

SENATE SUBSTITUTE  
FOR  
SENATE BILL NO. 63  
AN ACT

To amend chapter 195, RSMo, by adding thereto one new section relating to the monitoring of certain prescribed controlled substances, with penalty provisions.

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 195, RSMo, is amended by adding thereto  
2 one new section, to be known as section 195.450, to read as  
3 follows:

195.450. 1. As used in this section, the following  
2 terms shall mean:

3 (1) "Controlled substance", as such term is defined in  
4 section 195.010;

5 (2) "Dispenser", a person who delivers a Schedule II,  
6 III, or IV controlled substance to a patient, but does not  
7 include:

8 (a) A hospital, as such term is defined in section  
9 197.020, that distributes such substances for the purpose of  
10 inpatient care or dispenses prescriptions for controlled  
11 substances at the time of discharge from such facility;

12 (b) A practitioner or other authorized person who  
13 administers such a substance; or

14 (c) A wholesale distributor of a controlled substance;

15 (3) "Health care provider", as such term is defined in  
16 section 376.1350;

17 (4) "Patient", a person who is the ultimate user of a  
18 drug for whom a prescription is issued or for whom a drug is  
19 dispensed, not including a hospice patient enrolled in a  
20 Medicare-certified hospice program who has controlled  
21 substances dispensed to him or her by such hospice program;

22           (5) "Schedule II, III, or IV controlled substance", a  
23 controlled substance that is listed in Schedule II, III, or  
24 IV of the schedules provided under this chapter or the  
25 Controlled Substances Act, 21 U.S.C. Section 812.

26           2. (1) There is hereby established within the office  
27 of administration the "Joint Oversight Task Force for  
28 Prescription Drug Monitoring", which shall be authorized to  
29 supervise the collection and use of patient dispensation  
30 information for prescribed Schedule II, III, or IV  
31 controlled substances as submitted by dispensers in this  
32 state under this section. The joint oversight task force  
33 shall consist of the following members:

34           (a) Two members of the state board of registration for  
35 the healing arts who are licensed physicians or surgeons;

36           (b) Two members of the state board of pharmacy who are  
37 licensed pharmacists;

38           (c) One member of the state board of nursing who is an  
39 advanced practice registered nurse; and

40           (d) One member of the Missouri dental board who is a  
41 licensed dentist.

42           (2) The task force members shall be appointed by their  
43 respective state regulatory boards and shall serve a term  
44 not to exceed their term on such regulatory board, but in no  
45 case shall any term on the joint oversight task force exceed  
46 four years. Any member shall serve on the joint oversight  
47 task force until his or her successor is appointed. Any  
48 vacancy on the joint oversight task force shall be filled in  
49 the same manner as the original appointment. A chair of the  
50 joint oversight task force shall be selected by the members  
51 of the joint oversight task force.

52           (3) Members shall serve on the joint oversight task  
53 force without compensation, but may be reimbursed for their  
54 actual and necessary expenses from moneys appropriated to

55 the office of administration. The office of administration  
56 shall provide technical, legal, and administrative support  
57 services as required by the joint oversight task force;  
58 provided, that the office of administration shall not have  
59 access to dispensation information or any other individually  
60 identifiable patient information submitted and retained  
61 under this section. The joint oversight task force shall be  
62 authorized to hire such staff as is necessary, subject to  
63 appropriations, to administer the provisions of this section.

64 3. (1) The joint oversight task force shall enter  
65 into a contract with a vendor, through a competitive bid  
66 process under chapter 34, for the operation of a program to  
67 monitor the dispensation of prescribed Schedule II, III, and  
68 IV controlled substances. The vendor shall be responsible  
69 for the collection and maintenance of patient dispensation  
70 information submitted to the vendor by dispensers in this  
71 state and shall comply with the provisions of this section  
72 and the rules and regulations promulgated by the joint  
73 oversight task force.

74 (2) In addition to appropriations from the general  
75 assembly, the joint oversight task force may apply for  
76 available grants and shall be able to accept other gifts,  
77 grants, and donations to develop and maintain the program.

