

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2253

As Amended by House Committee on Social
Services Budget

Brief*

HB 2253, as amended, would amend provisions of the Prescription Monitoring Program Act (Act). The bill would add definitions for audit trail information, delegate, pharmacy, and program. The bill would expand the list of persons who may request and receive data from the Prescription Monitoring Program (Program). The bill would add one member to the Program advisory committee for a total of ten members. The bill would also make technical amendments.

The bill would be in effect upon publication in the *Kansas Register*.

Definitions (Section 1)

The bill would add or change definitions for the following terms:

- Audit trail information—Defined as information produced regarding requests for Program data that the State Board of Pharmacy (Board) and advisory committee use to monitor compliance with the Act;
- Delegate—Defined as a registered nurse, licensed practical nurse, respiratory therapist, emergency medical responder, paramedic, dental hygienist, pharmacy technician, or pharmacy intern who has access to the program database. The definition would also include a death investigator who has

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

registered for limited access to the Program database and an individual authorized to access the database by the Board in rules and regulations;

- Dispenser—Adjusted to include pharmacies on the list of potential dispensers; and
- Program—Defined as the Prescription Monitoring Program.

Prescription Monitoring Program Data (Sections 2 and 4)

In addition to current Program requirements, the bill would require the diagnostic code, the patient's species code, and the date the prescription was sold to be submitted to the Board. The bill would also remove the Board's authority to issue a waiver to a dispenser to allow submission of data by paper or other non-electronic means.

The bill would authorize the Board to enable features and include additional information in the database, including information regarding date or facts of death, dispensation of emergency opioid antagonists, and overdose events.

The bill would remove the current provision of law requiring Program data to be destroyed after a five-year retention period. The bill would prohibit Program data from being stored outside of the Program database, except for temporary storage for delivery to electronic health records or pharmacy management systems, retention of records related to a criminal or administrative investigation or proceeding, data shared with other Kansas regulatory agencies, and retention of information by the Board to administer the Program and the Uniform Controlled Substances Act.

Individuals Who May Receive Program Data (Section 3)

The bill would expand the list of individuals who may request and receive data from the Program to include:

- Practitioners, as designated representatives from the Kansas Department of Health and Environment regarding authorized Medicaid program recipients;
- Individuals operating an impaired provider program pursuant to law;
- Practitioners or pharmacists conducting research approved by an institutional review board with patient consent; and
- An overdose fatality review board established by the State of Kansas.

The bill would require the State Board of Healing Arts, Board of Nursing, Kansas Dental Board, and Board of Examiners in Optometry to notify the State Board of Pharmacy within 30 calendar days of any licensure action that would disqualify a practitioner from receiving prescription monitoring program data. Additionally, a practitioner or pharmacist would be required to notify the State Board of Pharmacy within 30 calendar days of any action that would disqualify a delegate from receiving such data.

Disclosure of Information Indicating Misuse of Abuse of Scheduled Substances (Section 3)

The bill would authorize the Program advisory committee to notify the Disability and Behavioral Health Services Section of the Kansas Department for Aging and Disability Services for the purpose of offering confidential treatment services to an individual whose data does not identify a recent prescriber as a point of contact for potential intervention.

If a review indicates that an individual has accessed or used Program information in violation of the law, the bill would require the advisory committee to determine whether a report to the board overseeing the license of such individual is

warranted and authorize the advisory committee to make such report.

The will would authorize the Board to provide Program data to medical care facilities for statistical, research, or educational purposes if all identifying information is removed. The Board would also be authorized to block access to the Program database of any user found to be using data in violation of law.

***Prescription Monitoring Program Advisory Committee
(Section 7)***

The bill would expand the Program advisory committee to a total of ten members by adding one member who is a licensed advanced practice provider nominated by either the Board of Nursing or the State Board of Healing Arts.

Background

The bill was introduced by the House Committee on Social Services Budget by Representative Carpenter.

House Committee on Social Services Budget

In the House Committee hearing on March 9, 2022, **proponent** testimony was provided by representatives from the Board of Pharmacy, the Kansas State Board of Nursing, the Kansas Hospital Association and Kansas Medical Society. Proponents generally spoke to the updates to the Program, data sharing guidelines, and funding.

Neutral testimony was provided by representatives from the Kansas Optometric Association, the Kansas Association of Osteopathic Medicine, and the Kansas Department of Health and Environment.

No opponent testimony was provided.

The House Committee amended the bill to:

- Add or amend definitions for audit trail information, delegate, pharmacy, and program;
- Expand Program data requirements to include the diagnostic code, species code, and the date the prescription was sold;
- Delete the fees for an initial set up and annual maintenance for the integration of the Program;
- Expand the list of persons who may request and receive data from the Program;
- Authorize the Program advisory committee to notify the Kansas Department for Aging and Disability Services, for the purpose of offering confidential treatment services; and
- Expand the membership of the Program advisory committee by one member.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Board of Pharmacy, Board of Optometry, Board of Healing Arts, and the Dental Board indicate the bill would have no fiscal effect on each agency. The Board of Nursing indicates the bill would have a negligible fiscal effect on the agency. Any fiscal effect associated with the bill are not reflected in *The FY 2022 Governor's Budget Report*.

KTRACS; pharmacy; prescriptions