



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1842

Introduced 2/26/2021, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

720 ILCS 570/314.5
720 ILCS 570/316

Amends the Illinois Controlled Substances Act. Provides that when a person has been identified as having 5 (rather than 3) or more prescribers or 5 (rather than 3) or more pharmacies, or both, that do not utilize a common electronic file for controlled substances within the course of a 6-month (rather than 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. Provides that specified requirements also apply to opioid treatment programs that are licensed or certified by the Department of Human Services's 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. Requires opioid treatment programs to attempt to obtain written patient consent, document attempts to obtain the written consent, and not transmit information without patient consent. Provides that the documentation obtained shall not be utilized for law enforcement purposes. Provides that treatment of a patient shall not be conditioned upon his or her written consent. Makes other changes. Effective immediately.

LRB102 14897 KMF 20250 b

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. Findings. The General Assembly finds that:

5 (1) Prior to August of 2020, the federal Substance
6 Abuse and Mental Health Services Administration (SAMHSA)
7 and the federal Confidentiality of Substance Use Disorder
8 Patient Records set forth at 42 CFR 2, prohibited the
9 sharing of substance use disorder treatment information by
10 opioid treatment programs with prescription monitoring
11 programs.

12 (2) In August 2020, SAMHSA amended 42 CFR 2 to permit
13 the sharing of substance use disorder treatment
14 information by opioid treatment programs with prescription
15 monitoring programs.

16 (3) In light of the federal modification to 42 CFR 2
17 and the protections available under federal and State law
18 and the express requirement of patient consent, the
19 reporting by opioid treatment programs to the prescription
20 monitoring program is permitted and will allow for better
21 coordination of care among treating providers.

22 Section 10. The Illinois Controlled Substances Act is
23 amended by changing Sections 314.5 and 316 as follows:

1 (720 ILCS 570/314.5)

2 Sec. 314.5. Medication shopping; pharmacy shopping.

3 (a) It shall be unlawful for any person knowingly or
4 intentionally to fraudulently obtain or fraudulently seek to
5 obtain any controlled substance or prescription for a
6 controlled substance from a prescriber or dispenser while
7 being supplied with any controlled substance or prescription
8 for a controlled substance by another prescriber or dispenser,
9 without disclosing the fact of the existing controlled
10 substance or prescription for a controlled substance to the
11 prescriber or dispenser from whom the subsequent controlled
12 substance or prescription for a controlled substance is
13 sought.

14 (b) It shall be unlawful for a person knowingly or
15 intentionally to fraudulently obtain or fraudulently seek to
16 obtain any controlled substance from a pharmacy while being
17 supplied with any controlled substance by another pharmacy,
18 without disclosing the fact of the existing controlled
19 substance to the pharmacy from which the subsequent controlled
20 substance is sought.

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

24 (c-5) Effective January 1, 2018, each prescriber
25 possessing an Illinois controlled substances license shall

1 register with the Prescription Monitoring Program.
2 Notwithstanding any provision of this Act to the contrary,
3 beginning on and after the effective date of this amendatory
4 Act of the 101st General Assembly, a licensed veterinarian
5 shall be exempt from registration and prohibited from
6 accessing patient information in the Prescription Monitoring
7 Program. Licensed veterinarians that are existing registrants
8 shall be removed from the Prescription Monitoring Program.
9 Each prescriber or his or her designee shall also document an
10 attempt to access patient information in the Prescription
11 Monitoring Program to assess patient access to controlled
12 substances when providing an initial prescription for Schedule
13 II narcotics such as opioids, except for prescriptions for
14 oncology treatment or palliative care, or a 7-day or less
15 supply provided by a hospital emergency department when
16 treating an acute, traumatic medical condition. This attempt
17 to access shall be documented in the patient's medical record.
18 The hospital shall facilitate the designation of a
19 prescriber's designee for the purpose of accessing the
20 Prescription Monitoring Program for services provided at the
21 hospital.

22 (d) When a person has been identified as having 5 ~~3~~ or more
23 prescribers or 5 ~~3~~ or more pharmacies, or both, that do not
24 utilize a common electronic file as specified in Section 20 of
25 the Pharmacy Practice Act for controlled substances within the
26 course of a 6-month ~~continuous 30-day~~ period, the Prescription

1 Monitoring Program may issue an unsolicited report to the
2 prescribers, dispensers, and their designees informing them of
3 the potential medication shopping. If an unsolicited report is
4 issued to a prescriber or prescribers, then the report must
5 also be sent to the applicable dispensing pharmacy.

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

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

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

21 (Source: P.A. 100-564, eff. 1-1-18; 101-414, eff. 8-16-19.)

