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2019 Utah Legislative Update: What All Healthcare Providers Should Know

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In the last Utah legislative session, several bills were passed that affect the obligations of healthcare facilities and providers. Following is a summary of three important bills that went into effect on May 14, 2019, of which all health facilities and providers should be aware.

Mandatory Reporting of Drug Diversion to Law Enforcement

House Bill 251 requires mandatory reporting to law enforcement when one has knowledge of drug diversion. Specifically, Utah law now holds that an individual is guilty of a class B misdemeanor if they: (i) know that a Practitioner is diverting 500 or more morphine milligram equivalents to another person for an unlawful purpose; and (ii) fail to report to law enforcement. The bill defines "Practitioner" as an individual who is either (i) allowed to "administer, dispense, distribute, or prescribe a drug in the course of professional practice;" or (ii) who is employed by such an individual. The law broadly applies to those involved in providing medications to patients in any manner (e.g., nurses, physicians, nurse practitioners, physician assistants, and pharmacists) as well as those working for such individuals. Utah Code Ann. § 76-10-2204.

Now, when an employer or healthcare facility learns of drug diversion by one of their employees or medical staff members, they should be cognizant of their mandatory duties to report under Utah law. In the past, this mandatory duty generally involved reporting, as required, to the Utah Division of Occupational and Professional Licensing. With the enactment of House Bill 251, a report to law enforcement may now also be required.

Mandatory Consultations for Opiate Prescriptions

House Bill 191 requires that before an opiate is prescribed for a patient who has either (i) never been prescribed an opiate; or (ii) has not been prescribed an opiate in the last year, a prescriber discuss the following topics with the patient: the risks of addiction and overdose; the dangers of taking opiates with alcohol, benzodiazepines, or other central nervous system depressants; the reasons the prescription is necessary; the available alternative treatments; and other associated risks. This discussion is not required for patients receiving an opiate for hospice care, or as part of treatment for cancer, substance abuse or opiate dependence. Utah Code Ann. § 58-37-19.

To comply with this new legislation, before prescribing any opiate for a Utah patient, prescribers should (i) ensure they conduct a proper history to

identify patients that require such consultation; and (ii) carefully document all elements of the required discussion in the patient record.

APRN Prescribing

House Bill 336 amends the Utah Nurse Practice Act. The bill loosens the necessary oversight for Advanced Practice Registered Nurses (“APRN”) when prescribing Schedule II drugs. Specifically, House Bill 336 means that most APRNs will not be required to have a consultation and referral plan in place to prescribe Schedule II drugs. However, the following APRNs are still required to have a consultation and referral plan in place in order to prescribe Schedule II drugs:

Those engaged in independent solo practice and who:

1. have been licensed as an advanced practice registered nurse less than one year;
2. have less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse; or
3. own or operate a pain clinic.

Additionally, the amendment also allows APRNs with at least three years of experience to supervise the required consultation and referral plan - formerly, only a physician could provide such oversight. Utah Code Ann. § 58-31b-803. (Note that this section of Utah Code does not apply to APRNs specializing as certified registered nurse anesthetist.)

For questions regarding this update or Utah healthcare law, please contact:

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