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 313, 316, 317, 318, 319, and 320 and by adding Section 321 as follows:

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

Sec. 313. (a) Controlled substances which are lawfully administered in hospitals or institutions licensed under the "Hospital Licensing Act" shall be exempt from the requirements of Sections 312 and 316 except that the prescription for the controlled substance shall be in writing on the patient's record, signed by the prescriber, dated, and shall state the name, and quantity of controlled substances ordered and the quantity actually administered. The records of such prescriptions shall be maintained for two years and shall be available for inspection by officers and employees of the Department of State Police, and the Department of Professional Regulation.

(b) Controlled substances that can lawfully be administered or dispensed directly to a patient in a long-term care facility licensed by the Department of Public Health as a skilled nursing facility, intermediate care facility, or

long-term care facility for residents under 22 years of age, are exempt from the requirements of Section 312 except that a prescription for a Schedule II controlled substance must be either a written prescription signed by the prescriber or a written prescription transmitted by the prescriber or prescriber's agent to the dispensing pharmacy by facsimile. The facsimile serves as the original prescription and must be maintained for 2 years from the date of issue in the same manner as a written prescription signed by the prescriber.

(c) A prescription that is written for a Schedule II controlled substance to be compounded for direct administration by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion to a patient in a private residence, long-term care facility, or hospice program ~~setting~~ may be transmitted by facsimile by the prescriber or the prescriber's agent to the pharmacy providing the home infusion services. The facsimile serves as the original written prescription for purposes of this paragraph (c) and it shall be maintained in the same manner as the original written prescription.

(c-1) A prescription written for a Schedule II controlled substance for a patient residing in a hospice certified by Medicare under Title XVIII of the Social Security Act or licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or practitioner's agent must note

on the prescription that the patient is a hospice patient. The facsimile serves as the original written prescription for purposes of this paragraph (c-1) and it shall be maintained in the same manner as the original written prescription.

(d) Controlled substances which are lawfully administered and/or dispensed in drug abuse treatment programs licensed by the Department shall be exempt from the requirements of Sections 312 and 316, except that the prescription for such controlled substances shall be issued and authenticated on official prescription logs prepared and supplied by the Department. The official prescription logs issued by the Department shall be printed in triplicate on distinctively marked paper and furnished to programs at reasonable cost. The official prescription logs furnished to the programs shall contain, in preprinted form, such information as the Department may require. The official prescription logs shall be properly endorsed by a physician licensed to practice medicine in all its branches issuing the order, with his own signature and the date of ordering, and further endorsed by the practitioner actually administering or dispensing the dosage at the time of such administering or dispensing in accordance with requirements issued by the Department. The duplicate copy shall be retained by the program for a period of not less than three years nor more than seven years; the original and triplicate copy shall be returned to the Department at its principal office in accordance with requirements set forth by the

Department.

(Source: P.A. 91-576, eff. 4-1-00; 91-714, eff. 6-2-00.)

(720 ILCS 570/316)

Sec. 316. Schedule II controlled substance prescription monitoring program.

The Department must provide for a Schedule II controlled substance prescription monitoring program that includes the following components:

(1) The ~~Each time a Schedule II controlled substance is dispensed, the~~ dispenser must transmit to the central repository the following information:

(A) The recipient's name.

(B) The recipient's address.

(C) The national drug code number of the Schedule II controlled substance dispensed.

(D) The date the ~~Schedule II~~ controlled substance is dispensed.

(E) The quantity of the ~~Schedule II~~ controlled substance dispensed.

(F) The dispenser's United States Drug Enforcement Administration ~~Agency~~ registration number.

(G) The prescriber's United States Drug Enforcement Administration ~~Agency~~ registration number.

(2) The information required to be transmitted under this Section must be transmitted not more than 7 ~~15~~ days

after the date on which a ~~Schedule II~~ controlled substance is dispensed.

(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;

that meets specifications prescribed by the Department.

Controlled ~~Schedule II controlled~~ substance prescription monitoring does not apply to ~~Schedule II~~ controlled substance prescriptions as exempted under Section 313.

(Source: P.A. 91-576, eff. 4-1-00; 91-714, eff. 6-2-00.)

(720 ILCS 570/317)

Sec. 317. Central repository for collection of information.

(a) The Department must designate a central repository for the collection of information transmitted under Section 316 and 321.

(b) The central repository must do the following:

(1) Create a database for information required to be transmitted under Section 316 in the form required under rules adopted by the Department, including search

capability for the following:

(A) A recipient's name.

(B) A recipient's address.

(C) The national drug code number of a controlled substance dispensed.

(D) The dates a ~~Schedule II~~ controlled substance is dispensed.

(E) The quantities of a ~~Schedule II~~ controlled substance dispensed.

(F) A dispenser's United States Drug Enforcement Administration ~~Agency~~ registration number.

(G) A prescriber's United States Drug Enforcement Administration ~~Agency~~ registration number.

(2) Provide the Department with a ~~continuing 24 hour a day on-line access to the~~ database maintained by the central repository. The Department of Financial and Professional Regulation must provide the Department with electronic access to the license information of a prescriber or dispenser. The Department of Financial and Professional Regulation may charge a fee for this access not to exceed the actual cost of furnishing the information.

(3) Secure the information collected by the central repository and the database maintained by the central repository against access by unauthorized persons.

No fee shall be charged for access by a prescriber or

dispenser.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/318)

Sec. 318. Confidentiality of information.

(a) Information received by the central repository under Section 316 and 321 is confidential.

