2018 -- H 7869

========
LC004184
========

S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO EDUCATION -- SAFE AND SUPPORTIVE SCHOOLS TRUST FUND-- COMBATTING ADDICTION, ACCESSING TREATMENT, REDUCING PRESCRIPTIONS, AND ENHANCING PREVENTION

Introduced By: Representative Patricia L. Morgan

Date Introduced: February 28, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended by adding thereto the following chapter:

CHAPTER 110

SAFE AND SUPPORTIVE SCHOOLS TRUST FUND

16-110-1. Establishment of trust fund.

(a) There shall be established a safe and supportive schools trust fund for the purpose of supporting school-based programs that educate children and young persons on addiction, substance misuse and other risky behaviors, and that identify and support children and young persons at risk. The fund shall be administered by the department of education which shall use the fund to provide grants to public elementary, middle, and secondary schools and to public colleges and universities to support the expansion of educational and intervention programs meeting the purposes of the fund.

(b) The fund shall consist of revenue from appropriations or other money appropriated by the general assembly and specifically designated to be credited to the fund, and revenue from private sources including, but not limited to, grants, gifts and donations received by the state that are specifically designated to be credited to the fund. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to the general fund.

SECTION 2. Chapter 21-28 of the General Laws entitled "Uniform Controlled Substances Act" is hereby amended by adding thereto the following sections:

21-28-3.33. Prescriptions -- Definitions.

(a) "Electronic prescription" means a lawful order from a prescriber for a drug or device for a specific patient that is generated on an electronic prescribing system that meets federal requirements for electronic prescriptions for controlled substances, and is transmitted electronically to a pharmacy designated by the patient without alteration of the prescription information, except that third-party intermediaries may act as conduits to route the prescription from the prescriber to the pharmacist; provided, however, that “electronic prescription” shall not include an order for medication which is dispensed for immediate administration to the ultimate user. The electronic prescription must be received by the pharmacy on an electronic system that meets federal requirements for electronic prescriptions. A prescription generated on an electronic system that is printed out or transmitted via facsimile is not considered an electronic prescription.

(b) "Licensed mental health professional" means a licensed physician who specializes in the practice of psychiatry or addiction medicine, a licensed psychologist, a licensed social worker, a licensed mental health counselor, a licensed psychiatric clinical nurse specialist, a licensed alcohol and drug counselor or a health care provider whose scope of practice allows such evaluations pursuant to medical staff policies and practice or other professionals authorized by the department through regulation.

(c) As used in this section and unless the context clearly requires otherwise, "opioid antagonist" means naloxone or any other drug approved by the United States Food and Drug Administration as a competitive narcotic antagonist used in the reversal of overdoses caused by opioids.

21-28-3.34. Prescriptions -- Opioid antagonist -- Generally.

(a) The department of health shall ensure that a statewide standing order is issued to authorize the dispensing of an opioid antagonist in the state by any licensed pharmacist. The statewide standing order shall include, but shall not be limited to, written, standardized procedures or protocols for the dispensing of an opioid antagonist by a licensed pharmacist. Notwithstanding any general or public law to the contrary, the department, or a physician designated by the department who is registered to distribute or dispense a controlled substance in the course of professional practice, may issue a statewide standing order that may be used for a licensed pharmacist to dispense an opioid antagonist under this section.

(b) Notwithstanding any general or special law to the contrary, a licensed pharmacist may dispense an opioid antagonist in accordance with the statewide standing order issued under

subsection (a) of this section. A pharmacist dispensing an opioid antagonist shall annually report to the department the number of times the pharmacist dispenses an opioid antagonist. Reports shall not identify an individual patient, shall be confidential and shall not constitute a public record. Except for an act of gross negligence or willful misconduct, a pharmacist who, acting in good faith, dispenses an opioid antagonist shall not be subject to any criminal or civil liability or any professional disciplinary action by the board of registration in pharmacy related to the use or administration of an opioid antagonist.

(c) Except for an act of gross negligence or willful misconduct, the commissioner or physician who issues the statewide standing order under subsection (a) of this section and any practitioner who, acting in good faith, directly or through the standing order, prescribes or dispenses an opioid antagonist shall not be subject to any criminal or civil liability or any professional disciplinary action.

