OARRS Medical / Legal Update

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As this readership is likely aware, the Ohio Automated Rx Reporting System (“OARRS”) is an electronic database maintained by the Ohio State Board of Pharmacy. This database stores information for certain prescription medications, including Schedule II through Schedule V controlled substances. The requirements governing the use of this platform changed with the introduction of Ohio House Bill 341, which Governor Kasich signed into law this past summer, and which became effective, in part, January 1, 2015.

The new law amends several Ohio Revised Code provisions and generally requires prescribers to obtain an OARRS registration and perform an OARRS query prior to prescribing or dispensing opioid analgesics or benzodiazepines. The registration requirements took effect on January 1, 2015, while the provisions pertaining to prescribing and dispensing medications will take effect April 1, 2015. The law also allows prescribers to include and consider an OARRS report as part of the patient’s medical record beginning March 20, 2015.

With these changes coming into effect, this article is intended to address some frequently asked questions.

Who Is Required To Register With OARRS?
The new law is directed primarily toward those prescribers who prescribe or dispense opioid analgesics and/or benzodiazepines. “Prescribers” include physicians, dentists, advanced practice registered nurses holding certificates to prescribe, optometrists holding therapeutic pharmaceutical agents certificates, and physician assistants holding certificates to prescribe.

Beginning in 2015, these prescribers will be required to register to use OARRS and to query the database. OARRS registration will also be required as a component of license initiation and renewal as of January 1, 2015.

How And When Must I Query The OARRS System?
HB 341’s OARRS query requirements take effect April 1, 2015. As of that date, prescribers will face three query requirements.

First, prescribers must request patient information covering the previous 12 months prior to initially prescribing or personally furnishing an opioid analgesic or a benzodiazepine. The law defines “opioid analgesic” as a controlled substance that has analgesic pharmacologic activity at the opioid receptors of the central nervous system, and includes drugs such as buprenorphine, butorphanol, codeine, hydrocodone, methadone, morphine sulfate, oxycodone and tramadol, among others.

“Benzodiazepine” is defined as a controlled substance such as benzodiazepine, or a benzodiazepine derivative, including, but not limited to, alprazolam, chlordiazepoxide hydrochloride, clobazam, diazepam, lorazepam, midazolam and triazolam.

Second, prescribers must make periodic follow-up requests every 90 days, if the drug is prescribed for 90 days or more. These requests must be made at intervals not exceeding 90 days, according to the date of the initial request.

Finally, prescribers are required to review the OARRS report and document in the patient record that the report was requested, received and assessed.

How Far Does The Query Requirement Extend?
The OARRS inquiry requirements are not limited to Ohio. Depending on the location of a practice, prescribers may be required to search for records in other states. In particular, the law requires prescribers practicing primarily in an Ohio county that is adjacent to another state to search the adjoining state’s prescription information. For example, depending on the location of a practice, a physician may be required to search records from Kentucky, West Virginia, Indiana or Michigan.

This requirement does not apply to Pennsylvania, which does not have an active prescription monitoring program. However, should Pennsylvania begin such a program, then prescribers in counties adjoining Pennsylvania would be required to review that system.

Are There Exceptions To The Query Requirement?
The law does not require an OARRS query in all circumstances. Specifically, the law provides that the OARRS query is not needed when:

(1) The drug is prescribed or personally furnished for less than a 7-day supply (applies to all prescribers except optometrists);
(2) The drug is prescribed or personally furnished for cancer treatment or for another condition associated with cancer (applies to advanced practice registered nurses, physician assistants, and physicians);
(3) The drug is prescribed or personally furnished to a hospice patient in a hospice care program or to any other terminally ill patient (applies to all prescribers except optometrists);
(4) The drug is prescribed or personally furnished for administration in a hospital, nursing home or residential care facility (applies to advanced practice registered nurses, physician assistants, and physicians);
(5) The drug is prescribed or personally furnished to treat acute pain resulting from a surgery, invasive procedure or delivery (applies to physicians only); or
(6) An OARRS report is not available (applies to all prescribers). In this case, the provider should document in the patient record why the OARRS report was not available.

