

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 Sections 314.5, 316, and 320 as follows:

6 (720 ILCS 570/314.5)

7 Sec. 314.5. Medication shopping; pharmacy shopping.

8 (a) It shall be unlawful for any person knowingly or
9 intentionally to fraudulently obtain or fraudulently seek to
10 obtain any controlled substance or prescription for a
11 controlled substance from a prescriber or dispenser while being
12 supplied with any controlled substance or prescription for a
13 controlled substance by another prescriber or dispenser,
14 without disclosing the fact of the existing controlled
15 substance or prescription for a controlled substance to the
16 prescriber or dispenser from whom the subsequent controlled
17 substance or prescription for a controlled substance is sought.

18 (b) It shall be unlawful for a person knowingly or
19 intentionally to fraudulently obtain or fraudulently seek to
20 obtain any controlled substance from a pharmacy while being
21 supplied with any controlled substance by another pharmacy,
22 without disclosing the fact of the existing controlled
23 substance to the pharmacy from which the subsequent controlled

1 substance is sought.

2 (c) A person may be in violation of Section 3.23 of the
3 Illinois Food, Drug and Cosmetic Act or Section 406 of this Act
4 when medication shopping or pharmacy shopping, or both.

5 (c-5) Effective January 1, 2018, each prescriber
6 possessing an Illinois controlled substances license shall
7 register with the Prescription Monitoring Program.
8 Notwithstanding any provision of this Act to the contrary,
9 beginning on and after the effective date of this amendatory
10 Act of the 101st General Assembly, a licensed veterinarian
11 shall be exempt from registration and prohibited from accessing
12 patient information in the Prescription Monitoring Program.
13 Licensed veterinarians that are existing registrants shall be
14 removed from the Prescription Monitoring Program. Each
15 prescriber or his or her designee shall also document an
16 attempt to access patient information in the Prescription
17 Monitoring Program to assess patient access to controlled
18 substances when providing an initial prescription for Schedule
19 II narcotics such as opioids, except for prescriptions for
20 oncology treatment or palliative care, or a 7-day or less
21 supply provided by a hospital emergency department when
22 treating an acute, traumatic medical condition. This attempt to
23 access shall be documented in the patient's medical record. The
24 hospital shall facilitate the designation of a prescriber's
25 designee for the purpose of accessing the Prescription
26 Monitoring Program for services provided at the hospital.

1 (d) When a person has been identified as having 3 or more
2 prescribers or 3 or more pharmacies, or both, that do not
3 utilize a common electronic file as specified in Section 20 of
4 the Pharmacy Practice Act for controlled substances within the
5 course of a continuous 30-day period, the Prescription
6 Monitoring Program may issue an unsolicited report to the
7 prescribers, dispensers, and their designees informing them of
8 the potential medication shopping. If an unsolicited report is
9 issued to a prescriber or prescribers, then the report must
10 also be sent to the applicable dispensing pharmacy.

11 (e) Nothing in this Section shall be construed to create a
12 requirement that any prescriber, dispenser, or pharmacist
13 request any patient medication disclosure, report any patient
14 activity, or prescribe or refuse to prescribe or dispense any
15 medications.

16 (f) This Section shall not be construed to apply to
17 inpatients or residents at hospitals or other institutions or
18 to institutional pharmacies.

19 (g) Any patient feedback, including grades, ratings, or
20 written or verbal statements, in opposition to a clinical
21 decision that the prescription of a controlled substance is not
22 medically necessary shall not be the basis of any adverse
23 action, evaluation, or any other type of negative
24 credentialing, contracting, licensure, or employment action
25 taken against a prescriber or dispenser.

26 (Source: P.A. 99-480, eff. 9-9-15; 100-564, eff. 1-1-18.)

1 (720 ILCS 570/316)

2 Sec. 316. Prescription Monitoring Program.

3 (a) The Department must provide for a Prescription
4 Monitoring Program for Schedule II, III, IV, and V controlled
5 substances that includes the following components and
6 requirements:

7 (1) The dispenser must transmit to the central
8 repository, in a form and manner specified by the
9 Department, the following information:

10 (A) The recipient's name and address.

11 (B) The recipient's date of birth and gender.

