

SENATE BILL No. 327

By Committee on Public Health and Welfare

1-24

1 AN ACT concerning prescription drugs; relating to the prescription
2 monitoring program; amending K.S.A. 2011 Supp. 65-1683, 65-1685
3 and 65-1693 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 65-1683 is hereby amended to read as
7 follows: 65-1683. (a) The board shall establish and maintain a prescription
8 monitoring program for the monitoring of scheduled substances and drugs
9 of concern dispensed in this state or dispensed to an address in this state.

10 (b) Each dispenser shall submit to the board by electronic means
11 information required by the board regarding each prescription dispensed
12 for a substance included under subsection (a). The board shall promulgate
13 rules and regulations specifying the nationally recognized
14 telecommunications format to be used for submission of information that
15 each dispenser shall submit to the board. Such information may include,
16 but not be limited to:

- 17 (1) The dispenser identification number;
- 18 (2) the date the prescription is filled;
- 19 (3) the prescription number;
- 20 (4) whether the prescription is new or is a refill;
- 21 (5) the national drug code for the drug dispensed;
- 22 (6) the quantity dispensed;
- 23 (7) the number of days supply of the drug;
- 24 (8) the patient identification number;
- 25 (9) the patient's name;
- 26 (10) the patient's address;
- 27 (11) the patient's date of birth;
- 28 (12) the prescriber identification number;
- 29 (13) the date the prescription was issued by the prescriber; and
- 30 (14) the source of payment for the prescription.

31 (c) The board shall promulgate rules and regulations specifying the
32 transmission methods and frequency of the dispenser submissions required
33 under subsection (b).

34 (d) The board may issue a waiver to a dispenser that is unable to
35 submit prescription information by electronic means. Such waiver may
36 permit the dispenser to submit prescription information by paper form or

1 other means, provided that all information required by rules and
2 regulations is submitted in this alternative format.

3 (e) *The board is hereby authorized to apply for and to accept grants*
4 *and may accept any donation, gift or bequest made to the board for*
5 *furthering any phase of the prescription monitoring program.*

6 (f) *The board shall remit all moneys received by it under subsection*
7 *(e) to the state treasurer in accordance with the provisions of K.S.A. 75-*
8 *4215, and amendments thereto. Upon receipt of such remittance, the state*
9 *treasurer shall deposit the entire amount in the state treasury to the credit*
10 *of the non-federal gifts and grants fund. All expenditures from such fund*
11 *shall be made in accordance with appropriation acts upon warrants of the*
12 *director of accounts and reports issued pursuant to vouchers approved by*
13 *the president of the board or a person designated by the president.*

14 Sec. 2. K.S.A. 2011 Supp. 65-1685 is hereby amended to read as
15 follows: 65-1685. (a) The prescription monitoring program database, all
16 information contained therein and any records maintained by the board, or
17 by any entity contracting with the board, submitted to, maintained or
18 stored as a part of the database, shall be privileged and confidential, shall
19 not be subject to subpoena or discovery in civil proceedings and may only
20 be used for investigatory or evidentiary purposes related to violations of
21 state or federal law and regulatory activities of entities charged with
22 administrative oversight of those persons engaged in the prescribing or
23 dispensing of scheduled substances and drugs of concern, shall not be a
24 public record and shall not be subject to the Kansas open records act,
25 K.S.A. 45-215 *et seq.*, and amendments thereto, except as provided in
26 subsections (c) and (d).

27 (b) The board shall maintain procedures to ensure that the privacy
28 and confidentiality of patients and patient information collected, recorded,
29 transmitted and maintained is not disclosed to persons except as provided
30 in subsections (c) and (d).

31 (c) The board is hereby authorized to provide data in the prescription
32 monitoring program to the following persons:

33 (1) Persons authorized to prescribe or dispense scheduled substances
34 and drugs of concern, for the purpose of providing medical or
35 pharmaceutical care for their patients;

36 (2) an individual who requests the individual's own prescription
37 monitoring information in accordance with procedures established by the
38 board;

39 (3) designated representatives from the professional licensing,
40 certification or regulatory agencies charged with administrative oversight
41 of those persons engaged in the prescribing or dispensing of scheduled
42 substances and drugs of concern;

43 (4) local, state and federal law enforcement or prosecutorial officials

1 engaged in the administration, investigation or enforcement of the laws
2 governing scheduled substances and drugs of concern subject to the
3 requirements in K.S.A. 22-2502, and amendments thereto;

4 (5) designated representatives from the ~~Kansas health policy authority~~
5 *department of health and environment* regarding authorized medicaid
6 program recipients;

7 (6) persons authorized by a grand jury subpoena, inquisition
8 subpoena or court order in a criminal action;

9 (7) personnel of the prescription monitoring program advisory
10 committee for the purpose of operation of the program; ~~and~~

11 (8) personnel of the board for purposes of administration and
12 enforcement of this act or the uniform controlled substances act, K.S.A.
13 65-4101 *et seq.*, and amendments thereto,;

14 (9) *persons authorized to prescribe or dispense scheduled substances*
15 *and drugs of concern, when an individual is obtaining prescriptions in a*
16 *manner that appears to be misuse, abuse or diversion of scheduled*
17 *substance or drugs of concern; and*

18 (10) *medical examiners, coroners or other persons authorized under*
19 *law to investigate or determine causes of death.*

20 (d) The board is hereby authorized to provide data in the prescription
21 monitoring program to public or private entities for statistical, research or
22 educational purposes after removing information that could be used to
23 identify individual practitioners, dispensers, patients or persons who
24 received prescriptions from dispensers.

25 Sec. 3. K.S.A. 2011 Supp. 65-1693 is hereby amended to read as
26 follows: 65-1693. (a) A dispenser who knowingly fails to submit
27 prescription monitoring information to the board as required by this act or
28 knowingly submits incorrect prescription monitoring information shall be
29 guilty of a severity level 10, nonperson felony.

30 (b) A person authorized to have prescription monitoring information
31 pursuant to this act who knowingly discloses such information in violation
32 of this act shall be guilty of a severity level 10, nonperson felony.

33 (c) A person authorized to have prescription monitoring information
34 pursuant to this act who knowingly uses such information in a manner or
35 for a purpose in violation of this act shall be guilty of a severity level 10,
36 nonperson felony.

37 (d) *A person who knowingly, and without authorization, obtains or*
38 *attempts to obtain prescription monitoring information shall be guilty of a*
39 *severity level 10, nonperson felony.*

40 (e) It shall not be a violation of this act for a practitioner or dispenser
41 to disclose or use information obtained pursuant to this act when such
42 information is disclosed or used solely in the course of such practitioner's
43 or dispenser's care of the patient who is the subject of the information.

1 Sec. 4. K.S.A. 2011 Supp. 65-1683, 65-1685 and 65-1693 are hereby
2 repealed.

3 Sec. 5. This act shall take effect and be in force from and after its
4 publication in the statute book.