

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 90 & 68

99TH GENERAL ASSEMBLY

0046H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 195, RSMo, by adding thereto seven new sections relating to the narcotics control act, with penalty provisions.

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

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

195.450. 1. Sections 195.450 to 195.468 shall be known and may be cited as the "Narcotics Control Act".

2. As used in sections 195.450 to 195.468, the following terms shall 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, or IV controlled substance to a patient, but does not include:

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

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

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

(4) "Patient", a person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, not including a hospice patient enrolled in a

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.

16 Medicare-certified hospice program who has controlled substances dispensed to him or her
17 by such hospice program;

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

21 3. Notwithstanding any other law to the contrary, the provisions of this section shall
22 not apply to persons licensed under chapter 340.

195.453. 1. The department shall establish and maintain a program for the
2 monitoring of prescribing and dispensing of all Schedule II, III, and IV controlled
3 substances by all professionals licensed to prescribe or dispense such substances in this
4 state. The funding of the narcotics control program shall be subject to appropriations. In
5 addition to appropriations from the general assembly, the department may apply for
6 available grants and shall be able to accept other gifts, grants, and donations to develop
7 and maintain 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 dispensation shall include, but not be limited to:

- 11 (1) The pharmacy's Drug Enforcement Administration (DEA) number;
12 (2) The date of the dispensation;
13 (3) The following, if there is a prescription:
14 (a) The prescription number or other unique identifier;
15 (b) Whether the prescription is new or a refill; and
16 (c) The prescriber's DEA or National Provider Identifier (NPI) number;
17 (4) The National Drug Code (NDC) for the drug dispensed;
18 (5) The quantity and dosage of the drug dispensed;
19 (6) The patient's identification number including, but not limited to, any one of the

20 following:

- 21 (a) The patient's driver's license number;
22 (b) The patient's government-issued identification number; or
23 (c) The patient's insurance cardholder identification number; and
24 (7) The patient's name, address, and date of birth.

25 3. Each dispenser shall submit the information in accordance with transmission
26 standards established by the American Society for Automation in Pharmacy or any
27 successor organization and shall report data within twenty-four hours of dispensation.
28 Beginning January 1, 2019, the department shall begin phasing in a requirement that

29 dispensers report data in real time with all report data to be submitted in real time by
30 January 1, 2020.

31 4. (1) The department may issue a waiver to a dispenser who is unable to submit
32 dispensation information by electronic means. Such waiver may permit the dispenser to
33 submit dispensation information by paper form or other means, provided all information
34 required in subsection 2 of this section is submitted in such alternative format.

35 (2) The department may grant an extension to dispensers who are temporarily
36 unable to electronically submit the dispensation information required in subsection 2 of
37 this section in accordance with the time frame established in subsection 3 of this section
38 due to unforeseen circumstances. In cases in which an extension is granted, dispensers
39 shall be responsible for reporting the required data in a subsequent submission.

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

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

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

13 4. The department may provide data in the narcotics control program to the
14 following persons:

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

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

20 (3) The state board of pharmacy;

21 (4) Any state board charged with regulating a professional who has the authority
22 to prescribe or dispense controlled substances that requests data related to a specific
23 professional under the authority of such board if such board has a current and open
24 investigation into such professional and the data provided is limited to such professional;

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 prescription drugs based on a specific case and under a subpoena issued by a**
28 **court of competent jurisdiction or court order;**

29 **(6) The MO HealthNet division within the department of social services regarding**
30 **MO HealthNet program recipients; and**

31 **(7) A judge or other judicial authority under a subpoena issued by a court of**
32 **competent jurisdiction or court order.**

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**
35 **individual patients, prescribers, dispensers, or persons who received dispensations from**
36 **dispensers.**

37 **6. Nothing in sections 195.450 to 195.468 shall be construed to require a pharmacist**
38 **or prescriber to obtain information about a patient from the database.**

39 **7. No dispensation information submitted to the department shall be used by any**
40 **local, state, or federal authority to prevent an individual from owning or obtaining a**
41 **firearm.**

195.459. The department is authorized to contract with any other agency of this
2 **state or any other state with a private vendor, or any state government that currently runs**
3 **a narcotics control program. Any contractor shall comply with the provisions regarding**
4 **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 195.468. 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, 2017, shall be invalid and void.**

195.465. 1. A dispenser who knowingly fails to submit dispensation information
2 **to the department as required in sections 195.450 to 195.468 or knowingly submits the**
3 **incorrect dispensation information shall be subject to an administrative penalty in the**
4 **amount of one thousand dollars for each violation. The penalty shall be assessed through**
5 **an order issued by the director of the department. Any person subject to an administrative**

6 **penalty may appeal to the administrative hearing commission under the provisions of**
7 **chapter 621.**

8 **2. Any person who unlawfully and knowingly accesses or discloses, or any person**
9 **authorized to have prescription or dispensation information under sections 195.450 to**
10 **195.468 who knowingly discloses such information in violation of sections 195.450 to**
11 **195.468 or knowingly uses such information in a manner and for a purpose in violation of**
12 **sections 195.450 to 195.468 is guilty of a class E felony.**

195.468. Under section 23.253 of the Missouri sunset act:

2 **(1) The provisions of the new program authorized under sections 195.450 to**
3 **195.468 shall automatically sunset six years after the effective date of sections 195.450 to**
4 **195.468 unless reauthorized by an act of the general assembly;**

5 **(2) If such program is reauthorized, the program authorized under sections 195.450**
6 **to 195.468 shall automatically sunset twelve years after the effective date of the**
7 **reauthorization of sections 195.450 to 195.468; and**

8 **(3) Sections 195.450 to 195.468 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 195.468 is sunset.**

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