(d) A pharmacist filling a prescription for a schedule II substance shall, if requested by the patient, dispense the prescribed substance in a lesser quantity than indicated on the prescription. The remaining portion may be filled upon patient request in accordance with federal law; provided, however, that only the same pharmacy that originally dispensed the lesser quantity may dispense the remaining portion. Upon an initial partial dispensing of a prescription or a subsequent dispensing of a remaining portion, the pharmacist or the pharmacist's designee shall make a notation in the patient's record maintained by the pharmacy, which shall be accessible to the prescribing practitioner by request, indicating that the prescription was partially filled and the quantity dispensed.

(e) Whenever a practitioner, certified nurse practitioner, certified registered nurse anesthetist, nurse midwife, psychiatric clinical nurse specialist, or physician assistant dispenses a controlled substance by oral prescription, such individual shall, within a period of not more than seven (7) days or such shorter period that is required by federal law cause an electronic or written prescription for the prescribed controlled substance to be delivered to the dispensing pharmacy. The written prescription may be delivered to the pharmacy in person or by mail, but shall be postmarked within seven (7) days or such shorter period that is required by federal law.

(f) A written or electronic prescription for a controlled substance in schedule II shall not be refilled. Written prescriptions for a controlled substance in schedule II shall be kept in a separate file.

(g) Prescribers shall issue an electronic prescription for all controlled substances and medical devices. The department of public health shall promulgate regulations setting forth standards for electronic prescriptions.

(h) The commissioner, through regulation, shall establish exceptions to the provisions of this section authorizing the limited use of a written and oral prescription where appropriate. Said exceptions shall include, but shall not be limited to:

(1) Prescriptions that are issued by veterinarians;

(2) Prescriptions that are issued or dispensed in circumstances where electronic prescribing is not available due to temporary technological or electrical failure;

(3) A time limited waiver process for practitioners who demonstrate economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance;

(4) Instances where it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition;

(i) All written prescriptions shall be written in ink, indelible pencil or by other means on a tamper resistant form consistent with federal requirements for Medicaid and signed by the prescriber.

21-28-3.35. Monitoring and evaluation.

(a) The department may provide data from the prescription monitoring program to practitioners in accordance with this section; provided, however, that practitioners shall be able to access the data directly through a secure electronic medical record or other similar secure software or information systems. This data may be used for the purpose of providing medical or pharmaceutical care to the practitioners' patients only, unless otherwise permitted by this section. Any such secure software or information system must identify the registered participant on whose behalf the prescription monitoring program was accessed.

(b) The department may enter into agreements to permit health care facilities to integrate secure software or information systems into their electronic medical records for the purpose of using prescription monitoring program data to perform data analysis, compilation, or visualization, in order to provide medical or pharmaceutical care to individual patients. Any such secure software or information system shall be bound to comply with requirements established by the department to ensure the security and confidentiality of any data transferred.

(c) After a substance abuse evaluation has been completed treatment may occur within the acute-care hospital or satellite emergency facility, if appropriate services are available, which may include induction to medication assisted treatment. If the hospital or satellite emergency facility is unable to provide such services, the hospital or satellite emergency facility shall refer the patient to an appropriate and available hospital or treatment provider. Medical necessity for

further treatment shall be determined by the treating clinician and noted in the patient's medical record.

(d) If a patient refuses further treatment after the evaluation is complete, and is otherwise medically stable, the hospital or satellite emergency facility may initiate discharge proceedings; provided, however, if the patient is in need of and agrees to further treatment following discharge pursuant to the substance abuse evaluation, then the hospital shall directly connect the patient with a community based program prior to discharge or within a reasonable time following discharge when the community based program is available.

(e) Upon discharge of a patient who experienced an opiate-related overdose, the acute-care hospital, satellite emergency facility, or emergency service program shall record the opiate-related overdose and substance abuse evaluation in the patient's electronic medical record which shall be directly accessible by other health care providers and facilities consistent with federal and state privacy requirements through a secure electronic medical record, health information exchange, or other similar software or information systems for the purposes of:

(1) Improving ease of access and utilization of such data for treatment or diagnosis;

(2) Supporting integration of such data within the electronic health records of a health care provider for purposes of treatment or diagnosis; or

(3) Allowing health care providers and their vendors to maintain such data for the purposes of compiling and visualizing such data within the electronic health records of a health care provider that supports treatment or diagnosis.

21-28-3.36. Commission to review prescribing procedures for dentists.

(a) There shall be a commission to review and make recommendations about appropriate prescribing practices related to the most common oral and maxillofacial surgical procedures, which shall include the removal of wisdom teeth. The commission shall engage with drug manufacturers to create a pre-packaged product such as a blister pack or z-pack to be used in connection with common oral and maxillofacial surgical procedures that will provide patients with an appropriate, standard post-procedure dosage and quantity of commonly prescribed drugs.

