

DRAFT BILL NO. _____

By

AN ACT concerning controlled substances; enacting the prescription monitoring program act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the prescription monitoring program act.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(b) "Board" means the state board of pharmacy.

(c) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(d) "Dispenser" means a person who delivers a schedule II, III, IV or V controlled substance to the ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care or the dispensing of prescriptions for controlled substances at the time of discharge from such facility;

(2) a practitioner, or other authorized person who administers such a substance; or

(3) a wholesale distributor of a schedule II, III, IV or V controlled substance.

(e) "Schedule II, III, IV or V controlled substances" mean controlled substances that are

listed in schedules II, III, IV, and V of the schedules provided under K.S.A. 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto, respectively, or the Federal Controlled Substances Act (21 U.S.C. 812).

Sec. 3. (a) The board shall establish and maintain a program for the monitoring of prescribing and dispensing of all schedule II, III and IV controlled substances by all professionals licensed to prescribe or dispense such substances in this state.

(b) Each dispenser shall submit to the board by electronic means information regarding each prescription dispensed for a controlled substance included under subsection (a). The information submitted for each prescription shall include, but not be limited to:

- (1) The dispenser identification number;
- (2) the date prescription filled;
- (3) the prescription number;
- (4) whether the prescription is new or is a refill;
- (5) the NDC code for drug dispensed
- (6) the quantity dispensed;
- (7) the number of days supply of the drug;
- (8) the patient identification number;
- (9) the patient's name;
- (10) the patient's address;
- (11) the patient's date of birth;
- (12) the prescriber identification number;
- (13) the date prescription issued by prescriber;

(14) the person who receives the prescription from the dispenser, if other than the patient;
and

(15) the source of payment for prescription.

(c) Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board; but shall report at least every 30 days, between the 1st and the 15th of the month following the month the prescription was dispensed.

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required in subsection (b) is submitted in this alternative format.

Sec. 4. (a) Prescription information submitted to the board shall be confidential and not subject to public or open records laws, except as provided in subsections (c), (d) and (e).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as provided in subsections (c), (d) and (e).

(c) The board shall review the prescription information. If there is reason to believe a violation of law or breach of professional standards may have occurred, the board shall notify the appropriate law enforcement agency or professional licensing, certification or regulatory agency or entity, and provide prescription information required for an investigation.

(d) The board shall be authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense controlled substances, for the purpose of

providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) the board of healing arts and the board of nursing;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing licit drugs;

(5) the Kansas health policy authority regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena or court order; and

(7) personnel of the board for purposes of administration and enforcement of this act, or the uniform controlled substances act, K.S.A 65-4101 et seq., and amendments thereto.

(e) The board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

Sec. 5. The board is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in section 4, and amendments thereto, and shall be subject to the penalties specified in section 7, and amendments thereto, for unlawful acts.

Sec. 6. The board shall promulgate rules and regulations setting forth the procedures and methods for implementing this act.

Sec. 7. (a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription information shall be

guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.