



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB3491

Introduced 2/9/2024, by Sen. Laura Fine

#### SYNOPSIS AS INTRODUCED:

720 ILCS 570/315.7 new  
720 ILCS 570/318

Amends the Illinois Controlled Substances Act. Provides that decisions regarding the treatment of patients experiencing chronic pain shall be made by the prescriber with dispensing by the pharmacist in accordance with the corresponding responsibility as described in federal regulations and State administrative rules. Provides that ordering, prescribing, dispensing, administering, or paying for controlled substances, including opioids, shall not be predetermined by specific morphine milligram equivalent guidelines. Provides that confidential information received from opioid treatment programs or confidential information otherwise protected under federal confidentiality of substance use disorder patient records shall not be included in the information shared to the central repository under the Prescription Monitoring Program. Provides that an applicant for this information must have a valid court order or subpoena for the confidential information requested. Defines "chronic pain" and "opiates". Effective immediately.

LRB103 36910 RLC 67023 b

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 and by adding Section 315.7 as  
6 follows:

7 (720 ILCS 570/315.7 new)

8 Sec. 315.7. Chronic pain treatment.

9 (a) In this Section:

10 "Chronic pain" means a state in which pain persists beyond  
11 the usual course of an acute disease or healing of an injury,  
12 or which may or may not be associated with an acute or chronic  
13 pathologic process that causes continuous or intermittent pain  
14 over months or years. "Chronic pain" is considered to be pain  
15 that persists for more than 12 weeks.

16 "Opioid" means a narcotic drug or substance that is a  
17 Schedule II controlled substance under paragraph (1), (2),  
18 (3), or (5) of subsection (b) or under subsection (c) of  
19 Section 206.

20 (b) Decisions regarding the treatment of patients  
21 experiencing chronic pain shall be made by the prescriber with  
22 dispensing by the pharmacist in accordance with the  
23 corresponding responsibility as described in 21 CFR 1306.04(a)

1 and 77 Ill. Adm. Code 3100.380(a).

2 (c) Ordering, prescribing, dispensing, administering, or  
3 paying for controlled substances, including opioids, shall not  
4 be predetermined by specific morphine milligram equivalent  
5 guidelines.

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 (a-1) To ensure the federal Health Insurance Portability  
11 and Accountability Act and confidentiality of substance use  
12 disorder patient records rules that mandate the privacy of an  
13 individual's prescription data reported to the Prescription  
14 Monitoring Program received from a retail dispenser under this  
15 Act, and in order to execute the duties and responsibilities  
16 under Section 316 of this Act and rules for disclosure under  
17 this Section, the Clinical Director of the Prescription  
18 Monitoring Program or his or her designee shall maintain  
19 direct access to all Prescription Monitoring Program data. Any  
20 request for Prescription Monitoring Program data from any  
21 other department or agency must be approved in writing by the  
22 Clinical Director of the Prescription Monitoring Program or  
23 his or her designee unless otherwise permitted by law.  
24 Prescription Monitoring Program data shall only be disclosed  
25 as permitted by law. Confidential information received from

1 opioid treatment programs or confidential information  
2 otherwise protected under federal confidentiality of substance  
3 use disorder patient records regulated under 42 CFR Part 2  
4 shall not be included in the information shared under  
5 subsection (c), (d), (e), or (f).

6 (a-2) As an active step to address the current opioid  
7 crisis in this State and to prevent and reduce addiction  
8 resulting from a sports injury or an accident, the  
9 Prescription Monitoring Program and the Department of Public  
10 Health shall coordinate a continuous review of the  
11 Prescription Monitoring Program and the Department of Public  
12 Health data to determine if a patient may be at risk of opioid  
13 addiction. Each patient discharged from any medical facility  
14 with an International Classification of Disease, 10th edition  
15 code related to a sport or accident injury shall be subject to  
16 the data review. If the discharged patient is dispensed a  
17 controlled substance, the Prescription Monitoring Program  
18 shall alert the patient's prescriber as to the addiction risk  
19 and urge each to follow the Centers for Disease Control and  
20 Prevention guidelines or his or her respective profession's  
21 treatment guidelines related to the patient's injury. This  
22 subsection (a-2), other than this sentence, is inoperative on  
23 or after January 1, 2024.