(b) The Department must carry out a program to protect the confidentiality of the information described in subsection (a). The Department may disclose the information to another person only under subsection (c), (d), or (f) and may charge a fee not to exceed the actual cost of furnishing the information.

(c) The Department may disclose confidential information described in subsection (a) to any person who is engaged in receiving, processing, or storing the information.

(d) The Department may release confidential information described in subsection (a) to the following persons:

(1) A governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any State or federal law that involves a controlled substance.

(2) An investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the

Attorney General, who is engaged in any of the following activities involving controlled substances:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution of a violation under any State or federal law that involves a controlled substance.

(3) A law enforcement officer who is:

(A) authorized by the Department of State Police or the office of a county sheriff or State's Attorney or municipal police department of Illinois to receive information of the type requested for the purpose of investigations involving controlled substances; or

(B) approved by the Department to receive information of the type requested for the purpose of investigations involving controlled substances; and

(C) engaged in the investigation or prosecution of a violation under any State or federal law that involves a controlled substance.

(e) Before the Department releases confidential information under subsection (d), the applicant must demonstrate in writing to the Department that:

(1) the applicant has reason to believe that a violation under any State or federal law that involves a ~~Schedule II~~ controlled substance has occurred; and

(2) the requested information is reasonably related to the investigation, adjudication, or prosecution of the

violation described in subdivision (1).

(f) The Department may receive and release prescription record information ~~release~~ to:

(1) a governing body that licenses practitioners;

(2) an investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General; ~~or~~

(3) any Illinois ~~a~~ law enforcement officer who is:

(A) authorized ~~by the Department of State Police~~ to receive the type of information released; and

(B) approved by the Department to receive the type of information released; or

(4) prescription monitoring entities in other states per the provisions outlined in subsection (g) and (h) below;

confidential prescription record information collected under Sections 316 and 321 ~~generated from computer records~~ that identifies vendors or practitioners, or both, who are prescribing or dispensing large quantities of ~~a~~ Schedule II, III, IV, or V controlled substances outside the scope of their practice, pharmacy, or business, ~~substance~~ as determined by the Advisory Committee created by Section 320.

(g) The information described in subsection (f) may not be released until it has been reviewed by an employee of the

Department who is licensed as a prescriber or a dispenser and until that employee has certified that further investigation is warranted. However, failure to comply with this subsection (g) does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (h).

(h) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (f) may disclose the information to a law enforcement officer or an attorney for the office of the Attorney General for use as evidence in the following:

(1) A proceeding under any State or federal law that involves a ~~Schedule II~~ controlled substance.

(2) A criminal proceeding or a proceeding in juvenile court that involves a ~~Schedule II~~ controlled substance.

(i) The Department may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies, by name, license or address, any practitioner, dispenser, ultimate user, or other person administering a controlled substance.

(j) Based upon federal, initial and maintenance funding, a prescriber and dispenser inquiry system shall be developed to assist the medical community in its goal of effective clinical practice and to prevent patients from diverting or abusing medications.

(1) An inquirer shall have read-only access to a stand-alone database which shall contain records for the

previous 6 months.

(2) Dispensers may, upon positive and secure identification, make an inquiry on a patient or customer solely for a medical purpose as delineated within the federal HIPAA law.

(3) The Department shall provide a one-to-one secure link and encrypted software necessary to establish the link between an inquirer and the Department. Technical assistance shall also be provided.

(4) Written inquiries are acceptable but must include the fee and the requestor's Drug Enforcement Administration license number and submitted upon the requestor's business stationary.

(5) No data shall be stored in the database beyond 24 months.

(6) Tracking analysis shall be established and used per administrative rule.

(7) Nothing in this Act or Illinois law shall be construed to require a prescriber or dispenser to make use of this inquiry system.

(8) If there is an adverse outcome because of a prescriber or dispenser making an inquiry, which is initiated in good faith, the prescriber or dispenser shall be held harmless from any civil liability.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/319)

Sec. 319. Rules. The Department must adopt rules under the Illinois Administrative Procedure Act to implement Sections 316 through 321 ~~318~~, including the following:

(1) Information collection and retrieval procedures for the central repository, including the ~~Schedule II~~ controlled substances to be included in the program required under Section 316 and 321.

(2) Design for the creation of the database required under Section 317.

(3) Requirements for the development and installation of on-line electronic access by the Department to information collected by the central repository.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/320)

Sec. 320. Advisory committee.

(a) The Secretary of Human Services must appoint an advisory committee to assist the Department in implementing the ~~Schedule II~~ controlled substance prescription monitoring program created by Section 316 and 321 of this Act. The Advisory Committee consists of prescribers and dispensers.

(b) The Secretary of Human Services must determine the number of members to serve on the advisory committee. The Secretary must choose one of the members of the advisory committee to serve as chair of the committee.

(c) The advisory committee may appoint its 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 but may be reimbursed for their actual expenses incurred in serving on the advisory committee.

(Source: P.A. 91-576, eff. 4-1-00.)

(720 ILCS 570/321 new)

Sec. 321. Schedule III, IV, and V controlled substance prescription monitoring program.

(a) The Department shall provide for a Schedule III, IV, and V controlled substances prescription monitoring program contingent upon full funding from the authorized federal agency less incidental expenses.

(b) Prescription data collected for Schedules III, IV, and V shall include the components listed in Section 316(1), (2), and (3).

(c) The information required to be transmitted under this Section must be transmitted not more than 7 days after the date on which a controlled substance is dispensed.

(d) If federal funding is not provided, the Department shall cease data collection for Schedules III, IV, and V.

(e) All requirements for this Section shall comply with the federal HIPAA statute.