

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 223

FINAL READING

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 availability and confidentiality of prescription
4 information and certain data as prescribed; to change provisions
5 relating to reporting by veterinarians; to provide for training as
6 prescribed; to define and redefine terms; to harmonize provisions;
7 to repeal the original section; and to declare an emergency.
8 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 (e) Make the prescription information available to the statewide
31 health information exchange described in section 71-2455 for access by

1 its participants if such access is in compliance with the privacy and
2 security protections set forth in the provisions of the federal Health
3 Insurance Portability and Accountability Act of 1996, Public Law 104-191,
4 and regulations promulgated thereunder, except that if a patient opts out
5 of the statewide health information exchange, the prescription
6 information regarding that patient shall not be accessible by the
7 participants in the statewide health information exchange.

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

11 (3) Except as provided in subsection (4) of this section,
12 prescription ~~Prescription~~ information that shall be submitted
13 electronically to the prescription drug monitoring system shall be
14 determined by the entity described in section 71-2455 and shall include,
15 but not be limited to:

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

17 (b) The name and address of the pharmacy dispensing the
18 prescription;

19 (c) The date the prescription is issued;

20 (d) The date the prescription is filled;

21 (e) The name of the drug dispensed or the National Drug Code number
22 as published by the federal Food and Drug Administration of the drug
23 dispensed;

24 (f) The strength of the drug prescribed;

25 (g) The quantity of the drug prescribed and the number of days'
26 supply; and

27 (h) The prescriber's name and National Provider Identifier number or
28 Drug Enforcement Administration number when reporting a controlled
29 substance.

30 (4) Beginning ~~July~~ January 1, 2018, a veterinarian licensed under
31 the Veterinary Medicine and Surgery Practice Act shall be required to

1 report a dispensed prescription of controlled substances listed on
2 Schedule II, Schedule III, or Schedule IV pursuant to section 28-405.
3 Each such veterinarian shall indicate that the prescription is an animal
4 prescription and shall include the following information in such report:

5 (a) The first and last name and address, including city, state, and
6 zip code, of the individual to whom the drug is dispensed in accordance
7 with a valid veterinarian-client-patient relationship;

8 (b) Reporting status;

9 (c) The first and last name of the prescribing veterinarian and his
10 or her federal Drug Enforcement Administration number;

11 (d) The name of the drug dispensed and the prescription number;

12 (e) The date the prescription is written and the date the
13 prescription is filled;

14 (f) The number of refills authorized, if any; and

15 (g) The quantity of the drug dispensed and the number of days'
16 supply.

17 (5)(a) ~~(5)~~ All prescription drug information submitted pursuant to
18 this section, all data contained in the prescription drug monitoring
19 system, and any report obtained from data contained in the prescription
20 drug monitoring system are confidential, are privileged, are not public
21 records, and may be withheld pursuant to section 84-712.05.

22 (b) No patient-identifying data as defined in section 81-664,
23 including the data collected under subsection (3) of this section, shall
24 be disclosed, made public, or released to any public or private person or
25 entity except to the statewide health information exchange described in
26 section 71-2455 and its participants and to prescribers and dispensers as
27 provided in subsection (2) of this section.

28 (c) All other data is for the confidential use of the department and
29 the statewide health information exchange described in section 71-2455
30 and its participants. The department may release such information as
31 Class I, Class II, or Class IV data in accordance with section 81-667 to

1 the private or public persons or entities that the department determines
2 may view such records as provided in sections 81-663 to 81-675.

3 (6) Before accessing the prescription drug monitoring system, any
4 user shall undergo training on the purpose of the system, access to and
5 proper usage of the system, and the law relating to the system, including
6 confidentiality and security of the prescription drug monitoring system.
7 Such training shall be administered by the statewide health information
8 exchange described in section 71-2455 which shall have access to the
9 prescription drug monitoring system for training and administrative
10 purposes. Users who have been trained prior to the effective date of this
11 act are deemed to be in compliance with the training requirement of this
12 subsection.

13 (7) ~~(6)~~ For purposes of this section:

14 (a) Designee means any licensed or registered health care
15 professional credentialed under the Uniform Credentialing Act designated
16 by a prescriber or dispenser to act as an agent of the prescriber or
17 dispenser for purposes of submitting or accessing data in the
18 prescription drug monitoring system and who is ~~directly~~ supervised by
19 such prescriber or dispenser;

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) Participant means an individual or entity that has entered into
2 a participation agreement with the statewide health information exchange
3 described in section 71-2455 which requires the individual or entity to
4 comply with the privacy and security protections set forth in the
5 provisions of the federal Health Insurance Portability and Accountability
6 Act of 1996, Public Law 104-191, and regulations promulgated thereunder;
7 and

8 (d) (e) Prescriber means a health care professional authorized to
9 prescribe in the profession which he or she practices.

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

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