12 (C) The national drug code number of the controlled
13 substance dispensed.

14 (D) The date the controlled substance is
15 dispensed.

16 (E) The quantity of the controlled substance
17 dispensed and days supply.

18 (F) The dispenser's United States Drug Enforcement
19 Administration registration number.

20 (G) The prescriber's United States Drug
21 Enforcement Administration registration number.

22 (H) The dates the controlled substance
23 prescription is filled.

24 (I) The payment type used to purchase the
25 controlled substance (i.e. Medicaid, cash, third party

1 insurance).

2 (J) The patient location code (i.e. home, nursing
3 home, outpatient, etc.) for the controlled substances
4 other than those filled at a retail pharmacy.

5 (K) Any additional information that may be
6 required by the department by administrative rule,
7 including but not limited to information required for
8 compliance with the criteria for electronic reporting
9 of the American Society for Automation and Pharmacy or
10 its successor.

11 (2) The information required to be transmitted under
12 this Section must be transmitted not later than the end of
13 the next business day after the date on which a controlled
14 substance is dispensed, or at such other time as may be
15 required by the Department by administrative rule.

16 (3) A dispenser must transmit the information required
17 under this Section by:

18 (A) an electronic device compatible with the
19 receiving device of the central repository;

20 (B) a computer diskette;

21 (C) a magnetic tape; or

22 (D) a pharmacy universal claim form or Pharmacy
23 Inventory Control form.

24 (4) The Department may impose a civil fine of up to
25 \$100 per day for willful failure to report controlled
26 substance dispensing to the Prescription Monitoring

1 Program. The fine shall be calculated on no more than the
2 number of days from the time the report was required to be
3 made until the time the problem was resolved, and shall be
4 payable to the Prescription Monitoring Program.

5 (a-5) Notwithstanding subsection (a), a licensed
6 veterinarian is exempt from the reporting requirements of this
7 Section. If a person who is presenting an animal for treatment
8 is suspected of fraudulently obtaining any controlled
9 substance or prescription for a controlled substance, the
10 licensed veterinarian shall report that information to the
11 local law enforcement agency.

12 (b) The Department, by rule, may include in the
13 Prescription Monitoring Program certain other select drugs
14 that are not included in Schedule II, III, IV, or V. The
15 Prescription Monitoring Program does not apply to controlled
16 substance prescriptions as exempted under Section 313.

17 (c) The collection of data on select drugs and scheduled
18 substances by the Prescription Monitoring Program may be used
19 as a tool for addressing oversight requirements of long-term
20 care institutions as set forth by Public Act 96-1372. Long-term
21 care pharmacies shall transmit patient medication profiles to
22 the Prescription Monitoring Program monthly or more frequently
23 as established by administrative rule.

24 (d) The Department of Human Services shall appoint a
25 full-time Clinical Director of the Prescription Monitoring
26 Program.

1 (e) (Blank).

2 (f) Within one year of January 1, 2018 (the effective date
3 of Public Act 100-564) ~~this amendatory Act of the 100th General~~
4 ~~Assembly~~, the Department shall adopt rules requiring all
5 Electronic Health Records Systems to interface with the
6 Prescription Monitoring Program application program on or
7 before January 1, 2021 to ensure that all providers have access
8 to specific patient records during the treatment of their
9 patients. These rules shall also address the electronic
10 integration of pharmacy records with the Prescription
11 Monitoring Program to allow for faster transmission of the
12 information required under this Section. The Department shall
13 establish actions to be taken if a prescriber's Electronic
14 Health Records System does not effectively interface with the
15 Prescription Monitoring Program within the required timeline.

16 (g) The Department, in consultation with the Advisory
17 Committee, shall adopt rules allowing licensed prescribers or
18 pharmacists who have registered to access the Prescription
19 Monitoring Program to authorize a licensed or non-licensed
20 designee employed in that licensed prescriber's office or a
21 licensed designee in a licensed pharmacist's pharmacy, ~~and~~ who
22 has received training in the federal Health Insurance
23 Portability and Accountability Act to consult the Prescription
24 Monitoring Program on their behalf. The rules shall include
25 reasonable parameters concerning a practitioner's authority to
26 authorize a designee, and the eligibility of a person to be

1 selected as a designee. In this subsection (g), "pharmacist"
2 shall include a clinical pharmacist employed by and designated
3 by a Medicaid Managed Care Organization providing services
4 under Article V of the Illinois Public Aid Code under a
5 contract with the Department of Healthcare ~~Health~~ and Family
6 Services for the sole purpose of clinical review of services
7 provided to persons covered by the entity under the contract to
8 determine compliance with subsections (a) and (b) of Section
9 314.5 of this Act. A managed care entity pharmacist shall
10 notify prescribers of review activities.