24 (b) The Department must carry out a program to protect the  
25 confidentiality of the information described in subsection  
26 (a). The Department may disclose the information to another

1 person only under subsection (c), (d), or (f) and may charge a  
2 fee not to exceed the actual cost of furnishing the  
3 information.

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

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

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

13 (2) An investigator for the Consumer Protection  
14 Division of the office of the Attorney General, a  
15 prosecuting attorney, the Attorney General, a deputy  
16 Attorney General, or an investigator from the office of  
17 the Attorney General, who is engaged in any of the  
18 following activities involving controlled substances:

19 (A) an investigation;

20 (B) an adjudication; or

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

23 (3) A law enforcement officer who is:

24 (A) authorized by the Illinois State Police or the  
25 office of a county sheriff or State's Attorney or  
26 municipal police department of Illinois to receive

1 information of the type requested for the purpose of  
2 investigations involving controlled substances; or

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

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

9 (4) Select representatives of the Department of  
10 Children and Family Services through the indirect online  
11 request process. Access shall be established by an  
12 intergovernmental agreement between the Department of  
13 Children and Family Services and the Department of Human  
14 Services.

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

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

21 (2) the requested information is reasonably related to  
22 the investigation, adjudication, or prosecution of the  
23 violation described in subdivision (1); ~~and~~

24 (3) the applicant has a valid court order or subpoena  
25 for the confidential information requested.

26 (f) The Department may receive and release prescription

1 record information under Section 316 and former Section 321  
2 to:

3 (1) a governing body that licenses practitioners;

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

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

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

12 (B) approved by the Department to receive the type  
13 of information released; or

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

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

24 (f-5) In accordance with a confidentiality agreement  
25 entered into with the Department, a medical director, or a  
26 public health administrator and their delegated analysts, of a

1 county or municipal health department or the Department of  
2 Public Health shall have access to data from the system for any  
3 of the following purposes:

4 (1) developing education programs or public health  
5 interventions relating to prescribing trends and  
6 controlled substance use; or

7 (2) conducting analyses and publish reports on  
8 prescribing trends in their respective jurisdictions.

9 At a minimum, the confidentiality agreement entered into  
10 with the Department shall:

11 (i) prohibit analysis and reports produced under  
12 subparagraph (2) from including information that  
13 identifies, by name, license, or address, any  
14 practitioner, dispenser, ultimate user, or other person  
15 administering a controlled substance; and

16 (ii) specify the appropriate technical and physical  
17 safeguards that the county or municipal health department  
18 must implement to ensure the privacy and security of data  
19 obtained from the system. The data from the system shall  
20 not be admissible as evidence, nor discoverable in any  
21 action of any kind in any court or before any tribunal,  
22 board, agency, or person. The disclosure of any such  
23 information or data, whether proper or improper, shall not  
24 waive or have any effect upon its confidentiality,  
25 non-discoverability, or non-admissibility.

26 (g) The information described in subsection (f) may not be



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

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

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

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

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

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

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

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

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

12          (4) Written inquiries are acceptable but must include  
13          the fee and the requester's Drug Enforcement  
14          Administration license number and submitted upon the  
15          requester's business stationery.

16          (5) As directed by the Prescription Monitoring Program  
17          Advisory Committee and the Clinical Director for the  
18          Prescription Monitoring Program, aggregate data that does  
19          not indicate any prescriber, practitioner, dispenser, or  
20          patient may be used for clinical studies.

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

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

26          (8) If there is an adverse outcome because of a

1           prescriber or dispenser making an inquiry, which is  
2           initiated in good faith, the prescriber or dispenser shall  
3           be held harmless from any civil liability.

