

SENATE BILL NO. 289

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

0452S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 195.600, RSMo, relating to the monitoring of certain prescribed controlled substances.

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

Section A. Section 195.600, RSMo, is repealed, to read as follows:

2 follows:
3 [195.600. 1. As used in this section, the
4 following terms shall mean:
5 (1) "Controlled substance", as such term
6 is defined in section 195.010;
7 (2) "Dispenser", a person who delivers a
8 Schedule II, III, or IV controlled substance to
9 a patient, but does not include:
10 (a) A hospital, as such term is defined in
11 section 197.020, that distributes such
12 substances for the purpose of inpatient care or
13 dispenses prescriptions for controlled
14 substances at the time of discharge from such
15 facility;
16 (b) A practitioner or other authorized
17 person who administers such a substance; or
18 (c) A wholesale distributor of a
19 controlled substance;
20 (3) "Health care provider", as such term
21 is defined in section 376.1350;
22 (4) "Patient", a person who is the
23 ultimate user of a drug for whom a prescription
24 is issued or for whom a drug is dispensed, not
25 including a hospice patient enrolled in a
26 Medicare-certified hospice program who has
27 controlled substances dispensed to him or her by
28 such hospice program;
29 (5) "Schedule II, III, or IV controlled
30 substance", a controlled substance that is
31 listed in Schedule II, III, or IV of the
32 schedules provided under this chapter or the
33 Controlled Substances Act, 21 U.S.C. Section 812.
2. (1) There is hereby established within
the office of administration the "Joint

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

34 Oversight Task Force for Prescription Drug
35 Monitoring", which shall be authorized to
36 supervise the collection and use of patient
37 dispensation information for prescribed Schedule
38 II, III, or IV controlled substances as
39 submitted by dispensers in this state under this
40 section. The joint oversight task force shall
41 consist of the following members:

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

45 (b) Two members of the state board of
46 pharmacy who are licensed pharmacists;

47 (c) One member of the state board of
48 nursing who is an advanced practice registered
49 nurse; and

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

52 (2) The task force members shall be
53 appointed by their respective state regulatory
54 boards and shall serve a term not to exceed
55 their term on such regulatory board, but in no
56 case shall any term on the joint oversight task
57 force exceed four years. Any member shall serve
58 on the joint oversight task force until his or
59 her successor is appointed. Any vacancy on the
60 joint oversight task force shall be filled in
61 the same manner as the original appointment. A
62 chair of the joint oversight task force shall be
63 selected by the members of the joint oversight
64 task force.

65 (3) Members shall serve on the joint
66 oversight task force without compensation, but
67 may be reimbursed for their actual and necessary
68 expenses from moneys appropriated to the office
69 of administration. The office of administration
70 shall provide technical, legal, and
71 administrative support services as required by
72 the joint oversight task force; provided, that
73 the office of administration shall not have
74 access to dispensation information or any other
75 individually identifiable patient information
76 submitted and retained under this section. The
77 joint oversight task force shall be authorized
78 to hire such staff as is necessary, subject to
79 appropriations, to administer the provisions of
80 this section.

81 (4) The joint oversight task force shall
82 be considered a public body and shall be subject
83 to the provisions of chapter 610.

84 3. (1) The joint oversight task force
85 shall enter into a contract with a vendor,
86 through a competitive bid process under chapter
87 34, for the operation of a program to monitor
88 the dispensation of prescribed Schedules II,
89 III, and IV controlled substances. The vendor
90 shall be responsible for the collection and

