Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 119

By: Senator Critcher

For An Act To Be Entitled

AN ACT TO ESTABLISH A PRESCRIPTION DRUG MONITORING PROGRAM; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ESTABLISH A PRESCRIPTION DRUG MONITORING PROGRAM; AND FOR OTHER PURPOSES.

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

SECTION 1. Arkansas Code Title 20, Chapter 7 is amended to add an additional subchapter to read as follows:

20-7-501. Title.

This subchapter shall be known and may be cited as the "Prescription Drug Monitoring Program Act".

20-7-502. Purpose.

The General Assembly intends to protect the state health system by improving the state's ability to identify and stop diversion of prescription drugs in an efficient and cost effective manner that will not impede the appropriate medical use of controlled substances.

20-7-503. Definitions.

For purposes of this subchapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject by a person licensed in this state

to directly apply controlled substances;

(2) "Department" means the Department of Health;

(3)(A) “Dispenser” means a person who delivers Schedule II–V controlled substances.

(B) “Dispenser” does not include:

(i) A licensed hospital pharmacy that distributes Schedule II–V controlled substances:

(a) For the purpose of inpatient hospital care; and

(b) At the time of discharge from a hospital;

(ii) A nursing home or hospice;

(iii) A person licensed in this state to administer Schedule II–V controlled substances; or

(iv) A wholesale distributor of Schedule II–V controlled substances;

(4) “Patient” means the person who is the ultimate user of a Schedule II–V controlled substance for whom a prescription is issued, for whom a drug is dispensed, or both; and

(5) “Schedule II–V controlled substances” means controlled substances that are listed in Schedules II, III, IV, and V under the Uniform Control Substances Act, § 5-64-201, et seq.

20-7-504. Requirements for the prescription drug monitoring program.

(a) The Department of Health shall establish and maintain a program for monitoring the prescribing and dispensing of all:

(1) Schedule II–V controlled substances; and

(2) Any other drugs identified by the department as demonstrating a potential for abuse.

(b) Each dispenser shall submit to the department by electronic means at least the following information regarding each prescription dispensed for a drug included under subsection (a) of this section:

(1) The dispenser identification number;

(2) The date the prescription was filled;

(3) The prescription number;

(4) Whether the prescription is new or is a refill;

(5) For each drug dispensed:

(A) The National Drug Code number;

(B) The quantity;

(C) The number of days' supply; and

(D) The patient identification number;

(6) The patient's:

(A) Name;

(B) Address; and

(C) Date of birth;

(7) The prescriber's identification number;

(8) The date the prescription was issued by the prescriber;

(9) The name of the person who received the prescription from the dispenser, if other than the patient; and

(10) The source of payment for the prescription.

(c)(1) Each dispenser shall submit the information required under this section in accordance with transmission methods and frequency established by the department.

(2) The department shall require that each dispenser report the required information at least every thirty (30) days, between the first and the fifteenth days of the month following the month the prescription was dispensed.

(d)(1) The department may issue a waiver to a dispenser that is unable to submit prescription information by electronic means.

(2)(A) The waiver may permit the dispenser to submit prescription information by paper form or other means.

(B) The waiver shall require that information required in subsection (b) of this section be submitted in the alternative format.

20-7-505. Access to prescription information.

(a) Prescription information submitted to the Department of Health shall be confidential and shall not be subject to the Freedom of Information Act of 1967, § 25-19-101 et seq., except as provided in subsections (c) – (e) of this section.

(b) The Department of Health shall 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) -- (e) of this section.

(c)(1) Within thirty (30) days of receipt, the Department of Health shall review the prescription information required under this subchapter.

(2)(A) If there is reasonable cause to believe that a violation of law or breach of professional standards may have occurred, the Department of Health shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity.

(B) The Department of Health shall provide the agency or entity with any prescription monitoring program information that is required for an investigation.

(d) The Department of Health may provide data in the prescription monitoring program to the following:

(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 under § 16-46-106;

(3) The Arkansas State Medical Board;

(4) The Arkansas State Board of Pharmacy;

(5) The Arkansas State Board of Nursing;

(6) The Department of Human Services; and

(7) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances.

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

20-7-506. Authority to contract.

(a) The Department of Health may contract with another agency of this state or with a private vendor to ensure the effective operation of the prescription monitoring program.

(b) Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information under this subchapter and shall be subject to the penalties specified in this subchapter.

20-7-507. Unlawful acts -- Penalties.

(a) A person authorized to have prescription monitoring information under this subchapter who knowingly discloses that information is guilty of a Class A misdemeanor.

(b) A person authorized to have prescription monitoring information under this subchapter who uses that information in a manner or for a purpose in violation of this subchapter is guilty of a Class B misdemeanor.

(c) A dispenser who knowingly fails to submit to the Department of Health prescription monitoring information as required by this subchapter or who knowingly submits incorrect prescription information shall be guilty of a Class C misdemeanor.

(d) A dispenser who uses or discloses confidential information received from the prescription monitoring program in a manner or for a purpose in violation of this subchapter is subject to disciplinary action by the dispenser's licensing board.

20-7-508. Rules.

The Department of Health shall promulgate rules necessary to implement this subchapter.