

HCS HB 732 -- PRESCRIPTION DRUG MONITORING PROGRAM ACT AND PROFESSIONAL REGISTRATION (Brandom)

COMMITTEE OF ORIGIN: Committee on Professional Registration and Licensing

This substitute establishes the Prescription Drug Monitoring Program Act and changes the laws regarding the Division of Professional Registration and the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration.

PRESCRIPTION DRUG MONITORING PROGRAM ACT

The substitute:

- (1) Requires the Department of Health and Senior Services to establish and maintain a program, subject to appropriations, to monitor the prescribing and dispensing of all Schedule II through Schedule V controlled substances by all licensed professionals who prescribe or dispense these substances in Missouri;
- (2) Requires a dispenser to electronically submit to the department specified information for each prescription in accordance with transmission methods and frequency as established by the department;
- (3) Allows the department to issue a waiver to a dispenser who is unable to submit the required information electronically. If a waiver is obtained, a dispenser can submit the required information in a paper format or by other approved means;
- (4) Requires the department to reimburse each dispenser for the fees and other direct costs of transmitting the required information;
- (5) Requires all submitted prescription information to be confidential with specified exceptions. The department must review the dispensation information and, if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, must notify the appropriate law enforcement or professional regulatory entity and provide dispensation information required for an investigation;
- (6) Allows the department to release non-personal, general information for statistical, educational, and research purposes;
- (7) Authorizes the department to contract with any other state agency or with a private vendor, as necessary, to administer the program;

(8) Specifies that a person who violates a provision of the act will be guilty of a class A misdemeanor;

(9) Requires the department to implement educational courses regarding the provisions of the act and, when appropriate, to work with associations for impaired professionals to ensure the intervention, treatment, and ongoing monitoring and followup of patients who have been identified as being addicted to substances monitored by the act;

(10) Requires the department to develop and implement an electronic logbook to monitor the sale of Schedule V controlled substances containing pseudoephedrine; and

(11) Requires the Bureau of Narcotics and Dangerous Drugs within the department to establish beginning January 1, 2012, a two-year statewide pilot project for the reporting of fraudulently obtained prescription controlled substances. The bureau must submit by February 1, 2013, and February 1, 2014, a report to the General Assembly detailing specified information regarding the pilot project.

DIVISION OF PROFESSIONAL REGISTRATION

The substitute changes the laws regarding disciplinary and administrative procedures for professions and businesses regulated by the Division of Professional Registration within the Department of Insurance, Financial Institutions and Professional Registration. The division or any board, committee, commission, or office within the division is authorized to enter a default decision against a licensee if he or she fails, upon proper notice, to plead or otherwise defend against a disciplinary proceeding.

STATE BOARD OF REGISTRATION FOR THE HEALING ARTS

The substitute:

(1) Requires the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration to list certain specified information regarding individuals who are licensed or applying for licensure by the board on its web site. The board must disclose specified confidential information to a licensee or applicant upon request without a cost if the information is less than five years old. If the requested information is more than five years old, the board may charge a specified fee;

(2) Removes the provision which authorizes the board to require a doctor licensed in another state to pass an examination prior

to waiving the Missouri examination requirement. The board is authorized to require the successful completion of another examination, continuing medical education, or further training prior to issuing a permanent medical license to an applicant who has not actively practiced medicine or held a teaching position for two of the three years before his or her application;

(3) Allows the board to initiate a hearing to determine if reasonable cause exists to believe that a licensee or applicant is unable to practice his or her profession. The board may require a licensee or applicant for a license to submit to an examination of his or her skills, a multi-disciplinary evaluation, or a substance abuse evaluation if there is cause to believe that the individual is incompetent, is mentally or physically incapacitated, or excessively uses or abuses alcohol or controlled substances;

(4) Authorizes the board to cause a complaint to be filed with the Administrative Hearing Commission against a licensee for violating a municipal ordinance, prescribing drugs through the Internet without a valid physician-patient relationship, being on a state or federal sexual offender registry, violating a probation order or other settlement agreement, unethical or unprofessional conduct involving a minor, negligence, knowingly making a false statement to the board, habitual intoxication or dependence on alcohol, failing to comply with a treatment or an aftercare program, probation of any controlled substance authority, or violating any professional trust or confidence;

(5) Requires the board to hold a hearing to determine if probable cause exists when determining whether to issue an emergency suspension or restriction on a licensee for engaging in sexual conduct with a patient; sexual misconduct with a minor; possession or use of a controlled substance without a valid prescription; court-determined incapacity or disability; habitual intoxication or alcohol or drug addiction; failing to comply with a treatment program, an aftercare program as part of a board order or settlement agreement, or a licensee's professional health program; or any conduct that is a serious danger to the health, safety, or welfare of a patient or the public. The suspension or restriction will take effect when the document is served to the licensee;

(6) Authorizes the board to initiate a hearing before itself for disciplining a licensee's license or certificate for certain actions. The board's decision is appealable to the circuit court; and

(7) Changes the board's authority to discipline athletic trainers.

The substitute also:

- (1) Removes the requirement that a doctor display his or her certificate of registration in his or her office at all times;
- (2) Requires a doctor who prescribes any drug, controlled substance, or other treatment through the Internet to establish that there is a valid physician-patient relationship;
- (3) Prohibits evidence contesting or challenging the basis of a criminal conviction from being admissible in an administrative hearing; and
- (4) Requires the Administrative Hearing Commission to deliver findings of fact and conclusions of law in a disciplinary case to the appropriate agency within 120 days of the date the case became ready for decision.

The provisions regarding the Prescription Drug Monitoring Program Act become effective January 1, 2012.

The provisions of the substitute regarding the pilot project for the reporting of fraudulently obtained prescription controlled substances will expire three years from the effective date and the provisions regarding the Prescription Drug Monitoring Program Act will expire six years from the effective date.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown greater than \$1,540,233 in FY 2012, Unknown greater than \$832,848 in FY 2013, and Unknown greater than \$841,113 in FY 2014. Estimated Net Cost on Other State Funds of \$105,173 in FY 2012, \$124,961 in FY 2013, and \$127,639 in FY 2014.