91 maintenance of patient dispensation information
92 submitted to the vendor by dispensers in this
93 state and shall comply with the provisions of
94 this section and the rules and regulations
95 promulgated by the joint oversight task force.
96 (2) In addition to appropriations from the
97 general assembly, the joint oversight task force
98 may apply for available grants and shall be able
99 to accept other gifts, grants, and donations to
100 develop and maintain the program.
101 (3) The joint oversight task force shall
102 be authorized to cooperate with the MO HealthNet
103 division within the department of social
104 services for the purposes of applying for and
105 accepting any available federal moneys or other
106 grants to develop and maintain the program;
107 provided, that the joint oversight task force
108 shall retain all authority over the program
109 granted to it under this section and the MO
110 HealthNet division shall not have access to the
111 program or the information submitted to the
112 program beyond such access as is granted to the
113 division under this section.
114 4. Dispensation information submitted to
115 the vendor under this section shall be as
116 follows for each dispensation of a Schedule II,
117 III, or IV controlled substance in this state:
118 (1) The pharmacy's Drug Enforcement
119 Administration (DEA) number;
120 (2) The date of the dispensation;
121 (3) The following, if there is a
122 prescription:
123 (a) The prescription number or other
124 unique identifier;
125 (b) Whether the prescription is new or a
126 refill; and
127 (c) The prescriber's DEA or National
128 Provider Identifier (NPI) number;
129 (4) The National Drug Code (NDC) for the
130 drug dispensed;
131 (5) The quantity and dosage of the drug
132 dispensed;
133 (6) The patient's identification number
134 including, but not limited to, any one of the
135 following:
136 (a) The patient's driver's license number;
137 (b) The patient's government-issued
138 identification number; or
139 (c) The patient's insurance cardholder
140 identification number; and
141 (7) The patient's name, address, and date
142 of birth.
143 The addition of any further information to the
144 list of dispensation information required to be
145 submitted in this subsection shall be the sole
146 purview of the general assembly.

147 5. Each dispenser shall submit the
148 information to the vendor electronically within
149 twenty-four hours of dispensation. Beginning
150 January 1, 2023, the vendor shall begin phasing
151 in a requirement that dispensers report patient
152 dispensation information in real time, with all
153 dispensation information to be submitted in real
154 time by January 1, 2024. The joint oversight
155 task force may promulgate rules regarding
156 alternative forms of transmission or waivers of
157 the time frame established under this subsection
158 due to unforeseen circumstances.

159 6. Beginning August 28, 2023, the vendor
160 shall maintain an individual's dispensation
161 information obtained under this section for a
162 maximum of three years from the date of
163 dispensation, after which such information shall
164 be deleted from the program.

165 7. (1) The vendor shall treat patient
166 dispensation information and any other
167 individually identifiable patient information
168 submitted under this section as protected health
169 information under the federal Health Insurance
170 Portability and Accountability Act of 1996
171 (HIPAA), P.L. 104-191, and the regulations
172 promulgated thereunder. Such information shall
173 only be accessed and utilized in accordance with
174 the privacy and security provisions of HIPAA and
175 the provisions of this section.

176 (2) Dispensation information and any other
177 individually identifiable patient information
178 submitted under this section shall be
179 confidential and not subject to public
180 disclosure under chapter 610.

181 8. (1) The patient dispensation
182 information submitted under this section shall
183 only be utilized for the provision of health
184 care services to the patient. Prescribers,
185 dispensers, and other health care providers
186 shall be permitted to access a patient's
187 dispensation information collected by the vendor
188 in course of providing health care services to
189 the patient. The vendor shall provide
190 dispensation information to the individual
191 patient, upon his or her request.

192 (2) The patient dispensation information
193 submitted under this section shall be shared
194 with any health information exchange operating
195 in this state, upon the request of the health
196 information exchange. Charges assessed to the
197 health information exchange by the vendor shall
198 not exceed the cost of the actual technology
199 connection or recurring maintenance thereof.
200 Any health information exchange receiving
201 patient dispensation information under this
202 subdivision shall comply with the provisions of
203 subsection 7 of this section and such patient

204 dispensation information shall only be utilized
205 in accordance with the provisions of this
206 section. For purposes of this subdivision,
207 "health information exchange" means the
208 electronic exchange of individually identifiable
209 patient information among unaffiliated
210 organizations according to nationally-recognized
211 standards as administered by a health
212 information organization, which shall not
213 include an organized health care arrangement, as
214 defined in 45 CFR 160.103, or a research
215 institution that oversees and governs the
216 electronic exchange of individually identifiable
217 information among unaffiliated organizations for
218 research purposes only.

