# SB0285

LRB10325015RLC51349b

## 103RD GENERAL ASSEMBLY

## State of Illinois

## 2023 and 2024

### SB0285

Introduced 2/2/2023, by Sen. David Koehler

## SYNOPSIS AS INTRODUCED:

720 ILCS 570/316

Amends the Illinois Controlled Substances Act. Provides that the Department of Human Services shall not require, either expressly or effectively, electronic health records systems, pharmacies, or other providers to utilize a particular entity or system for integration of pharmacy records with the Prescription Monitoring Program. Provides that electronic health records systems and providers may integrate with the Prescription Monitoring Program through the integration entity or system of choice of the electronic health records system or provider, including cloud-based systems and systems that are not part of pharmacy management systems, if the integration entity or system has a HITRUST certification, SOC2 certification, or a security certification by a department of the federal government or another United States state government with which Illinois has a controlled substance data-sharing arrangement.

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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 Section 316 as follows:

(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 business day 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.

(3.5) The requirements of paragraphs (1), (2), and (3) of this subsection also apply to opioid treatment programs that are licensed or certified by the Department of Human Services' 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. Opioid treatment programs shall attempt to obtain written patient consent, shall document attempts to obtain the written consent, and shall not transmit information without patient consent. Documentation obtained under this paragraph shall not be utilized for law enforcement purposes, as proscribed under 42 CFR 2, as amended by 42 U.S.C. 290dd-2. Treatment of a patient shall not be conditioned upon his or her written consent.

(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), 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. The Department shall not require, either expressly or effectively, Electronic Health Records Systems, pharmacies, or other providers to utilize a particular entity or system for integration of pharmacy records with the Prescription Monitoring Program. Electronic Health Records Systems and providers may integrate with the Prescription Monitoring Program through the integration entity or system of the choosing of the Electronic Health Records System or provider, including cloud-based systems and systems that are not part of pharmacy management systems, if the integration entity or system has a HITRUST certification, SOC2 certification, or a security certification by a department of the federal government or another United States state government with which Illinois has a controlled substance data-sharing arrangement.

(g) The Department, in consultation with the Prescription

Monitoring Program 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 who has received training in the federal Health Insurance Portability and Accountability Act and 42 CFR 2 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 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. 101-81, eff. 7-12-19; 101-414, eff. 8-16-19; 102-527, eff. 8-20-21; 102-813, eff. 5-13-22.)