**As Amended by House Committee**

*Session of 2023*

# HOUSE BILL No. 2259

By Committee on Health and Human Services

2-1

AN ACT concerning health and healthcare; relating to mental health; medications; providing that certain medications be available without prior authorization to treat medicaid patients; abolishing the mental health medication advisory committee; amending K.S.A. 39-7,121 and 39-7,121b and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 39-7,121 is hereby amended to read as follows: 39-7,121. (a) The department of health and environment shall establish and implement an electronic pharmacy claims management system in order to provide for the ~~on-line~~ *online* adjudication of claims and for electronic prospective drug utilization review.

(b) The system shall provide for electronic point-of-sale review of drug therapy using predetermined standards to screen for potential drug therapy problems, including incorrect drug dosage, adverse drug-drug interactions, drug-disease contraindications, therapeutic duplication, incorrect duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

(c) The department of health and environment shall not utilize the system established under this section, or any other system or program, to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient's ~~physician~~ **prescriber**:

(1) If such recommended drug usage or drug therapy commenced on or before July 1, 2016; or

(2) for a period of longer than 30 days, if the drug usage or drug therapy is used for the treatment of multiple sclerosis.

(d) (1) If the department of health and environment utilizes the system established under this section, or any other system or program, to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's ~~physician~~ **prescriber**, the department shall provide access for ~~prescribing physicians~~ **prescribers** to a clear and convenient process to request an override of such requirement. The department shall expeditiously grant such request for an override if:

(A) The required drug usage or drug therapy is contraindicated for the

patient or will likely cause an adverse reaction by or physical or mental harm to the patient;

(B) the required drug usage or drug therapy is expected to be ineffective based on the known relevant clinical characteristics of the patient and the known characteristics of the required drug usage or drug therapy;

(C) the patient has tried the required drug usage or drug therapy while under the patient's current or previous health insurance or health benefit plan, and such use was discontinued due to lack of efficacy or effectiveness, diminished effect or an adverse event. For purposes of this paragraph, use of pharmacy drug samples shall not constitute use and failure of such drug usage or drug therapy; or

(D) the patient has previously been found to be stable on a different drug usage or drug therapy selected by such patient's ~~physician~~ **prescriber** for treatment of the medical condition under consideration.

(2) The department of health and environment, or any managed care organization or other entity administering the system established under this section, or any other similar system or program, shall respond to and render a decision upon a ~~prescribing physician's~~ **prescriber's** request for an override as provided in this subsection within 72 hours of receiving such request.

(e) ~~(1)~~ Any proposed department of health and environment policy or rule and regulation related to any use of the system established under this section, or any other system or program, to require that a recipient has utilized or failed with a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's ~~physician~~ **prescriber**, shall be reviewed and approved by the medicaid drug utilization review board established by K.S.A. 39-7,119, and amendments thereto, prior to implementation by the department.

~~(2) Any proposed policy or rule and regulation related to use of any such system related to any medication used to treat mental illness shall be reviewed and approved by the mental health medication advisory committee established by K.S.A. 39-7,121b, and amendments thereto, and the medicaid drug utilization review board established by K.S.A. 39-7,119, and amendments thereto, prior to implementation by the department.~~

(f) The secretary of health and environment shall study and review the use of the program established under this section and prepare a report detailing the exact amount of money saved by using such program that requires that a recipient utilized or failed a drug usage or drug therapy prior to allowing the recipient to receive any product or therapy recommended by the recipient's ~~physician~~ **prescriber** and the percentage and amount of such savings that are returned to the state of Kansas. The secretary shall submit such report to the senate committee on public health

and welfare, the senate committee on ways and means, the house *of representatives* committee on appropriations and the house *of representatives* committee on health and human services ~~on or before January 9, 2017 and~~*, or any successor committees thereto,* on or before the first day of ~~the~~ *each* regular session of the legislature ~~each year thereafter~~.

**(g) As used in this section, "prescriber" means the same as defined in K.S.A. 65-1626, and amendments thereto.**

Sec. 2. K.S.A. 39-7,121b is hereby amended to read as follows: 39-7,121b. (a) No requirements for prior authorization or other restrictions on medications used to treat mental illnesses ~~may~~*, including, but not limited to, conventional antipsychotic medications and atypical antipsychotic medications, shall* be imposed on medicaid recipients~~, except on medications subject to guidelines developed by the medicaid drug utilization review board according to subsection (b)~~.

*(b)* None of the following shall be construed as restrictions under this ~~subsection~~ *section*:

(1) Any alert to a pharmacist that does not deny the claim and can be overridden by the pharmacist;

(2) prescriber education activities; or

(3) the consolidation of dosing regimens to equivalent doses.

~~(b) The mental health medication advisory committee shall provide recommendations to the medicaid drug utilization review board for the purpose of developing guidelines. The medicaid drug utilization review board may accept the recommendations of the mental health medication advisory committee in whole and such recommendations shall take effect immediately upon such approval. The medicaid drug utilization review board may reject the recommendations of the mental health medication advisory committee in whole and such recommendations shall be referred back to the mental health medication advisory committee for further consideration. No medication guidelines related to mental health medications shall be adopted by the medicaid drug utilization review board without recommendations made by the mental health medication advisory committee.~~

~~(c) For the medications used to treat mental illness that are available for use on July 1, 2015, the medicaid drug utilization review board shall review all such medications prior to July 1, 2016. For medications used to treat mental illness that do not exist on July 1, 2015, but are later developed or believed to be effective in the treatment of mental illness, the medicaid drug utilization board shall review all such medications within six months of presentation to the medicaid drug utilization review board.~~

~~(d) The mental health medication advisory committee is hereby established.~~

~~(1) The mental health medication advisory committee shall be~~

~~appointed by the secretary of health and environment and consist of nine members; including the secretary of health and environment, or the secretary's designee, who shall be the chair of the committee; two persons licensed to practice medicine and surgery with board certification in psychiatry nominated by the Kansas psychiatric society, one of whom specializes in geriatric mental health; two persons licensed to practice medicine and surgery with board certification in psychiatry nominated by the association of community mental health centers of Kansas, one of whom specializes in pediatric mental health; two pharmacists nominated by the Kansas pharmacists association; one person licensed to practice medicine and surgery nominated by the Kansas medical society; and one advanced practice registered nurse engaged in a role of mental health nominated by the Kansas state nurses association. All nominating bodies shall provide two nominees for each position for which they provide nominations, with the secretary selecting the appointee from the provided nominees.~~

~~(2) The mental health medication advisory committee shall meet upon the request of the chair of the mental health medication advisory committee, but shall meet at least one time each quarter.~~

~~(3) Members of the mental health medication advisory committee are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto. Members of the committee attending committee meetings shall be paid mileage and all other applicable expenses, provided such expenses are consistent with policies established by the secretary of health and environment.~~

*(c) On July 1, 2023, the mental health medication advisory committee is hereby abolished.*

Sec. 3. K.S.A. 39-7,121 and 39-7,121b are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.