219 9. The dispensation information of MO
220 HealthNet program recipients submitted under
221 this section may be shared with the MO HealthNet
222 division for purposes of providing the division
223 and MO HealthNet providers patient dispensation
224 history and facilitating MO HealthNet claims
225 processing and information retrieval; provided,
226 that no patient dispensation information
227 submitted under this section shall be utilized
228 for any purpose prohibited under this section.

229 10. The joint oversight task force may
230 provide data to public and private entities for
231 statistical, research, or educational purposes
232 only after removing information that could be
233 used to identify individual patients,
234 prescribers, dispensers, or persons who received
235 dispensations from dispensers.

236 11. No patient dispensation information
237 shall be provided to local, state, or federal
238 law enforcement or prosecutorial officials, both
239 in-state and out-of-state, or any regulatory
240 board, professional or otherwise, for any
241 purposes other than those explicitly set forth
242 in HIPAA and any regulations promulgated
243 thereunder.

244 12. No dispensation information submitted
245 under this section shall be used by any local,
246 state, or federal authority to prevent an
247 individual from owning or obtaining a firearm.

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

252 14. (1) A dispenser who knowingly fails
253 to submit dispensation information to the vendor
254 as required under this section, or who knowingly
255 submits incorrect dispensation information,
256 shall be subject to an administrative penalty in
257 the amount of one thousand dollars for each
258 violation. The penalty shall be assessed
259 through an order issued by the joint oversight
260 task force. Any person subject to an

261 administrative penalty may appeal to the
262 administrative hearing commission under the
263 provisions of chapter 621.

264 (2) Any person who unlawfully and
265 purposefully accesses or discloses, or any
266 person authorized to have patient dispensation
267 information under this section who purposefully
268 discloses, such information in violation of this
269 section or purposefully uses such information in
270 a manner and for a purpose in violation of this
271 section is guilty of a class E felony.

272 15. (1) The provisions of this section
273 shall supercede any local laws, ordinances,
274 orders, rules, or regulations enacted by a
275 county, municipality, or other political
276 subdivision of this state for the purpose of
277 monitoring the prescription or dispensation of
278 prescribed controlled substances within the
279 state. Any such prescription drug monitoring
280 program in operation prior to August 28, 2021,
281 shall cease operation within this state when the
282 vendor's program under this section is available
283 for utilization by prescribers and dispensers
284 throughout the state.

285 (2) The joint oversight task force may
286 enter into an agreement, or authorize the vendor
287 to enter into an agreement, with any
288 prescription drug monitoring program operated by
289 a county, municipality, or other political
290 subdivision of this state prior to August 28,
291 2021, to transfer patient dispensation
292 information from the county, municipality, or
293 other program to the vendor's program created
294 under this section; provided, that such patient
295 dispensation information shall be subject to the
296 provisions of this section.

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

299 17. The joint oversight task force shall
300 promulgate rules and regulations to implement
301 the provisions of this section. Any rule or
302 portion of a rule, as that term is defined in
303 section 536.010, that is created under the
304 authority delegated in this section shall become
305 effective only if it complies with and is
306 subject to all of the provisions of chapter 536
307 and, if applicable, section 536.028. This
308 section and chapter 536 are nonseverable and if
309 any of the powers vested with the general
310 assembly pursuant to chapter 536 to review, to
311 delay the effective date, or to disapprove and
312 annul a rule are subsequently held
313 unconstitutional, then the grant of rulemaking
314 authority and any rule proposed or adopted after
315 August 28, 2021, shall be invalid and void.]

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