AN ACT concerning the prescription monitoring program; relating to law enforcement officials; granting law enforcement access to the prescription monitoring program database without a warrant; replacing the member of the program advisory committee representing the Kansas bureau of investigation with the attorney general or the attorney general's designee; amending K.S.A. 65-1690 and K.S.A. 2022 Supp. 65-1685 and 65-1689 and repealing the existing sections.

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

Section 1. K.S.A. 2022 Supp. 65-1685 is hereby amended to read as follows: 65-1685. (a) The program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, including audit trail information, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those individuals engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

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

(c) The board is hereby authorized to provide data in the program to the following individuals:

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

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

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

(4) local, state and federal law enforcement or prosecutorial officials
engaged in the administration, investigation or enforcement of the laws
governing scheduled substances and drugs of concern subject to the
requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the department of health and
environment regarding authorized medicaid program recipients or
practitioners;

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

(7) personnel of the prescription monitoring program advisory
committee for the purpose of operation of the program;

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

(9) individuals authorized to prescribe or dispense scheduled
substances and drugs of concern, when an individual is obtaining
prescriptions in a manner that appears to be misuse, abuse or diversion of
scheduled substances or drugs of concern;

(10) medical examiners, coroners or other individuals authorized
under law to investigate or determine causes of death;

(11) persons operating a practitioner or pharmacist impaired provider
program in accordance with K.S.A. 65-4924, and amendments thereto, for
the purpose of reviewing drugs dispensed to a practitioner or pharmacist
enrolled in the program;

(12) delegates of individuals authorized by paragraphs (1), (9) and
(10);

(13) individuals or organizations notified by the advisory committee
as provided in subsection (g);

(14) practitioners or pharmacists conducting research approved by an
institutional review board who have obtained patient consent for the
release of program data; and

(15) an overdose fatality review board established by the state of
Kansas.

(d) An individual registered for access to the program database shall
notify the board in writing within 30 calendar days of any action that
would disqualify the individual from being authorized to receive program
data as provided in subsection (c).

(e) The state board of healing arts, board of nursing, Kansas dental
board and board of examiners in optometry shall notify the board in
writing within 30 calendar days of any denial, suspension, revocation or
other administrative limitation of a practitioner's license or registration that
would disqualify the practitioner from being authorized to receive program
data as provided in subsection (c).

(f) A practitioner or pharmacist shall notify the board in writing
within 30 calendar days of any action that would disqualify a delegate
from being authorized to receive program data on behalf of the practitioner
or pharmacist.

(g) The prescription monitoring program advisory committee
established pursuant to K.S.A. 65-1689, and amendments thereto, is
authorized to review and analyze program data for purposes of identifying
patterns and activity of concern.

(1) If a review of information appears to indicate an individual may
be obtaining prescriptions in a manner that may represent misuse or abuse
of scheduled substances and drugs of concern, the advisory committee is
authorized to notify the prescribers and dispensers who prescribed or
dispensed the prescriptions. If the review does not identify a recent
prescriber as a point of contact for potential clinical intervention, the
advisory committee is authorized 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. Further
disclosure of information is prohibited. If the review identifies patterns or
other evidence sufficient to create a reasonable suspicion of criminal
activity, the advisory committee is authorized to notify the appropriate law
enforcement agency.

(2) If a review of information appears to indicate that a violation of
state or federal law relating to prescribing scheduled substances and drugs
of concern may have occurred, or that a prescriber or dispenser has
knowingly prescribed, dispensed or obtained scheduled substances and
drugs of concern in a manner that is inconsistent with recognized standards
of care for the profession, the advisory committee shall determine whether
a report to the professional licensing, certification or regulatory agencies
charged with administrative oversight of those individuals engaged in
prescribing or dispensing of scheduled substances and drugs of concern or
to the appropriate law enforcement agency is warranted.

(A) For purposes of such determination the advisory committee may,
in consultation with the appropriate regulatory agencies and professional
organizations, establish criteria regarding appropriate standards and utilize
volunteer peer review committees of professionals with expertise in the
particular practice to create such standards and review individual cases.

(B) The peer review committee or committees appointed herein shall
have authority to request and receive information in the program database
from the director of the program.

(C) If the determination is made that a referral to a regulatory or law
enforcement agency is not warranted but educational or professional
advising might be appropriate, the advisory committee may refer the
prescribers or dispensers to other such resources.

(3) If a review of information appears to indicate that program data
has been accessed or used in violation of state or federal law, the advisory
committee shall determine whether a report to the professional licensing,
certification or regulatory agencies charged with administrative oversight
of those individuals engaged in prescribing or dispensing of scheduled
substances and drugs of concern is warranted and may make such report.

(h) The board is hereby authorized to provide program data to public
or private entities for statistical, research or educational purposes after
removing information that could be used to identify individual
practitioners, dispensers, patients or individuals who received prescriptions
from dispensers.

(i) The board is hereby authorized to provide a medical care facility
with its program data for statistical, research or education purposes after
removing information that could be used to identify individual
practitioners or individuals who received prescriptions from dispensers.

(j) The board may, in its discretion, block any user's access to the
program database if the board has reason to believe that access to the data
is or may be used by such user in violation of state or federal law.

Sec. 2. K.S.A. 2022 Supp. 65-1689 is hereby amended to read as
follows: 65-1689. (a) There is hereby created the program advisory
committee which, subject to the oversight of the board, shall be
responsible for the operation of the program. The advisory committee shall
consist of at least 10 members appointed by the board as follows:

(1) Two licensed physicians, one nominated by the Kansas medical
society and one nominated by the Kansas association of osteopathic
medicine;

(2) two licensed pharmacists nominated by the Kansas pharmacists
association;

(3) one person representing the Kansas bureau of investigation
nominated by the attorney general or the attorney general's designee;

(4) one person representing the university of Kansas school of
medicine nominated by the dean of such school;

(5) one person representing the university of Kansas school of
pharmacy nominated by the dean of such school;

(6) one licensed dentist nominated by the Kansas dental association;

(7) one person representing the Kansas hospital association
nominated by such association;

(8) one licensed advanced practice provider nominated by either the
board of nursing or the state board of healing arts; and

(9) the board may also appoint other persons authorized to prescribe
or dispense scheduled substances and drugs of concern, recognized experts
and representatives from law enforcement.

(b) The appointments to the advisory committee shall be for terms of three years.

c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.

d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.

(f) All members of the advisory committee shall serve without compensation.

Sec. 3. K.S.A. 65-1690 is hereby amended to read as follows: 65-1690. (a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.

(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.

(c) The advisory committee shall work with the Kansas bureau of investigation office of the attorney general to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.

Sec. 4. K.S.A. 65-1690 and K.S.A. 2022 Supp. 65-1685 and 65-1689 are hereby repealed.

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