

FIRST REGULAR SESSION

HOUSE BILL NO. 632

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FREDERICK (Sponsor), LICHTENEGGER, BRATTIN,
FRANKLIN AND WHITE (Co-sponsors).

1249L.03I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 195, RSMo, by adding thereto ten new sections relating to a controlled substances dispensation monitoring program, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 195, RSMo, is amended by adding thereto ten new sections, to be known as sections 195.450, 195.453, 195.456, 195.459, 195.462, 195.465, 195.468, 195.471, 195.474, and 195.477, to read as follows:

195.450. 1. Sections 195.450 to 195.477 shall be known and may be cited as the "Prescription Drug Monitoring Program Act".

2. As used in sections 195.450 to 195.477, the following terms mean:

(1) "Controlled substance", the same meaning given such term in section 195.010;

(2) "Department", the department of health and senior services;

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

(a) A hospital, as defined in section 197.020, that distributes such substances for the purpose of inpatient hospital care or dispenses prescriptions for controlled substances at the time of discharge from an inpatient stay at such facility;

(b) A practitioner or other authorized person who administers such a substance;
or

(c) A wholesale distributor of a schedule II, III, IV, or V controlled substance;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (4) "Patient", a person or animal who is the ultimate user of a drug for whom a
15 prescription is issued or for whom a drug is dispensed;

16 (5) "Schedule II, III, IV, or V controlled substance", a controlled substance that
17 is listed in schedules II, III, IV, or V of the schedules provided under this chapter or the
18 Federal Controlled Substances Act, 21 U.S.C. Section 812.

195.453. 1. Subject to appropriations, the department of health and senior services
2 shall establish and maintain a program for the monitoring of prescribing and dispensing
3 of all schedule II, III, IV, and V controlled substances, except schedule V controlled
4 substance containing any detectable amount of pseudoephedrine, by all professionals
5 licensed to prescribe or dispense such substances in this state. The department may apply
6 for any available grants and accept any gifts, grants, or donations to assist in developing
7 and maintaining the program.

8 2. Each dispenser shall submit to the department by electronic means information
9 regarding each dispensation of a drug included in subsection 1 of this section. The
10 information submitted for each shall include, but not be limited to:

11 (1) The dispenser identification number;

12 (2) The date of the dispensation;

13 (3) If there is a prescription:

14 (a) The prescription number;

15 (b) Whether the prescription is new or a refill;

16 (c) The prescriber identification number;

17 (d) The date the prescription is issued by the prescriber;

18 (e) The person who receives the prescription from the dispenser, if other than the
19 patient;

20 (f) The source of payment for the prescription;

21 (4) The NDC code for the drug dispensed;

22 (5) The number of days' supply of the drug;

23 (6) The quantity dispensed;

24 (7) The patient identification number;

25 (8) The patient's name, address, and date of birth.

26 3. Each dispenser shall submit the information in accordance with transmission
27 methods and frequency established by the department; except that, each dispenser shall
28 report at least every thirty days between the first and fifteenth of the month following the
29 month of the dispensation.

30 4. The department may issue a waiver to a dispenser that is unable to submit
31 dispensation information by electronic means. Such waiver may permit the dispenser to

32 submit dispensation information by paper form or other means, provided all information
33 required in subsection 2 of this section is submitted in such alternative format.

2 195.456. 1. Dispensation information submitted to the department shall be
3 confidential and not subject to public disclosure under chapter 610 except as provided in
4 subsections 3 to 5 of this section.

5 2. The department shall maintain procedures to ensure that the privacy and
6 confidentiality of patients and personnel information collected, recorded, transmitted, and
7 maintained is not disclosed to persons except as provided in subsections 3 to 5 of this
8 section.

9 3. The department shall review the dispensation information and, if there is
10 reasonable cause to believe a violation of law or breach of professional standards may have
11 occurred, the department shall notify the appropriate law enforcement or professional
12 licensing, certification, or regulatory agency or entity, and provide dispensation
13 information required for an investigation.

