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COMMITTEE REPORT

February 18, 2014

**S. 840**

Introduced by Senator Bryant

S. Printed 2/18/14--S.

Read the first time January 14, 2014.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 840) to amend Section 44‑53‑1640, Code of Laws of South Carolina, 1976, relating to the submission of certain information by dispensers as part of the state prescription, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 44-53-1630 of the 1976 Code, as added by Act 396 of 2006, is amended by adding:

"(5) 'Authorized delegate' means an individual who is approved as having access to the prescription monitoring program and who is directly supervised by an authorized practitioner or pharmacist."

SECTION 2. Section 44‑53‑1640(B)(2) of the 1976 Code, as added by Act 396 of 2006, is amended to read:

"(2) A dispenser shall submit daily to the department the information required pursuant to subsection (B)(1) in accordance with transmission methods and protocols provided in the latest edition of the 'ASAP Telecommunications Format for Controlled Substances~~, May 1995 Version~~', developed by the American Society for Automation in Pharmacy~~, and frequent established by drug control, but shall report every thirty days, between the 1~~~~st~~ ~~and the 15~~~~th~~ ~~of the month following the month the prescription was dispensed~~."

SECTION 3. Section 44‑53‑1650 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

“Section 44‑53‑1650. (A) Prescription information submitted to drug control is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (C) and (D).

(B) Drug control shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (C) and (D).

(C) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, drug control shall notify the appropriate law enforcement or professional licensure, certification, or regulatory agency or entity and shall provide prescription information required for an investigation.

(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist or authorized delegate who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual’s own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this Subsection.”

SECTION 4. Section 44‑53‑1680 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

"Section 44-53-1680. (A) A dispenser or authorized delegate who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor, and upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person or persons authorized to have prescription monitoring information pursuant to this article who knowingly discloses this information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person or persons authorized to have prescription monitoring information pursuant to this article who uses this information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A pharmacist or practitioner, licensed in Title 40, who knowingly discloses prescription monitoring information in a manner or for a purpose in violation of this article shall have his license revoked.

(E) Nothing in this chapter requires a pharmacist or practitioner to obtain information about a patient from the prescription monitoring program. A pharmacist or practitioner does not have a duty and must not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program."

SECTION 5. Section 40-47-40(2)(a) of the 1976 Code, as added by Act 385 of 2006 is amended to read:

"(2) For renewal of an active permanent license biennially, documented evidence of at least one of following options during the renewal period is required:

(a) forty hours of Category I continuing medical education sponsored by the American Medical Association, American Osteopathic Association, or another organization approved by the board as having acceptable standards for courses it sponsors, at least thirty hours of which must be related directly to the licensee's practice area, and at least two (2) hours of which may be related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III and IV of the schedules provided for in Sections 44-53-210, 44-53-230, 44-53-250, and 44-53-270, and must be received from a statewide organization recognized by the Accreditation Council for Continuing Medical Education to recognize and accredit organizations in South Carolina offering continuing medication education. Each renewal form submitted pursuant to Section 40-47-41 must include a certificate of participation with the prescribing and monitoring education requirement issued by the organization from which the education was received;"

SECTION 6. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 44‑53‑1640, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUBMISSION OF CERTAIN INFORMATION BY DISPENSERS AS PART OF THE STATE PRESCRIPTION MONITORING PROGRAM, SO AS TO REVISE THE MANNER OF SUBMISSION; AND TO AMEND SECTION 44‑53‑1650, RELATING TO CONFIDENTIALITY AND RELEASE OF DATA FROM THE STATE PRESCRIPTION MONITORING PROGRAM, SO AS TO REQUIRE A COURT ORDER FOR THE RELEASE OF CERTAIN INFORMATION FOR RESEARCH AND EDUCATION PURPOSES, AND TO REQUIRE A COURT ORDER TO RELEASE INFORMATION TO CERTAIN INDIVIDUALS WHEN THE REQUEST IS FOR SYSTEM DATA MAINTAINED FOR LONGER THAN ONE YEAR.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑53‑1640(B)(2) of the 1976 Code, as added by Act 396 of 2006, is amended to read:

“(2) A dispenser shall submit the information required pursuant to subsection (B)(1) in accordance with transmission methods and protocols provided in the ‘ASAP Telecommunications Format for Controlled Substances, May 1995 Version’, developed by the American Society for Automation in Pharmacy, and ~~frequency established by drug control, but~~ shall report ~~at least~~ every thirty days, between the ~~1st~~ first and the ~~15th~~ fifteenth of the month following the month the prescription was dispensed.”

SECTION 2. Section 44‑53‑1650 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

“Section 44‑53‑1650. (A) Prescription information submitted to drug control is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (C) and (D).

(B) Drug control shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (C) and (D).

(C) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, drug control shall notify the appropriate law enforcement or professional licensure, certification, or regulatory agency or entity and shall provide prescription information required for an investigation.

(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual’s own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a ~~written agreement between qualified personnel and the department in order to ensure compliance with this Subsection~~ court order.

(E) The data in the prescription monitoring program must be provided to the persons in subsection (D)(3), (4), (5), and (8) for the prior twelve months of the date of the request. Data in the prescription monitoring program beyond the prior twelve months of the date of request for persons in subsection (D)(3), (4), (5), and (8) will require a court order.”

SECTION 3. This act takes effect upon approval by the Governor.

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