HOUSE BILL No. 5564

February 26, 1992, Introduced by Reps. Gire, Kilpatrick, Pitoniak, Kosteva, Joe Young, Jr., Barns, Olshove, Harder, DeMars, Dobronski, Dolan, Bryant, Martin and Ostling and referred to the Committee on Public Health.

A bill to amend sections 7111, 7112, 7113, and 7334 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," sections 7111, 7112, and 7113 as added by Act No. 60 of the Public Acts of 1988 and section 7334 as amended by Act No. 140 of the Public Acts of 1989, being sections 333.7111, 333.7112, 333.7113, and 333.7334 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Sections 7111, 7112, 7113, and 7334 of Act No. 368 of the Public Acts of 1978, sections 7111, 7112, and 7113 as added by Act No. 60 of the Public Acts of 1988 and section 7334 as amended by Act No. 140 of the Public Acts of 1989, being sections 333.7111, 333.7112, 333.7113, and 333.7334 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 7111. (1) The controlled substances advisory commission is created in the department of licensing and regulation and shall consist of the following 13 voting members appointed by the governor with the advice and consent of the senate:

(a) One health care professional from each of the following boards created in article 15:

(*i*) The Michigan board of medicine.

(*ii*) The Michigan board of osteopathic medicine and surgery.

(*iii*) The Michigan board of pharmacy.

(*iv*) The Michigan board of podiatric medicine and surgery.

(*v*) The Michigan board of dentistry.

(*vi*) The Michigan board of veterinary medicine.

(*vii*) The Michigan board of nursing.

(b) One licensed health care professional from the field of psychiatry.

(c) One licensed health care professional from the field of pharmacology.

(d) Three public members, 1 of whom shall serve as chairperson.

(e) One member representing pharmaceutical manufacturers.

(2) The director of the department of state police, director of licensing and regulation, director of public health, director of social services, superintendent of public instruction, and the attorney general, or their official designees, and the drug control administrator from within the department of licensing and

regulation, who shall serve as secretary to the controlled substances advisory commission, ~~shall be~~ ARE ex officio members without votes, but are not members for the purpose of determining of a quorum. The department, in consultation with the Michigan board of pharmacy, shall appoint an individual to serve as the drug control administrator for purposes of this section. The individual appointed by the department to serve as drug control administrator shall be a licensed pharmacist.

~~(3) This section is repealed effective September 30, 1993.~~

Sec. 7112. (1) Members of the controlled substances advisory commission shall receive per diem compensation as established annually by the legislature and shall be reimbursed for expenses incurred pursuant to section 1216.

(2) The members of the controlled substances advisory commission shall serve for terms of 2 years. An individual shall not serve more than 2 terms and a partial term, consecutive or otherwise. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The controlled substances advisory commission shall meet ~~not less often than~~ AT LEAST once each 3 months and shall report on its activities and make recommendations as described in section 7113 to the administrator, the governor, and the legislature ~~not less often than~~ AT LEAST annually.

~~(4) This section is repealed effective September 30, 1993.~~

Sec. 7113. (1) The controlled substances advisory commission shall monitor indicators of controlled substance abuse and diversion. If any of that data shows that Michigan exceeds the

average national per capita consumption of a controlled substance, the controlled substances advisory commission shall investigate and determine if there is a legitimate reason for the excess consumption. If the controlled substances advisory commission determines that there is not a legitimate reason for the excess consumption, the controlled substances advisory commission shall recommend to the administrator a plan of action to overcome the problem. The controlled substances advisory commission may also recommend action to the administrator if other indicators show that a special problem is developing with any controlled substance available by prescription.

(2) The controlled substances advisory commission shall publicly issue an annual report to the administrator, the governor, and the legislature on the current status of the abuse and diversion of controlled substances in this state. The report shall also identify existing efforts to overcome the abuse and diversion of controlled substances in this state and make recommendations for needed legislative, administrative, and interagency activities.

(3) The controlled substances advisory commission may include in the report required by subsection (2) recommendations for action ~~which~~ THAT involve licensing, law enforcement, substance abuse treatment and prevention, education, professional associations, pharmaceutical manufacturers, and other relevant individuals and agencies.

