

HB2708



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2708

by Rep. Tom Demmer

SYNOPSIS AS INTRODUCED:

720 ILCS 570/318

Amends the Illinois Controlled Substances Act. Provides that the Department of Human Services may release information received by the central repository to select representatives of the Department of Children and Family Services through the indirect online request process. Provides that access shall be established by the Prescription Monitoring Program Advisory Committee by rule.

LRB100 09951 RLC 20122 b

A BILL FOR

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. The Illinois Controlled Substances Act is
5 amended by changing Section 318 as follows:

6 (720 ILCS 570/318)

7 Sec. 318. Confidentiality of information.

8 (a) Information received by the central repository under
9 Section 316 and former Section 321 is confidential.

10 (b) The Department must carry out a program to protect the
11 confidentiality of the information described in subsection
12 (a). The Department may disclose the information to another
13 person only under subsection (c), (d), or (f) and may charge a
14 fee not to exceed the actual cost of furnishing the
15 information.

16 (c) The Department may disclose confidential information
17 described in subsection (a) to any person who is engaged in
18 receiving, processing, or storing the information.

19 (d) The Department may release confidential information
20 described in subsection (a) to the following persons:

21 (1) A governing body that licenses practitioners and is
22 engaged in an investigation, an adjudication, or a
23 prosecution of a violation under any State or federal law

1 that involves a controlled substance.

2 (2) An investigator for the Consumer Protection
3 Division of the office of the Attorney General, a
4 prosecuting attorney, the Attorney General, a deputy
5 Attorney General, or an investigator from the office of the
6 Attorney General, who is engaged in any of the following
7 activities involving controlled substances:

8 (A) an investigation;

9 (B) an adjudication; or

10 (C) a prosecution of a violation under any State or
11 federal law that involves a controlled substance.

12 (3) A law enforcement officer who is:

13 (A) authorized by the Illinois State Police or the
14 office of a county sheriff or State's Attorney or
15 municipal police department of Illinois to receive
16 information of the type requested for the purpose of
17 investigations involving controlled substances; or

18 (B) approved by the Department to receive
19 information of the type requested for the purpose of
20 investigations involving controlled substances; and

21 (C) engaged in the investigation or prosecution of
22 a violation under any State or federal law that
23 involves a controlled substance.

24 (4) Select representatives of the Department of
25 Children and Family Services through the indirect online
26 request process. Access shall be established by the

1 Prescription Monitoring Program Advisory Committee by
2 rule.

3 (e) Before the Department releases confidential
4 information under subsection (d), the applicant must
5 demonstrate in writing to the Department that:

6 (1) the applicant has reason to believe that a
7 violation under any State or federal law that involves a
8 controlled substance has occurred; and

9 (2) the requested information is reasonably related to
10 the investigation, adjudication, or prosecution of the
11 violation described in subdivision (1).

12 (f) The Department may receive and release prescription
13 record information under Section 316 and former Section 321 to:

14 (1) a governing body that licenses practitioners;

15 (2) an investigator for the Consumer Protection
16 Division of the office of the Attorney General, a
17 prosecuting attorney, the Attorney General, a deputy
18 Attorney General, or an investigator from the office of the
19 Attorney General;

20 (3) any Illinois law enforcement officer who is:

21 (A) authorized to receive the type of information
22 released; and

23 (B) approved by the Department to receive the type
24 of information released; or

25 (4) prescription monitoring entities in other states
26 per the provisions outlined in subsection (g) and (h)

1 below;
2 confidential prescription record information collected under
3 Sections 316 and 321 (now repealed) that identifies vendors or
4 practitioners, or both, who are prescribing or dispensing large
5 quantities of Schedule II, III, IV, or V controlled substances
6 outside the scope of their practice, pharmacy, or business, as
7 determined by the Advisory Committee created by Section 320.

8 (g) The information described in subsection (f) may not be
9 released until it has been reviewed by an employee of the
10 Department who is licensed as a prescriber or a dispenser and
11 until that employee has certified that further investigation is
12 warranted. However, failure to comply with this subsection (g)
13 does not invalidate the use of any evidence that is otherwise
14 admissible in a proceeding described in subsection (h).

15 (h) An investigator or a law enforcement officer receiving
16 confidential information under subsection (c), (d), or (f) may
17 disclose the information to a law enforcement officer or an
18 attorney for the office of the Attorney General for use as
19 evidence in the following:

20 (1) A proceeding under any State or federal law that
21 involves a controlled substance.

22 (2) A criminal proceeding or a proceeding in juvenile
23 court that involves a controlled substance.

24 (i) The Department may compile statistical reports from the
25 information described in subsection (a). The reports must not
26 include information that identifies, by name, license or

1 address, any practitioner, dispenser, ultimate user, or other
2 person administering a controlled substance.

3 (j) Based upon federal, initial and maintenance funding, a
4 prescriber and dispenser inquiry system shall be developed to
5 assist the health care community in its goal of effective
6 clinical practice and to prevent patients from diverting or
7 abusing medications.

8 (1) An inquirer shall have read-only access to a
9 stand-alone database which shall contain records for the
10 previous 12 months.

11 (2) Dispensers may, upon positive and secure
12 identification, make an inquiry on a patient or customer
13 solely for a medical purpose as delineated within the
14 federal HIPAA law.

15 (3) The Department shall provide a one-to-one secure
16 link and encrypted software necessary to establish the link
17 between an inquirer and the Department. Technical
18 assistance shall also be provided.

19 (4) Written inquiries are acceptable but must include
20 the fee and the requestor's Drug Enforcement
21 Administration license number and submitted upon the
22 requestor's business stationery.

