ARKANSAS NURSES ASSOCIATION

The Voice for Arkansas Nurses

Committee for Health Policy Update (Part 1)

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Bills that are now Acts…and what you need to know!

The 90th Arkansas General Assembly was very active this year, related to health policy. There were several bills enacted into law, which will take effect later this year. This is the first of a two part newsletter with details about some of the health care related legislation that affects nursing and advanced nursing practice.

Laws Related to Controlled Substance Prescribing…

ACT 1028 (was SB 717) - Prescription Drug Monitoring Program

Sponsor: Sen. Missy Irvin

Title: TO ENHANCE THE PRESCRIPTION DRUG MONITORING PROGRAM ACT; AND TO CREATE THE COMBATING PRESCRIPTION DRUG ABUSE ACT.

Link to Act 887: http://www.arkleg.state.ar.us/assembly/2015/2015R/Acts/Act1208.pdf

Overview: Act 1028 is primarily about slowing down street diversion of controlled substances and abuse of prescription drugs. Its provisions will affect all prescribers of controlled substances (CS) in AR--particularly if managing persons with "chronic, non-malignant pain." These additional requirements will not pertain to terminally ill patients, patients who reside in a licensed healthcare facility, who are enrolled in a hospice program, or who are in an inpatient or outpatient palliative care.

What is new in the law is that there are specific things now that all CS prescribers must do that weren't all required previously. Prescribers will have to run a check at least twice a year with the prescription drug monitoring program (PDMP) for any patients who would be classified as having "chronic, non-malignant pain." Documentation will need to reflect that these patients have been evaluated by a physician every 6 months, and certain assessments have been done on these patients--which are outlined in the bill under section 20-7-706 and 20-7-707.

More provisions in Act 1028…

The new law allows the Dept. of Health the ability to review PDMP reports to check for patterns or trends that are at high risk for drug abuse and/or over prescribing practices. It gives them the power to contact the licensing board (in our case, the ASBN) for the Board to review and investigate the prescribing behaviors (and discipline accordingly). The ASBN will provide the Dept. of Health parameters as to when the ASBN should be notified of suspicious prescribing behaviors (whatever parameters/boundaries are established).

An asset to APRNs and all prescribers is that the prescriber will now be able to delegate to an agent/employee the task of running a PDMP report. This will certainly cut down on the time it takes to run the report and review it prior to making a decision whether or not to prescribe or refill a patient's controlled substance medication. Hopefully, more prescribers will utilize the PDMP system if the running of the report can be delegated and the report can be readily available to them. There will need to be policies in place at the clinic/facility that will mandate how this will be carried out (which patients to run one on, an audit process to keep the agent/employee from running a report on anyone they choose, the storing of the report - since they are HIPAA protected and should be kept as a part of the medical record, etc.).

If a designee with access to the PDMP on behalf of a prescriber/facility is terminated or resigns, the provider/facility must report that and/or change passwords or other information to stop the terminated employee's access.

The Dept. of Health will have the authority to monitor for patterns/trends that are high risk for drug abuse and subsequently alert the prescriber/provider that their patient is being prescribed opioids by more than 3 physicians (the language probably should have said providers here, since APRNs and PAs also prescribe them) within any 30-day period. If a prescriber violates prescription drug laws, their licensing board will then require them to utilize the PDMP system prior to prescribing opioids. The board can remove this requirement at its discretion.

The law addresses how opioids can be prescribed in various settings and certain patient populations, such as an ER, for malignant pain treatment, as well as education rules for newly-licensed prescribers.

Per the Board of Nursing, rules will be written over the summer, to take effect late summer or early fall.

ACT 529 (was HB 1136) – Hydrocodone Combinations

Sponsor: Rep. Steve Magie

Title: TO AMEND THE PRESCRIPTIVE AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES AND PHYSICIANS ASSISTANTS; TO EXTEND PRESCRIPTIVE AUTHORITY TO HYDROCODONE COMBINATION PRODUCTS IF EXPRESSLY AUTHORIZED BY A PHYSICIAN.

Link to Act 529: http://www.arkleg.state.ar.us/assemble/2015/2015R/Acts/Act529.pdf

Overview: HB 1136 was signed into law as Act 529 on March 18th, 2015. This Act extends APRN prescriptive authority to include *hydrocodone combination products only* from the drugs reclassified from Schedule III to Schedule II, if "expressly authorized by a physician" (p. 1, lines 8-12).

In Arkansas, APRNs currently have prescriptive authority for Schedule III – V medications when a collaborative practice agreement is in place with a physician. This legislation will enable those APRNs with prescribing authority in Arkansas to be able to write prescriptions for hydrocodone combination products only, with physician authorization. This Act also directs that the Arkansas State Board of Nursing (ASBN) shall "promptly adopt rules applicable to an advance practice registered nurse that are consistent with the Arkansas State Medical Board's rules governing the prescription of dangerous drugs and controlled substances" (p. 1, lines 34-36; p. 2, line 1). The proposed rules developed by the ASBN shall be reviewed and verified by the Arkansas State Medical Board prior to their approval to ensure that they are "consistent with the Arkansas State Medical Board rules concerning the prescription of dangerous drugs and controlled substances" (p. 2, lines 2-6). The ASBN will be developing these proposed rules and ARNAs Committee for Health Policy will work to keep information flowing about when these rules are expected to be in place and what APRNs will need to understand about this aspect of their practice.