78 (3) The joint oversight task force shall be authorized  
79 to cooperate with the MO HealthNet division within the  
80 department of social services for the purposes of applying  
81 for and accepting any available federal moneys or other  
82 grants to develop and maintain the program; provided, that  
83 the joint oversight task force shall retain all authority  
84 over the program granted to it under this section and the MO  
85 HealthNet division shall not have access to the program or  
86 the information submitted to the program beyond such access  
87 as is granted to the division under this section.

88 4. Dispensation information submitted to the vendor  
89 under this section shall be as follows for each dispensation  
90 of a Schedule II, III, or IV controlled substance in this  
91 state:

92 (1) The pharmacy's Drug Enforcement Administration  
93 (DEA) number;

94 (2) The date of the dispensation;

95 (3) The following, if there is a prescription:

96 (a) The prescription number or other unique identifier;

97 (b) Whether the prescription is new or a refill; and

98 (c) The prescriber's DEA or National Provider

99 Identifier (NPI) number;

100 (4) The National Drug Code (NDC) for the drug  
101 dispensed;

102 (5) The quantity and dosage of the drug dispensed;

103 (6) The patient's identification number including, but  
104 not limited to, any one of the following:

105 (a) The patient's driver's license number;

106 (b) The patient's government-issued identification  
107 number; or

108 (c) The patient's insurance cardholder identification  
109 number; and

110 (7) The patient's name, address, and date of birth.

111 The addition of any further information to the list of  
112 dispensation information required to be submitted in this  
113 subsection shall be the sole purview of the general assembly.

114 5. Each dispenser shall submit the information to the  
115 vendor electronically within twenty-four hours of  
116 dispensation. Beginning January 1, 2023, the vendor shall  
117 begin phasing in a requirement that dispensers report  
118 patient dispensation information in real time, with all  
119 dispensation information to be submitted in real time by  
120 January 1, 2024. The joint oversight task force may

121 promulgate rules regarding alternative forms of transmission  
122 or waivers of the time frame established under this  
123 subsection due to unforeseen circumstances.

124 6. Beginning August 28, 2023, the vendor shall  
125 maintain an individual's dispensation information obtained  
126 under this section for a maximum of three years from the  
127 date of dispensation, after which such information shall be  
128 deleted from the program.

129 7. (1) The vendor shall treat patient dispensation  
130 information and any other individually identifiable patient  
131 information submitted under this section as protected health  
132 information under the federal Health Insurance Portability  
133 and Accountability Act of 1996 (HIPAA), P.L. 104-191, and  
134 the regulations promulgated thereunder. Such information  
135 shall only be accessed and utilized in accordance with the  
136 privacy and security provisions of HIPAA and the provisions  
137 of this section.

138 (2) Dispensation information and any other  
139 individually identifiable patient information submitted  
140 under this section shall be confidential and not subject to  
141 public disclosure under chapter 610.

142 8. (1) The patient dispensation information submitted  
143 under this section shall only be utilized for the provision  
144 of health care services to the patient. Prescribers,  
145 dispensers, and other health care providers shall be  
146 permitted to access a patient's dispensation information  
147 collected by the vendor in course of providing health care  
148 services to the patient. The vendor shall provide  
149 dispensation information to the individual patient, upon his  
150 or her request.

151 (2) The patient dispensation information submitted  
152 under this section shall be shared with any health  
153 information exchange operating in this state, upon the

154 request of the health information exchange. Charges  
155 assessed to the health information exchange by the vendor  
156 shall not exceed the cost of the actual technology  
157 connection or recurring maintenance thereof. Any health  
158 information exchange receiving patient dispensation  
159 information under this subdivision shall comply with the  
160 provisions of subsection 7 of this section and such patient  
161 dispensation information shall only be utilized in  
162 accordance with the provisions of this section. For  
163 purposes of this subdivision, "health information exchange"  
164 means the electronic exchange of individually identifiable  
165 patient information among unaffiliated organizations  
166 according to nationally-recognized standards as administered  
167 by a health information organization, which shall not  
168 include an organized health care arrangement, as defined in  
169 45 CFR 160.103, or a research institution that oversees and  
170 governs the electronic exchange of individually identifiable  
171 information among unaffiliated organizations for research  
172 purposes only.