11 (Source: P.A. 99-480, eff. 9-9-15; 100-564, eff. 1-1-18;
12 100-861, eff. 8-14-18; 100-1005, eff. 8-21-18; 100-1093, eff.
13 8-26-18; revised 2-20-19.)

14 (720 ILCS 570/320)

15 Sec. 320. Advisory committee.

16 (a) There is created a Prescription Monitoring Program
17 Advisory Committee to assist the Department of Human Services
18 in implementing the Prescription Monitoring Program created by
19 this Article and to advise the Department on the professional
20 performance of prescribers and dispensers and other matters
21 germane to the advisory committee's field of competence.

22 (b) The Prescription Monitoring Program Advisory Committee
23 shall consist of 15 ~~16~~ members appointed by the Clinical
24 Director of the Prescription Monitoring Program composed of
25 prescribers and dispensers licensed to practice medicine in his

1 or her respective profession as follows: one family or primary
2 care physician; one pain specialist physician; 4 other
3 physicians, one of whom may be an ophthalmologist; 2 advanced
4 practice registered nurses; one physician assistant; one
5 optometrist; one dentist; ~~one veterinarian;~~ one clinical
6 representative from a statewide organization representing
7 hospitals; and 3 pharmacists. The Advisory Committee members
8 serving on August 26, 2018 (the effective date of Public Act
9 100-1093) ~~this amendatory Act of the 100th General Assembly~~
10 shall continue to serve until January 1, 2019. Prescriber and
11 dispenser nominations for membership on the Committee shall be
12 submitted by their respective professional associations. If
13 there are more nominees than membership positions for a
14 prescriber or dispenser category, as provided in this
15 subsection (b), the Clinical Director of the Prescription
16 Monitoring Program shall appoint a member or members for each
17 profession as provided in this subsection (b), from the
18 nominations to serve on the advisory committee. At the first
19 meeting of the Committee in 2019 members shall draw lots for
20 initial terms and 6 members shall serve 3 years, 5 members
21 shall serve 2 years, and 5 members shall serve one year.
22 Thereafter, members shall serve 3-year ~~3-year~~ terms. Members
23 may serve more than one term but no more than 3 terms. The
24 Clinical Director of the Prescription Monitoring Program may
25 appoint a representative of an organization representing a
26 profession required to be appointed. The Clinical Director of

1 the Prescription Monitoring Program shall serve as the
2 Secretary of the committee.

3 (c) The advisory committee may appoint a chairperson and
4 other officers as it deems appropriate.

5 (d) The members of the advisory committee shall receive no
6 compensation for their services as members of the advisory
7 committee, unless appropriated by the General Assembly, but may
8 be reimbursed for their actual expenses incurred in serving on
9 the advisory committee.

10 (e) The advisory committee shall:

11 (1) provide a uniform approach to reviewing this Act in
12 order to determine whether changes should be recommended to
13 the General Assembly;

14 (2) review current drug schedules in order to manage
15 changes to the administrative rules pertaining to the
16 utilization of this Act;

17 (3) review the following: current clinical guidelines
18 developed by health care professional organizations on the
19 prescribing of opioids or other controlled substances;
20 accredited continuing education programs related to
21 prescribing and dispensing; programs or information
22 developed by health care professional organizations that
23 may be used to assess patients or help ensure compliance
24 with prescriptions; updates from the Food and Drug
25 Administration, the Centers for Disease Control and
26 Prevention, and other public and private organizations

1 which are relevant to prescribing and dispensing; relevant
2 medical studies; and other publications which involve the
3 prescription of controlled substances;

4 (4) make recommendations for inclusion of these
5 materials or other studies which may be effective resources
6 for prescribers and dispensers on the Internet website of
7 the inquiry system established under Section 318;

8 (5) semi-annually review the content of the Internet
9 website of the inquiry system established pursuant to
10 Section 318 to ensure this Internet website has the most
11 current available information;

12 (6) semi-annually review opportunities for federal
13 grants and other forms of funding to support projects which
14 will increase the number of pilot programs which integrate
15 the inquiry system with electronic health records; and

16 (7) semi-annually review communication to be sent to
17 all registered users of the inquiry system established
18 pursuant to Section 318, including recommendations for
19 relevant accredited continuing education and information
20 regarding prescribing and dispensing.

