State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

529Y0029

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. SB 1 - 1/18/2017

Introduced by: Senators White, Bolin, and Monroe and Representatives Stevens, Haugaard, and Tieszen at the request of the Interim Substance Abuse Prevention Study Committee

FOR AN ACT ENTITLED, An Act to revise certain provisions of the prescription drug monitoring program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-20E-1 be amended to read:

34-20E-1. Terms used in this chapter mean:

(1) "Administer," the direct application of a controlled substance to the body of a patient. The term does not include the prescribing of a controlled substance for administration by the patient or someone other than the health care provider;

(2) "Board," the Board of Pharmacy;

(3) "Central repository," a place where electronic data related to the prescribing and dispensing of controlled substances is collected;

(4) "Controlled substance," any drug, substance, or immediate precursor as provided in schedules II through IV pursuant to §§ 34-20B-11 to 34-20B-26, inclusive;

(5) "De-identified information," health information that is not individually identifiable

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information because an expert has made that determination pursuant to 45 C.F.R. 164.514, or direct identifiers and specified demographic information have been removed in accordance with the requirements of that section;

(6) "Dispense," to deliver a controlled substance to an ultimate user by or pursuant to the lawful order of a health care provider, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery;

(7) "Dispenser," any person who delivers a controlled substance to the ultimate user, but does not include:

(a) A licensed hospital pharmacy that provides a controlled substance for the purpose of inpatient hospital care;

(b) A licensed health care provider or other authorized individual in those instances when the practitioner administers a controlled substance to a patient; or

(c) A licensed veterinarian;

(8) "Individually identifiable health information," the meaning set forth in 45 C.F.R. 160.103;

(9) "Integration," the linking of the central repository into the electronic health records to allow health systems, pharmacies, or health information exchanges to seamlessly access data;

(10) "Patient," any individual or owner of an animal who is the ultimate user of a controlled substance for whom a prescription is issued and for whom a controlled substance is dispensed;

~~(10)~~(11) "Prescriber," an individual licensed, registered, or otherwise authorized by the jurisdiction in which the individual is practicing to prescribe drugs in the

course of professional practice. The term does not include a veterinarian;

~~(11)~~(12) "Program," the prescription drug monitoring program established by this chapter.

Section 2. That § 34-20E-2 be amended to read:

34-20E-2. The board shall establish and maintain a prescription drug monitoring program to monitor the prescribing and dispensing of all controlled substances. The program shall utilize a central repository, to which each dispenser shall submit, by electronic means, information regarding each prescription dispensed for a controlled substance. The information submitted for each prescription shall include specifically identified data elements adopted by the board and contained in the ~~2005~~ 2011 version of the electronic reporting standard for prescription monitoring programs, version ~~003, release 000,~~ 4.2 of the American Society for Automation in Pharmacy.

Section 3. That § 34-20E-3 be amended to read:

34-20E-3. Each dispenser shall submit the information required by this chapter to the central repository at least ~~once each week~~ every twenty-four hours unless the board waives this requirement for good cause shown by the dispenser.

Section 4. That § 34-20E-7 be amended to read:

34-20E-7. Unless disclosure is prohibited by law, the board may provide data in the central repository to:

(1) Any prescriber for the purpose of providing medical care to a patient, a dispenser for the purpose of filling a prescription or providing pharmaceutical care for a patient, a prescriber or dispenser inquiring about the prescriber's or dispenser's own prescribing activity, or a prescriber or dispenser in order to further the purposes of the program including integration with electronic medical records;

(2) Any individual who requests the prescription information of the individual or the individual's minor child;

(3) Any state board or regulatory agency that is responsible for the licensing of individuals authorized to prescribe or dispense controlled substances if the board or regulatory agency is seeking information from the central repository that is relevant to an investigation of an individual who holds a license issued by that board or regulatory agency;

(4) Any local, state, and federal law enforcement or prosecutorial officials engaged in the enforcement of laws relating to controlled substances who seek information for the purpose of an investigation or prosecution of the drug-related activity or probation compliance of an individual;

(5) The Department of Social Services for purposes regarding the utilization of controlled substances by a medicaid recipient;

(6) Any insurer for purposes regarding the utilization of controlled substances by a claimant;

(7) Any judicial authority under grand jury subpoena or court order or equivalent judicial process for investigation of criminal violations of controlled substances laws;

(8) Any public or private entity for statistical, research, or educational purposes after the information is de-identified with respect to any prescriber, dispenser, or patient who received a prescription for a controlled substance; or

(9) Any peer review committee, which means any committee of a health care organization, composed of health care providers, employees, administrators, consultants, agents, or members of the health care organization's governing body, which conducts professional peer review.

Section 5. That chapter 34-20E be amended by adding a NEW SECTION to read:

Any person who has a controlled drug or substance registration pursuant to § 34-20B-29 to prescribe or dispense any controlled drug or substance within this state must register with the program. Veterinarians licensed pursuant to chapter 36-12 are not subject to this requirement. The program shall work with the Department of Health to assure compliance with the requirement.