

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 628
PROPOSED HOUSE COMMITTEE SUBSTITUTE S628-PCS35360-RG-45

Short Title: Release Contr. Subst. Rep. Data To CME.

(Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE REPORTING FORMAT FOR DATA ON CONTROLLED SUBSTANCES TRANSMITTED BY DISPENSERS TO THE DEPARTMENT, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO RELEASE CONFIDENTIAL DATA IN THE CONTROLLED SUBSTANCES REPORTING SYSTEM TO THE CHIEF MEDICAL EXAMINER AND COUNTY MEDICAL EXAMINERS FOR THE PURPOSE OF INVESTIGATING DEATHS, AND TO MAKE CHANGES PERTAINING TO CONFIDENTIALITY OF PRESCRIPTION INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.73(a) reads as rewritten:

"(a) The Department shall establish and maintain a reporting system of prescriptions for all Schedule II through V controlled substances. Each dispenser shall submit the information in accordance with transmission methods and frequency established by rule by the Commission. The Department may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. The waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required of electronically submitted data is submitted. The dispenser shall report the information required under this section on a monthly basis for the first 12 months of the Controlled Substances Reporting System's operation, and twice monthly ~~thereafter~~ thereafter, until January 2, 2010, at which time dispensers shall report no later than seven days after the prescription is dispensed. On or after January 2, 2010, the data shall be transmitted in ASAP Telecommunication Format for Controlled Substances, published by the American Society for Automation in Pharmacy, and shall be updated to the version that is in use in the majority of the states operating a controlled substances reporting system."

SECTION 2. G.S. 90-113.74 reads as rewritten:

"§ 90-113.74. Confidentiality.

(a) Prescription information submitted to the Department is privileged and confidential, is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any other use in civil proceedings, and except as otherwise provided below may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. Except as otherwise provided by this section, prescription information shall not be disclosed or disseminated to any person or entity by any person or entity authorized to review prescription information.



1 (b) The Department may use prescription information data in the controlled substances
2 reporting system only for purposes of implementing this Article in accordance with its
3 provisions.

4 (c) The Department shall release data in the controlled substances reporting system to
5 the following persons only:

6 (1) Persons authorized to prescribe or dispense controlled substances for the
7 purpose of providing medical or pharmaceutical care for their patients.

8 (2) An individual who requests the individual's own controlled substances
9 reporting system information.

10 (3) Special agents of the North Carolina State Bureau of Investigation who are
11 assigned to the Diversion & Environmental Crimes Unit and whose primary
12 duties involve the investigation of diversion and illegal use of prescription
13 medication and who are engaged in a bona fide specific investigation related
14 to enforcement of laws governing licit drugs. The SBI shall notify the Office
15 of the Attorney General of North Carolina of each request for inspection of
16 records maintained by the Department.

17 (4) Primary monitoring authorities for other states pursuant to a specific ongoing
18 investigation involving a designated person, if information concerns the
19 dispensing of a Schedule II through V controlled substance to an ultimate
20 user who resides in the other state or the dispensing of a Schedule II through
21 V controlled substance prescribed by a licensed health care practitioner
22 whose principal place of business is located in the other state.

23 (5) To a court pursuant to a lawful court order in a criminal action.

24 (6) The Division of Medical Assistance for purposes of administering the State
25 Medical Assistance Plan.

26 (7) Licensing boards with jurisdiction over health care disciplines pursuant to an
27 ongoing investigation by the licensing board of a specific individual licensed
28 by the board.

29 (8) Any county medical examiner appointed by the Chief Medical Examiner
30 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose
31 of investigating the death of an individual.

32 (d) The Department may provide data to public or private entities for statistical,
33 research, or educational purposes only after removing information that could be used to identify
34 individual patients who received prescription medications from dispensers.

35 (e) In the event that the Department finds patterns of prescribing medications that are
36 unusual, the Department shall inform the Attorney General's Office of its findings. The Office
37 of the Attorney General shall review the Department's findings to determine if the findings
38 should be reported to the SBI for investigation of possible violations of State or federal law
39 relating to controlled substances.

40 (f) The Department shall purge from the controlled substances reporting system
41 database all information more than six years old.

42 (g) Nothing in this Article shall prohibit a person authorized to prescribe or dispense
43 controlled substances pursuant to Article 1 of Chapter 90 of the General Statutes from
44 disclosing or disseminating data regarding a particular patient obtained under subsection (c) of
45 this section to another person (i) authorized to prescribe or dispense controlled substances
46 pursuant to Article 1 of Chapter 90 of the General Statutes and (ii) authorized to receive the
47 same data from the Department under subsection (c) of this section.

48 (h) Nothing in this Article shall prevent persons licensed or approved to practice
49 medicine or perform medical acts, tasks, and functions pursuant to Article 1 of Chapter 90 of
50 the General Statutes from retaining data received pursuant to subsection (c) of this section in a
51 patient's confidential health care record."

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SECTION 3. This act is effective when it becomes law.