(b) The commission shall be comprised of: the director of the department of health or designee, who shall serve as chair, a representative from the Rhode Island Dental Society, and four (4) persons who shall be appointed by the governor, one of whom shall be an oral surgeon, one of whom shall be a nurse with expertise in maxillofacial surgical procedures, and two (2) of whom shall have expertise in pain management.

(c) The commission shall file its recommendations, including any recommendations for legislation, with the clerks of the senate and the house of representatives eighteen (18) months

from the effective date of this section.

21-28-3.37. Commission to review treatment protocols.

(a) There shall be a commission to review evidence-based treatment for individuals with a substance use disorder, mental illness or co-occurring substance use disorder and mental illness. The commission shall create a taxonomy of licensed behavioral health clinician specialties, which may be used by insurance carriers to develop a provider network. The commission shall recommend a process that may be used by carriers to validate a licensed behavioral health clinician's specialty.

(b) The commission shall be comprised of: the director of the department of health or designee, who shall serve as chair; the commissioner of insurance or a designee; the executive director of the group insurance commission or a designee; and seven (7) persons who shall be appointed by the director of the department of health; one of whom shall have expertise in the treatment of individuals with substance use disorders; one of whom shall have expertise in the treatment of individuals with a mental illness; two (2) of whom shall represent payers; one of whom shall be a licensed behavioral health clinician; and two (2) of whom shall be family members of individuals with a substance use disorders or mental illness.

(c) The commission shall file a report of its findings and recommendations together with any proposed legislation with the clerks of the senate and the house of representatives one hundred eighty (180) days from the effective date of this act.

SECTION 3. Chapter 23-10.1 of the General Laws entitled "Emergency Commitment for Drug Intoxication" is hereby amended by adding thereto the following sections:

23-10.1-4.1. Involuntary commitment of substance abusers.

(a) A person may be committed to the custody of the department by the district court upon the petition of their spouse or guardian, a relative, the certifying physician, or the administrator in charge of any approved public treatment facility. The petition shall allege that the person is a drug or intoxicating substance abuser who habitually lacks self-control as to the use of intoxicating substances, or that they are incapacitated by the use of a controlled substance, and that they:

(1) Have threatened, attempted, or inflicted physical harm on themselves or another and that unless committed are likely to inflict physical harm on themselves or another; or

(2) Will continue to suffer abnormal mental, emotional, or physical distress, will continue to deteriorate in ability to function independently if not treated, and are unable to make a rational and informed choice as to whether or not to submit to treatment, and as a result, poses a danger to themselves. Evidence that the person has had numerous short-term, involuntary admissions to a

treatment facility shall be considered by the court in making a decision pursuant to this chapter. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within three (3) days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition.

(b) Upon filing the petition, the court shall fix a date for a hearing no later than ten (10) days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, their next-of-kin other than the petitioner, a parent or their legal guardian if they are a minor, the administrator in charge of the approved public treatment facility to which they have been committed for emergency care, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(c) At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that their presence is likely to be injurious to them; in this event the court shall appoint a guardian ad litem to represent them throughout the proceeding. The court shall examine the person in open court, or if advisable shall examine the person out of court. If the person has refused to be examined by a licensed physician, they shall be given an opportunity to be examined by a court-appointed licensed physician. If they refuse and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing them to the department for a period of not more than five (5) days for purposes of a diagnostic examination.

(d) If after hearing all relevant evidence, including the results of any diagnostic examination by the department, the court finds that grounds for involuntary commitment have been established by clear and convincing proof, it shall make an order of commitment to the department. It may not order commitment of a person unless it determines that the department is able to provide adequate and appropriate treatment for them and the treatment is likely to be beneficial.

(e) A person committed under this section shall remain in the custody of the department for treatment for a period of thirty (30) days unless sooner discharged. At the end of the thirty (30) day period, they shall be discharged automatically unless the department, before the expiration of the period, obtains a court order for their recommitment upon the grounds set forth

in subsection (a) of this section for a further period of ninety (90) days unless sooner discharged. If a person has been committed because they are a drug or intoxicating substance abuser likely to inflict physical harm on themselves or another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists.

