



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5442

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

See Index

Amends the Open Meetings Act. Provides that, for the purposes of the Act, "public body" does not include a Metropolitan Enforcement Group (MEG) Policy Board or drug task force composed or created by any combination of local law enforcement agencies. Amends the Criminal Code of 2012. Provides that a person commits drug-induced homicide when he or she violates delivery of a controlled substance or methamphetamine or a similar law of another jurisdiction, by unlawfully delivering a controlled substance to another, and the injection, inhalation, absorption, or ingestion of any amount of that controlled substance is a contributing cause of the person's death. Amends the Illinois Controlled Substances Act. Provides that controlled substances which are lawfully administered in hospitals or institutions licensed under the Hospital Licensing Act shall be reported under (rather than, exempt from) specified reporting provisions under the Act, and the prescription for the controlled substances ordered and the quantity actually administered (rather than, the reporting requirement only applies for more than a 72-hour supply of a discharge medication to be consumed outside of the hospital or institution). Provides that the information required to be transmitted under the prescription monitoring program 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 of Human Services by administrative rule (rather than, at the end of the next business day on which the controlled substance is dispensed).

LRB100 17865 SLF 33049 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning controlled substances.

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

4 Section 5. The Open Meetings Act is amended by changing
5 Section 1.02 as follows:

6 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

7 Sec. 1.02. For the purposes of this Act:

8 "Meeting" means any gathering, whether in person or by
9 video or audio conference, telephone call, electronic means
10 (such as, without limitation, electronic mail, electronic
11 chat, and instant messaging), or other means of contemporaneous
12 interactive communication, of a majority of a quorum of the
13 members of a public body held for the purpose of discussing
14 public business or, for a 5-member public body, a quorum of the
15 members of a public body held for the purpose of discussing
16 public business.

17 Accordingly, for a 5-member public body, 3 members of the
18 body constitute a quorum and the affirmative vote of 3 members
19 is necessary to adopt any motion, resolution, or ordinance,
20 unless a greater number is otherwise required.

21 "Public body" includes all legislative, executive,
22 administrative or advisory bodies of the State, counties,
23 townships, cities, villages, incorporated towns, school

1 districts and all other municipal corporations, boards,
2 bureaus, committees or commissions of this State, and any
3 subsidiary bodies of any of the foregoing including but not
4 limited to committees and subcommittees which are supported in
5 whole or in part by tax revenue, or which expend tax revenue,
6 except the General Assembly and committees or commissions
7 thereof. "Public body" includes tourism boards and convention
8 or civic center boards located in counties that are contiguous
9 to the Mississippi River with populations of more than 250,000
10 but less than 300,000. "Public body" includes the Health
11 Facilities and Services Review Board. "Public body" does not
12 include a child death review team or the Illinois Child Death
13 Review Teams Executive Council established under the Child
14 Death Review Team Act, an ethics commission acting under the
15 State Officials and Employees Ethics Act, a regional youth
16 advisory board or the Statewide Youth Advisory Board
17 established under the Department of Children and Family
18 Services Statewide Youth Advisory Board Act, ~~or~~ the Illinois
19 Independent Tax Tribunal, or a Metropolitan Enforcement Group
20 (MEG) Policy Board established under the Intergovernmental
21 Drug Laws Enforcement Act or drug task force composed of or
22 created by any combination of local law enforcement agencies.

23 (Source: P.A. 97-1129, eff. 8-28-12; 98-806, eff. 1-1-15.)

24 Section 10. The Criminal Code of 2012 is amended by
25 changing Section 9-3.3 as follows:

1 (720 ILCS 5/9-3.3) (from Ch. 38, par. 9-3.3)

2 Sec. 9-3.3. Drug-induced homicide.

3 (a) A person commits drug-induced homicide when he or she
4 violates Section 401 of the Illinois Controlled Substances Act
5 or Section 55 of the Methamphetamine Control and Community
6 Protection Act by unlawfully delivering a controlled substance
7 to another, and any person's death is caused by the injection,
8 inhalation, absorption, or ingestion of any amount of that
9 controlled substance or the injection, inhalation, absorption,
10 or ingestion of any amount of that controlled substance is a
11 contributing cause of the person's death.

