ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB556

Hearing Date: Wednesday February 13, 2019
Committee On: Health and Human Services
Introducer: Howard
One Liner: Change provisions relating to the prescription drug monitoring program

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams
Nay:		
Absent:		
Present Not Voting:		

Oral Testimony:

Proponents:	**Representing:**
Senator Sara Howard	Introducer
Kevin Borcher	Nebraska Health Information Initiative and Prescription Drug Monitoring Program
Michael White	CHI Health; Nebraska Health Information Initiative (NEHII)
Shannon Nelson	Wellcare
Ann Polich	Nebraska Health Information Initiative (NEHII)
Matthew Van Patton	Department of Health and Human Services
Alex Dworak	Nebraska Medical Association
Andy Hale	Nebraska Hospital Association
Brennen Miller	Nebraska Medicine
Joni Cover	Nebraska Pharmacists Association
Opponents:	**Representing:**
Neutral:	**Representing:**

Summary of purpose and/or changes:
LB 556 makes changes and adds provisions to the Prescription Drug Monitoring Program (PDMP.)

Neb. Rev. Stat. 71-2454 is amended in a variety of ways. First, LB 556 inserts language to clarify that the purpose of the PDMP is to provide information to improve the health and safety of patients. (Sec. 1, page 2, lines 8-10.)

Subsection (3) of 71-2454 is amended to add additional information to be submitted to the PDMP. LB 556 adds:

- a patient's telephone number and gender;
- a patient identifier like a driver's license number or social security number, etc.;
- the number of refills that were authorized;
- the prescription number of the drug dispensed;
- the prescription directions if available in accordance with the American Society of Automation in Pharmacy version 4.2A format; and
- any other information as required by the Dispenser's Implementation Guide for the PDMP as created by the statewide health information exchange in collaboration with the Department of Health and Human Services.

(Section 1(3), page 3, lines 18-25, 30-31, and page 4, lines 7-9 and 13-16.)

Under 71-2454, no patient-identifying information collected for the PDMP may be disclosed, made public, or released to any person or entity except the statewide health information exchange or as provided under LB 556. (Page 5, lines 16-17.)

LB 556 inserts provisions regarding who may receive and share the information in the PDMP.

LB 556 allows the statewide health information exchange in addition to the Department of Health and Human Services (DHHS), to release Class I, Class II, or Class IV data to persons and entities DHHS determines appropriate. (Sec. 1(5)(c), page 5, lines 20-21.)

The statewide health information exchange in collaboration with DHHS will establish minimum safeguards to protect the integrity and availability of prescription drug information. (Sec. 1(6), page 5, lines 27-31.)

The statewide health information exchange may, in collaboration with DHHS, release the prescription drug information and other data collected pursuant to the PDMP to the following entities if they have privacy restrictions at least as restrictive as those for the PDMP and has the safeguards in place under subsection (6):

- Other state prescription drug monitoring programs;

- State and regional health information exchanges;

- The medical director and pharmacy direction of the Division of Medicaid and Long-Term Care or his or her designees;

- The medical directors and pharmacy directors of Medicaid managed care entities, the Medicaid drug utilization board, and any other state-administered health insurance program if such entities have a current data-sharing agreement with the state health information exchange and the release is in accordance with federal law;

- Organizations which facilitate the interoperability and mutual exchange of information among state prescription drug monitoring programs or state or regional health information exchanges; and

- Electronic health record systems or pharmacy dispensing software systems for the purpose of integrating prescription drug information into a patient's record. (Sec. 1(7), page 6, lines 1-25.)

These entities will be considered to have met the training requirement to access the PDMP. (Sec. 1(12), lines 25-26.)

- The statewide health information exchange, in collaboration with DHHS, may release a patient's prescription drug information to the patient directly or to a personal health record system designated by the patient if such system meets the restrictive privacy requirements and safeguards. (Sec. 1(8), page 6, lines 26-31 and page 7, lines 1-2.)

- Both the statewide health information exchange or DHHS may release data collected for statistical, public research, public policy, or educational purposes after removing information which identifies or could reasonably be used to identify the patient, prescriber, dispenser, or other person who is the subject of the information. (Sec. 1(9), page 7, lines 3-8.)

- The statewide health information exchange or DHHS may request and receive information from other prescription drug monitoring programs for use in the PDMP in this state. (Sec. 1(10), page 7, lines 9-12.)

- The statewide health information exchange, in collaboration with DHHS, will implement technological improvements to facilitate the secure collection of, and access to, prescription drug information. (Sec. 1(11), page 7, lines 13-16.)

LB 556 also makes some minor technical language changes throughout, adds a definition of "deliver or delivery," defines the department as DHHS, and strikes certain language regarding datelines that have passed.

There is an emergency clause on this bill.

Explanation of amendments:
Incorporating provisions of LB 557:
AM 383 incorporates LB 557, with some minor changes from the green copy, into LB 556. Sections 1, 2, and 3 of AM 383 are the provisions from LB 557.

Section 1 of AM 383 incorporates sections 2 and 3 into the Uniform Credentialing Act.

AM 383, section 2 inserts a new subsection defining practitioner to include physicians, physician assistants, dentists, pharmacists, podiatrists, optometrists, and various advanced practice nurses. (Page 2, line 27-30.) This definition is changed from the definition in the green copy of LB 557.

Section 2 also amends Neb. Rev. Stat. 28-473 to change a practitioner's duty to consult with a patient about the variety of risks related to a controlled substance. Rather than have that conversation before the initial prescription and

the third course of the prescription, the law instead requires the conversation if it has not been had in the last 60 days. It also amends 28-473 to allow other members of the patient care team who are under the direct supervision of or in consultation with the prescribing practitioner to have the conversation about risks with the patient. (Page 3, lines 1-12.) Finally, it adds a subsection to clarify that the duty to have this conversation does not apply to a prescription given for a hospice patient or for the course of treatment for cancer or palliative care. (Page. 3, lines 25-26.)

AM 383, section 3 amends Neb. Rev. Stat. 28-474 to insert again the new definition of practitioner as described above. (Page 3, lines 30-31 and page 4, lines 1-2.) Section 3 also references the definition of opiate in 28-401 for the provisions regarding the prescription of opiates to a patient younger than 18 years of age. (Page 5, lines 21-22.)

Changes to LB 556:
AM 383 also makes some minor changes to the original provisions of LB 556.

LB 556 amended Neb. Rev. Stat. 71-2454 and the type of information to be submitted to the prescription drug monitoring program. AM 383 makes minor changes to the original green copy.

- A telephone number is only provided "if available" (AM 383 sec. 3(a), page 6, line 25);
- Social security numbers were removed as patient identifiers (AMA 383 sec. 3(b), page 6, lines 27-31);
- The provision originally inserted in LB 556 to require the submission of the prescription directions is now removed (subsection (k) in the green copy) ;
- The provision originally inserted in LB 556 to require the submission of any other information required by the Dispenser's Implementation Guide is removed (subsection (m) in the green copy);
- Language is inserted requiring veterinarians to include "National Drug Code number as published by the Food and Drug Administration" (AM 383 sec. (4)(d), page 7, lines 29-31);
- Language is inserted in the confidentiality provision of 71-2454(5) to reference section (9) of 71-2454 as the exception to the confidentiality and privilege provisions (AM 383, sec. 5(a), page 8, lines 10-11);
- Language requiring the statewide health information exchange to work "in collaboration with the department" is inserted in several places (AM 383, sec. 5(c), page 8, lines 21-22, 26-28; AM 383 section (9), line 6.)

Sara Howard, Chairperson