22 (720 ILCS 570/316)

23 Sec. 316. Prescription Monitoring Program.

24 (a) The Department must provide for a Prescription
25 Monitoring Program for Schedule II, III, IV, and V controlled

1 substances that includes the following components and
2 requirements:

3 (1) The dispenser must transmit to the central
4 repository, in a form and manner specified by the
5 Department, the following information:

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

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

8 (C) The national drug code number of the
9 controlled substance dispensed.

10 (D) The date the controlled substance is
11 dispensed.

12 (E) The quantity of the controlled substance
13 dispensed and days supply.

14 (F) The dispenser's United States Drug Enforcement
15 Administration registration number.

16 (G) The prescriber's United States Drug
17 Enforcement Administration registration number.

18 (H) The dates the controlled substance
19 prescription is filled.

20 (I) The payment type used to purchase the
21 controlled substance (i.e. Medicaid, cash, third party
22 insurance).

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

26 (K) Any additional information that may be

1 required by the department by administrative rule,
2 including but not limited to information required for
3 compliance with the criteria for electronic reporting
4 of the American Society for Automation and Pharmacy or
5 its successor.

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

11 (3) A dispenser must transmit the information required
12 under this Section by:

13 (3.5) The requirements of paragraphs (1), (2), and (3)
14 of this subsection also apply to opioid treatment programs
15 that are licensed or certified by the Department of Human
16 Services's Division of Substance Use Prevention and
17 Recovery and are authorized by the federal Drug
18 Enforcement Administration to prescribe Schedule II, III,
19 IV, or V controlled substances for the treatment of opioid
20 use disorders. Opioid treatment programs shall attempt to
21 obtain written patient consent, shall document attempts to
22 obtain the written consent, and shall not transmit
23 information without patient consent. Documentation
24 obtained under this paragraph shall not be utilized for
25 law enforcement purposes, as proscribed under 42 CFR 2, as
26 amended by 42 U.S.C. 290dd-2. Treatment of a patient shall

1 not be conditioned upon his or her written consent.

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 (a-5) Notwithstanding subsection (a), a licensed
16 veterinarian is exempt from the reporting requirements of this
17 Section. If a person who is presenting an animal for treatment
18 is suspected of fraudulently obtaining any controlled
19 substance or prescription for a controlled substance, the
20 licensed veterinarian shall report that information to the
21 local law enforcement agency.

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

1 (c) The collection of data on select drugs and scheduled
2 substances by the Prescription Monitoring Program may be used
3 as a tool for addressing oversight requirements of long-term
4 care institutions as set forth by Public Act 96-1372.
5 Long-term care pharmacies shall transmit patient medication
6 profiles to the Prescription Monitoring Program monthly or
7 more frequently as established by administrative rule.

8 (d) The Department of Human Services shall appoint a
9 full-time Clinical Director of the Prescription Monitoring
10 Program.

11 (e) (Blank).

12 (f) Within one year of January 1, 2018 (the effective date
13 of Public Act 100-564), the Department shall adopt rules
14 requiring all Electronic Health Records Systems to interface
15 with the Prescription Monitoring Program application program
16 on or before January 1, 2021 to ensure that all providers have
17 access to specific patient records during the treatment of
18 their patients. These rules shall also address the electronic
19 integration of pharmacy records with the Prescription
20 Monitoring Program to allow for faster transmission of the
21 information required under this Section. The Department shall
22 establish actions to be taken if a prescriber's Electronic
23 Health Records System does not effectively interface with the
24 Prescription Monitoring Program within the required timeline.

25 (g) The Department, in consultation with the Prescription
26 Monitoring Program Advisory Committee, shall adopt rules

1 allowing licensed prescribers or pharmacists who have
2 registered to access the Prescription Monitoring Program to
3 authorize a licensed or non-licensed designee employed in that
4 licensed prescriber's office or a licensed designee in a
5 licensed pharmacist's pharmacy who has received training in
6 the federal Health Insurance Portability and Accountability
7 Act and 42 CFR 2 to consult the Prescription Monitoring
8 Program on their behalf. The rules shall include reasonable
9 parameters concerning a practitioner's authority to authorize
10 a designee, and the eligibility of a person to be selected as a
11 designee. In this subsection (g), "pharmacist" shall include a
12 clinical pharmacist employed by and designated by a Medicaid
13 Managed Care Organization providing services under Article V
14 of the Illinois Public Aid Code under a contract with the
15 Department of Healthcare and Family Services for the sole
16 purpose of clinical review of services provided to persons
17 covered by the entity under the contract to determine
18 compliance with subsections (a) and (b) of Section 314.5 of
19 this Act. A managed care entity pharmacist shall notify
20 prescribers of review activities.

21 (Source: P.A. 100-564, eff. 1-1-18; 100-861, eff. 8-14-18;
22 100-1005, eff. 8-21-18; 100-1093, eff. 8-26-18; 101-81, eff.
23 7-12-19; 101-414, eff. 8-16-19.)

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