(4) ~~Within 1 year after the effective date of this section~~ BY AUGUST 1, 1990, the controlled substances advisory commission,

in conjunction with the department of licensing and regulation and the Michigan pharmacists association, shall establish a standardized data base format ~~which~~ THAT may be used by dispensing pharmacies to transmit the prescription-related information required under section 7334 to the department of licensing and regulation electronically or on storage media including, but not limited to, disks, tapes, and cassettes. Within 2 years after establishing electronic or storage media transmission of data required under section 7334, the controlled substance advisory commission shall evaluate the continued need for triplicate prescription forms and report to the legislature.

~~(5) This section is repealed effective September 30, 1993.~~

Sec. 7334. (1) A prescription for a controlled substance included in schedule 2 shall be recorded on an official prescription form that meets the requirements of subsection (3) and is issued to practitioners by the department of licensing and regulation. Except as otherwise provided in subsection (2), not more than 1 prescription shall be recorded on each form. The department of licensing and regulation shall issue the official prescription forms to practitioners free of charge.

(2) A practitioner employed by or under contract to a substance abuse treatment program licensed under part 62 to treat opiate addiction with the drug methadone shall do all of the following:

(a) On the first working day of each month, complete an official prescription form for the entire program indicating the total amount of methadone administered or dispensed and the total

number of patients who received the methadone during the previous month.

(b) Comply with federal law regarding the confidentiality of client information.

(c) Forward copy 1 of the official prescription form to the department of licensing and regulation by the fifteenth day of the month in which the form was completed.

(3) Each official prescription form used to prescribe a controlled substance included in schedule 2 shall be serially numbered and in triplicate, with the first copy labeled 'copy 1', the second copy labeled 'copy 2', and the third copy labeled 'copy 3'. Each form shall contain spaces for all of the following:

(a) The date the prescription is written.

(b) The date the prescription is filled.

(c) The controlled substance prescribed, the dosage, the quantity, in both written and numerical terms, and instructions for use.

(d) The name, address, and federal drug enforcement administration number of the dispensing pharmacy and the state license number and signature or initials of the pharmacist who fills the prescription.

(e) The name, address, state license number, federal drug enforcement administration number, and signature of the prescribing practitioner.

(f) The name, address, and age of the patient or owner of an animal for whom the controlled substance is prescribed.

(g) A box that, if checked, indicates that the controlled substance was dispensed by a prescribing practitioner.

(4) A prescribing practitioner shall do all of the following:

(a) Fill in on all 3 copies of the prescription form, in the space provided, all of the following:

(*i*) The date the prescription is written.

(*ii*) The controlled substance prescribed, the dosage, the quantity, in both written and numerical terms, and instructions for use.

(*iii*) The name, address, and age of the patient or owner of an animal for whom the controlled substance is prescribed.

(*iv*) If the controlled substance is prescribed for an animal, the name of the animal.

(b) Sign copies 1 and 2 of the official prescription form and, except for an oral prescription prescribed under section 7333, give them to the person authorized to receive the prescription. If the prescribing practitioner signs copy 1 of the form and in so doing produces a legible copy of the signature on copy 2, the prescribing practitioner is in compliance with this subdivision.

(c) Retain copy 3 of the official prescription form with the prescribing practitioner's records for a period of not less than 5 years from the date the prescription is written.

(5) If a prescribing practitioner dispenses a controlled substance included in schedule 2, the prescribing practitioner shall do all of the following:

(a) Fill in on all 3 copies of the official prescription form, in the space provided, all of the following:

(*i*) The date the controlled substance is dispensed.

(*ii*) The controlled substance dispensed, the dosage, the quantity, in both written and numerical terms, and instructions for use.

(*iii*) The name, address, and age of the patient or owner of an animal for whom the controlled substance is dispensed.

(*iv*) If the controlled substance is dispensed for an animal, the name of the animal.

(*v*) The box described in subsection (3)(g).

(b) Sign copies 1 and 2 of the official prescription form and forward copy 1 to the department of licensing and regulation by the fifteenth day of the month following the month in which the controlled substance was dispensed. If the prescribing practitioner signs copy 1 of the official prescription form and in so doing produces a legible copy of the signature on copy 2, the prescribing practitioner is in compliance with this subdivision.