(f) A person recommitted under subsection (a) of this section who has not been discharged by the department before the end of the ninety (90) day period shall be discharged at the expiration of that period unless the department, before the expiration of the period, obtains a court order on the grounds set forth in subsection (a) of this section for recommitment for a further period not to exceed ninety (90) days. If a person has been committed because they are a drug or intoxicating substance abuser likely to inflict physical harm on themselves or another, the department shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two (2) recommitment orders under subsections (e) and (f) of this section shall be permitted.

(g) Upon the filing of a petition for recommitment under subsections (e) or (f) of this section, the court shall fix a date for a hearing no later than ten (10) days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on the petitioner, the person whose commitment is sought, their next-of-kin other than the petitioner, the original petitioner under subsection (a) of this section if different from the petitioner for recommitment, one of their parents or their legal guardian if they are a minor, and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection (c) of this section.

(h) The department shall provide for adequate and appropriate treatment of a person committed to its custody. The department may transfer any person committed to its custody from one approved public treatment facility to another if transfer is medically advisable.

(i) A person committed to the custody of the department for treatment shall be discharged at any time before the end of the period for which they have been committed if either of the following conditions is met:

(1) In case of a drug or intoxicating substance abuser committed on the grounds of likelihood of infliction of physical harm upon themselves or another, that they are no longer a drug or intoxicating substance abuser or the likelihood no longer exists; or

(2) In case of a drug or intoxicating substance abuser committed on the grounds of the need of treatment, deterioration, inability to function, or the fact that they are a danger to themselves, that the deterioration no longer exists, that they are no longer a danger to themselves, that they are able to function, that further treatment will not be likely to bring about significant

improvement in the person's condition, or treatment is no longer adequate or appropriate.

(j) The court shall inform the person whose commitment or recommitment is sought of their right to contest the application, be represented by counsel at every stage of any proceedings relating to their commitment and recommitment, and have counsel appointed by the court or provided by the court if they want the assistance of counsel and are unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for them regardless of their wishes. The person whose commitment or recommitment is sought shall be informed of their right to be examined by a licensed physician of their choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(k) If a private treatment facility agrees with the request of a competent patient or their parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer them to the private treatment facility.

(l) A person committed under this chapter may at any time seek to be discharged from commitment by writ of habeas corpus.

(m)(1) Any aggrieved party may appeal to the superior court from a judgment of the district court by claiming the appeal in writing filed with the clerk within forty-eight (48) hours, exclusive of Sundays and legal holidays, after the judgment is entered.

(2) All court actions shall be heard within fourteen (14) days after the appeal and shall have precedence on the calendar and shall continue to have precedence on the calendar on a day-to-day basis until the matter is heard.

23-10.1-7. Standards for treatment facilities -- Inspections -- Furnishing information to department -- Noncompliance with standards.

(a) The department shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the department for the required inspections. The standards may concern only the health standards to be met and standards of treatment to be afforded patients.

(b) The department shall periodically inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(c) The department shall maintain a list of approved public and private treatment facilities.

(d) Each approved public and private treatment facility shall file with the department on request: data, statistics, schedules, and any other information that the department reasonably requires. An approved public or private treatment facility that without good cause fails to furnish

any data, statistics, schedules, and any other information as requested, or files fraudulent returns, shall be removed from the list of approved treatment facilities.

(e) The department, after holding a hearing, may suspend, revoke, limit, or restrict an approval, or refuse to grant an approval, for failure to meet its standards.

SECTION 4. Chapter 23-17 of the General Laws entitled "Licensing of Health Care Facilities" is hereby amended by adding thereto the following section:

23-17-64. Licensing of facilities – Inpatient psychiatric, residential or day care services.

(a) The department of health (hereinafter referred to as the "department") shall issue for a term of two (2) years, and may renew for a like term, a license, subject to revocation by it for cause, to any private or municipal facility or department or unit of any such facility which offers inpatient psychiatric, residential or day care services, and is represented as providing treatment of persons who are mentally ill, and which is deemed by it to be responsible and suitable to meet applicable licensure standards and requirements, set forth in regulations of the department, except that:

(1) The department may license those facilities providing care, but not treatment of persons who are mentally ill, and

(2) Licensing by the department is not required where a residential or day care treatment is provided within an institution or facility licensed by the department unless the services are provided on an involuntary basis. The department may issue a provisional license where a facility has not previously operated, or is operating but is temporarily unable to meet applicable standards and requirements. No original license shall be issued to establish or maintain an inpatient facility subject to licensure under this section, unless there is a determination by the department, in accordance with its regulations, that there is need for such a facility. The department may grant the type of license that it deems suitable for the facility, department or unit. The department shall set reasonable fees for licenses and renewal thereof.

