

Insights

Implementation of Indiana's Opioid Prescribing Law

July 27, 2017

Indiana's seven day script law for new patients, Senate Enrolled Act ("SEA") 226, went into effect on July 1, 2017.[1] Under SEA 226, the general rule is as follows: A prescriber may not issue more than a seven day supply of an opioid if the prescriber is prescribing to an adult patient for the first time, or to a child patient who is less than 18 years of age.[2] After a prescriber issues an opioid supply to an adult patient for the first time, the seven day supply "general rule" no longer applies to the relationship between that prescriber and adult patient going forward.

SEA 226 was a part of Governor Eric Holcomb's overall legislative agenda and serves as a key component of the administration's strategy to help curb the state's current opioid epidemic.

Several exceptions were included in SEA 226, however, to ensure more than a seven day supply could be prescribed for first time patients when necessary. Under SEA 226, a prescriber may issue more than a seven day supply of an opioid when prescribing to an adult patient for the first time, or to a child patient at any time, if any of the following are met:

(A) In the **professional judgment** of the prescriber, the patient requires more than a seven day supply of an opioid.

(B) The prescriber is issuing the opioid for the treatment of cancer.

(C) The prescriber is issuing the opioid for the provision of palliative care.

(D) The prescriber is issuing the opioid for the provision of medication-assisted treatment for a substance use disorder.

(E) The prescriber is issuing the opioid for the treatment of a condition that has been exempted from the seven day supply rule through a rule adopted by the Medical Licensing Board.[3]

It is important to note that the use of the term "professional judgment" in the current exceptions is key and distinguishable from the term "medical judgment," although it encompasses the term. For example, a prescriber seeing a patient for the first time may determine that due to that patient's geographical distance from the prescriber and lack of reliable transportation, more than a seven day supply of an opioid should be issued in the professional judgment of the prescriber.

Since its effective date, a Medical Licensing Board ("MLB") working group has met to consider whether additional exceptions to the general rule of SEA 226 should be adopted, per the MLB's authority under IC 25-22.5-13-8. In the working group, several providers noted the issues that will arise with post-operative patients and a seven day opioid script limitation, as drug orders prior to surgeries are not considered prescriptions for purposes of SEA 226. A prescriber treating a post-operative patient for the first time would therefore have to

prescribe a seven day supply for that first script, or use the professional judgment exception to prescribe a greater supply if necessary. Accordingly, the most likely exception to be adopted at this time is to allow for post-operative patients to receive a 14 day supply if being seen by that prescriber for the first time. The MLB will adopt any additional exceptions through emergency rules prior to December 1, 2017, with subsequent administrative rules to follow.[4]

[1] SEA 226, available at <http://iga.in.gov/legislative/2017/bills/senate/226#document-b9523207>

[2] See Indiana Code § 25-1-9.7-2(a).

[3] See Indiana Code § 25-1-9.7-2(b).

[4] See Indiana Code § 25-22.5-13-8.