A New Role for Paramedics...

ACT 685 (was HB 1133) – Community Paramedics

Sponsor: Rep. Scott Baltz

Title: AN ACT TO CREATE A PROGRAM FOR LICENSURE OF COMMUNITY PARAMEDICS; AND FOR OTHER PURPOSES.

Link to ACT 685: http://www.arkleg.state.ar.us/assembly/2015/2015R/Acts/Act685.pdf

Overview: Arkansas Code Title 20, Chapter 13, is amended to add an additional subchapter to establish the Community Paramedic. This is part of the Emergency Medical Services law, and is overseen by the Arkansas State Board of Health. This new law was enacted due to growing concerns about costs associated with readmission of high risk patients. For patients with certain chronic conditions, CMS now penalizes hospitals up to 3 percent of reimbursement for readmission within 30 days of discharge (CMS, 2014).

Although many patients do qualify for and benefit from home health nursing services, there are patients who do not qualify for or refuse home health care. ACT 685 establishes the Community Paramedic as a potential solution to address this population. From ACT 685:

"Community Paramedic" (CP) means an individual who is licensed as a paramedic and meets the requirements for additional licensure to be a community paramedic. CPs will be able to provide services to discharged patients who have been screened for home health or hospice and do not qualify for home health or hospice services; or are documented as having declined home health or hospice services. Services may also be provided to discharged emergency department patients and pre-hospital patients.

To be eligible for licensure by the Arkansas Department of Health under the Section of Emergency Medical Services as a Community Paramedic, an individual must be 1) currently licensed as a paramedic 2) have two (2) years of full-time service as a paramedic and 3) be actively employed by a licensed paramedic ambulance service.

A CP must successfully complete a community paramedic training program from an accredited college or university approved by the Department of Health. The training program for the Community Paramedic will consist of a minimum of three hundred (300) hours of classroom and clinical education. Clinical experience may be provided under the supervision of a community paramedic service medical director, advanced practice registered nurse, physician assistant, or home health nurse. Areas of clinical experience including at a minimum: Emergency department services; Home health services; Hospital case management; and Public health agencies services.

The Arkansas State Board of Health will develop rules and regulate the community paramedic, according to ACT 685.

Telemedicine in Arkansas…

ACT 887 (was SB 133) – Telemedicine

Sponsor: Sen. Cecile Bledsoe

Title: TO ENCOURAGE THE USE OF TELEMEDICINE; AND TO DECLARE AN EMERGENCY

Link to ACT 887: http://www.arkleg.state.ar.us/assembly/2015/2015R/Acts/Act887.pdf

Overview: Senate Bill 133 was signed into law as Act 887 by Governor Hutchinson on April 2, 2015. This Act describes that, due to "healthcare professional maldistribution," an emergency situation exists in our state which may be

eased through the use of telemedicine (p. 9, lines 1-11). In order to accomplish the increased use of this technology, this Act specifies that: (A) Health insurers and healthcare professionals support the use of telemedicine; and (B) All state agencies evaluate and amend their policies and rules to remove regulatory barriers prohibiting the use of telemedicine (p. 2, lines 4-10). Act 887 defines what telemedicine is, who can legally provide these patient services, where originating and distant sites are located, and what the professional relationship between a healthcare professional and the patient entails.

Telemedicine is defined as "the medium of delivering clinical healthcare services by means of real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing, to provide or support healthcare delivery that facilitates the assessment, diagnosis, consultation, or treatment of a patient's health care while the patient is at an originating site and the healthcare professional is at a distant site" (p. 3, lines 18-24).

Provisions of this Act define that:

- "a ***healthcare professional*** who is treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board" (p. 4, lines 7-10)
- the ***distant site*** is "the location of the healthcare professional delivering services through telemedicine at the time the services are provided" (p. 2, lines 16-18)
- the ***originating site*** refers to "the offices of a healthcare professional or a licensed healthcare entity where the patient is located at the time services are provided by a healthcare professional through telemedicine" OR "the home of a patient in connection with treatment for end-stage renal disease" (p. 2, lines 22-27)
- the ***professional relationship*** is "at a minimum a relationship established between a healthcare professional and a patient when the healthcare professional":
    - "has previously conducted an in-person examination and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals";
    - "personally knows the patient and the patient's relevant health status through an ongoing personal or professional relationship, and is available to provide appropriate follow-up care, when necessary"; ***OR "***the treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment, including follow-up care"; ***OR "***an on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional"; ***OR*** "a relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board" (p. 2, lines 28-36 and p. 3, lines 1-14). NOTE: Requirements for the existence of a professional relationship are waived in emergency situations or if the provider is providing "generic" and not patient-specific information (p. 4, lines19-24).

This Act ***requires parity*** for reimbursement coverage for physicians providing healthcare services through telemedicine "on the same basis as the health benefit plan provides coverage for the same health care services provided by the physician in person" (p. 6, lines 22-26) and ***does not*** "prohibit a health plan from reimbursing other healthcare professionals" (p. 7, lines 5-6). In regard to the conduction of prior authorization, this Act does specify that "physicians possessing a current an unrestricted license to practice medicine in the State of Arkansas shall make all adverse determinations" (p. 8, lines 32-35).

Stay informed and educate others! Watch for Update Part 2 Coming Soon!