14 4. The department may provide data in the controlled substances dispensation
15 monitoring program to the following persons:

16 (1) Persons, both in-state and out-of-state, authorized to prescribe or dispense
17 controlled substances for the purpose of providing medical or pharmaceutical care for
18 their patients;

19 (2) An individual who requests his or her own dispensation monitoring information
20 in accordance with state law;

21 (3) The state board of pharmacy;

22 (4) Any state board charged with regulating a professional that has the authority
23 to prescribe or dispense controlled substances that requests data related to a specific
24 professional under the authority of that board;

25 (5) Local, state, and federal law enforcement or prosecutorial officials, both in-state
26 and out-of-state engaged in the administration, investigation, or enforcement of the laws
27 governing licit drugs based on a specific case and under a subpoena or court order;

28 (6) The family support division within the department of social services regarding
29 Medicaid program recipients;

30 (7) A judge or other judicial authority under a subpoena or court order; and

31 (8) Personnel of the department of health and senior services for the administration
32 and enforcement of sections 195.450 to 195.477.

33 5. The department may provide data to public or private entities for statistical,
34 research, or educational purposes after removing information that could be used to identify
individual patients or persons who received dispensations from dispensers.

35 **6. Nothing in sections 195.450 to 195.477 shall be construed to require a pharmacist**
36 **or prescriber to obtain information about a patient from the database. A pharmacist or**
37 **prescriber shall not be held liable for damages to any person in any civil action for injury,**
38 **death, or loss to person or property on the basis that the pharmacist or prescriber did or**
39 **did not seek or obtain information from the database.**

195.459. The department is authorized to contract with any other agency of this
2 **state or with a private vendor, as necessary, to ensure the effective operation of the**
3 **prescription monitoring program. Any contractor shall comply with the provisions**
4 **regarding confidentiality of prescription information in section 195.456.**

195.462. The department shall promulgate rules setting forth the procedures and
2 **methods of implementing sections 195.450 to 195.474. Any rule or portion of a rule, as that**
3 **term is defined in section 536.010, that is created under the authority delegated in this**
4 **section shall become effective only if it complies with and is subject to all of the provisions**
5 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
6 **nonseverable and if any of the powers vested with the general assembly pursuant to**
7 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
8 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
9 **proposed or adopted after August 28, 2011, shall be invalid and void.**

195.465. 1. A dispenser who knowingly fails to submit dispensation monitoring
2 **information to the department as required in sections 195.450 to 195.477 or knowingly**
3 **submits the incorrect dispensation information is guilty of a class A misdemeanor.**

2. A person authorized to have dispensation monitoring information under sections
5 **195.450 to 195.477 who knowingly discloses such information in violation of sections**
6 **195.450 to 195.477 or who uses such information in a manner and for a purpose in**
7 **violation of sections 195.450 to 195.477 is guilty of a class A misdemeanor.**

195.468. 1. The department shall implement the following education courses:
2 **(1) An orientation course during the implementation phase of the dispensation**
3 **monitoring program established in section 195.453;**
4 **(2) A course for persons who are authorized to access the dispensation monitoring**
5 **information but who did not participate in the orientation course;**
6 **(3) A course for persons who are authorized to access the dispensation monitoring**
7 **information but who have violated laws or breached occupational standards involving**
8 **dispensing, prescribing, and use of substances monitored by the dispensation monitoring**
9 **program established in section 195.453;**

11 When appropriate, the department shall develop the content of the education courses
12 described in subdivisions (1) to (3) of this subsection.

13 2. The department shall, when appropriate:

14 (1) Work with associations for impaired professionals to ensure intervention,
15 treatment, and ongoing monitoring and followup; and

16 (2) Encourage individual patients who are identified and who have become
17 addicted to substances monitored by the dispensation monitoring program established in
18 section 195.453 to receive addiction treatment.

