HB3448

LRB10211498KMF16832b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3448

Introduced 2/22/2021, by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

720 ILCS 570/316

Amends the Illinois Controlled Substances Act. Provides that specified requirements concerning a Prescription Monitoring Program shall also apply to opioid treatment programs licensed or certified by the Department of Human Services. Provides that opioid treatment programs shall document an attempt to obtain patient consent and shall not transmit information without patient consent, and reports so made may not be utilized for law enforcement purposes. Provides that treatment of a patient may not be conditioned upon their consent to reporting. Provides findings provisions. Makes other changes.

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A BILL FOR

AN ACT concerning criminal law.

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

Section 5. Findings. The General Assembly finds that:

(1) Prior to August 2020, the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and the federal Confidentiality of Substance Use Disorder Patient Records set forth at 42 C.F.R Part 2, prohibited the sharing of substance use disorder treatment information by opioid treatment programs with prescription monitoring programs.

(2) In August 2020, SAMHSA amended 42 C.F.R. Part 2 to permit the sharing of substance use disorder treatment information by opioid treatment programs with prescription monitoring programs.

(3) In light of the federal modification to 42 C.F.R. Part 2 and the protections available under federal and State law and the express requirement of patient consent, the reporting by opioid treatment programs to the prescription monitoring program is permitted and will allow for better coordination of care among treating providers.

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

(720 ILCS 570/316)

Sec. 316. Prescription Monitoring Program.

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

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

(A) The recipient's name and address.

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

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

(D) The date the controlled substance is dispensed.

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

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

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

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

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

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

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

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

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

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

(B) a computer diskette;

(C) a magnetic tape; or

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

(3.5) The requirements of paragraphs (1), (2), and (3) of this subsection (a) also apply to opioid treatment programs licensed or certified by the Department of Human Services, Division of Substance Use Prevention and

Recovery, and are authorized by the federal Drug Enforcement Administration to prescribe Schedule II, III, IV, or V controlled substances for the treatment of opioid use disorder. Opioid treatment programs shall document an attempt to obtain patient consent and shall not transmit information without patient consent and reports so made may not be utilized for law enforcement purposes, each as proscribed by 42 C.F.R. Part 2, as amended by 42 U.S.C. § 290dd-2. Treatment of a patient may not be conditioned upon their consent to reporting.

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

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

(b) The Department, by rule, may include in the Prescription Monitoring Program certain other select drugs

that are not included in Schedule II, III, IV, or V. The Prescription Monitoring Program does not apply to controlled substance prescriptions as exempted under Section 313.

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

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

(e) (Blank).

(f) Within one year of January 1, 2018 (the effective date of Public Act 100-564), the Department shall adopt rules requiring all Electronic Health Records Systems to interface with the Prescription Monitoring Program application program on or before January 1, 2021 to ensure that all providers have access to specific patient records during the treatment of their patients. These rules shall also address the electronic integration of pharmacy records with the Prescription Monitoring Program to allow for faster transmission of the information required under this Section. The Department shall establish actions to be taken if a prescriber's Electronic Health Records System does not effectively interface with the

Prescription Monitoring Program within the required timeline.

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

(Source: P.A. 100-564, eff. 1-1-18; 100-861, eff. 8-14-18; 100-1005, eff. 8-21-18; 100-1093, eff. 8-26-18; 101-81, eff. 7-12-19; 101-414, eff. 8-16-19.)