HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

H.B. NO. 1603 H.D. 1

A BILL FOR AN ACT

RELATING TO HEALTH INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that opioids are a class of drugs that include the illegal drug heroin, synthetic opioids such as fentanyl, and prescription pain relievers, such as oxycodone, hydrocodone, codeine, and morphine. These drugs are chemically related and interact with opioid receptors on nerve cells in the body and brain. The legislature further finds that opioid pain relievers are generally safe when taken for a short time as prescribed by a physician. However, regular use of opioid pain relievers, even as prescribed by a physician, can lead to dependence. Moreover, because opioid pain relievers produce euphoria in addition to pain relief, they are very prone to misuse. The misuse of opioid pain relievers can easily lead to overdose incidents and deaths.

The legislature further finds that the Centers for Disease Control and Prevention formally declared an opioid epidemic in 2011. According to the American Society of Addiction Medicine, more than 2,500,000 Americans have an opioid-use disorder. The

opioid epidemic is the deadliest drug crisis in United States history, with drug overdoses claiming more lives in 2016 than motor vehicle accidents or gun violence. Stated otherwise, every three weeks the opioid epidemic causes the same amount of deaths as occurred in the September 11, 2001, terrorism attacks.

At the heart of the opioid epidemic is OxyContin, which is a brand name available for the prescription pain killer, oxycodone. OxyContin is a dangerous and deadly opioid that was developed in the 1990's by Purdue Pharma, which is based in Stamford, Connecticut and is owned and operated by the Sackler family. The Sacklers are best known as philanthropists whose family name is prominently featured in exhibits at a number of notable American institutions, including the Metropolitan Museum of Art, Harvard University, and the Louvre. Because the Sacklers have managed to write their family name out of the history of the family business, most visitors to these establishments are unaware that the family made their fortune by being one of the prime beneficiaries of the current epidemic of opioid use.

As detailed in an article published in the New Yorker on October 30, 2017, the Sacklers' great wealth was earned at the

expense of the millions of people who have fallen prey to drug addiction due to OxyContin's intrinsic addictive properties, of which the Sacklers were well aware, but denied any knowledge. As noted, the Sacklers launched OxyContin with a multi-faceted marketing campaign that misinformed doctors about the risks of opioids, which included addiction and death. In September 2017, the attorneys general of forty-one U.S. states banded together to investigate the role these deceptive marketing campaigns on the part of opioid manufacturers and distributors, including Purdue Pharma, had in the current crisis of opiate addictions and overdose deaths.

In April 2016, Congress, yielding to pressure from the drug industry, passed a law that effectively stripped the federal Drug Enforcement Administration (DEA) of its most potent weapon against large drug companies suspected of spilling prescription narcotics onto the nation's streets. By that time, the opioid crisis had surged into the deadliest drug epidemic in United States history, having claimed two hundred thousand lives, more than three times the number of United States military deaths in the Vietnam War.

Prior to the passage of The Ensuring Patient Access and Effective Drug Enforcement Act of 2016, the DEA had broad authority to freeze suspicious narcotic shipments from drug distribution companies, as long as the shipment posed an "imminent danger" to the community. The DEA used this authority to immediately prevent drugs from reaching the streets. The new law requires the DEA to demonstrate that a company's action represents "a substantial likelihood of an immediate threat," which is a much higher bar. As a result, it is now virtually impossible for the DEA to freeze suspicious opioid shipments. The higher standard has severely undermined the DEA's previously aggressive enforcement efforts.

Accordingly, in this regulatory vacuum of effective federal law enforcement efforts against the drug epidemic, the several states have no choice but to step up their own efforts to combat the epidemic through a multi-faceted approach, such as requiring:

(1) Warnings to accompany opioid prescriptions;

(2) More comprehensive health insurance coverage for the treatment of opioid dependency;

(3) Data collection on opioid overdoses and deaths; and

(4) Lowest possible dosage levels for prescriptions.

The legislature notes that because chapter 431M, Hawaii Revised Statutes, already mandates individual and group accident and health or sickness insurance policies to include substance use disorder benefits, it is not necessary for the auditor to prepare a report pursuant to section 23-51, Hawaii Revised Statutes, prior to mandating more comprehensive coverage for opioid dependency treatment.

Accordingly, the purpose of this Act is to require health insurers, mutual benefit societies, and health maintenance organizations to provide health care coverage and benefits for a minimum of six months of inpatient and outpatient treatment for opioid dependence.

