

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1057

Introduced by Kuehn, 38; Howard, 9.

Read first time January 17, 2018

Committee:

- 1 A BILL FOR AN ACT relating to prescription drug monitoring; to amend
- 2 section 71-2454, Revised Statutes Supplement, 2017; to define and
- 3 redefine terms; to harmonize provisions; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-2454, Revised Statutes Supplement, 2017, is
2 amended to read:

3 71-2454 (1) An entity described in section 71-2455 shall establish a
4 system of prescription drug monitoring for the purposes of (a) preventing
5 the misuse of controlled substances that are prescribed and (b) allowing
6 prescribers and dispensers to monitor the care and treatment of patients
7 for whom such a prescription drug is prescribed to ensure that such
8 prescription drugs are used for medically appropriate purposes and that
9 the State of Nebraska remains on the cutting edge of medical information
10 technology.

11 (2) Such system of prescription drug monitoring shall be implemented
12 as follows: Except as provided in subsection (4) of this section,
13 beginning January 1, 2017, all dispensed prescriptions of controlled
14 substances shall be reported; and beginning January 1, 2018, all
15 prescription information shall be reported to the prescription drug
16 monitoring system. The prescription drug monitoring system shall include,
17 but not be limited to, provisions that:

18 (a) Prohibit any patient from opting out of the prescription drug
19 monitoring system;

20 (b) Require all prescriptions dispensed in this state or to an
21 address in this state to be entered into the system by the dispenser or
22 his or her designee daily after such prescription is dispensed, including
23 those for patients paying cash for such prescription drug or otherwise
24 not relying on a third-party payor for payment for the prescription drug;

25 (c) Allow all prescribers or dispensers of prescription drugs to
26 access the system at no cost to such prescriber or dispenser;

27 (d) Ensure that such system includes information relating to all
28 payors, including, but not limited to, the medical assistance program
29 established pursuant to the Medical Assistance Act; and

30 (e) Make the prescription information available to the statewide
31 health information exchange described in section 71-2455 for access by

1 its participants if such access is in compliance with the privacy and
2 security protections set forth in the provisions of the federal Health
3 Insurance Portability and Accountability Act of 1996, Public Law 104-191,
4 and regulations promulgated thereunder, except that if a patient opts out
5 of the statewide health information exchange, the prescription
6 information regarding that patient shall not be accessible by the
7 participants in the statewide health information exchange.

8 Dispensers may begin on February 25, 2016, to report dispensing of
9 prescriptions to the entity described in section 71-2455 which is
10 responsible for establishing the system of prescription drug monitoring.

11 (3) Except as provided in subsection (4) of this section,
12 prescription information that shall be submitted electronically to the
13 prescription drug monitoring system shall be determined by the entity
14 described in section 71-2455 and shall include, but not be limited to:

15 (a) The patient's name, address, and date of birth;

16 (b) The name and address of the pharmacy dispensing the
17 prescription;

18 (c) The date the prescription is issued;

19 (d) The date the prescription is filled;

20 (e) The name of the drug dispensed or the National Drug Code number
21 as published by the federal Food and Drug Administration of the drug
22 dispensed;

23 (f) The strength of the drug prescribed;

24 (g) The quantity of the drug prescribed and the number of days'
25 supply; and

26 (h) The prescriber's name and National Provider Identifier number or
27 Drug Enforcement Administration number when reporting a controlled
28 substance.

29 (4) Beginning July 1, 2018, a veterinarian licensed under the
30 Veterinary Medicine and Surgery Practice Act shall be required to report
31 a dispensed prescription of controlled substances listed on Schedule II,

1 Schedule III, or Schedule IV pursuant to section 28-405. Each such
2 veterinarian shall indicate that the prescription is an animal
3 prescription and shall include the following information in such report:

4 (a) The first and last name and address, including city, state, and
5 zip code, of the individual to whom the drug is dispensed in accordance
6 with a valid veterinarian-client-patient relationship;

7 (b) Reporting status;

8 (c) The first and last name of the prescribing veterinarian and his
9 or her federal Drug Enforcement Administration number;

10 (d) The name of the drug dispensed and the prescription number;

11 (e) The date the prescription is written and the date the
12 prescription is filled;

13 (f) The number of refills authorized, if any; and

14 (g) The quantity of the drug dispensed and the number of days'
15 supply.