195.471. The department of health and senior services shall develop and implement
2 an electronic logbook to monitor the sale of schedule V controlled substances containing
3 any detectable amount of pseudoephedrine. All pharmacists and registered pharmacy
4 technicians shall submit their logbooks, as required under section 195.017, electronically
5 in accordance with rules promulgated by the department.

6 195.474. 1. Beginning January 1, 2012, the bureau of narcotics and dangerous
7 drugs within the department of health and senior services shall establish a two-year
8 statewide pilot project for the reporting of fraudulently obtained prescription controlled
9 substances. The pilot project shall include the following:

10 (1) Provide a toll-free number for reporting to the bureau by physicians,
11 pharmacists, and other health care professionals with prescriptive authority who have
12 reason to believe that a person is fraudulently attempting to obtain a prescription for a
13 controlled substance or is attempting to obtain an excessive amount of a controlled
14 substance by prescription;

15 (2) Establish a system within the bureau for receiving such reports under
16 subdivision (1) of this subsection along with any evidence offered or submitted by the
17 reporter which indicates the fraud; and

18 (3) Forward such reports, along with any evidence offered or submitted to the
19 appropriate prosecuting attorney or the state attorney general for investigation and
20 prosecution.

21 2. On or before February 1, 2013, and February 1, 2014, the bureau of narcotics
22 and dangerous drugs shall submit a report to the general assembly detailing the following
23 specifics regarding the pilot project:

24 (1) The number of reports received under this section;

25 (2) The type of evidence offered or submitted indicating the fraud;

26 (3) The number of referrals to the attorney general and each local prosecuting
27 attorney;

28 **(4) The number of cases investigated and prosecuted as a result of such reporting,**
29 **and the number of convictions or pleas resulting from such investigations and**
30 **prosecutions. The attorney general and local prosecuting attorneys shall cooperate with**
31 **the bureau in the submission and collection of the information necessary for inclusion in**
32 **the report; and**

33 **(5) Any recommendations regarding continuance of and improvements in the pilot**
34 **project.**

35

36 **Nothing in this section shall be construed as authorizing the inclusion or release of any**
37 **identifying information of any reporter or person who is identified as a person who is**
38 **attempting to fraudulently obtain prescription controlled substances.**

39 **3. Any person who in good faith reports to the bureau under this section shall be**
40 **immune from any civil or criminal liability as the result of such good faith reporting.**

41 **4. The department of health and senior services may promulgate rules to implement**
42 **the provisions of this section. Any rule or portion of a rule, as that term is defined in**
43 **section 536.010, that is created under the authority delegated in this section shall become**
44 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
45 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
46 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
47 **the effective date, or to disapprove and annul a rule are subsequently held**
48 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
49 **after August 28, 2011, shall be invalid and void.**

50 **5. The pilot project shall be funded from existing appropriations or with any**
51 **moneys specifically appropriated for this pilot project. The lack of any additional new**
52 **appropriations for this pilot project shall not be sufficient cause for the department to fail**
53 **to establish the pilot project under this section.**

54 **6. Under section 23.253 of the Missouri sunset act:**

55 **(1) The provisions of the new program authorized under this section shall**
56 **automatically sunset three years after the effective date of this section unless reauthorized**
57 **by an act of the general assembly; and**

58 **(2) If such program is reauthorized, the program authorized under this section**
59 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
60 **section; and**

61 **(3) This section shall terminate on September first of the calendar year immediately**
62 **following the calendar year in which the program authorized under this section is sunset.**

195.477. Under section 23.253 of the Missouri sunset act:

2 (1) The provisions of the new program authorized under sections 195.450 to
3 195.477 shall automatically sunset six years after the effective date of sections 195.450 to
4 195.477 unless reauthorized by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under sections 195.450
6 to 195.477 shall automatically sunset six years after the effective date of the reauthorization
7 of sections 195.450 to 195.477; and

8 (3) Sections 195.450 to 195.477 shall terminate on September first of the calendar
9 year immediately following the calendar year in which the program authorized under
10 sections 195.450 to 195.477 is sunset.

Section B. Section A of this act shall become effective January 1, 2012.