Commission to Study Allowing Pharmacists to Prescribe or Make Available via Protocol Oral Contraceptives and Certain Related Medications

Meeting Minutes
October 12, 2017

Opening

The third meeting of the Commission to Study Allowing Pharmacists to Prescribe or Make Available via Protocol Oral Contraceptives and Certain Related Medications was called to order at 10AM on October 12, 2017 in Room 205, Legislative Office Building by Representative Mariellen MacKay.

Present

Rep Mariellen MacKay; Rep William Marsh; Robert Stout; Michael Bullek; Gary Sobelson; Christopher Lopez; Brenden Rock; Jennifer Frizzell; Sara Kellogg Meade;; Patricia Tilley; Melissa Martinez-Adorno; Joyce Cappiello; Amy Schneider; Diane Trowbridge; Sen Donna Soucy; Rep Peter Schmidt.

Approval of minutes

Rep William Marsh motioned to accept the minutes from September 28, 2017. Christopher Lopez seconded the motion. Minutes approved.

Presentations

Standing Orders and Statutory Protection for Prescribers, Patricia Tilley

Patricia Tilley presented language from SB 222 (2017) and the Controlled Drug Act section RSA 318-B:15 that describes legal protections for prescribers working directly or by standing order.

SB 222 (2017), lines 26- 1 state:

III. No health care professional who, acting in good faith and with reasonable care, prescribes, dispenses, or distributes an antimicrobial medication for the treatment or prevention of a communicable disease as described in paragraph I, shall be subject to any criminal or civil liability, or any professional disciplinary action, for any action authorized by this section or any outcome resulting from an action authorized by this section.

RSA 318-B:15 states:

III (c) No health care professional who, acting in good faith and with reasonable care, prescribes, dispenses, or distributes an opioid antagonist directly or by standing order and no person who, acting in good faith and with reasonable care, stores, dispenses, or distributes an opioid antagonist or administers an opioid antagonist to another person who the person believes is suffering an opioid-related drug overdose shall be subject to any criminal or civil liability, or any professional disciplinary action, for any action authorized by this paragraph or any outcome resulting from an action authorized by this paragraph.

Questions/Comments:

Representative Marsh asked*: Do we want to add similar protections to the current draft LSR?*

Jennifer Frizzell responded that *she wasn't sure yet.*

Rep Mariellen MacKay suggested that *we hold off on discussing until we learn more have a better sense and consensus for the general direction of the recommendations.*

Massachusetts Senate Bill 499 (2017), Robert Stout

Robert Stout presented recent legislation from Massachusetts, *Senate Bill 499 (2017), An Act advancing contraceptive coverage and economic security in our state.* SB 499 would improve access to preventative health care, including contraception, by eliminating co-pays for that care by commercial insurance carriers.

Mr. Stout described that while this may be outside the scope of this Commission, it is important for the Commission to be aware of and consider related legislative policy activity among other states.

Questions/Comments:

Jennifer Frizzell commented: *States like Vermont and Maine are taking preemptive steps to ensure continued, affordable access to contraception in light of uncertainties with the Affordable Care Act.*

Rep Peter Schmidt asked: *Were the bills in Maine and Vermont widely supported?*

Jennifer Frizzell responded: *The bills passed with bipartisan support to ensure continued protection of benefits as a "belt and suspenders" approach.*

Robert Stout commented that insurers are at the table in Massachusetts discussing SB499. The commercial carriers just wanted to ensure that if there were generic equivalents to name brand contraceptives, that they could maintain the generics at no cost to member but charge for a name brand.

Report of the Commission to Study the Standards for Collaborative Practice,

Rep James MacKay

Representative James MacKay described the process by which the Commission to Study the Standards for Collaborative Practice developed recommendations for current RSA 318:16-a. In part, the RSA now states:

> *Any practitioner with prescriptive authority who holds an active, unrestricted license in the state of New Hampshire may enter into a collaborative pharmacy practice agreement. A service authorized by a practitioner to be performed by a pharmacist under a collaborative pharmacy practice agreement must be within the practitioner's current scope of practice.*

Rep MacKay described how his experience shadowing clinicians and pharmacists at Dartmouth Hitchcock Medical Center as instrumental in furthering his understanding of the importance of collaborative practice. He was pleased that within the Commission the NH Medical Society made the motion to accept these recommendations to promote this more sophisticated role for pharmacists.

