HB 3824
ACT 91 – Laws of 2017

This bill (passed by both Houses) is a compilation of several pieces of legislation that we have been tracking all session. I believe it may be as many as four bills changed into amendments and added to the SCRIPTS prescriber look-up mandate. This is my analysis.

HB 3824 does a number of things if signed by the Governor.

1.) Amends the Code of Laws of SC, 1976:

2.) **Adds a 'new' Sec. 44-53-1645 (A),(B), (C):** requires health care practitioners ***(or their delegate)*** to 'review' a patient's controlled substance prescription history, as maintained in the PDMP, prior to prescribing a C-II prescription;

a. Exempts PDMP reviews for C-II Rx's for hospice patient;
b. Exempts C-II PDMP review for Rx's with 5 or less day's supply;
c. Exempts C-II review of PDMP for those patients with chronic pain conditions and who have an established patient–doctor relationship. Reviews ***must*** occur every ***three (3) months*** in this case;
d. Exempts C-II reviews of the PDMP when the drug approved, is being administered by a SC licensed health care provider;
e. Exempts C-II PDMP reviews C-II is for a patient in a skilled nursing facility, nursing home, community residential care facility, or an assisted living facility and the patient's medications are stored, given and monitored by staff; or
f. Exempts a C-II PDMP review when a practitioner is temporally unable to access the PDMP due to exigent circumstances, however, the exigent circumstances and the potential adverse impact to the patient if the Rx is not issued in a timely manner.
g. A practitioner is 'compliant' if the Electronic Medical Records automatically displays the patient's PDMP history.

3.) **Amends Sec. 44-53-1630** by adding the definition of 'practitioner' to mean "Any individual authorized pursuant to state and federal law to ***prescribe controlled substances."***

4.) **Amends Sec. 44-53-1680 (B), (C)** of the SC Laws: Clarifies language as it relates to monetary and felony criminal penalties for any "practitioner" (or their designee) who ***'knowingly discloses'*** or ***'uses'*** PDMP information;

5.) **Amends Sec. 44-53-1630 (E):** Requires that a practitioner (or delegate) "who knowingly fails to review a patient's controlled substance history, as indicated on the PDMP or, a practitioner who knowing fails to consult with their authorized

designee regarding a patient' history before issuing a C-II Rx, ***MUST*** be reported to their respective Board for ***disciplinary*** action;"

6.) **Adds Sec. 40-15-145** – Establishes educational requirements for dentists of **two (2) hours of CE,** every two-year cycle in "addressing the prescribing and monitoring of certain controlled substances;

7.) **Amends Sec. 40-37-240 (D) (2): *Requires Optometrists,*** who are authorized by state or federal law to prescribe controlled substances, that ***two*** of their requisite required continuing education hours ***MUST*** be related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III and IV;

8.) **Amends Sec. 40-43-130 (B): "Requires Pharmacists" to obtain at least *one hour*** of continuing education that "Must be Related to approved procedures for monitoring controlled substances listed as C-II, C-III and C-IV's;

9.) **Amends Sec. 40-47-965 (B) (3):** Requires PA's to document four (4) hours, every two years, of continuing education in "approved procedures of prescribing and monitoring controlled substances C-II – C-IV. **Note:** This ***DOES NOT increase*** the number of hours a PA has to take every two years, as it relates to controlled substances. It merely ***'adds'*** that these hours now ***'include' 'monitoring the PDMP;'***

10.) **Amends Sec. 40-51-140:** Increases from **12 to '24,**' the number of CE hours a **Podiatrist**, authorized by state or federal law to prescribe controlled substances, must have every two (2) years, with two (2) of the requisite hours of CE having to be related to 'approved procedures of prescribing and monitoring controlled substances C-II's – C-IV's;

11.) **Amends Sec. 40-43-82 (C) (2)** The amendment **"specifically prohibits tech-check-tech" in a retail settings;**

12.) **Amends Sec. 40-43-86 (B) (4) (b):** Expands the tech ratio from *2 to 1 or 3 to 1* (if two techs are state certified) to **4:1** with at least two techs being state certified;

13.) **Amends Sec. 40-43-86 (P):** Authorizes a pharmacist to dispensed up to a ***10-day supply*** of a ***prescription refill*** if: Rx is non-controlled;

a. Medication is a maintenance or continuation of therapy essential to life;
b. In pharmacist's professional judgment, continuing therapy for up to 10 days will produce no undesirable health or cause any physical or mental discomfort;
c. ***Requires*** the dispensing pharmacist to notify the prescriber ***no later than ten days after*** the once in 12 months emergency refill.

15.) **Adds a new Sec. 40-43-75 (A), (B), (C): *"Renal Dialysis Facility"*** or "RDH" is defined as an outpatient facility that treats and offers staff-assisted dialysis or training and support for self-dialysis patients for 'end-stage renal disease.'

a. RDF's must be certified by Medicare to provide dialysis services; and
b. Must have a Medical Director licensed as a physician (Chapter 47), Title 40 and must be on staff;
c. Defines end-stage renal disease under 42 CFR 406.13 of the U.S. SSA.
d. Authorizes an RDH ***to 'deliver legend drugs or devices'*** to a patient of an RDH when the drug or device is for home use or administration in the RDF provided that the drug or device is 'dispensed' from a properly licensed resident or non-resident pharmacy licensed by the board or administered by a properly licensed health care provider and is dispensed as a valid prescription by a licensed practitioner;
e. Requires the drug or device be properly labeled under state or federal law;
f. They must be held in a secure location at the RDH and must be delivered to the patient's home unopened;
g. Patients ***MUST*** be given a choice of receiving the drug or device from the RDH, at their home, or from another agent;
h. ***EXCLUDES*** controlled substances;
i. Requires RDF's to maintain Policies & Procedure's concerning how it will receive, store, maintain, and return drugs or devices that are not picked up by the patient and returned to the dispensing pharmacy;
j. States that this new section of the law Does Not waive any requirements to obtain licensure, permits, or certification as required by law to possess legend drug products.

THIS LAW *TAKES EFFECT* UPON APPROVAL BY THE GOVERNOR

Governor signed into law on *May 19, 2017*. Act 91 – Laws of 2017