Executive Summary

In 2023, Congress eliminated the X-waiver, a federal barrier to pharmacists prescribing medications for opioid use disorder (MOUD). States can now utilize pharmacists to improve access to MOUD. This model legislation was developed to help states expand access to MOUD and curb the opioid crisis in their communities.

Explanation of Key Elements:

1. Provide clear authority for pharmacists to initiate MOUD

The model legislation establishes clear authority for pharmacists to manage medication therapy to treat opioid use disorder in accordance with their education and training and accepted standards of care.

2. Ensure pharmacists comply with federal registration and training requirements

Federal law requires that pharmacists register with the DEA and complete certain training requirements prior to prescribing controlled substances to treat opioid use disorder. State law should align with these federal prescribing requirements and affirm pharmacist eligibility to obtain DEA registration as a controlled substance prescriber.

3. Remove any pre-existing state barriers to MOUD prescribing

Most MOUDs, including buprenorphine, are controlled substances. Some state Controlled Substances Acts or Pharmacy Practice Acts may contain legacy prohibitions against pharmacists prescribing controlled substances. These must be removed to allow prescribing of MOUD.

4. Create a mechanism for Medicaid to pay for these pharmacist services

If the state does not have an existing Medicaid payment mechanism for clinical services provided by pharmacists, add this authority to the Medicaid statute to allow reimbursement of pharmacist services related to MOUD management.

5. Create a mechanism for commercial insurance to pay for these pharmacist services

If the state does not have an existing commercial insurance payment mechanism for clinical services provided by pharmacists, add this authority to the insurance statute, to allow reimbursement of pharmacist services related to MOUD management. Some states may have separate statutes governing group health plans, HMOs, or other plan types. Replicate this language in those statutes.

Model legislative text:

Pharmacist-Supported Access to Medications for Opioid Use Disorder

(a) A pharmacist is authorized to prescribe, administer and dispense medications, including controlled substances, for the treatment of opioid use disorder, opioid withdrawal symptoms, overdose prevention, and opioid side effects, and taper or discontinue opioids commensurate with the pharmacist's training and education and in accordance with the appropriate standard of care.

(b) Before initiating or adjusting treatment for opioid use disorder by prescribing a controlled substance, a pharmacist shall successfully complete the training required by Section 303 of the Controlled Substances Act (21 U.S.C. 823) and obtain the appropriate federal Drug Enforcement Administration registration number.

(c) [If applicable] Delete any language in the State Pharmacy Practice Act and State Controlled Substances Act prohibiting pharmacists from ordering controlled substances and clarify that the state shall permit a pharmacist to register with the federal Drug Enforcement Administration to provide services outlined in the Controlled Substances Act.

(d) Medicaid [and its Medicaid managed care issuers] shall provide direct payment to a pharmacist providing covered health care services authorized in this legislation to a Medicaid beneficiary at a rate no less than that of other health care providers for providing the same service.

(e) For health plans, policies, contracts, or agreements issued, amended, adjusted, or renewed on or after [insert date of next plan year]:

> (1) Benefits may not be denied for any health care service performed by a licensed pharmacist if:
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> > (A) The service performed was within the lawful scope of the pharmacist's license;
> >
> > (B) The plan would have provided benefits if the service had been performed by another health care provider; and
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> (2) Health benefit plans or issuers, policies, contracts, or agreements that delegate credentialing to contracted health care facilities shall accept credentialing for pharmacists employed or contracted by those facilities. Health plans or issuers shall reimburse facilities for covered services provided by network pharmacists within the pharmacists' scope of practice per negotiations with the facility.

(f) Nothing in this act is to be construed or applied in conflict with federal law.

(g) Nothing in this act may be construed to prohibit or invalidate the continued use of statewide protocols, standing orders, or collaborative practice agreements.