

HB 1693 -- NARCOTICS CONTROL ACT

SPONSOR: Rehder

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Insurance Policy by a vote of 16 to 1. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 7 to 0.

This bill establishes the "Narcotics Control Act". The Department of Health and Senior Services shall establish a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances, subject to appropriations. The department may apply for grants and accept donations.

Each drug dispenser covered by the bill must electronically send dispensation information, including the prescription information and patient information of each drug dispensed. The information must be sent within 24 hours of dispensation, and by January 1, 2022, the department must start phasing in a requirement that the information be sent in real-time with everyone reporting in real time by January 1, 2023. An extension on the time requirements can be given for temporary unforeseen circumstances. If a dispenser cannot send the information electronically, they may apply for a wavier to send the information in an alternative format.

The information sent is confidential and the department must maintain procedures to ensure the privacy and confidentiality of the information.

The department must review the information sent by dispensers and if there is reasonable cause to believe that a violation of the law or a breach of professional standards may have occurred, law enforcement or the appropriate professional licensing board must be notified.

The department may provide information collected to dispensers, a professional licensing board, law enforcement, or MO HealthNet. An individual may also request his or her own dispensation information. The department may also provide data for statistical, research, or educational purposes after removing identifying information. The information cannot be used to prevent an individual from owning a firearm. The information cannot be used as the sole basis for probable cause to obtain an arrest or search warrant.

A pharmacist or prescriber is not required to obtain information from the Narcotics Control Program before dispensing or prescribing a drug.

The department may contract with another entity to develop and maintain the Narcotics Control Program. Any program already in effect that is being operated by a political subdivision can continue to operate until the state-wide program is available for use.

A dispenser who fails to provide the dispensation information required or who knowingly submits the incorrect information will be fined up to \$1,000 per violation. An appeal for the fine may be made to the Administrative Hearing Commission. A person who unlawfully accesses or discloses information from the Narcotics Control Program is guilty of a class E felony.

This bill is similar to HB 188 (2019) and HB 1619, HB 1740, SB 737 and SB 762 (2018).

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 Representative Rehder; Pharmaceutical Research and Manufacturers of America; Missouri Academy of Family Physicians; Missouri Insurance Coalition; Washington University Medical School; Missouri Dermatological Society; American College of Obstetricians and Gynecologists; Missouri Society of Anesthesiologists; Missouri College of Emergency Physicians; Missouri Dental Association; Missouri Association of Osteopathic Physicians and Surgeons; Blue Cross Blue Shield of Kansas City; America's Health Insurance Plans; City of Kansas City; Greater Kansas City Chamber of Commerce; Carpenters Council of St. Louis

and Kansas City; Vivent Health; Missouri Farm Bureau; Missouri State Medical Association; Mallinckrodt Pharmaceuticals; Missouri Chamber Of Commerce And Industry; Missouri Hospital Association; Missouri Pharmacy Association; Missouri Catholic Conference; St. Louis Area Business Health Coalition; Hy-Vee; Mitchell International; St. Louis Regional Chamber; Associated General Contractors of Missouri; Jim Marshall, Cody's Gift; Kathi Arbini; Missouri Society Of Eye Physicians & Surgeons; Missouri Retailers Association; Associated Industries of Missouri; Missouri Department of Mental Health; Missouri Association of Rural Health Clinics; BJC Healthcare; Cox Health; National Association of Social Workers; and South Kansas City Chamber of Commerce.

OPPONENTS: Those who oppose the bill say that there is no proof that this will stop illegal prescriptions. Opponents have civil rights concerns about the government having a database containing prescriptions that law abiding citizens receive paired with their name and they can determine who might have mental illness and take their guns. This does not do anything to stop the heroin epidemic. 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 the prescription drug monitoring program violates citizens' Fourth Amendment rights with no useful outcome.

Testifying against the bill were John D. Lilly and Ron Calzone.

OTHERS: Others testifying on the bill say that currently the St. Louis PDMP covers 94% of the providers in the state, this program helps to inform prescribers about prescription issues and is a prevented what the death rates would be like if we didn't have PDMP in St. Louis.

Testifying on the bill was Cora Faith Walker, Saint Louis County Executive.