

SESSION OF 2026

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2364

As Recommended by House Committee on
Health and Human Services

Brief*

HB 2364 would prohibit a health insurer, as defined by the bill, from denying coverage for a non-opioid medication for the treatment of acute pain when prescribed by a prescriber, as defined by the bill.

Coverage for Non-opioid Drugs

The bill would prohibit a health insurer from denying coverage of a non-opioid in favor of an opioid prescription drug or requiring a patient to try an opioid prescription drug prior to providing coverage of the non-opioid prescription drug.

The bill would require health insurers to ensure that all non-opioid drugs approved by the U.S. Food and Drug Administration for the treatment or management of pain are not disadvantaged or discouraged in its drug formulary. Impermissible disadvantaging or discouragement would include, but not be limited to:

- Imposing more restrictive coverage criteria on any such non-opioid drug than the least restrictive coverage criteria imposed on an opioid or narcotic;
- Establishing more restrictive or more extensive utilization controls, including but not limited to, prior authorization or step therapy; or

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

- Requiring a cost-sharing of the non-opioid drug in a tier that exceeds the lowest cost-sharing responsibility of any opioid or narcotic on the drug formulary, if tiers are used in the insurer's drug formulary.

The bill would not preclude opioid drugs from being preferred over other opioid drugs or non-opioid drugs from being preferred over other non-opioid drugs.

Definitions

The bill would define the following terms:

- "Health Insurer" would mean the Medicaid program, the State Children's Health Insurance Program, and the State Employee Health Benefits Plan, and include any managed care organization for any such program or plan; and
- "Prescriber" would mean a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug or a certified nurse-midwife, an advanced practice registered nurse who has authority to prescribe drugs, or a physician assistant who has authority to prescribe drugs pursuant to a written agreement with a supervising physician.

Background

The bill was introduced by the House Committee on Health and Human Services at the request of a representative of the American Chronic Pain Association.

House Committee on Health and Human Services

At the House Committee hearing, **proponent** testimony was provided by representatives of the American Chronic Pain Society and Young People in Recovery and a private citizen. The proponents generally stated that given the addictive nature of opioids, patients should have an option to have a non-opioid prescribed to them when their medical situation warrants the prescribing of pain medication and that health insurance should not impose a higher cost-sharing when a non-opioid is chosen.

Written-only proponent testimony was provided by a representative of Voices for Non-Opioid Choices and a private citizen.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Division of State Employee Health Benefits Program in the Department of Administration (Department) indicates enactment of the bill would increase expenditures by \$1,000,000 in FY 2026 and \$1,085,000 in FY 2027 from the Health Benefits Administration Clearing Fund to provide the modified coverage. Revenue in this fund comes from premiums collected for the State Employee Health Benefits Plan. The FY 2027 amount assumes an 8.50 percent increase from the FY 2026 estimate due to rising medical costs. The Department states that enactment of the bill would prohibit health insurers from requiring cost-sharing for non-opioid drugs greater than for opioid drugs or less-favorable coverage for non-opioid drugs compared with opioid drugs or narcotic prescription drugs. This modified coverage would increase prescription costs for the State Employee Health Plan.

The Department of Health and Environment indicates that the bill would align with current Medicaid policy for non-opioids and would have no fiscal effect on the agency. The Department of Insurance indicates enactment of the bill would not have a fiscal effect on the agency. Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Health; health care; nonopioid; Medicaid; Children's Health Insurance Program; state employee health benefits plan; prescriber