

HCS SS SCS SBs 63 & 111 -- NARCOTICS CONTROL ACT

SPONSOR: Sater (Rehder)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Health Insurance by a vote of 10 to 2. Voted "Do Pass with HCS" by the Select Committee on Insurance by a vote of 10 to 0.

This bill establishes the Narcotics Control Act. In its main provisions, the bill:

- (1) Requires the Department of Health and Senior Services to establish and maintain a program to monitor the prescribing and dispensing of all Schedule II through Schedule IV controlled substances by all licensed professionals who prescribe or dispense these substances in Missouri. All funding for the program must be subject to appropriations and in addition to appropriations may be funded from gifts, grants, or donations;
- (2) Requires each dispenser to electronically submit specified information to the department for each dispensation in accordance with transmission standards established by the American Society for Automation in Pharmacy, or any successor organization, and to report the data within seven days of dispensation;
- (3) Allows the department to issue a waiver to a dispenser who is unable to submit the required information electronically. If a waiver is obtained, a dispenser can submit the required information by paper form or other means if all the required information is submitted in the alternative format. The department may grant an extension to a dispenser who is temporarily unable to electronically submit the information due to unforeseen circumstances;
- (4) Requires the department to reimburse each dispenser for the fees and other direct costs of transmitting the required information;
- (5) Requires all submitted prescription information to be confidential and not subject to public disclosure under the Open Meetings and Records Law, commonly known as the Sunshine Law, with specified exceptions. The department must review the dispensation information and, if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, must notify the appropriate law enforcement or professional regulatory entity and provide dispensation information required for an investigation. A person authorized to have dispensation monitoring information who knowingly discloses the

information or who uses the information in a manner and for a purpose in violation of these provisions will be guilty of a class A misdemeanor;

(6) Requires the department to maintain a registry of persons who it has reasonable cause to believe may have violated the law or been in breach of professional standards. Any person identified must remain on the registry for a minimum of three years;

(7) Allows the department to release non-personal, general information for statistical, educational, or research purposes after removing any identifying information;

(8) Authorizes the department to contract with any other agency of this state or any other state with a private vendor or any state government that currently runs a narcotics control program;

(9) Specifies that a dispenser who knowingly fails to submit required dispensation information to the department or knowingly submits incorrect dispensation information will be subject to an administrative penalty in the amount of \$1,000 for each violation;

(10) Specifies that any person who unlawfully and knowingly accesses or discloses, or a person authorized to have prescription or dispensation information under these provisions or knowingly uses the information in a manner and for a purpose in violation of these provisions is guilty of a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017; and

(11) Requires the department to create and implement specified educational courses regarding the provisions of the bill and, when appropriate, to work with associations for impaired professionals to ensure intervention, treatment, and ongoing monitoring and follow up and encourage individual patients who are identified and who have become addicted to substances monitored by the program to receive addiction treatment.

PROPOSERS: Supporters say that they have heard a lot of privacy concerns and these are addressed in the bill. The amount of electronic data under the bill is no different than the amount of data pharmacists sent to third parties when filling a prescription. Prescription drug abuse is one of fastest growing epidemics in the U.S. and a prescription drug monitoring program will provide prescribers a tool to find and address abuses. When a provider searches through the program, it doesn't return with the patients' doctors and drugs, it just says high concern, medium concern, etc. to protect patients' personal information and privacy. The prescription drug monitoring program will not be sharing information with other states under the current draft. This is a

complex issue that will require multiple revisits by the General Assembly. Physicians want a monitoring program in the state to deal with doctor shoppers. Privacy is important, thus data is doubly encrypted. Missouri is the loophole in the country. Border states are having issues with citizens crossing into Missouri and doctor shopping without fear of monitoring. The genesis of the bill is not to catch people abusing drugs, the goal is to give doctors and pharmacists more information so they can make a better decision when prescribing.

Testifying for the bill were Senator Sater; Mallinckrodt LLC.; Missouri Nurses Association; Missouri Chamber of Commerce; Missouri Hospital Association; Missouri Society of Interventional Pain; Missouri Society of Anesthesiologists; American College Of Gynecologists and Obstetricians; Missouri State Medical Association; and Missouri Pharmacy Association.

OPPONENTS: Those who oppose the bill say that the Senate bill is much different than 47 other states that batch every seven days, some more frequent, and drastically decreases costs. It is a problem that the bill does not include cash pay prescriptions, which is an area ripe for fraud. Opponents have civil rights concerns about the government having a database containing prescriptions that law abiding citizens receive paired with their name. It is different than when your insurance company has a database that includes your information. The fourth amendment protects individuals from unreasonable search and seizure by the government and PDMP violates citizens' fourth amendment rights with no useful outcome.

Testifying against the bill were Laura Hausladen; Ron Staggs; CVS Health; Missouri Retailers Association; Missouri Grocers Association; Linda Laird; Ron J. Calzone; Concerned Women For America Of Missouri; Mitchell Hubbard; and Missouri Alliance Of Freedom.