Collaborative Practice, Michael Bullek

Michael Bullek provided a brief summary of the current laws and Administrative Rules for Collaborative Practice. He noted that more detail cannot be provided at this time because updated Administrative Rules are still in draft form. However, the new Rules will give authority to the medical provider to describe in more detail what extra standards or training the pharmacists must have to work within a specific collaborative practice agreement.

Mr. Bullek described that collaborative practice is a more detailed plan between a specific medical provider and a pharmacist while standing orders are more broad and generalized in nature. He stated that he believed that the easiest way for increased access to contraception to flow would be through a standing order. However, it he anticipated that it would not be easy “to sell” this idea to retail, chain pharmacies. Insurance payments also remain a significant hurdle.

Questions/Comments:

Dr Sorbelson asked: *How does reimbursement occur under collaborative practice?*

There may be specific agreements with carriers, but the reimbursement does not typically flow directly to the pharmacists in a clinical setting.

Dr Sorbelson asked: *Why would a chain pharmacy reject the idea of standing orders for contraceptives?*

Mr Bullek responded that*: There is a big difference in reimbursement. Contraceptives are typically are "cash in/cash out" as opposed to flu shots where there is room for profit. There is little incentive to spend the amount of time that will be needed with little to no profit margin on the product.*

Robert Stout noted that: *Dispensing fees range from as much as $2.50 to nothing from current insurers. In another model, Colorado created the infrastructure for the Colorado Boards of Pharmacy, Medicine, and Nursing to work collaboratively with the Colorado Department of Public Health and Environment to create statewide protocols to increase access to contraception. This protocol reduces liability issues for both the pharmacists and the medical providers.*

Joyce Capiello asked: *Are there small margins for all hormonal contraception?*

Mr Bullek responded: *There is a class effect. Contraception is a loss leader in the retail environment.*

Sara Meade asked: *Is naloxone being sold in retail?*

Yes, it is sold in retail. Commercial insurers cover the cost. However, it is not widely sold in the retail market.

Patricia Tilley noted that: *Many people, especially those that are low income or do no not have commercial insurance, are receiving naloxone free of charge through other sources such as community health centers and Public Health Networks.*

Dr Martinez-Adorno asked: *Are we going down a slippery slope if we consider profit margins? I worry about this being part of our considerations.*

Dr Sobelson responded: *There is a great deal of profit somewhere. Retail pharmacies such as CVS caremark provide medications at a low cost, but profit is made in the rest of the store. We may need to worry about independent pharmacies, but not the retail chains.*

Robert Stout commented: *Independent pharmacists will continue to provide services for women seeking contraception.*

Jennifer Frizzell noted that: *When NH policy makers discussed its Contraception Equity Law it was noted that women purchasing contraception at pharmacies typically spent another $28 in other retail purchases.*

Rep Marsh stated: *We need to consider how women get the right product for them. That may not occur unless the pharmacists are compensated for their time.*

Dr Martinez-Adorno stated: *Women are educating themselves about their contraceptive options. ACOG and other medical provider have suggested that through their own self screening, women most often they know what they want and need.*

Rep Mariellen MacKay asked: *But who will women call if their contraceptive choice is not meeting their needs or if they need advice?*

Dr Martinez-Adorno responded: *Like other issues with their health, women call their physician when they need medical advice.*

Dr Sobelson asked: *How do pharmacists deal with these sorts of questions now?*

Christopher Lopez stated: *Pharmacists are accessible and patients often come with questions; treating symptoms related to medication is well within their scope of practice.*

Hormonal Contraceptives and Related Devices, Chris Lopez

Christopher Lopez presented a comprehensive list of the types of hormonal contraceptives available on the market today. Some devices such as IUDs would likely not fall within the category of hormonal contraception that this Commission is considering.