16 (5)(a) All prescription drug information submitted pursuant to this
17 section, all data contained in the prescription drug monitoring system,
18 and any report obtained from data contained in the prescription drug
19 monitoring system are confidential, are privileged, are not public
20 records, and may be withheld pursuant to section 84-712.05.

21 (b) No patient-identifying data as defined in section 81-664,
22 including the data collected under subsection (3) of this section, shall
23 be disclosed, made public, or released to any public or private person or
24 entity except to the statewide health information exchange described in
25 section 71-2455 and its participants and to prescribers and dispensers as
26 provided in subsection (2) of this section.

27 (c) All other data is for the confidential use of the department and
28 the statewide health information exchange described in section 71-2455
29 and its participants. The department may release such information as
30 Class I, Class II, or Class IV data in accordance with section 81-667 to
31 the private or public persons or entities that the department determines

1 may view such records as provided in sections 81-663 to 81-675.

2 (6) Before accessing the prescription drug monitoring system, any
3 user shall undergo training on the purpose of the system, access to and
4 proper usage of the system, and the law relating to the system, including
5 confidentiality and security of the prescription drug monitoring system.
6 Such training shall be administered by the statewide health information
7 exchange described in section 71-2455 which shall have access to the
8 prescription drug monitoring system for training and administrative
9 purposes. Users who have been trained prior to May 10, 2017, are deemed
10 to be in compliance with the training requirement of this subsection.

11 (7) For purposes of this section:

12 (a) Designee means any licensed or registered health care
13 professional credentialed under the Uniform Credentialing Act designated
14 by a prescriber or dispenser to act as an agent of the prescriber or
15 dispenser for purposes of submitting or accessing data in the
16 prescription drug monitoring system and who is supervised by such
17 prescriber or dispenser;

18 (b) Dispensed prescription means a prescription drug delivered to
19 the ultimate user by or pursuant to the lawful order of a prescriber but
20 does not include (i) the delivery of such prescription drug for immediate
21 use for purposes of inpatient hospital care or emergency department care,
22 (ii) the administration of a prescription drug by an authorized person
23 upon the lawful order of a prescriber, (iii) a wholesale distributor of a
24 prescription drug monitored by the prescription drug monitoring system,
25 or (iv) the dispensing to a nonhuman patient of a prescription drug which
26 is not a controlled substance listed in Schedule II, Schedule III,
27 Schedule IV, or Schedule V of section 28-405;

28 (c) ~~(b)~~ Dispenser means a person authorized in the jurisdiction in
29 which he or she is practicing to deliver a prescription to the ultimate
30 user by or pursuant to the lawful order of a prescriber ~~but does not~~
31 ~~include (i) the delivery of such prescription drug for immediate use for~~

1 ~~purposes of inpatient hospital care or emergency department care, (ii)~~
2 ~~the administration of a prescription drug by an authorized person upon~~
3 ~~the lawful order of a prescriber, (iii) a wholesale distributor of a~~
4 ~~prescription drug monitored by the prescription drug monitoring system,~~
5 ~~or (iv) through December 31, 2017, a veterinarian licensed under the~~
6 ~~Veterinary Medicine and Surgery Practice Act when dispensing~~
7 ~~prescriptions for animals in the usual course of providing professional~~
8 ~~services;~~

9 (d) ~~(c)~~ Participant means an individual or entity that has entered
10 into a participation agreement with the statewide health information
11 exchange described in section 71-2455 which requires the individual or
12 entity to comply with the privacy and security protections set forth in
13 the provisions of the federal Health Insurance Portability and
14 Accountability Act of 1996, Public Law 104-191, and regulations
15 promulgated thereunder; and

16 (e) ~~(d)~~ Prescriber means a health care professional authorized to
17 prescribe in the profession which he or she practices.

18 Sec. 2. Original section 71-2454, Revised Statutes Supplement,
19 2017, is repealed.