23 (5) As directed by the Prescription Monitoring Program
24 Advisory Committee and the Clinical Director for the
25 Prescription Monitoring Program, aggregate data that does
26 not indicate any prescriber, practitioner, dispenser, or

1 patient may be used for clinical studies.

2 (6) Tracking analysis shall be established and used per
3 administrative rule.

4 (7) Nothing in this Act or Illinois law shall be
5 construed to require a prescriber or dispenser to make use
6 of this inquiry system.

7 (8) If there is an adverse outcome because of a
8 prescriber or dispenser making an inquiry, which is
9 initiated in good faith, the prescriber or dispenser shall
10 be held harmless from any civil liability.

11 (k) The Department shall establish, by rule, the process by
12 which to evaluate possible erroneous association of
13 prescriptions to any licensed prescriber or end user of the
14 Illinois Prescription Information Library (PIL).

15 (l) The Prescription Monitoring Program Advisory Committee
16 is authorized to evaluate the need for and method of
17 establishing a patient specific identifier.

18 (m) Patients who identify prescriptions attributed to them
19 that were not obtained by them shall be given access to their
20 personal prescription history pursuant to the validation
21 process as set forth by administrative rule.

22 (n) The Prescription Monitoring Program is authorized to
23 develop operational push reports to entities with compatible
24 electronic medical records. The process shall be covered within
25 administrative rule established by the Department.

26 (o) Hospital emergency departments and freestanding

1 healthcare facilities providing healthcare to walk-in patients
2 may obtain, for the purpose of improving patient care, a unique
3 identifier for each shift to utilize the PIL system.

4 (p) The Prescription Monitoring Program shall
5 automatically create a log-in to the inquiry system when a
6 prescriber or dispenser obtains or renews his or her controlled
7 substance license. The Department of Financial and
8 Professional Regulation must provide the Prescription
9 Monitoring Program with electronic access to the license
10 information of a prescriber or dispenser to facilitate the
11 creation of this profile. The Prescription Monitoring Program
12 shall send the prescriber or dispenser information regarding
13 the inquiry system, including instructions on how to log into
14 the system, instructions on how to use the system to promote
15 effective clinical practice, and opportunities for continuing
16 education for the prescribing of controlled substances. The
17 Prescription Monitoring Program shall also send to all enrolled
18 prescribers, dispensers, and designees information regarding
19 the unsolicited reports produced pursuant to Section 314.5 of
20 this Act.

21 (q) A prescriber or dispenser may authorize a designee to
22 consult the inquiry system established by the Department under
23 this subsection on his or her behalf, provided that all the
24 following conditions are met:

- 25 (1) the designee so authorized is employed by the same
26 hospital or health care system; is employed by the same

1 professional practice; or is under contract with such
2 practice, hospital, or health care system;

3 (2) the prescriber or dispenser takes reasonable steps
4 to ensure that such designee is sufficiently competent in
5 the use of the inquiry system;

6 (3) the prescriber or dispenser remains responsible
7 for ensuring that access to the inquiry system by the
8 designee is limited to authorized purposes and occurs in a
9 manner that protects the confidentiality of the
10 information obtained from the inquiry system, and remains
11 responsible for any breach of confidentiality; and

12 (4) the ultimate decision as to whether or not to
13 prescribe or dispense a controlled substance remains with
14 the prescriber or dispenser.

15 The Prescription Monitoring Program shall send to
16 registered designees information regarding the inquiry system,
17 including instructions on how to log onto the system.

18 (r) The Prescription Monitoring Program shall maintain an
19 Internet website in conjunction with its prescriber and
20 dispenser inquiry system. This website shall include, at a
21 minimum, the following information:

22 (1) current clinical guidelines developed by health
23 care professional organizations on the prescribing of
24 opioids or other controlled substances as determined by the
25 Advisory Committee;

26 (2) accredited continuing education programs related

1 to prescribing of controlled substances;

2 (3) programs or information developed by health care
3 professionals that may be used to assess patients or help
4 ensure compliance with prescriptions;

5 (4) updates from the Food and Drug Administration, the
6 Centers for Disease Control and Prevention, and other
7 public and private organizations which are relevant to
8 prescribing;

9 (5) relevant medical studies related to prescribing;

10 (6) other information regarding the prescription of
11 controlled substances; and

12 (7) information regarding prescription drug disposal
13 events, including take-back programs or other disposal
14 options or events.

15 The content of the Internet website shall be periodically
16 reviewed by the Prescription Monitoring Program Advisory
17 Committee as set forth in Section 320 and updated in accordance
18 with the recommendation of the advisory committee.

19 (s) The Prescription Monitoring Program shall regularly
20 send electronic updates to the registered users of the Program.
21 The Prescription Monitoring Program Advisory Committee shall
22 review any communications sent to registered users and also
23 make recommendations for communications as set forth in Section
24 320. These updates shall include the following information:

25 (1) opportunities for accredited continuing education
26 programs related to prescribing of controlled substances;

1 (2) current clinical guidelines developed by health
2 care professional organizations on the prescribing of
3 opioids or other drugs as determined by the Advisory
4 Committee;

5 (3) programs or information developed by health care
6 professionals that may be used to assess patients or help
7 ensure compliance with prescriptions;

8 (4) updates from the Food and Drug Administration, the
9 Centers for Disease Control and Prevention, and other
10 public and private organizations which are relevant to
11 prescribing;

12 (5) relevant medical studies related to prescribing;

13 (6) other information regarding prescribing of
14 controlled substances;

15 (7) information regarding prescription drug disposal
16 events, including take-back programs or other disposal
17 options or events; and

18 (8) reminders that the Prescription Monitoring Program
19 is a useful clinical tool.

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