SB1665

LRB101 05906 SLF 50927 b

101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1665

Introduced 2/15/2019, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

720 ILCS 570/314.5
720 ILCS 570/316

Amends the Illinois Controlled Substances Act concerning the Prescription Monitoring Program. Excludes licensed veterinarians from the reporting requirements under the Program. Provides that a licensed veterinarian shall report information required under the Prescription Monitoring Program if the person who is presenting an animal for treatment is suspected of fraudulently obtaining any controlled substance or prescription for a controlled substance to the Department of Human Services. Provides that a licensed veterinarian may not be subject to any licensure or disciplinary action by the Department of Financial and Professional Regulation for the failure to report such a person. 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 314.5 and 316 as follows:

(720 ILCS 570/314.5)

Sec. 314.5. Medication shopping; pharmacy shopping.

(a) It shall be unlawful for any person knowingly or intentionally to fraudulently obtain or fraudulently seek to obtain any controlled substance or prescription for a controlled substance from a prescriber or dispenser while being supplied with any controlled substance or prescription for a controlled substance by another prescriber or dispenser, without disclosing the fact of the existing controlled substance or prescription for a controlled substance to the prescriber or dispenser from whom the subsequent controlled substance or prescription for a controlled substance is sought.

(b) It shall be unlawful for a person knowingly or intentionally to fraudulently obtain or fraudulently seek to obtain any controlled substance from a pharmacy while being supplied with any controlled substance by another pharmacy, without disclosing the fact of the existing controlled substance to the pharmacy from which the subsequent controlled

substance is sought.

(c) A person may be in violation of Section 3.23 of the Illinois Food, Drug and Cosmetic Act or Section 406 of this Act when medication shopping or pharmacy shopping, or both.

(c-5) Effective January 1, 2018, each prescriber, except a licensed veterinarian, possessing an Illinois controlled substances license shall register with the Prescription Monitoring Program. Each prescriber or his or her designee shall also document an attempt to access patient information in the Prescription Monitoring Program to assess patient access to controlled substances when providing an initial prescription for Schedule II narcotics such as opioids, except for prescriptions for oncology treatment or palliative care, or a 7-day or less supply provided by a hospital emergency department when treating an acute, traumatic medical condition. This attempt to access shall be documented in the patient's medical record. The hospital shall facilitate the designation of a prescriber's designee for the purpose of accessing the Prescription Monitoring Program for services provided at the hospital.

(d) When a person has been identified as having 3 or more prescribers or 3 or more pharmacies, or both, that do not utilize a common electronic file as specified in Section 20 of the Pharmacy Practice Act for controlled substances within the course of a continuous 30-day period, the Prescription Monitoring Program may issue an unsolicited report to the

prescribers, dispensers, and their designees informing them of the potential medication shopping. If an unsolicited report is issued to a prescriber or prescribers, then the report must also be sent to the applicable dispensing pharmacy.

(e) Nothing in this Section shall be construed to create a requirement that any prescriber, dispenser, or pharmacist request any patient medication disclosure, report any patient activity, or prescribe or refuse to prescribe or dispense any medications.

(f) This Section shall not be construed to apply to inpatients or residents at hospitals or other institutions or to institutional pharmacies.

(g) Any patient feedback, including grades, ratings, or written or verbal statements, in opposition to a clinical decision that the prescription of a controlled substance is not medically necessary shall not be the basis of any adverse action, evaluation, or any other type of negative credentialing, contracting, licensure, or employment action taken against a prescriber or dispenser.

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

(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.~~;~~

(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) A licensed veterinarian shall report information required under the Prescription Monitoring Program if the

person who is presenting an animal for treatment is suspected of fraudulently obtaining any controlled substance or prescription for a controlled substance to the Department of Human Services. A licensed veterinarian may not be subject to any licensure or disciplinary action by the Department of Financial and Professional Regulation for the failure to report such a person.

(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, 2008 (the effective date of 100-564) ~~this amendatory Act of the 100th General Assembly~~, 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~~, and~~ who has received training in the federal Health Insurance Portability and Accountability Act 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 ~~Health~~ 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. 99-480, eff. 9-9-15; 100-564, eff. 1-1-18; 100-861, eff. 8-14-18; 100-1005, eff. 8-21-18; 100-1093, eff. 8-26-18; revised 10-9-18.)

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