

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 223

Introduced by Kuehn, 38; Howard, 9; Lindstrom, 18.

Read first time January 10, 2017

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to prescription drug monitoring; to amend
- 2 section 71-2454, Revised Statutes Cumulative Supplement, 2016; to
- 3 provide for training as prescribed; to redefine a term; to harmonize
- 4 provisions; to repeal the original section; and to declare an
- 5 emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-2454, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 71-2454 (1) An entity described in section 71-2455 shall establish a
4 system of prescription drug monitoring for the purposes of (a) preventing
5 the misuse of controlled substances that are prescribed and (b) allowing
6 prescribers and dispensers to monitor the care and treatment of patients
7 for whom such a prescription drug is prescribed to ensure that such
8 prescription drugs are used for medically appropriate purposes and that
9 the State of Nebraska remains on the cutting edge of medical information
10 technology.

11 (2) Such system of prescription drug monitoring shall be implemented
12 as follows: Except as provided in subsection (4) of this section,
13 beginning January 1, 2017, all dispensed prescriptions of controlled
14 substances shall be reported; and beginning January 1, 2018, all
15 prescription information shall be reported to the prescription drug
16 monitoring system. The prescription drug monitoring system shall include,
17 but not be limited to, provisions that:

18 (a) Prohibit any patient from opting out of the prescription drug
19 monitoring system;

20 (b) Require all prescriptions dispensed in this state or to an
21 address in this state to be entered into the system by the dispenser or
22 his or her designee daily after such prescription is dispensed, including
23 those for patients paying cash for such prescription drug or otherwise
24 not relying on a third-party payor for payment for the prescription drug;

25 (c) Allow all prescribers or dispensers of prescription drugs to
26 access the system at no cost to such prescriber or dispenser; ~~and~~

27 (d) Ensure that such system includes information relating to all
28 payors, including, but not limited to, the medical assistance program
29 established pursuant to the Medical Assistance Act; and -

30 (f) Make the prescription information available to the designated
31 statewide health information exchange for access by participants if such

1 access is in compliance with the privacy and security protections set
2 forth in the provisions of the Health Insurance Portability and
3 Accountability Act of 1996, Public Law 104-191, and regulations
4 promulgated thereunder and with state law.

5 Dispensers may begin on February 25, 2016, to report dispensing of
6 prescriptions to the entity described in section 71-2455 which is
7 responsible for establishing the system of prescription drug monitoring.

8 (3) Prescription information that shall be submitted electronically
9 to the prescription drug monitoring system shall be determined by the
10 entity described in section 71-2455 and shall include, but not be limited
11 to:

12 (a) The patient's name, address, and date of birth;

13 (b) The name and address of the pharmacy dispensing the
14 prescription;

15 (c) The date the prescription is issued;

16 (d) The date the prescription is filled;

17 (e) The name of the drug dispensed or the National Drug Code number
18 as published by the federal Food and Drug Administration of the drug
19 dispensed;

20 (f) The strength of the drug prescribed;

21 (g) The quantity of the drug prescribed and the number of days'
22 supply; and

23 (h) The prescriber's name and National Provider Identifier number or
24 Drug Enforcement Administration number when reporting a controlled
25 substance.

26 (4) Beginning January 1, 2018, a veterinarian licensed under the
27 Veterinary Medicine and Surgery Practice Act shall be required to report
28 a dispensed prescription of controlled substances listed on Schedule II,
29 Schedule III, or Schedule IV pursuant to section 28-405.

30 (5) All prescription drug information submitted pursuant to this
31 section, all data contained in the prescription drug monitoring system,

1 and any report obtained from data contained in the prescription drug
2 monitoring system are not public records and may be withheld pursuant to
3 section 84-712.05.

4 (6) Before accessing the prescription drug monitoring system, any
5 user shall undergo training on proper usage of the prescription drug
6 monitoring system. Such training shall be administered by the public-
7 private statewide health information exchange described in section
8 71-2455.

9 (7) (6) For purposes of this section:

10 (a) Designee means any licensed or registered health care
11 professional designated by a prescriber or dispenser to act as an agent
12 of the prescriber or dispenser for purposes of submitting or accessing
13 data in the prescription drug monitoring system and who is directly
14 supervised by such prescriber or dispenser or, in the absence of such
15 licensed or registered health care professional, an employee of such
16 prescriber or dispenser who is not a licensed health care professional,
17 appointed by the prescriber or dispenser pursuant to requirements
18 established by the public-private statewide health information exchange
19 described in section 71-2455;

20 (b) Dispenser means a person authorized in the jurisdiction in which
21 he or she is practicing to deliver a prescription to the ultimate user by
22 or pursuant to the lawful order of a prescriber but does not include (i)
23 the delivery of such prescription drug for immediate use for purposes of
24 inpatient hospital care or emergency department care, (ii) the
25 administration of a prescription drug by an authorized person upon the
26 lawful order of a prescriber, (iii) a wholesale distributor of a
27 prescription drug monitored by the prescription drug monitoring system,
28 or (iv) through December 31, 2017, a veterinarian licensed under the
29 Veterinary Medicine and Surgery Practice Act when dispensing
30 prescriptions for animals in the usual course of providing professional
31 services; and

1 (c) Prescriber means a health care professional authorized to
2 prescribe in the profession which he or she practices.

3 Sec. 2. Original section 71-2454, Revised Statutes Cumulative
4 Supplement, 2016, is repealed.

5 Sec. 3. Since an emergency exists, this act takes effect when
6 passed and approved according to law.