12 (a-5) A person commits drug-induced homicide when he or she
13 violates the law of another jurisdiction, which if the
14 violation had been committed in this State could be charged
15 under Section 401 of the Illinois Controlled Substances Act or
16 Section 55 of the Methamphetamine Control and Community
17 Protection Act, by unlawfully delivering a controlled
18 substance to another, and any person's death is caused in this
19 State by the injection, inhalation, absorption, or ingestion of
20 any amount of that controlled substance or the injection,
21 inhalation, absorption, or ingestion of any amount of that
22 controlled substance is a contributing cause of the person's
23 death.

24 (b) Sentence. Drug-induced homicide is a Class X felony,
25 except:

1 (1) A person who commits drug-induced homicide by
2 violating subsection (a) or subsection (c) of Section 401
3 of the Illinois Controlled Substances Act or Section 55 of
4 the Methamphetamine Control and Community Protection Act
5 commits a Class X felony for which the defendant shall in
6 addition to a sentence authorized by law, be sentenced to a
7 term of imprisonment of not less than 15 years and not more
8 than 30 years or an extended term of not less than 30 years
9 and not more than 60 years.

10 (2) A person who commits drug-induced homicide by
11 violating the law of another jurisdiction, which if the
12 violation had been committed in this State could be charged
13 under subsection (a) or subsection (c) of Section 401 of
14 the Illinois Controlled Substances Act or Section 55 of the
15 Methamphetamine Control and Community Protection Act,
16 commits a Class X felony for which the defendant shall, in
17 addition to a sentence authorized by law, be sentenced to a
18 term of imprisonment of not less than 15 years and not more
19 than 30 years or an extended term of not less than 30 years
20 and not more than 60 years.

21 (Source: P.A. 100-404, eff. 1-1-18.)

22 Section 15. The Illinois Controlled Substances Act is
23 amended by changing Sections 313 and 316 as follows:

24 (720 ILCS 570/313) (from Ch. 56 1/2, par. 1313)

1 Sec. 313. Lawful dispensing and administering of
2 controlled substances; requirements.

3 (a) Controlled substances which are lawfully administered
4 in hospitals or institutions licensed under the Hospital
5 Licensing Act shall be reported under ~~exempt from~~ the
6 requirements of Sections 312 and 316, and ~~except that~~ the
7 prescription for the controlled substance shall be in writing
8 on the patient's record, signed by the prescriber, and dated,
9 and shall state the name and quantity of controlled substances
10 ordered and the quantity actually administered. The records of
11 such prescriptions shall be maintained for two years and shall
12 be available for inspection by officers and employees of the
13 Illinois State Police and the Department of Financial and
14 Professional Regulation.

15 ~~The exemption under this subsection (a) does not apply to a~~
16 ~~prescription (including an outpatient prescription from an~~
17 ~~emergency department or outpatient clinic) for more than a~~
18 ~~72 hour supply of a discharge medication to be consumed outside~~
19 ~~of the hospital or institution.~~

20 (b) Controlled substances that can lawfully be
21 administered or dispensed directly to a patient in a long-term
22 care facility licensed by the Department of Public Health as a
23 skilled nursing facility, intermediate care facility, or
24 long-term care facility for residents under 22 years of age,
25 are exempt from the requirements of Section 312 except that a
26 prescription for a Schedule II controlled substance must be

1 either a prescription signed by the prescriber or a
2 prescription transmitted by the prescriber or prescriber's
3 agent to the dispensing pharmacy by facsimile. The facsimile
4 serves as the original prescription and must be maintained for
5 2 years from the date of issue in the same manner as a written
6 prescription signed by the prescriber.

7 (c) A prescription that is generated for a Schedule II
8 controlled substance to be compounded for direct
9 administration to a patient in a private residence, long-term
10 care facility, or hospice program may be transmitted by
11 facsimile by the prescriber or the prescriber's agent to the
12 pharmacy providing the home infusion services. The facsimile
13 serves as the original prescription for purposes of this
14 paragraph (c) and it shall be maintained in the same manner as
15 the original prescription.

16 (c-1) A prescription generated for a Schedule II controlled
17 substance for a patient residing in a hospice certified by
18 Medicare under Title XVIII of the Social Security Act or
19 licensed by the State may be transmitted by the practitioner or
20 the practitioner's agent to the dispensing pharmacy by
21 facsimile or electronically as provided in Section 311.5. The
22 practitioner or practitioner's agent must note on the
23 prescription that the patient is a hospice patient. The
24 facsimile or electronic record serves as the original
25 prescription for purposes of this paragraph (c-1) and it shall
26 be maintained in the same manner as the original prescription.