(b) Each facility, department or unit licensed by the department shall be subject to the supervision, visitation, and inspection of the department. The department shall establish regulations to administer licensing standards, and to provide operational standards for the facilities, departments or units, including, but not limited to, the standards or criteria an applicant shall meet to demonstrate the need for an original license. In order to be licensed by the department under this section, a facility shall provide services to state residents with public health insurance on a non-discriminatory basis. The regulations shall provide that no facility, department or unit shall discriminate against an individual, qualified within the scope of the individual's

license, when considering or acting on an application of a licensed independent clinical social worker for staff membership or clinical privileges. The regulations shall further provide that each application shall be considered solely on the basis of the applicant's education, training, current competence and experience. Each facility, department or unit shall establish, in consultation with the director of the department of human services or, if none, a consulting licensed independent clinical social worker, the specific standards, criteria and procedures to admit an applicant for staff membership and clinical privileges. The standards shall be available to the director upon request.

(c) The department may conduct surveys and investigations to enforce compliance with this section and any rule or regulation promulgated under this section. The department may examine the books and accounts of any facility if it deems such examination necessary for the purposes of this section. If the department finds upon inspection, or through information in its possession, that a facility, department or unit licensed by the department is not in compliance with a requirement established under this section, the department may order the facility, department or unit to correct such deficiency by providing the facility notice in writing of each deficiency. The notice shall specify a reasonable time, not to exceed sixty (60) days after receipt thereof, by which time the facility, department or unit shall remedy or correct each deficiency cited therein; provided, that, in the case of any deficiency which, in the opinion of the department, is not capable of correction within sixty (60) days, the department shall require only that the facility, department or unit submit a written plan for correction for the deficiency in a reasonable manner. The department may modify any nonconforming plan, upon notice in writing to the facility. Within seven (7) days of receipt, the affected facility, department or unit may file a written request with the department for administrative reconsideration of the order or any portion thereof.

(d) Nothing in this section shall be construed to prohibit the department from enforcing a rule, regulation, or corrective action order, administratively or in court, without first affording formal opportunity to make correction, or to seek administrative reconsideration under this section, where, in the opinion of the department, the violation of such rule or regulation jeopardizes the health or safety of patients or the public or seriously limits the capacity of the facility to provide adequate care, or where the violation of such rule or regulation is the second or subsequent such violation occurring during a period of twelve (12) full months.

(e) Failure to remedy or correct a cited deficiency by the date specified in the written notice or failure to remedy or correct a cited deficiency by the date specified in the written notice or failure to remedy or correct a cited deficiency by the date specified in a plan for correction, as

accepted or modified by the department, shall be cause for license revocation or a civil fine imposed upon the facility. The civil fine shall not exceed one thousand dollars ($1,000) per deficiency for each day the deficiency continues to exist beyond the date prescribed for correction. The department may pursue either remedy or both or such other sanction as the department may impose administratively upon the facility, department or unit. No facility, department or unit, for which a license is required under subsection (a) of this section, shall provide inpatient, residential or day care services for the treatment or care of persons who are mentally ill, unless it has obtained a license under this section. The superior court sitting in equity shall have jurisdiction, upon petition of the department, to restrain any violation of the provisions of this section or to take such other action as equity and justice may require. Any person who violates the provisions of this section shall be subject for the first offense to a fine of not more than five hundred dollars ($500) and for subsequent offenses by a fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than two (2) years.

(f) No patient shall be commercially exploited. No patient shall be photographed, interviewed or exposed to public view without the express written consent of the patient or of the patient's legal guardian.

(g) Notwithstanding the provisions of subsections (a) through (f) of this section, inclusive, no child care center, family child care home, family child care system, family foster care or group care facility shall be subject to this section.

(h) As used in this section, "original license" means a license, including a provisional license, issued to an inpatient facility not previously licensed; or a license issued to an existing inpatient facility, in which there has been a change in ownership or location or a change in class of license or specialized service as provided in regulations of the department.

SECTION 5. This act shall take effect upon passage.

========
LC004184
========

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO EDUCATION -- SAFE AND SUPPORTIVE SCHOOLS TRUST FUND-- COMBATTING ADDICTION, ACCESSING TREATMENT, REDUCING PRESCRIPTIONS, AND ENHANCING PREVENTION

***

This act would, through the amendments to several sections of law, govern the treatment of, and prescription of drugs for, persons with opiate abuse and related issues.

This act would take effect upon passage.

========
LC004184
========