SB2364

LRB10326987RLC53354b

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2364

Introduced 2/10/2023, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

720 ILCS 570/316
720 ILCS 570/317

Amends the Illinois Controlled Substances Act. Eliminates the provision that the dispenser of a Schedule II, III, IV, or V controlled substance must transmit to the central repository the date the controlled substance is dispensed. Provides that a dispenser must transmit the information electronically as defined in administrative rules. Provides that it is the responsibility of the healthcare facility and its selected Electronic Health Records System or Pharmacy Management System to ensure integration with the Prescription Monitoring Program. Provides that within one year after the effective date of the amendatory Act, the Department of Human Services shall adopt rules requiring Electronic Health Records Systems and Pharmacy Management Systems to interface with the Prescription Monitoring Program application program on or before January 1, 2024 to ensure that providers have access to specific patient records during the treatment of their patients. Provides that these rules may define integration requirements and exceptions. Provides that these rules may also address the electronic integration of pharmacy records with the Prescription Monitoring Program to allow for faster transmission of the information required by these provisions. Provides that the Department may establish actions to be taken if a prescriber's Electronic Health Records System and Pharmacy Management Systems does not effectively interface with the Prescription Monitoring Program. Effective immediately.

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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. The Illinois Controlled Substances Act is amended by changing Sections 316 and 317 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) (Blank). ~~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 business day 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 electronically as defined in administrative rules ~~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 also apply to opioid treatment programs that are 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 disorders. Opioid treatment programs shall attempt to obtain written patient consent, shall document attempts to obtain the written consent, and shall not transmit information without patient consent. Documentation obtained under this paragraph shall not be utilized for law enforcement purposes, as proscribed under 42 CFR 2, as amended by 42 U.S.C. 290dd-2. Treatment of a patient shall not be conditioned upon his or her written consent.

(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) <u>It is the responsibility of the healthcare facility and its selected Electronic Health Records System or Pharmacy</u>

Management System to ensure integration with the Prescription Monitoring Program. Within one year after the effective date of this amendatory Act of the 103rd General Assembly, the Department shall adopt rules requiring Electronic Health Records Systems and Pharmacy Management Systems to interface with the Prescription Monitoring Program application program on or before January 1, 2024 to ensure that providers have access to specific patient records during the treatment of their patients. These rules may define integration requirements and exceptions. These rules may 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 may establish actions to be taken if a prescriber's Electronic Health Records System and Pharmacy Management Systems does not effectively interface with the Prescription Monitoring Program. ~~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 Prescription Monitoring Program 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 CFR 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. 101-81, eff. 7-12-19; 101-414, eff. 8-16-19; 102-527, eff. 8-20-21; 102-813, eff. 5-13-22.)

(720 ILCS 570/317)

Sec. 317. Central repository for collection of information.

(a) The Department must designate a central repository for the collection of information transmitted under Section 316 and former Section 321.

(b) The central repository must do the following:

(1) Create a database for information required to be transmitted under Section 316 in the form required under rules adopted by the Department, including search capability for the following:

(A) A recipient's name and address.

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

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

(D) (Blank). ~~The dates a controlled substance is dispensed.~~

(E) The quantities and days supply of a controlled substance dispensed.

(F) A dispenser's Administration registration number.

(G) A prescriber's 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 controlled substance prescriptions other than those filled at a retail pharmacy.

(2) Provide the Department with a database maintained by the central repository. The Department of Financial and Professional Regulation must provide the Department with electronic access to the license information of a prescriber or dispenser.

(3) Secure the information collected by the central repository and the database maintained by the central repository against access by unauthorized persons.

All prescribers shall designate one or more medical specialties or fields of medical care and treatment for which the prescriber prescribes controlled substances when registering with the Prescription Monitoring Program.

No fee shall be charged for access by a prescriber or dispenser.

(Source: P.A. 99-480, eff. 9-9-15.)

Section 99. Effective date. This Act takes effect upon becoming law.