There could be as many as 84 products available for just oral contraception. In addition, the ring and patches could also be included within the scope of this Commission. Further discussion would need to occur to talk about intradermal implants and injectables.

Questions/Comments:

Sen Soucy asked: *Would additional instruction be needed for the ring?*

Dr Martinez-Adorno responded: *Little instruction is needed for the ring. It just requires simple insertion by the woman*.

Patricia Tilley asked: *So how do we simplify a woman's choices?*

Dr Martinez-Adorno responded: *Perhaps pharmacies would take the "Wal-Mart" approach. Describe the basic types of contraceptives available and provide or suggest limited choices within each of these groups.*

Dr Sobeloson noted: *The public health benefit of increased access to contraception may outweigh some of the inherent risks. Physicians will always be available to help their patients with more complicated questions and needs.*

Rep Schmidt commented: *The expertise in this room is impressive, but have other states gone down this path and what can we learn from them?*

Patient-Centric Access to Affordable Hormonal Contraception,

Dr Melissa Martinez-Adorno

Dr Martinez-Adorno presented a patient screening algorithm for contraception. These recommendations could be used by providers and pharmacists to help determine the safe use of contraceptive methods among women with various characteristics and medical conditions. This algorithm is based on the 2016 U.S. Medical Eligibility Criteria for Contraceptive Use from Centers for Disease Control and Prevention.

Rep Marsh commented: *The idea of a statewide protocol is appealing. But is there enough time to develop that idea for legislation that will need to be filed? Do we reinvent the wheel or tweak the wheel?*

Dr Martinez-Adorno responded: *A statewide protocol based on CDC recommendations could be developed in the time we have.*

Old Business

LSR 2018-2207 has been re-written to reflect standing orders as the mechanism to enable pharmacists to dispense contraception. The definition currently includes all hormonal contraception. Legally, the physician is responsible for the content of the standing order and the pharmacist is responsible for implementing those orders.

Questions/Comments:

Dr Sobeloson asked: *Have we made a decision about injectables?*

In this model, it would be under the purview of the physician authorizing the standing orders to determine that.

Rep Mariellen MacKay remarked: *It may be putting the cart before the horse to discuss the draft in detail.*

Rep Marsh noted that a draft needs to be filed ASAP.

Jennifer Frizzell commented: *Please do not forget about the need to require pharmacist education and a fact sheet about publicly available healthcare.*

Christopher Lopez asked: *We need further discussion about keeping the injectables within the scope. And can the language explicitly state that IUDs are not included?*

Joyce Capiello stated: *We also need further discussion about pros and cons of a tailored standing orders or a statewide protocol.*

There was further discussion about the process of filing the LSR and the appropriate way to stop and start the clock for draft language.

Mariellen MacKay stated: *The process should not constrain the Commission. Whatever the recommendations of the Commission are will be what is finally presented in the bill.*

There was continued conversation about the concept of standing orders vs statewide protocol.

Robert Stout stated: *If the Commission wants uniform implementation, then a statewide protocol is the way to go.*

Rep Marsh asked: *Could we do both? Could we do standing order or statewide protocol?*

Sen Soucy asked: *Could there be standing orders until such a time as statewide orders could be put in place?*

Christopher Lopez asked: *Would a statewide protocol be subject to the Administrative Rules process?*

ACTION ITEM- Attorneys from DHHS should be invited to the next meeting to discuss statewide protocol and the Administrative Rules Process.

New Business:

Representative Mariellen MacKay noted that in the upcoming meeting we will need to prioritize what direction we should go, determine educational components of the bill, and have DHHS attorneys weigh in on statewide protocols.

There was a question if additional language needs to be added to the bill about personal financial benefit, but it was determined that this is already covered under ethics rules.

Adjournment
Meeting was adjourned at 11:50 by Representative Mariellen MacKay. The next general meeting will need to be rescheduled due to conflicts.

The meeting was rescheduled to October 24, 2017 at 1:00 in Room 205, Legislative office building.

Minutes submitted by: Patricia Tilley