173 9. The dispensation information of MO HealthNet  
174 program recipients submitted under this section may be  
175 shared with the MO HealthNet division for purposes of  
176 providing the division and MO HealthNet providers patient  
177 dispensation history and facilitating MO HealthNet claims  
178 processing and information retrieval; provided, that no  
179 patient dispensation information submitted under this  
180 section shall be utilized for any purpose prohibited under  
181 this section.

182 10. The joint oversight task force may provide data to  
183 public and private entities for statistical, research, or  
184 educational purposes only after removing information that  
185 could be used to identify individual patients, prescribers,

186 dispensers, or persons who received dispensations from  
187 dispensers.

188 11. No patient dispensation information shall be  
189 provided to local, state, or federal law enforcement or  
190 prosecutorial officials, both in-state and out-of-state, or  
191 any regulatory board, professional or otherwise, for any  
192 purposes other than those explicitly set forth in HIPAA and  
193 any regulations promulgated thereunder.

194 12. No dispensation information submitted under this  
195 section shall be used by any local, state, or federal  
196 authority to prevent an individual from owning or obtaining  
197 a firearm.

198 13. No dispensation information submitted under this  
199 section shall be the basis for probable cause to obtain an  
200 arrest or search warrant as part of a criminal investigation.

201 14. (1) A dispenser who knowingly fails to submit  
202 dispensation information to the vendor as required under  
203 this section, or who knowingly submits incorrect  
204 dispensation information, shall be subject to an  
205 administrative penalty in the amount of one thousand dollars  
206 for each violation. The penalty shall be assessed through  
207 an order issued by the joint oversight task force. Any  
208 person subject to an administrative penalty may appeal to  
209 the administrative hearing commission under the provisions  
210 of chapter 621.

211 (2) Any person who unlawfully and purposefully  
212 accesses or discloses, or any person authorized to have  
213 patient dispensation information under this section who  
214 purposefully discloses, such information in violation of  
215 this section or purposefully uses such information in a  
216 manner and for a purpose in violation of this section is  
217 guilty of a class E felony.

218           15. (1) The provisions of this section shall  
219 supercede any local laws, ordinances, orders, rules, or  
220 regulations enacted by a county, municipality, or other  
221 political subdivision of this state for the purpose of  
222 monitoring the prescription or dispensation of prescribed  
223 controlled substances within the state. Any such  
224 prescription drug monitoring program in operation prior to  
225 August 28, 2021, shall cease operation within this state  
226 when the vendor's program under this section is available  
227 for utilization by prescribers and dispensers throughout the  
228 state.

229           (2) The joint oversight task force may enter into an  
230 agreement, or authorize the vendor to enter into an  
231 agreement, with any prescription drug monitoring program  
232 operated by a county, municipality, or other political  
233 subdivision of this state prior to August 28, 2021, to  
234 transfer patient dispensation information from the county,  
235 municipality, or other program to the vendor's program  
236 created under this section; provided, that such patient  
237 dispensation information shall be subject to the provisions  
238 of this section.

239           16. The provisions of this section shall not apply to  
240 persons licensed under chapter 340.

241           17. The joint oversight task force shall promulgate  
242 rules and regulations to implement the provisions of this  
243 section. Any rule or portion of a rule, as that term is  
244 defined in section 536.010, that is created under the  
245 authority delegated in this section shall become effective  
246 only if it complies with and is subject to all of the  
247 provisions of chapter 536 and, if applicable, section  
248 536.028. This section and chapter 536 are nonseverable and  
249 if any of the powers vested with the general assembly  
250 pursuant to chapter 536 to review, to delay the effective



251 date, or to disapprove and annul a rule are subsequently  
252 held unconstitutional, then the grant of rulemaking  
253 authority and any rule proposed or adopted after August 28,  
254 2021, shall be invalid and void.