1 (d) Controlled substances which are lawfully administered
2 and/or dispensed in drug abuse treatment programs licensed by
3 the Department shall be exempt from the requirements of
4 Sections 312 and 316, except that the prescription for such
5 controlled substances shall be issued and authenticated on
6 official prescription logs prepared and maintained in
7 accordance with 77 Ill. Adm. Code 2060: Alcoholism and
8 Substance Abuse Treatment and Intervention Licenses, and in
9 compliance with other applicable State and federal laws. The
10 Department-licensed drug treatment program shall report
11 applicable prescriptions via electronic record keeping
12 software approved by the Department. This software must be
13 compatible with the specifications of the Department. Drug
14 abuse treatment programs shall report to the Department
15 methadone prescriptions or medications dispensed through the
16 use of Department-approved File Transfer Protocols (FTPs).
17 Methadone prescription records must be maintained in
18 accordance with the applicable requirements as set forth by the
19 Department in accordance with 77 Ill. Adm. Code 2060:
20 Alcoholism and Substance Abuse Treatment and Intervention
21 Licenses, and in compliance with other applicable State and
22 federal laws.

23 (e) Nothing in this Act shall be construed to limit the
24 authority of a hospital pursuant to Section 65-45 of the Nurse
25 Practice Act to grant hospital clinical privileges to an
26 individual advanced practice registered nurse to select, order

1 or administer medications, including controlled substances to
2 provide services within a hospital. Nothing in this Act shall
3 be construed to limit the authority of an ambulatory surgical
4 treatment center pursuant to Section 65-45 of the Nurse
5 Practice Act to grant ambulatory surgical treatment center
6 clinical privileges to an individual advanced practice
7 registered nurse to select, order or administer medications,
8 including controlled substances to provide services within an
9 ambulatory surgical treatment center.

10 (Source: P.A. 100-513, eff. 1-1-18.)

11 (720 ILCS 570/316)

12 Sec. 316. Prescription Monitoring Program.

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

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

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

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

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

24 (D) The date the controlled substance is
25 dispensed.

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

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

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

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

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

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

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

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

26 (3) A dispenser must transmit the information required

1 under this Section by:

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

4 (B) a computer diskette;

5 (C) a magnetic tape; or

6 (D) a pharmacy universal claim form or Pharmacy
7 Inventory Control form;

8 (4) The Department may impose a civil fine of up to
9 \$100 per day for willful failure to report controlled
10 substance dispensing to the Prescription Monitoring
11 Program. The fine shall be calculated on no more than the
12 number of days from the time the report was required to be
13 made until the time the problem was resolved, and shall be
14 payable to the Prescription Monitoring Program.

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

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

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

4 (e) (Blank).

5 (f) Within one year of the effective date of this
6 amendatory Act of the 100th General Assembly, the Department
7 shall adopt rules requiring all Electronic Health Records
8 Systems to interface with the Prescription Monitoring Program
9 application program on or before January 1, 2021 to ensure that
10 all providers have access to specific patient records during
11 the treatment of their patients. These rules shall also address
12 the electronic integration of pharmacy records with the
13 Prescription Monitoring Program to allow for faster
14 transmission of the information required under this Section.
15 The Department shall establish actions to be taken if a
16 prescriber's Electronic Health Records System does not
17 effectively interface with the Prescription Monitoring Program
18 within the required timeline.

19 (g) The Department, in consultation with the Advisory
20 Committee, shall adopt rules allowing licensed prescribers or
21 pharmacists who have registered to access the Prescription
22 Monitoring Program to authorize a designee to consult the
23 Prescription Monitoring Program on their behalf. The rules
24 shall include reasonable parameters concerning a
25 practitioner's authority to authorize a designee, and the
26 eligibility of a person to be selected as a designee.

1 (Source: P.A. 99-480, eff. 9-9-15; 100-564, eff. 1-1-18.)

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Statutes amended in order of appearance

3

5 ILCS 120/1.02

from Ch. 102, par. 41.02

4

720 ILCS 5/9-3.3

from Ch. 38, par. 9-3.3

5

720 ILCS 570/313

from Ch. 56 1/2, par. 1313

6

720 ILCS 570/316