~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 28, 2016

**H. 4544**

Introduced by Reps. M.S. McLeod and Cobb‑Hunter

S. Printed 4/28/16--H.

Read the first time January 12, 2016.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4544) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 88 to Title 44 so as to establish requirements related to the prescription of drugs intended to treat, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 88

Erectile Dysfunction

Section 44‑88‑10. For purposes of this chapter:

(1) ‘Erectile dysfunction’ means the persistent inability to achieve or maintain penile erection sufficient for satisfactory sexual performance.

(2) ‘Physician’ has the same meaning as provided for in Section 40‑47‑20.

Section 44‑88‑20. (A) No person other than a physician may issue to a patient a prescription for a drug intended to treat symptoms of erectile dysfunction.

(B)(1) Before issuing a prescription for a drug intended to treat symptoms of erectile dysfunction, a physician shall:

(a) refer the patient to a sexual therapist licensed by the State Board of Examiners in Psychology for an assessment of the possible causes of the patient’s symptoms of erectile dysfunction and obtain a written report in which the therapist concludes that the patient’s symptoms are not attributable solely to one or more psychological conditions;

(b) conduct a cardiac stress test and obtain a result, described in writing, indicating that the patient’s cardiac health is compatible with sexual activity;

(c) notify the patient in writing of the potential risks and complications associated with taking drugs intended to treat erectile dysfunction and obtain the patient’s signature on a form acknowledging the patient’s receipt of the notification; and

(d) provide a written statement, under penalty of perjury, that the drug the physician is prescribing is necessary to treat the patient’s symptoms of erectile dysfunction, which includes the physician’s medical rationale for issuing the prescription.

(2) A physician must not issue a prescription for a drug intended to treat symptoms of erectile dysfunction any sooner than twenty‑four hours after the patient provides written acknowledgement of receipt of the notification required pursuant to item (1)(c).

(3) A physician shall place all documents described in item (1) in the patient’s medical record and retain the documents as part of that record for not less than seven years.

(C) To ensure the continued health of a patient to whom a prescription for a drug intended to treat symptoms of erectile dysfunction has been issued, the physician, as part of the patient’s course of treatment, including treatment by issuing a prescription for one or more refills of the drug originally prescribed to treat symptoms of erectile dysfunction, or the prescription of another drug for that purpose, shall:

(1) require the patient to undergo a cardiac stress test every ninety days while the patient is taking the drug to ensure that the patient’s cardiac health continues to be compatible with sexual activity; and

(2) require the patient to attend three sessions of outpatient counseling within a period of not less than six months after the drug initially is prescribed to ensure the patient’s understanding of the dangerous side effects of drugs intended to treat the symptoms of erectile dysfunction and which includes information on nonpharmaceutical treatments for erectile dysfunction, including sexual counseling and resources for patients to pursue celibacy as a viable lifestyle choice.

(D) The provisions of this chapter do not apply to a prescription for a drug intended to treat the symptoms of erectile dysfunction for a patient who has been diagnosed with or treated for prostate cancer.” /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill amends Title 44 by adding Chapter 88 relating to prescriptions for erectile dysfunction (ED) medications. The bill provides that only a physician defined as a doctor of medicine or doctor of osteopathic medicine licensed by the South Carolina Board of Medical Examiners may prescribe a drug to treat ED. Prior to obtaining a prescription (or refills) the patient must provide the physician with certain information, undergo cardiac stress tests every ninety days, and attend three sessions of outpatient counseling. Physicians must comply with certain other requirements. The bill also amends Section 40-47-110(B) relating to misconduct constituting grounds for disciplinary action by the Board of Medical Examiners by adding item (26) which requires compliance with the provisions of Chapter 88.

The Department of Health and Environmental Control reports that this bill would have no expenditure impact on the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 88 TO TITLE 44 SO AS TO ESTABLISH REQUIREMENTS RELATED TO THE PRESCRIPTION OF DRUGS INTENDED TO TREAT SYMPTOMS OF ERECTILE DYSFUNCTION; AND TO AMEND SECTION 40‑47‑110, RELATING TO PHYSICIAN MISCONDUCT, SO AS TO INCLUDE THE FAILURE TO COMPLY WITH REQUIREMENTS FOR THE PRESCRIPTION OF DRUGS TO TREAT SYMPTOMS OF ERECTILE DYSFUNCTION AS A GROUND FOR DISCIPLINARY ACTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 88

Erectile Dysfunction

Section 44‑88‑10. For purposes of this chapter:

(1) ‘Erectile dysfunction’ means the persistent inability to achieve or maintain penile erection sufficient for satisfactory sexual performance.

(2) ‘Physician’ has the same meaning as provided for in Section 40‑47‑20.

Section 44‑88‑20. (A) No person other than a physician may issue to a patient a prescription for a drug intended to treat symptoms of erectile dysfunction.

(B)(1) Before issuing a prescription for a drug intended to treat symptoms of erectile dysfunction, a physician shall:

(a) obtain from the patient a notarized affidavit in which at least one of the patient’s sexual partners affirms that the patient has experienced symptoms of erectile dysfunction during the ninety days preceding the affidavit’s date;

(b) refer the patient to a sexual therapist licensed by the State Board of Examiners in Psychology for an assessment of the possible causes of the patient’s symptoms of erectile dysfunction and obtain a written report in which the therapist concludes that the patient’s symptoms are not attributable solely to one or more psychological conditions;

(c) conduct a cardiac stress test and obtain a result, described in writing, indicating that the patient’s cardiac health is compatible with sexual activity;

(d) notify the patient in writing of the potential risks and complications associated with taking drugs intended to treat erectile dysfunction and obtain the patient’s signature on a form acknowledging the patient’s receipt of the notification; and

(e) provide a written statement, under penalty of perjury, that the drug the physician is prescribing is necessary to treat the patient’s symptoms of erectile dysfunction, which includes the physician’s medical rationale for issuing the prescription.

(2) A physician must not issue a prescription for a drug intended to treat symptoms of erectile dysfunction any sooner than twenty‑four hours after the patient provides written acknowledgement of receipt of the notification required pursuant to item (1)(d).

(3) A physician shall place all documents described in item (1) in the patient’s medical record and retain the documents as part of that record for not less than seven years.

(C) To ensure the continued health of a patient to whom a prescription for a drug intended to treat symptoms of erectile dysfunction has been issued, the physician, as part of the patient’s course of treatment, including treatment by issuing a prescription for one or more refills of the drug originally prescribed to treat symptoms of erectile dysfunction, or the prescription of another drug for that purpose, shall:

(1) require the patient to undergo a cardiac stress test every ninety days while the patient is taking the drug to ensure that the patient’s cardiac health continues to be compatible with sexual activity; and

(2) require the patient to attend three sessions of outpatient counseling within a period of not less than six months after the drug initially is prescribed to ensure the patient’s understanding of the dangerous side effects of drugs intended to treat the symptoms of erectile dysfunction and which includes information on nonpharmaceutical treatments for erectile dysfunction, including sexual counseling and resources for patients to pursue celibacy as a viable lifestyle choice.”

SECTION 2. Section 40‑47‑110(B)(24)‑(25) of the 1976 Code is amended to read:

“(24) improperly managed medical records, including failure to maintain timely, legible, accurate, and complete medical records; ~~or~~

(25) provided false, deceptive, or misleading testimony as an expert witness in an administrative, civil, or criminal proceeding in this State; or

(26) failed to comply with the requirements of Chapter 88, Title 44 regarding the prescription of drugs intended to treat symptoms of erectile dysfunction and courses of treatment for patients receiving prescriptions for those drugs.”

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