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

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

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

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

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

23          (p) The Prescription Monitoring Program shall  
24          automatically create a log-in to the inquiry system when a  
25          prescriber or dispenser obtains or renews his or her  
26          controlled substance license. The Department of Financial and

1 Professional Regulation must provide the Prescription  
2 Monitoring Program with electronic access to the license  
3 information of a prescriber or dispenser to facilitate the  
4 creation of this profile. The Prescription Monitoring Program  
5 shall send the prescriber or dispenser information regarding  
6 the inquiry system, including instructions on how to log into  
7 the system, instructions on how to use the system to promote  
8 effective clinical practice, and opportunities for continuing  
9 education for the prescribing of controlled substances. The  
10 Prescription Monitoring Program shall also send to all  
11 enrolled prescribers, dispensers, and designees information  
12 regarding the unsolicited reports produced pursuant to Section  
13 314.5 of this Act.

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

18 (1) the designee so authorized is employed by the same  
19 hospital or health care system; is employed by the same  
20 professional practice; or is under contract with such  
21 practice, hospital, or health care system;

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

25 (3) the prescriber or dispenser remains responsible  
26 for ensuring that access to the inquiry system by the

1           designee is limited to authorized purposes and occurs in a  
2           manner that protects the confidentiality of the  
3           information obtained from the inquiry system, and remains  
4           responsible for any breach of confidentiality; and

5           (4) the ultimate decision as to whether or not to  
6           prescribe or dispense a controlled substance remains with  
7           the prescriber or dispenser.

8           The Prescription Monitoring Program shall send to  
9           registered designees information regarding the inquiry system,  
10          including instructions on how to log onto the system.

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

15               (1) current clinical guidelines developed by health  
16               care professional organizations on the prescribing of  
17               opioids or other controlled substances as determined by  
18               the Advisory Committee;

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

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

24               (4) updates from the Food and Drug Administration, the  
25               Centers for Disease Control and Prevention, and other  
26               public and private organizations which are relevant to

1           prescribing;

2                 (5) relevant medical studies related to prescribing;

3                 (6) other information regarding the prescription of  
4           controlled substances; and

5                 (7) information regarding prescription drug disposal  
6           events, including take-back programs or other disposal  
7           options or events.

8           The content of the Internet website shall be periodically  
9           reviewed by the Prescription Monitoring Program Advisory  
10          Committee as set forth in Section 320 and updated in  
11          accordance with the recommendation of the advisory committee.

12          (s) The Prescription Monitoring Program shall regularly  
13          send electronic updates to the registered users of the  
14          Program. The Prescription Monitoring Program Advisory  
15          Committee shall review any communications sent to registered  
16          users and also make recommendations for communications as set  
17          forth in Section 320. These updates shall include the  
18          following information:

19                 (1) opportunities for accredited continuing education  
20                 programs related to prescribing of controlled substances;

21                 (2) current clinical guidelines developed by health  
22                 care professional organizations on the prescribing of  
23                 opioids or other drugs as determined by the Advisory  
24                 Committee;

25                 (3) programs or information developed by health care  
26                 professionals that may be used to assess patients or help

1 ensure compliance with prescriptions;

2 (4) updates from the Food and Drug Administration, the  
3 Centers for Disease Control and Prevention, and other  
4 public and private organizations which are relevant to  
5 prescribing;

6 (5) relevant medical studies related to prescribing;

7 (6) other information regarding prescribing of  
8 controlled substances;

9 (7) information regarding prescription drug disposal  
10 events, including take-back programs or other disposal  
11 options or events; and

12 (8) reminders that the Prescription Monitoring Program  
13 is a useful clinical tool.

14 (t) Notwithstanding any other provision of this Act,  
15 neither the Prescription Monitoring Program nor any other  
16 person shall disclose any information in violation of the  
17 restrictions and requirements of paragraph (3.5) of subsection  
18 (a) of Section 316 as implemented under Public Act 102-527.

19 (Source: P.A. 102-751, eff. 1-1-23.)

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