

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. Findings. The General Assembly finds that:

5 (1) Prior to August of 2020, the federal Substance
6 Abuse and Mental Health Services Administration (SAMHSA)
7 and the federal Confidentiality of Substance Use Disorder
8 Patient Records set forth at 42 CFR 2, prohibited the
9 sharing of substance use disorder treatment information by
10 opioid treatment programs with prescription monitoring
11 programs.

12 (2) In August 2020, SAMHSA amended 42 CFR 2 to permit
13 the sharing of substance use disorder treatment
14 information by opioid treatment programs with prescription
15 monitoring programs.

16 (3) In light of the federal modification to 42 CFR 2
17 and the protections available under federal and State law
18 and the express requirement of patient consent, the
19 reporting by opioid treatment programs to the prescription
20 monitoring program is permitted and will allow for better
21 coordination of care among treating providers.

22 Section 10. The Illinois Controlled Substances Act is
23 amended by changing Section 316 as follows:

1 (720 ILCS 570/316)

2 Sec. 316. Prescription Monitoring Program.

3 (a) The Department must provide for a Prescription
4 Monitoring Program for Schedule II, III, IV, and V controlled
5 substances that includes the following components and
6 requirements:

7 (1) The dispenser must transmit to the central
8 repository, in a form and manner specified by the
9 Department, the following information:

10 (A) The recipient's name and address.

11 (B) The recipient's date of birth and gender.

12 (C) The national drug code number of the
13 controlled substance dispensed.

14 (D) The date the controlled substance is
15 dispensed.

16 (E) The quantity of the controlled substance
17 dispensed and days supply.

18 (F) The dispenser's United States Drug Enforcement
19 Administration registration number.

20 (G) The prescriber's United States Drug
21 Enforcement Administration registration number.

22 (H) The dates the controlled substance
23 prescription is filled.

24 (I) The payment type used to purchase the
25 controlled substance (i.e. Medicaid, cash, third party

1 insurance).

2 (J) The patient location code (i.e. home, nursing
3 home, outpatient, etc.) for the controlled substances
4 other than those filled at a retail pharmacy.

5 (K) Any additional information that may be
6 required by the department by administrative rule,
7 including but not limited to information required for
8 compliance with the criteria for electronic reporting
9 of the American Society for Automation and Pharmacy or
10 its successor.

11 (2) The information required to be transmitted under
12 this Section must be transmitted not later than the end of
13 the ~~next~~ business day ~~after the date~~ on which a controlled
14 substance is dispensed, or at such other time as may be
15 required by the Department by administrative rule.

16 (3) A dispenser must transmit the information required
17 under this Section by:

18 (A) an electronic device compatible with the
19 receiving device of the central repository;

20 (B) a computer diskette;

21 (C) a magnetic tape; or

22 (D) a pharmacy universal claim form or Pharmacy
23 Inventory Control form.

24 (3.5) The requirements of paragraphs (1), (2), and (3)
25 of this subsection also apply to opioid treatment programs
26 that are licensed or certified by the Department of Human

1 Services's Division of Substance Use Prevention and
2 Recovery and are authorized by the federal Drug
3 Enforcement Administration to prescribe Schedule II, III,
4 IV, or V controlled substances for the treatment of opioid
5 use disorders. Opioid treatment programs shall attempt to
6 obtain written patient consent, shall document attempts to
7 obtain the written consent, and shall not transmit
8 information without patient consent. Documentation
9 obtained under this paragraph shall not be utilized for
10 law enforcement purposes, as proscribed under 42 CFR 2, as
11 amended by 42 U.S.C. 290dd-2. Treatment of a patient shall
12 not be conditioned upon his or her written consent.

13 (4) The Department may impose a civil fine of up to
14 \$100 per day for willful failure to report controlled
15 substance dispensing to the Prescription Monitoring
16 Program. The fine shall be calculated on no more than the
17 number of days from the time the report was required to be
18 made until the time the problem was resolved, and shall be
19 payable to the Prescription Monitoring Program.

20 (a-5) Notwithstanding subsection (a), a licensed
21 veterinarian is exempt from the reporting requirements of this
22 Section. If a person who is presenting an animal for treatment
23 is suspected of fraudulently obtaining any controlled
24 substance or prescription for a controlled substance, the
25 licensed veterinarian shall report that information to the
26 local law enforcement agency.

1 (b) The Department, by rule, may include in the
2 Prescription Monitoring Program certain other select drugs
3 that are not included in Schedule II, III, IV, or V. The
4 Prescription Monitoring Program does not apply to controlled
5 substance prescriptions as exempted under Section 313.

6 (c) The collection of data on select drugs and scheduled
7 substances by the Prescription Monitoring Program may be used
8 as a tool for addressing oversight requirements of long-term
9 care institutions as set forth by Public Act 96-1372.
10 Long-term care pharmacies shall transmit patient medication
11 profiles to the Prescription Monitoring Program monthly or
12 more frequently as established by administrative rule.

13 (d) The Department of Human Services shall appoint a
14 full-time Clinical Director of the Prescription Monitoring
15 Program.

16 (e) (Blank).

17 (f) Within one year of January 1, 2018 (the effective date
18 of Public Act 100-564), the Department shall adopt rules
19 requiring all Electronic Health Records Systems to interface
20 with the Prescription Monitoring Program application program
21 on or before January 1, 2021 to ensure that all providers have
22 access to specific patient records during the treatment of
23 their patients. These rules shall also address the electronic
24 integration of pharmacy records with the Prescription
25 Monitoring Program to allow for faster transmission of the
26 information required under this Section. The Department shall

1 establish actions to be taken if a prescriber's Electronic
2 Health Records System does not effectively interface with the
3 Prescription Monitoring Program within the required timeline.

4 (g) The Department, in consultation with the Prescription
5 Monitoring Program Advisory Committee, shall adopt rules
6 allowing licensed prescribers or pharmacists who have
7 registered to access the Prescription Monitoring Program to
8 authorize a licensed or non-licensed designee employed in that
9 licensed prescriber's office or a licensed designee in a
10 licensed pharmacist's pharmacy who has received training in
11 the federal Health Insurance Portability and Accountability
12 Act and 42 CFR 2 to consult the Prescription Monitoring
13 Program on their behalf. The rules shall include reasonable
14 parameters concerning a practitioner's authority to authorize
15 a designee, and the eligibility of a person to be selected as a
16 designee. In this subsection (g), "pharmacist" shall include a
17 clinical pharmacist employed by and designated by a Medicaid
18 Managed Care Organization providing services under Article V
19 of the Illinois Public Aid Code under a contract with the
20 Department of Healthcare and Family Services for the sole
21 purpose of clinical review of services provided to persons
22 covered by the entity under the contract to determine
23 compliance with subsections (a) and (b) of Section 314.5 of
24 this Act. A managed care entity pharmacist shall notify
25 prescribers of review activities.

26 (Source: P.A. 100-564, eff. 1-1-18; 100-861, eff. 8-14-18;

1 100-1005, eff. 8-21-18; 100-1093, eff. 8-26-18; 101-81, eff.
2 7-12-19; 101-414, eff. 8-16-19.)