State of Arkansas *As Engrossed: S3/9/15 H3/27/15*
90th General Assembly **A Bill**
Regular Session, 2015 SENATE BILL 717

By: Senator Irvin
By: Representatives *Magie, Boyd*

For An Act To Be Entitled

AN ACT TO ENHANCE THE PRESCRIPTION DRUG MONITORING *PROGRAM ACT; TO CREATE THE COMBATING PRESCRIPTION DRUG ABUSE ACT; AND* FOR OTHER PURPOSES.

Subtitle

TO ENHANCE THE PRESCRIPTION DRUG MONITORING PROGRAM ACT; AND TO CREATE THE COMBATING PRESCRIPTION DRUG ABUSE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-7-607(a) and (b), concerning providing prescription monitoring information, is amended to read as follows:

(a)(1)(A) The Department of Health may review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances.

~~(2)~~(B) If information of misuse or abuse is identified, the department shall notify the practitioners and dispensers who prescribed or dispensed the prescriptions.

(2)(A) The department may review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a prescriber or dispenser may be prescribing or dispensing prescriptions in a manner that may represent misuse or abuse of controlled substance.

(B) If information of misuse or abuse is identified, the department may notify the professional licensing board of the prescriber or *dispenser only after the relevant professional licensing board has provided the department with the parameters for triggering a notification from the department to the professional licensing board.*

(b) The department shall provide information in the Prescription Drug Monitoring Program upon request and at no cost only to the following persons:

(1)(A) A person authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for his or her patients or for reviewing information regarding prescriptions that are recorded as having been issued or dispensed by the requester~~;~~.

(B) An agent or employee of the prescriber or dispenser to whom the prescriber or dispenser has delegated the task of assessing the data described in this subsection, but only if the agent or employee has been granted access by a delegate account;

(2) A patient who requests his or her own prescription monitoring information;

(3) A parent or legal guardian of a minor child who requests the minor child's Prescription Drug Monitoring Program information;

(4)(A) A designated representative of a professional licensing board of the professions of the healing arts representing health care disciplines whose licensees are prescribers pursuant to an investigation of a specific individual, entity, or business licensed or permitted by the licensing board.

(B) Except as permitted by subdivision (a)(2) of this section, the department shall provide information under subdivision (b)(4)(A) of this section only if the requesting licensing board states in writing that the information is necessary for an investigation;

(5) The State Medical Examiner as authorized by law to investigate causes of deaths for cases under investigation pursuant to his or her official duties and responsibilities;

(6) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances required to be submitted under this subchapter pursuant to the agency's official duties and responsibilities; and

(7) Personnel of the department for purposes of administration

and enforcement of this subchapter.

SECTION 2. Arkansas Code § 20-7-603, concerning the definitions of the Prescription Drug Monitoring Act, is amended to add an additional subdivision to read as follows:

(17) "Opioid" means a drug or medication that relieves pain, including without limitation:

(A) Hydrocodone;

(B) Oxycodone;

(C) Morphine;

(D) Codeine;

(E) Heroin; and

(F) Fentanyl.

SECTION 3. Arkansas Code § 20-7-604(g), concerning the requirements for the Prescription Drug Monitoring Program, is amended to read as follows:

(g)(1) The department shall create a process for patients to address errors, inconsistencies, and other matters in their record as maintained under this section, including cases of breach of privacy and security.

(2) The department shall develop algorithms within the controlled substance database that would alert a practitioner if his or her patient is being prescribed opioids by more than three (3) physicians within any thirty-day period, if funding is available.

SECTION 4. Arkansas Code § 20-7-604(h), concerning the requirements for the Prescription Drug Monitoring Program, is amended to read as follows:

(h)(1) The department shall limit access to only those employees whose access is reasonably necessary to carry out this section.

(2) However, a prescriber may delegate access to the controlled substance database to persons under his or her supervision or employment.

SECTION 5. Arkansas Code Title 20, Chapter 7, Subchapter 6, is amended to add an additional section to read as follows:

20-7-615. Prescriber with a prescription drug violation.

(a) A prescriber who has been found by his or her licensing board to be in violation of a rule or law involving prescription drugs shall be

required by the appropriate licensing board to register with the Prescription Drug Monitoring Program and access patient information before writing a prescription for an opioid.