21 (f) The Advisory Committee shall select from its members 10
22 ~~11~~ members of the Peer Review Committee composed of: ~~6, and one~~
23 ~~dentist,~~

24 (1) 3 physicians;

25 (2) 3 pharmacists;

26 (3) one dentist;

- 1 (4) one advanced practice registered nurse;
- 2 (4.5) (blank) ~~one veterinarian~~;
- 3 (5) one physician assistant; and
- 4 (6) one optometrist.

5 The purpose of the Peer Review Committee is to establish a
6 formal peer review of professional performance of prescribers
7 and dispensers. The deliberations, information, and
8 communications of the Peer Review Committee are privileged and
9 confidential and shall not be disclosed in any manner except in
10 accordance with current law.

11 (1) The Peer Review Committee shall periodically
12 review the data contained within the prescription
13 monitoring program to identify those prescribers or
14 dispensers who may be prescribing or dispensing outside the
15 currently accepted standard and practice of their
16 profession. The Peer Review Committee member, whose
17 profession is the same as the prescriber or dispenser being
18 reviewed, shall prepare a preliminary report and
19 recommendation for any non-action or action. The
20 Prescription Monitoring Program Clinical Director and
21 staff shall provide the necessary assistance and data as
22 required.

23 (2) The Peer Review Committee may identify prescribers
24 or dispensers who may be prescribing outside the currently
25 accepted medical standards in the course of their
26 professional practice and send the identified prescriber

1 or dispenser a request for information regarding their
2 prescribing or dispensing practices. This request for
3 information shall be sent via certified mail, return
4 receipt requested. A prescriber or dispenser shall have 30
5 days to respond to the request for information.

6 (3) The Peer Review Committee shall refer a prescriber
7 or a dispenser to the Department of Financial and
8 Professional Regulation in the following situations:

9 (i) if a prescriber or dispenser does not respond
10 to three successive requests for information;

11 (ii) in the opinion of a majority of members of the
12 Peer Review Committee, the prescriber or dispenser
13 does not have a satisfactory explanation for the
14 practices identified by the Peer Review Committee in
15 its request for information; or

16 (iii) following communications with the Peer
17 Review Committee, the prescriber or dispenser does not
18 sufficiently rectify the practices identified in the
19 request for information in the opinion of a majority of
20 the members of the Peer Review Committee.

21 (4) The Department of Financial and Professional
22 Regulation may initiate an investigation and discipline in
23 accordance with current laws and rules for any prescriber
24 or dispenser referred by the Peer Review Committee ~~peer~~
25 ~~review subcommittee~~.

26 (5) The Peer Review Committee shall prepare an annual

1 report starting on July 1, 2017. This report shall contain
2 the following information: the number of times the Peer
3 Review Committee was convened; the number of prescribers or
4 dispensers who were reviewed by the Peer Review Committee;
5 the number of requests for information sent out by the Peer
6 Review Committee; and the number of prescribers or
7 dispensers referred to the Department of Financial and
8 Professional Regulation. The annual report shall be
9 delivered electronically to the Department and to the
10 General Assembly. The report to the General Assembly shall
11 be filed with the Clerk of the House of Representatives and
12 the Secretary of the Senate in electronic form only, in the
13 manner that the Clerk and the Secretary shall direct. The
14 report prepared by the Peer Review Committee shall not
15 identify any prescriber, dispenser, or patient.

16 (Source: P.A. 99-480, eff. 9-9-15; 100-513, eff. 1-1-18;
17 100-861, eff. 8-14-18; 100-1093, eff. 8-26-18; revised
18 10-3-18.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.