Directs DHS to request outpatient substance abuse treatment providers to report quarterly regarding the provider's outpatient treatment capacity.
57. Directs the Director of DHS, beginning December 31, 2018, to submit a quarterly report regarding the availability of substance abuse treatment beds, the possible capacity, including outpatient capacity, any unmet need in the state, and additional information submitted by the hospitals and health care facilities, to the Governor, the presiding officer in each legislative chamber and the Secretary of State.
58. Requires pain management clinics to meet the same licensure requirements as provided for health care institutions beginning January 1, 2019, and requires pain management clinics to submit required licensure documentation to DHS.
59. Directs DHS to adopt rules for pain management clinics that include the following:
 - a) informed consent requirements;
 - b) medical director responsibilities;
 - c) record maintenance;
 - d) reporting requirements; and
 - e) physical examination requirements.
60. Directs pain management clinics to annually submit documentation to DHS for license renewal, comply with DHS rules and employ a medical director with an unencumbered and unrestricted license.

61. Requires health care institutions to refer a patient who was treated for a drug overdose and discharged to a behavioral health services provider.

Substance Abuse Disorder Services Fund (Fund)

62. Establishes the Fund and designates the Director of AHCCCS as the administrator of the Fund.
63. Appropriates \$10,000,000 from the state in FY 2018, and specifies that Fund monies do not revert to the GF, are exempt from requirements relating to the lapsing of appropriations and are continuously appropriated.
64. Requires that AHCCCS to enter into agreements with one or more contractors for substance use disorder services.
65. Requires that contractor agreements stipulate the following:
- a) Fund monies are prohibited from being used on Medicaid and Children's Health Insurance Program eligible individuals;
 - b) payments made by a contractor to a provider do not exceed the capped fee schedule established by AHCCCS;
 - c) preference is given to individuals with lower household incomes;
 - d) benefits with any third parties legally responsible for service costs;
 - e) monthly expenditure reports are submitted for reimbursement of services that may include an additional reimbursement for administration not exceeding eight percent; and
 - f) AHCCCS is not held responsible for excess expenses incurred by a contractor.
66. Asserts that AHCCCS is the payor of last resort for eligible persons.
67. States that on receipt of services, a person has assigned AHCCCS all rights to any type of benefit they are eligible to receive.
68. Specifies that the creation of the Fund does not establish a new entitlement or duty for AHCCCS to provide services or spend Fund monies.

Miscellaneous

69. Directs each county Board of Supervisors to establish, by December 31, 2018, at least one location in the county where a person is permitted to drop off drugs, substances and drug paraphernalia, and receive a referral to a substance abuse treatment facility.
70. Directs AHCCCS to continue to distribute Naloxone kits as necessary.
71. Authorizes county health departments to provide a kit that includes Naloxone or any other opioid antagonist approved by the FDA to a person who is at risk of experiencing, or who is experiencing, an opioid related overdose.

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72. Permits an ancillary law enforcement employee to administer Naloxone and other opioid antagonists to a person the employee believes is suffering from an opioid-related drug overdose.
73. Directs the Governor's Office of Youth, Faith and Family to report to the Governor and the presiding officer in each chamber of the Legislature, by December 31, 2018, on the feasibility of a statewide expansion of the Arizona angel initiative.
74. Requires DHS, in conjunction with the Office of Youth, Faith and Family to:
 - a) develop opioid abuse prevention campaign strategies that use a variety of communication platforms to reach youth and at-risk populations; and
 - b) engage external partners, including local education agencies, for age-appropriate awareness.
75. Permits communication efforts to use a variety of mediums and requires prevention components to include the effects and consequences of drug abuse.
76. Appropriates \$400,600 from the Consumer Remediation Subaccount of the Consumer Restitution Revolving Fund to DHS for the opioid abuse prevention campaign.
77. Appropriates \$400,600 from the Consumer Remediation Subaccount of the Consumer Restitution Revolving Fund to the Attorney General to award community grants for opioid education and prevention efforts.
78. Directs municipalities that adopt standards for structured sober living homes to include the requirement that sober living homes develop policies and procedures to permit individuals on MAT to continue such treatment while residing in the home.
79. Directs licensed hospice service agencies to adopt policies and procedures to educate client families on the proper disposal of schedule II controlled substances.
80. Requires medical students who are enrolled in a public or private medical school in this state, and whose intended degree may render the student eligible for a United States Drug Enforcement Administration registration, to complete at least three hours of opioid-related clinical education.
81. Requires health professionals who are authorized to prescribe or dispense schedule II controlled substances to complete at least three hours of opioid, substance use disorder or addiction-related continuing medical education each license renewal cycle.
82. Establishes that a person who is convicted of fraud in relation to the manufacture, sale or marketing of opioids is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, with certain exceptions.
83. Makes technical and conforming changes.
84. Defines relevant terms.

85. Becomes effective on the general effective date.

Amendments adopted by Committee of the Whole

1. Prohibits specified health professionals from dispensing schedule II opioids, rather than schedule II controlled substances for pain management, with certain exceptions.
2. Appropriates \$400,600 from the Consumer Restitution and Remediation Revolving Fund to the Attorney General and to DHS, respectively, for specified purposes.
3. Appropriates \$10,000,000 from the state GF to the Substance Abuse Disorder Services Fund in FY 2018, rather than FY 2019.
4. Specifies consultation requirements for prescribing in excess of the 90 MME limitation.
5. Modifies criteria for AHCCCS contracts for substance use disorder services.
6. Defines relevant terms.

Senate Action

HHS 1/24/18 DP 7-0-0
3RD Read 1/25/18 30-0-0

House Action

3rd Read 1/25/18 58-2-0
(SB 1001 was substituted for HB 2001 on 3rd Read.)

Signed by the Governor 1/26/18

Prepared by Senate Research

January 26, 2018

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