Session of 2007

HOUSE BILL No. 2416

By Committee on Health and Human Services

2-6

AN ACT enacting the prescription program model act; providing for powers, duties and functions of the state board of pharmacy

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

Section 1. This act shall be known and may be cited as the prescription monitoring program model act.

Sec. 2. This act is intended to improve the state's ability to identify and stop diversion of prescription drugs in an efficient and cost effective manner that will not impede the appropriate medical utilization of licit controlled substances or other licit drugs of abuse.

Sec. 3. As used in this act:

(a) "Controlled substance" has the meaning given such term in the uniform controlled substances act.

(b) "Board" means the state board of pharmacy.

(c) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(d) "Dispenser" means a person who delivers a schedule II through V controlled substance as defined in subsection (e) to the ultimate user, but does not include: (1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care or the dispensing of prescriptions for controlled substances at the time of discharge from such a facility; (2) a practitioner, or other authorized person who administers such a substance; or (3) a wholesale distributor of a schedule II through V controlled substance.

(e) "Schedule II, III, IV or V, or any combination thereof, controlled substances" mean controlled substances that are listed in schedules II, III, IV and V of the schedules provided under the uniform controlled substances act or the federal controlled substances act (21 U.S.C. 812).

Sec. 4. (a) The board of pharmacy shall establish and maintain a program for the monitoring of prescribing and dispensing of all schedule II, III and IV controlled substances and, if selected by the board, schedule V controlled substances and additional drugs identified by the board as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state.

(b) Each dispenser shall submit to the board by electronic means

information regarding each prescription dispensed for a drug included under paragraph (a) of this section. The information submitted for each prescription shall include, but not be limited to:

(1) Dispenser identification number;

(2) date prescription filled;

(3) prescription number;

(4) prescription is new or is a refill;

(5) NDC code for drug dispensed;

(6) quantity dispensed;

(7) number of days supply of the drug;

(8) patient identification number;

(9) patient name;

(10) patient address;

(11) patient date of birth;

(12) prescriber identification number;

(13) date prescription issued by prescriber;

(14) person who receives the prescription from the dispenser, if other than the patient; and

(15) source of payment for prescription.

(c) Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board; but shall report at least every 30 days, between the 1st and the 15th of the month following the month the prescription was dispensed.

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required in paragraph (b) of this section is submitted in this alternative format.

Sec. 5. (a) Prescription information submitted to the board shall be confidential and not subject to the Kansas open records act, except as provided in paragraphs (c), (d) and (e) of this section.

(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 persons except as in paragraphs (c), (d) and (e) of this section.

(c) The board shall review the prescription information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the board shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity, and provide prescription information required for an investigation.

(d) The board shall be authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense controlled substances, 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) a licensing agency which supervises or regulates a profession that is authorized to prescribe controlled substances;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing licit drugs;

(5) Kansas health policy authority regarding medicaid program recipients;

(6) the appropriate judicial officials under grand jury subpoena or court order; and

(7) personnel of the board for purposes of administration and enforcement of this act.

(e) The board may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identity individual patients or persons who received prescriptions from dispensers, or both.

Sec. 6. The board is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in section 5 of this act, and amendments thereto, and shall be subject to the penalties specified in section 8, and amendments thereto, for unlawful acts.

Sec. 7. The board shall adopt rules and regulations setting forth the procedures and methods for implementing this act.

Sec. 8. (a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription information shall be guilty of a class D nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a class A misdemeanor.

(c) A person authorized to have prescription monitoring information pursuant to this act who uses such information in a manner or for a purpose in violation of this act shall be guilty of a class E nonperson felony.

Sec. 9. If any provision of this act or application thereof to any person or circumstance is held invalid, the invalidity does not affect other pro-

visions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.