Are There Penalties For Failing To Query The OARRS System?
HB 341 authorizes regulatory boards, such as the State Medical Board of Ohio, to sanction prescribers who fail to comply with the bill’s informed consent requirement. The Board may also become involved if a prescriber does not query OARRS, and a patient abuses an opiate. Further, a prescriber may be disciplined for a false certification regarding

(Continued on page 19)
Governor’s Cabinet Opiate Action Team (GCOAT) Meets to Address Acute Pain Treatment

The Opiates and Other Controlled Substances Reforming Practices Committee (OOCs) of the Governor’s Cabinet Opiate Action Team (GCOAT) has been working to develop and disseminate responsible opioid prescribing practices for Ohio’s clinicians. A critical area of focus for the group has been identifying where clinician support is needed to achieve appropriate pain management. To date, the stakeholder group has developed practice guidelines for clinicians practicing in emergency and urgent care settings and those caring for patients who are experiencing chronic, non-terminal pain. The group is now broadening their focus and has been charged with developing guidelines for the safe, appropriate and effective prescribing of medications for acute pain. The guidelines are intended to assist clinicians in driving “best practices” as defined in the medical literature and by Ohio clinicians to improve patient care and minimize harm. Specifically, these guidelines may reduce the rate of new opiates prescriptions, reduce the number of patients receiving high-dose chronic opiates, and limit the available leftover narcotics.

As noted above, the GCOAT clinical subgroups have already established two prior guidelines for prescribing opiates for chronic pain and prescribing opiates in the emergency room setting. This third guideline is focused on the prescribing of self-administered medications for acute pain with the understanding that guidelines do not replace clinician judgment. Instead, these guidelines may delineate standardized processes that include key checkpoints to pause and consider additional questions.

Physician volunteers have been recruited to serve on a subcommittee to come up with a definition of acute pain. There are also subcommittees working on patient educations and guidelines. Two AMCNO board members, Drs. James Coviello and Matthew Levy, are serving on this subcommittee. The AMCNO board will continue to review these guidelines and provide our input on this important issue.

OARRS Medical / Legal Update
(Continued from page 14)

OARRS. As a result, providers are encouraged to familiarize themselves with the new OARRS requirements before April 1, 2015. Should you receive notice of an investigation or potential disciplinary action, consult with your designated risk management contact or a licensed attorney specializing in healthcare matters to evaluate your options.

How Should A Provider Chart The Information In An OARRS Report?
Questions have arisen as to whether an OARRS report should be included in the patient chart. While Ohio law previously discouraged including the report within the patient’s medical record and included stringent non-disclosure standards, these requirements are set to change.

Beginning March 20, 2015, Ohio law will permit a prescriber to include the OARRS report within the patient’s medical record. Once this information is incorporated into the patient chart, the report is considered to be a part of the record and subject to disclosure. As a result, the report will essentially be subject to the same disclosure requirements as the remainder of the medical record. In addition, the law permits a prescriber or pharmacist to review the information contained within the OARRS report with a patient.

Regardless of where the OARRS report is stored, Ohio law requires physicians to document the receipt and assessment of all OARRS reports in the patient record. This requirement extends to both initial OARRS reports and follow-up queries if the course of treatment exceeds 90 days. The State Medical Board’s preferred method of fulfilling this requirement is to record the date the report was requested, along with any pertinent findings, in the patient’s medical record.

Is An OARRS Report A Psychological Record?
There is also a question as to whether an OARRS report can be considered a mental health record. Some of the medications listed in the reports, including benzodiazepines, may be used to treat mental health disorders. As such, although the new law soon allows for OARRS information to be included in the record, if the medications relate to psychological illness, a provider must be cautious of that when a records request is made. Sufficient release language may be needed to meet the HIPAA standards applicable to release protected mental health information. If there is any question on this issue, please seek advice prior to the production of information.

Conclusion
In closing, Ohio law now requires physicians and other prescribers to register with and query the OARRS platform when prescribing opioid analgesics or benzodiazepines. The law also allows the OARRS report to be included in a patient’s medical record.

For further information regarding the new OARRS requirements and/or issues that may be specific to your practice, please do not hesitate to contact David Valent or Martin Galvin, at Reminger Co., L.P.A., dvalent@reminger.com or mgalvin@reminger.com, with your questions or thoughts.