

1 State of Arkansas *As Engrossed: S3/9/15 H3/27/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

SENATE BILL 717

4

5 By: Senator Irvin

6 By: Representatives *Magie, Boyd*

7

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For An Act To Be Entitled

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AN ACT TO ENHANCE THE PRESCRIPTION DRUG MONITORING

10

PROGRAM ACT; TO CREATE THE COMBATING PRESCRIPTION

11

DRUG ABUSE ACT; AND FOR OTHER PURPOSES.

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13

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Subtitle

15

TO ENHANCE THE PRESCRIPTION DRUG

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MONITORING PROGRAM ACT; AND TO CREATE THE

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COMBATING PRESCRIPTION DRUG ABUSE ACT.

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19

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

21

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

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

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

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



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

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

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

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

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

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

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

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

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

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

36 (7) Personnel of the department for purposes of administration

1 and enforcement of this subchapter.

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

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

8 (A) Hydrocodone;

9 (B) Oxycodone;

10 (C) Morphine;

11 (D) Codeine;

12 (E) Heroin; and

13 (F) Fentanyl.

14
15 SECTION 3. Arkansas Code § 20-7-604(g), concerning the requirements
16 for the Prescription Drug Monitoring Program, is amended to read as follows:

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

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

24
25 SECTION 4. Arkansas Code § 20-7-604(h), concerning the requirements
26 for the Prescription Drug Monitoring Program, is amended to read as follows:

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

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

31
32 SECTION 5. Arkansas Code Title 20, Chapter 7, Subchapter 6, is amended
33 to add an additional section to read as follows:

34 20-7-615. Prescriber with a prescription drug violation.

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

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

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

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

10 Subchapter 7 – Combating Prescription Drug Abuse Act

11
12 20-7-701. Title.

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

15
16 20-7-702. Definitions.

17 As used in this subchapter:

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

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

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

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

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

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

31 (A) Hydrocodone;

32 (B) Oxycodone;

33 (C) Morphine;

34 (D) Codeine;

35 (E) Heroin; and

36 (F) Fentanyl; and

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

3
4 20-7-703. Opioid prescribing guidelines for emergency department.

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

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

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

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

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

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

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

17
18 20-7-704. Prescriber education.

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

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

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

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

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

29
30 20-7-705. Licensing board rules.

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

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

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

2
3 20-7-706. Patient evaluation.

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

7
8 20-7-707. Prescriber requirements.

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

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

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

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

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

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

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

24 (2) With a terminal condition;

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

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

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

29
30 20-7-708. Immunity.

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

34 /s/ Irvin

35 **APPROVED: 04/07/2015**

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