(b) The licensing board, in its discretion, may remove this requirement after a period of time if the board deems removal of the requirement appropriate.

SECTION 6. Arkansas Code Title 20, Chapter 7, is amended to add an additional subchapter to read as follows:

Subchapter 7 — Combating Prescription Drug Abuse Act

20-7-701. Title.

This act shall be known and may be cited as the "Combating Prescription Drug Abuse Act".

20-7-702. Definitions.

As used in this subchapter:

(1) "Hospital" means a healthcare facility licensed as a hospital by the Division of Health Facilities Services under § 20-9-213;

(2) "Chronic nonmalignant pain" means pain requiring more than three (3) consecutive months of prescriptions for:

(A) An opioid that is written for more than the equivalent of ninety (90) tablets, each containing five milligrams (5 mg) of hydrocodone;

(B) A morphine equivalent dose of more than fifteen milligrams (15 mg) per day; or

(C) In the specific case of tramadol, a dose of fifty milligrams (50 mg) or one hundred twenty (120) tablets;

(3) "Opioid" means a drug or medication that relieves pain, including without limitation:

(A) Hydrocodone;

(B) Oxycodone;

(C) Morphine;

(D) Codeine;

(E) Heroin; and

(F) Fentanyl; and

(4) "Prescriber" means a practitioner or other authorized person who prescribes a Schedule II, III, IV, or V controlled substance.

20-7-703. Opioid prescribing guidelines for emergency department.

(a) A hospital with an emergency department shall adopt guidelines concerning opioid prescribing in the emergency department.

(b) The guidelines shall be drafted jointly by the emergency department physicians and medical staff and approved by the governing body of the hospital.

(c) The guidelines shall address, at a minimum:

(1) Treatment of chronic nonmalignant pain and acute pain;

(2) Limits on amounts or duration of opioid prescriptions; and

(3) Identification of situations where opioid prescriptions should be discouraged or prohibited.

(d) The guidelines shall not be construed as establishing a standard of care.

20-7-704. Prescriber education.

(a)(1) Within the first two (2) years of being granted a license in the state, a prescriber shall obtain a minimum of two (2) hours of prescribing education approved by the appropriate licensing board.

(2) The education approved by the appropriate licensing board under subdivision (a)(1) of this section shall include:

(A) Options for online and in-person programs; and

(B) Information on prescribing rules, regulations, and laws that apply to individuals who are licensed in the state.

(b) This section shall apply to all prescribers licensed after December 31, 2015.

20-7-705. Licensing board rules.

(a) A licensing board that licenses individuals with prescriptive authority shall adopt rules that are at least as stringent as the rules of the Arkansas State Medical Board concerning use of narcotics for the treatment of pain not associated with malignant or terminal illness.

(b) A licensing board that licenses individuals who are authorized to prescribe opioids for treatment of chronic nonmalignant pain shall promulgate

rules that contain, at a minimum, the requirements of § 20-7-707.

20-7-706. Patient evaluation.

A patient who is being treated with controlled substances for chronic nonmalignant pain shall be evaluated at least one (1) time every six (6) months by a physician who is licensed by the Arkansas State Medical Board.

20-7-707. Prescriber requirements.

(a) For a patient with chronic nonmalignant pain, a prescriber, at a minimum and in addition to any additional requirements of the appropriate licensing board, shall:

(1) Check the prescriptive history of the patient on the Prescription Drug Monitoring Program at least every six (6) months;

(2) Have a signed pain contract with the patient that states, at a minimum, the expectations of the prescriber for the behavior of the patient which may include:

(A) A requirement for random urine drug screenings to help ensure that the patient is abiding by the requirements of the contract; and

(B) A requirement for random pill counts to ensure compliance with the prescription.

(b) The requirements of this section shall not apply to a patient:

(1) Whose pain medications are being prescribed for a malignant condition;

(2) With a terminal condition;

(3) Who is a resident of a licensed healthcare facility;

(4) Who is enrolled in a hospice program; or

(5) Who is in an inpatient or outpatient palliative care program.

20-7-708. Immunity.

A prescriber or licensed healthcare facility that in good faith reports a suspected drug diversion is immune from civil or criminal liability and disciplinary action by the appropriate licensing board.

/s/Irvin