OBNM

From: BAPTISTA Mary Beth * OBNM
Sent: Monday, January 23, 2023 2:37 PM
To:
Subject: Effective Immediately: OBNM - Removes exclusion 850-060-0223 (d) Buprenorphine in any formulation for diagnosis for opioid use disorder.
Attachments: OBNM_1-2023 (1) temp rule x waiver.pdf

Importance: High

Section 1262 of the Consolidated Appropriations Act, 2023 (also known as Omnibus bill), removes the federal requirement for practitioners to submit a Notice of Intent (have a waiver) to prescribe medications, like buprenorphine, for the treatment of opioid use disorder (OUD). With this provision, and effective immediately, SAMHSA will no longer be accepting NOIs (waiver applications).

All practitioners who have a current DEA registration that includes Schedule III authority, may now prescribe buprenorphine for Opioid Use Disorder in their practice if permitted by applicable state law and SAMHSA encourages them to do so. SAMHSA and DEA are actively working on implementation of a separate provision of the Omnibus related to training requirements for DEA registration that becomes effective in June 2023. Please continue to check this webpage for further updates and guidance.
https://www.samhsa.gov/medication-assisted-treatment/removal-data-waiver-requirement

The Board of Naturopathic Medicine filed a temporary revision to 850-060-0223 with the Secretary of State to remove the exclusion 850-060-0223 (d) Buprenorphine in any formulation for diagnosis for opioid use disorder – from the formulary; and allow NDs to prescribe buprenorphine for opioid use disorder, effective immediately.
https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=_kDgt-mXGdifz-10Wamuq8vlR5WxowGasOC9xPXNGfZUauNpDe9-!739320507?ruleVrsnRsn=298512

Please note – the rule is "temporary" in order for it to be enacted without delay **(i.e. This is a GOOD THING! – See:** (166.500-010….(d) **Temporary Filing** is the agency process to temporarily adopt new rules, amend or suspend existing rules. A Temporary Filing can remain in effect no longer than 180 days. See OAR 166-500-0050. https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=278563**).**

The Board will go through permanent rule making prior to the expiration of the temporary rule. We will post the draft rule filing for public comment when it is available. Please watch for additional information in the OBNM newsletter. https://www.oregon.gov/obnm/Pages/Newsletter.aspx

Board staff is primarily working remotely, therefore, email is the most efficient mode of communication at this time. We appreciate your patience. Naturopathic.Medicine@obnm.oregon.gov

Please also take a moment to fill out the OBNM customer satisfaction survey.

In Health;

Mary-Beth Baptista, J.D. (she / her)
Executive Director - Oregon Board of Naturopathic Medicine
800 NE Oregon Street, Suite 407

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OBNM 1-2023
CHAPTER 850
OREGON BOARD OF NATUROPATHIC MEDICINE

FILED
01/20/2023 3:58 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Removes exclusion (d) Buprenorphine in any formulation for diagnosis for opioid use disorder.

EFFECTIVE DATE: 01/20/2023 THROUGH 07/17/2023

AGENCY APPROVED DATE: 01/19/2023

CONTACT: Mary-Beth Baptista
971-673-0193
naturopathic.medicine@oregon.gov

800 NE Oregon Street, Ste 407
Portland,OR 97232

Filed By:
Mary-Beth Baptista
Rules Coordinator

NEED FOR THE RULE(S):

On December 29, 2022, with the signing of the Consolidated Appropriations Act of 2023 (the Act), Congress eliminated the “DATA-Waiver Program.”
The United States is suffering tens of thousands of opioid-related drug poisoning deaths every year. Oregon, like the rest of the US, is experiencing an opioid crisis, involving misuse, abuse, overdose and death. Opioids include prescription painkillers and illicit drugs, such as heroin and illicitly manufactured fentanyl. Medication for opioid use disorder helps those who are fighting to overcome opioid use disorder by sustaining recovery and preventing overdoses. This change will allow medication for opioid use disorder to be readily and safely available to anyone in the country who needs it. The elimination of the X-Waiver will increase access to buprenorphine for those in need. The elimination of the X-waiver is effective immediately.

JUSTIFICATION OF TEMPORARY FILING:

(1) The consequence of not adopting this rule change immediately is Oregonians will die. The United States is suffering tens of thousands of opioid-related drug poisoning deaths every year. Oregon, like the rest of the US, is experiencing an opioid crisis, involving misuse, abuse, overdose and death. Opioids include prescription painkillers and illicit drugs, such as heroin and illicitly manufactured fentanyl. (2) Oregon data indicates in 2021, those at highest risk for unintentional drug overdose death included non-Hispanic American Indians and Alaska Natives, non-Hispanic Blacks, and males. Rural Oregonians would also suffer these consequences. Prior to passage of the Act, three Oregon counties (Sherman, Gilliam, Wheeler) had ZERO X-Waivered Buprenorphine Practitioners, and all but seven counties (Washington, Multnomah, Clackamas, Marion, Lane, Douglas and Jackson) had less than 50 X-Waivered Buprenorphine Practitioners. (3) The majority of the counties with 50 or less practitioners show an average of 5 Oregonians dying every week from opioid overdose. Failure to take immediate action to increase the number of practitioners to undertake opioid use disorder treatment (OUD) would result in the average number Oregonians dying of opioid overdose will remain the highest in the country. (4) Qualified practitioners who undertake required training can treat up to 100 patients using buprenorphine for the treatment of OUD in the first year.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

https://www.oregon.gov/oha/PH/PreventionWellness/SubstanceUse/Opioids/Pages/index.aspx
https://www.oregon.gov/oha/PH/PREVENTIONWELLNESS/SUBSTANCEUSE/OPIOIDS/Documents/CountyServiceSummary.p
https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2479_22.pdf
https://deadiversion.usdoj.gov/drugreg/index.html

AMEND: 850-060-0223

RULE TITLE: Formulary Compendium Exclusions

RULE SUMMARY: Lists substances that may not be prescribed by licensees of this Board.

RULE TEXT:

The Formulary Council has approved substances as listed by classification in 850-060-0226 for use by Naturopathic physicians in accordance with professional standards of care.

(1) This authority does not supersede the education and training requirement established in 850-060-0212 for administration of IV agents or any other education and training required to prescribe, dispense, administer, or order all legend or controlled substances.

(2) Additionally, the following substances may not be prescribed by licensees of this Board.

(a) General anesthetics

(b) Injectable Ketamine for the purpose of general anesthesia

(c) Mifepristone and Misoprostol as an abortifacient

(d) Barbiturates; with the exception of the following:

(A) Phenobarbital

(B) Butalbital

(C) Primidone

(f) Systemic oncology agents with the exception of the following antineoplastic agents, in oral and topical form only.

(A) 5FU

(B) Anastrozole

(C) Letrozole

(D) Mechlorethamine

(E) Megestrol

(F) Mercaptopurine

(G) Methotrexate

(H) Tamoxifen

(I) Tretinoin

(g) Any other substance not listed in 850-060-0226 classification or meeting prior approval of the Board.

STATUTORY/OTHER AUTHORITY: ORS 685.125

STATUTES/OTHER IMPLEMENTED: ORS 685.030