Sen. Michael E. Hastings

Filed: 3/26/2019

AMENDMENT TO SENATE BILL 1665

AMENDMENT NO. _____. Amend Senate Bill 1665 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Controlled Substances Act is amended by changing Sections 314.5, 316, and 320 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 possessing an Illinois controlled substances license shall register with the Prescription Monitoring Program. Notwithstanding any provision of this Act to the contrary, beginning on and after the effective date of this amendatory Act of the 101st General Assembly, a licensed veterinarian shall be exempt from registration and prohibited from accessing patient information in the Prescription Monitoring Program. Licensed veterinarians that are existing registrants shall be removed from 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) 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) ~~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 2-20-19.)

(720 ILCS 570/320)

Sec. 320. Advisory committee.

(a) There is created a Prescription Monitoring Program Advisory Committee to assist the Department of Human Services in implementing the Prescription Monitoring Program created by

this Article and to advise the Department on the professional performance of prescribers and dispensers and other matters germane to the advisory committee's field of competence.

(b) The Prescription Monitoring Program Advisory Committee shall consist of 15 ~~16~~ members appointed by the Clinical Director of the Prescription Monitoring Program composed of prescribers and dispensers licensed to practice medicine in his or her respective profession as follows: one family or primary care physician; one pain specialist physician; 4 other physicians, one of whom may be an ophthalmologist; 2 advanced practice registered nurses; one physician assistant; one optometrist; one dentist; ~~one veterinarian;~~ one clinical representative from a statewide organization representing hospitals; and 3 pharmacists. The Advisory Committee members serving on August 26, 2018 (the effective date of Public Act 100-1093) ~~this amendatory Act of the 100th General Assembly~~ shall continue to serve until January 1, 2019. Prescriber and dispenser nominations for membership on the Committee shall be submitted by their respective professional associations. If there are more nominees than membership positions for a prescriber or dispenser category, as provided in this subsection (b), the Clinical Director of the Prescription Monitoring Program shall appoint a member or members for each profession as provided in this subsection (b), from the nominations to serve on the advisory committee. At the first meeting of the Committee in 2019 members shall draw lots for

initial terms and 6 members shall serve 3 years, 5 members shall serve 2 years, and 5 members shall serve one year. Thereafter, members shall serve 3-year ~~3 year~~ terms. Members may serve more than one term but no more than 3 terms. The Clinical Director of the Prescription Monitoring Program may appoint a representative of an organization representing a profession required to be appointed. The Clinical Director of the Prescription Monitoring Program shall serve as the Secretary of the committee.

(c) The advisory committee may appoint a chairperson and other officers as it deems appropriate.

(d) The members of the advisory committee shall receive no compensation for their services as members of the advisory committee, unless appropriated by the General Assembly, but may be reimbursed for their actual expenses incurred in serving on the advisory committee.

(e) The advisory committee shall:

(1) provide a uniform approach to reviewing this Act in order to determine whether changes should be recommended to the General Assembly;

(2) review current drug schedules in order to manage changes to the administrative rules pertaining to the utilization of this Act;

(3) review the following: current clinical guidelines developed by health care professional organizations on the prescribing of opioids or other controlled substances;

accredited continuing education programs related to prescribing and dispensing; programs or information developed by health care professional organizations that may be used to assess patients or help ensure compliance with prescriptions; updates from the Food and Drug Administration, the Centers for Disease Control and Prevention, and other public and private organizations which are relevant to prescribing and dispensing; relevant medical studies; and other publications which involve the prescription of controlled substances;

(4) make recommendations for inclusion of these materials or other studies which may be effective resources for prescribers and dispensers on the Internet website of the inquiry system established under Section 318;

(5) semi-annually review the content of the Internet website of the inquiry system established pursuant to Section 318 to ensure this Internet website has the most current available information;

(6) semi-annually review opportunities for federal grants and other forms of funding to support projects which will increase the number of pilot programs which integrate the inquiry system with electronic health records; and

(7) semi-annually review communication to be sent to all registered users of the inquiry system established pursuant to Section 318, including recommendations for relevant accredited continuing education and information

regarding prescribing and dispensing.

(f) The Advisory Committee shall select from its members 10 ~~11~~ members of the Peer Review Committee composed of: ~~6, and one dentist,~~

(1) 3 physicians;

(2) 3 pharmacists;

(3) one dentist;

(4) one advanced practice registered nurse;

(4.5) (blank) ~~one veterinarian~~;

(5) one physician assistant; and

(6) one optometrist.

The purpose of the Peer Review Committee is to establish a formal peer review of professional performance of prescribers and dispensers. The deliberations, information, and communications of the Peer Review Committee are privileged and confidential and shall not be disclosed in any manner except in accordance with current law.

(1) The Peer Review Committee shall periodically review the data contained within the prescription monitoring program to identify those prescribers or dispensers who may be prescribing or dispensing outside the currently accepted standard and practice of their profession. The Peer Review Committee member, whose profession is the same as the prescriber or dispenser being reviewed, shall prepare a preliminary report and recommendation for any non-action or action. The

Prescription Monitoring Program Clinical Director and staff shall provide the necessary assistance and data as required.

(2) The Peer Review Committee may identify prescribers or dispensers who may be prescribing outside the currently accepted medical standards in the course of their professional practice and send the identified prescriber or dispenser a request for information regarding their prescribing or dispensing practices. This request for information shall be sent via certified mail, return receipt requested. A prescriber or dispenser shall have 30 days to respond to the request for information.

(3) The Peer Review Committee shall refer a prescriber or a dispenser to the Department of Financial and Professional Regulation in the following situations:

(i) if a prescriber or dispenser does not respond to three successive requests for information;

(ii) in the opinion of a majority of members of the Peer Review Committee, the prescriber or dispenser does not have a satisfactory explanation for the practices identified by the Peer Review Committee in its request for information; or

(iii) following communications with the Peer Review Committee, the prescriber or dispenser does not sufficiently rectify the practices identified in the request for information in the opinion of a majority of

the members of the Peer Review Committee.

(4) The Department of Financial and Professional Regulation may initiate an investigation and discipline in accordance with current laws and rules for any prescriber or dispenser referred by the Peer Review Committee ~~peer review subcommittee~~.

(5) The Peer Review Committee shall prepare an annual report starting on July 1, 2017. This report shall contain the following information: the number of times the Peer Review Committee was convened; the number of prescribers or dispensers who were reviewed by the Peer Review Committee; the number of requests for information sent out by the Peer Review Committee; and the number of prescribers or dispensers referred to the Department of Financial and Professional Regulation. The annual report shall be delivered electronically to the Department and to the General Assembly. The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct. The report prepared by the Peer Review Committee shall not identify any prescriber, dispenser, or patient.

(Source: P.A. 99-480, eff. 9-9-15; 100-513, eff. 1-1-18; 100-861, eff. 8-14-18; 100-1093, eff. 8-26-18; revised 10-3-18.)

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