Rep. John E. Bradley

Filed: 4/1/2009

AMENDMENT TO HOUSE BILL 1967

AMENDMENT NO. _____. Amend House Bill 1967 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Controlled Substances Act is amended by changing Sections 317 and 318 as follows:

(720 ILCS 570/317)

Sec. 317. Central repository for collection of information.

(a) The Department must designate a central repository for the collection of information transmitted under Section 316 and 321.

(b) The central repository must do the following:

(1) Create a database for information required to be transmitted under Section 316 in the form required under rules adopted by the Department, including search capability for the following:

(A) A recipient's name.

(B) A recipient's address.

(C) The national drug code number of a controlled substance dispensed.

(D) The dates a controlled substance is dispensed.

(E) The quantities of a controlled substance dispensed.

(F) A dispenser's United States Drug Enforcement Administration registration number.

(G) A prescriber's United States Drug Enforcement Administration registration number.

(2) Provide the Department with a database maintained by the central repository. The Department of Financial and Professional Regulation must provide the Department with electronic access to the license information of a prescriber or dispenser. The Department of Financial and Professional Regulation may charge a fee for this access not to exceed the actual cost of furnishing the information.

(3) Secure the information collected by the central repository and the database maintained by the central repository against access by unauthorized persons.

(c) The Department must retain the information in the central repository for at least 90 days.

No fee shall be charged for access by a prescriber or dispenser.

(Source: P.A. 95-442, eff. 1-1-08.)

(720 ILCS 570/318)

Sec. 318. Confidentiality of information.

(a) Information received by the central repository under Section 316 and 321 is confidential.

(b) The Department must carry out a program to protect the confidentiality of the information described in subsection (a). The Department may disclose the information to another person only under subsection (c), (d), or (f) and may charge a fee not to exceed the actual cost of furnishing the information.

(c) The Department may disclose confidential information described in subsection (a) to any person who is engaged in receiving, processing, or storing the information.

(d) The Department may release confidential information described in subsection (a) to the following persons:

(1) A governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any State or federal law that involves a controlled substance.

(2) An investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General, who is engaged in any of the following

activities involving controlled substances:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution of a violation under any State or federal law that involves a controlled substance.

(3) A law enforcement officer who is:

(A) authorized by the Department of State Police or the office of a county sheriff or State's Attorney or municipal police department of Illinois to receive information of the type requested for the purpose of investigations involving controlled substances; or

(B) approved by the Department to receive information of the type requested for the purpose of investigations involving controlled substances; and

(C) engaged in the investigation or prosecution of a violation under any State or federal law that involves a controlled substance.

(e) Before the Department releases confidential information under subsection (d), the applicant must demonstrate in writing to the Department that:

(1) the applicant has reason to believe that a violation under any State or federal law that involves a controlled substance has occurred; and

(2) the requested information is reasonably related to the investigation, adjudication, or prosecution of the violation described in subdivision (1).

The provisions of this subsection (e) do not apply to a law enforcement officer authorized to obtain access to the confidential information under subparagraph (A) of paragraph (3) of subsection (d) of this Section.

(f) The Department may receive and release prescription record information to:

(1) a governing body that licenses practitioners;

(2) an investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General;

(3) any Illinois law enforcement officer who is:

(A) authorized to receive the type of information released; ~~and~~

(B) (blank) ~~approved by the Department to receive the type of information released~~; or

(4) prescription monitoring entities in other states per the provisions outlined in subsection (g) and (h) below;

confidential prescription record information collected under Sections 316 and 321 that identifies vendors or practitioners, or both, who are prescribing or dispensing large quantities of Schedule II, III, IV, or V controlled substances outside the scope of their practice, pharmacy, or business, as determined by the Advisory Committee created by Section 320.

(g) The information described in subsection (f) may not be released until it has been reviewed by an employee of the Department who is licensed as a prescriber or a dispenser and until that employee has certified that further investigation is warranted. However, failure to comply with this subsection (g) does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (h).

(h) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (f) may disclose the information to a law enforcement officer or an attorney for the office of the Attorney General for use as evidence in the following:

(1) A proceeding under any State or federal law that involves a controlled substance.

(2) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(i) The Department may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies, by name, license or address, any practitioner, dispenser, ultimate user, or other person administering a controlled substance.

(j) Based upon federal, initial and maintenance funding, a prescriber and dispenser inquiry system shall be developed to assist the medical community in its goal of effective clinical practice and to prevent patients from diverting or abusing medications.

(1) An inquirer shall have read-only access to a stand-alone database which shall contain records for the previous 6 months.

(2) Dispensers may, upon positive and secure identification, make an inquiry on a patient or customer solely for a medical purpose as delineated within the federal HIPAA law.

(3) The Department shall provide a one-to-one secure link and encrypted software necessary to establish the link between an inquirer and the Department. Technical assistance shall also be provided.

(4) Written inquiries are acceptable but must include the fee and the requestor's Drug Enforcement Administration license number and submitted upon the requestor's business stationary.

(5) No data shall be stored in the database beyond 24 months.

(6) Tracking analysis shall be established and used per administrative rule.

(7) Nothing in this Act or Illinois law shall be construed to require a prescriber or dispenser to make use of this inquiry system.

(8) If there is an adverse outcome because of a prescriber or dispenser making an inquiry, which is initiated in good faith, the prescriber or dispenser shall be held harmless from any civil liability.

(Source: P.A. 95-442, eff. 1-1-08.)".