

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Controlled Substances Act is
5 amended by changing Section 318 as follows:

6 (720 ILCS 570/318)

7 Sec. 318. Confidentiality of information.

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

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

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

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

21 (1) A governing body that licenses practitioners and is
22 engaged in an investigation, an adjudication, or a
23 prosecution of a violation under any State or federal law

1 that involves a controlled substance.

2 (2) An investigator for the Consumer Protection
3 Division of the office of the Attorney General, a
4 prosecuting attorney, the Attorney General, a deputy
5 Attorney General, or an investigator from the office of the
6 Attorney General, who is engaged in any of the following
7 activities involving controlled substances:

8 (A) an investigation;

9 (B) an adjudication; or

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

12 (3) A law enforcement officer who is:

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

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

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

24 (4) Select representatives of the Department of
25 Children and Family Services through the indirect online
26 request process. Access shall be established by an

1 intergovernmental agreement between the Department of
2 Children and Family Services and the Department of Human
3 Services.

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

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

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

13 (f) The Department may receive and release prescription
14 record information under Section 316 and former Section 321 to:

15 (1) a governing body that licenses practitioners;

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

21 (3) any Illinois law enforcement officer who is:

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

24 (B) approved by the Department to receive the type
25 of information released; or

26 (4) prescription monitoring entities in other states

1 per the provisions outlined in subsection (g) and (h)
2 below;

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

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

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

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

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

25 (i) The Department may compile statistical reports from the
26 information described in subsection (a). The reports must not

1 include information that identifies, by name, license or
2 address, any practitioner, dispenser, ultimate user, or other
3 person administering a controlled substance.

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

9 (1) An inquirer shall have read-only access to a
10 stand-alone database which shall contain records for the
11 previous 12 months.

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

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

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

24 (5) As directed by the Prescription Monitoring Program
25 Advisory Committee and the Clinical Director for the
26 Prescription Monitoring Program, aggregate data that does

1 not indicate any prescriber, practitioner, dispenser, or
2 patient may be used for clinical studies.

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

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

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

12 (k) The Department shall establish, by rule, the process by
13 which to evaluate possible erroneous association of
14 prescriptions to any licensed prescriber or end user of the
15 Illinois Prescription Information Library (PIL).

16 (l) The Prescription Monitoring Program Advisory Committee
17 is authorized to evaluate the need for and method of
18 establishing a patient specific identifier.

19 (m) Patients who identify prescriptions attributed to them
20 that were not obtained by them shall be given access to their
21 personal prescription history pursuant to the validation
22 process as set forth by administrative rule.

23 (n) The Prescription Monitoring Program is authorized to
24 develop operational push reports to entities with compatible
25 electronic medical records. The process shall be covered within
26 administrative rule established by the Department.

1 (o) Hospital emergency departments and freestanding
2 healthcare facilities providing healthcare to walk-in patients
3 may obtain, for the purpose of improving patient care, a unique
4 identifier for each shift to utilize the PIL system.

5 (p) The Prescription Monitoring Program shall
6 automatically create a log-in to the inquiry system when a
7 prescriber or dispenser obtains or renews his or her controlled
8 substance license. The Department of Financial and
9 Professional Regulation must provide the Prescription
10 Monitoring Program with electronic access to the license
11 information of a prescriber or dispenser to facilitate the
12 creation of this profile. The Prescription Monitoring Program
13 shall send the prescriber or dispenser information regarding
14 the inquiry system, including instructions on how to log into
15 the system, instructions on how to use the system to promote
16 effective clinical practice, and opportunities for continuing
17 education for the prescribing of controlled substances. The
18 Prescription Monitoring Program shall also send to all enrolled
19 prescribers, dispensers, and designees information regarding
20 the unsolicited reports produced pursuant to Section 314.5 of
21 this Act.

22 (q) A prescriber or dispenser may authorize a designee to
23 consult the inquiry system established by the Department under
24 this subsection on his or her behalf, provided that all the
25 following conditions are met:

26 (1) the designee so authorized is employed by the same

1 hospital or health care system; is employed by the same
2 professional practice; or is under contract with such
3 practice, hospital, or health care system;

4 (2) the prescriber or dispenser takes reasonable steps
5 to ensure that such designee is sufficiently competent in
6 the use of the inquiry system;

7 (3) the prescriber or dispenser remains responsible
8 for ensuring that access to the inquiry system by the
9 designee is limited to authorized purposes and occurs in a
10 manner that protects the confidentiality of the
11 information obtained from the inquiry system, and remains
12 responsible for any breach of confidentiality; and

13 (4) the ultimate decision as to whether or not to
14 prescribe or dispense a controlled substance remains with
15 the prescriber or dispenser.

16 The Prescription Monitoring Program shall send to
17 registered designees information regarding the inquiry system,
18 including instructions on how to log onto the system.

19 (r) The Prescription Monitoring Program shall maintain an
20 Internet website in conjunction with its prescriber and
21 dispenser inquiry system. This website shall include, at a
22 minimum, the following information:

23 (1) current clinical guidelines developed by health
24 care professional organizations on the prescribing of
25 opioids or other controlled substances as determined by the
26 Advisory Committee;

1 (2) accredited continuing education programs related
2 to prescribing of controlled substances;

3 (3) programs or information developed by health care
4 professionals that may be used to assess patients or help
5 ensure compliance with prescriptions;

6 (4) updates from the Food and Drug Administration, the
7 Centers for Disease Control and Prevention, and other
8 public and private organizations which are relevant to
9 prescribing;

10 (5) relevant medical studies related to prescribing;

11 (6) other information regarding the prescription of
12 controlled substances; and

13 (7) information regarding prescription drug disposal
14 events, including take-back programs or other disposal
15 options or events.

16 The content of the Internet website shall be periodically
17 reviewed by the Prescription Monitoring Program Advisory
18 Committee as set forth in Section 320 and updated in accordance
19 with the recommendation of the advisory committee.

20 (s) The Prescription Monitoring Program shall regularly
21 send electronic updates to the registered users of the Program.
22 The Prescription Monitoring Program Advisory Committee shall
23 review any communications sent to registered users and also
24 make recommendations for communications as set forth in Section
25 320. These updates shall include the following information:

26 (1) opportunities for accredited continuing education

- 1 programs related to prescribing of controlled substances;
- 2 (2) current clinical guidelines developed by health
3 care professional organizations on the prescribing of
4 opioids or other drugs as determined by the Advisory
5 Committee;
- 6 (3) programs or information developed by health care
7 professionals that may be used to assess patients or help
8 ensure compliance with prescriptions;
- 9 (4) updates from the Food and Drug Administration, the
10 Centers for Disease Control and Prevention, and other
11 public and private organizations which are relevant to
12 prescribing;
- 13 (5) relevant medical studies related to prescribing;
- 14 (6) other information regarding prescribing of
15 controlled substances;
- 16 (7) information regarding prescription drug disposal
17 events, including take-back programs or other disposal
18 options or events; and
- 19 (8) reminders that the Prescription Monitoring Program
20 is a useful clinical tool.
- 21 (Source: P.A. 99-480, eff. 9-9-15.)