SECTION 2. Chapter 431M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§431M- Opioid dependence benefits.** (a) Notwithstanding any other law to the contrary, all policies and contracts set forth in section 431M-2(a) shall provide unlimited benefits for inpatient and outpatient treatment of opioid

dependence at in-network facilities in accordance with this section.

(b) The benefits for the first one hundred eighty days per plan year of inpatient and outpatient treatment of opioid dependence shall be provided when determined medically necessary by the covered person's physician or psychologist without the imposition of any prior authorization or other prospective utilization management requirements.

The hospital or nonhospital facility shall notify the coverage provider of both the admission and the initial treatment plan within forty-eight hours of the admission or initiation of treatment. If there is no in-network facility immediately available for a covered person, the coverage provider shall provide necessary exceptions to its network to ensure admission in a treatment facility within twenty-four hours.

(c) Providers of treatment for opioid dependence shall not require pre-payment of medical expenses by patients during the first one hundred eighty days per plan year of benefits in excess of applicable co-payment, deductible, or co-insurance under the insurance policy or contract.

(d) The benefits for outpatient visits shall not be subject to concurrent or retrospective review of medical necessity or any other utilization management review.

(e) Benefits for inpatient stays shall be provided as follows:

(1) The benefits for the first twenty-eight days of an inpatient stay during each plan year shall be provided without any retrospective review or concurrent review of medical necessity and medical necessity shall be as determined by the covered person's physician; and

(2) The benefits for inpatient care after the first twenty-eight days shall be subject to concurrent review; provided that:

(A) A request for approval of inpatient care beyond the first twenty-eight days shall be submitted for concurrent review before the expiration of the initial twenty-eight-day period;

(B) A request for approval of inpatient care beyond any period that is approved under concurrent review shall be submitted within the period that was previously approved;

(C) No coverage provider shall initiate concurrent review more frequently than at two-week intervals; and

(D) If a coverage provider determines that continued inpatient care in a facility is no longer medically necessary, the coverage provider shall provide written notice within twenty-four hours to the covered person and the covered person's physician of its decision.

(f) The benefits for the first twenty-eight days of partial hospitalization shall be provided without any retrospective review of medical necessity and medical necessity shall be as determined by the covered person's physician. The benefits for partial hospitalization after the first twenty-eight days shall be subject to a retrospective review of the medical necessity of the services.

(g) Benefits for inpatient and outpatient treatment of opioid dependence after the first one hundred eighty days per plan year shall be subject to the medical necessity determination of the coverage provider and may be subject to

prior authorization or retrospective review and other utilization management requirements.

(h) The medical necessity of treatment covered by this section shall be determined pursuant to the policy and shall be defined in the policy in a manner that is consistent with other services covered under the policy.

(i) The benefits for outpatient prescription drugs to treat opioid dependence shall be provided when determined to be medically necessary by the covered person's physician, psychologist, or psychiatrist without the imposition of any prior authorization or other prospective utilization management requirements.

(j) The first one hundred-eighty days per plan year of benefits shall be computed based on inpatient days. One or more unused inpatient days may be exchanged for two outpatient visits. All extended outpatient services such as partial hospitalization and intensive outpatient shall be deemed inpatient days for the purpose of the visit-to-day exchange provided in this subsection.

(k) Except as otherwise provided in this section, the benefits and cost-sharing shall be provided to the same extent as for any other medical condition covered under the contract.

(l) The benefits required by this section shall be provided to all covered persons with a diagnosis of opioid dependence. The presence of additional related or unrelated diagnoses shall not be a basis to reduce or deny the benefits required by this section.

(m) As used in this section:

"Concurrent review" has the same meaning as in section 432E-1.

"Coverage provider" means issuers of:

(1) Individual and group accident and health or sickness insurance policies;

(2) Individual or group hospital or medical service plan contracts; and

(3) Nonprofit mutual benefit society, fraternal benefit society, and health maintenance organization health plan contracts.

"Opioid dependence" means any pattern of pathological use of an opioid, opiate, or any salt, compound, derivative, or

preparation of an opioid or opiate causing impairment in social or occupational functioning and producing psychological or physiological dependency or both, evidenced by physical tolerance or withdrawal."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 3000 and shall apply to policies, contracts, and plans of health insurance issued or renewed after December 31, 2018.

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Report Title:
Health Insurance; Opioids; Addiction Treatment

Description:
Requires health insurers, mutual benefit societies, and health maintenance organizations to provide health care coverage and benefits for a minimum of 6 months of inpatient and outpatient treatment for opioid dependence beginning after 12/31/2018. (HB1603 HD1)

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