(c) Retain copy 2 of the official prescription form as a dispensing record.

(d) Retain copy 3 of the official prescription form with the prescribing practitioner's records for a period of not less than 5 years from the date the prescription is written.

(6) For an oral prescription prescribed under section 7333(2), the prescribing practitioner shall give the dispensing pharmacy the information needed by the dispensing pharmacy to fill the prescription. The prescribing practitioner

shall complete and forward the first and second copies of the official prescription form to the dispensing pharmacy within 72 hours after issuing the oral prescription. If the dispensing pharmacist does not receive the first and second copies of the official prescription form within the 72-hour period, the dispensing pharmacist may notify the department of licensing and regulation.

(7) Each dispensing pharmacist shall do all of the following:

(a) Fill in on copies 1 and 2 of the official prescription form, in the space provided, the information not required to be filled in by the prescribing practitioner or the department of licensing and regulation.

(b) Retain copy 2 with the records of the pharmacy for a period of not less than 5 years.

(c) Sign or initial copy 1 and forward it to the department of licensing and regulation by the fifteenth of the month following the month in which the prescription was written.

(d) When filling a prescription for a controlled substance included in schedule 2 for a prescribing practitioner who is exempted under section 7333(3)(d) from using official prescription forms, a pharmacist shall, by the fifteenth of the month following the month in which the prescription was written, forward a copy of the prescription form used or a document provided by the department of licensing and regulation for each such prescription that contains all of the following information:

(*i*) The date the prescription is written.

(*ii*) The date the prescription is filled.

(*iii*) The controlled substance prescribed, the dosage, and the quantity.

(*iv*) The name, address, and drug enforcement administration number of the prescribing practitioner.

(*v*) The name, address, and age of the patient.

(*vi*) The name, address, and state license number of the dispensing pharmacist.

(8) If a prescribing practitioner has failed to fill in all of the information required under subsection (4)(a), the dispensing pharmacist may complete the information on the back of copy 1. The dispensing pharmacist shall not change or add information on the front of copy 1. If the department of licensing and regulation determines that a prescribing practitioner is failing to fill in the required information, the department of licensing and regulation shall ~~-so-~~ notify the prescribing practitioner.

(9) A practitioner in possession of official prescription forms issued under subsection (1) whose license to dispense or practice, or whose federal drug enforcement administration number, is suspended or revoked, shall, within 7 days after the date the suspension or revocation becomes effective, return to the department of licensing and regulation all official prescription forms ~~-which-~~ THAT have not been used to issue prescriptions. An individual who violates this subsection is guilty of a misdemeanor.

(10) The director of the department of licensing and regulation shall permit access to information submitted to the department of licensing and regulation under this section only to the following individuals:

(a) Employees and agents of the department of licensing and regulation authorized by the director of the department of licensing and regulation.

(b) Employees of a governmental agency that is responsible for the enforcement of laws pertaining to controlled substances and is authorized by the director of the department of licensing and regulation.

(c) A prescribing practitioner concerning an individual suspected of attempting to obtain a controlled substance by fraud, deceit, or misrepresentation, as authorized by the director of the department of licensing and regulation.

(d) An individual with whom the department has contracted under subsection (16), as authorized by the director of the department of licensing and regulation.

(11) Information submitted to the department of licensing and regulation under this section is confidential, but may be released to persons authorized by the director of the department of licensing and regulation to conduct research studies or to other persons authorized by the director of the department of licensing and regulation. However, information released under this subsection shall not identify the individuals to whom the information pertains, and shall be released for statistical purposes only.

(12) The system for retrieval of information submitted to the department of licensing and regulation pursuant to this section shall be designed in all respects so as to preclude improper access to information.

(13) Except as otherwise provided in this part, information submitted to the department of licensing and regulation under this section shall be used only for bona fide drug-related criminal investigatory or evidentiary purposes or for the investigatory or evidentiary purposes in connection with the functions of 1 or more of the licensing boards created in article 15.

(14) The identity of an individual patient that is submitted to the department of licensing and regulation pursuant to this section shall be removed from the system for retrieval of the information described in this section and shall be destroyed and rendered irretrievable not later than the end of the calendar year following the year in which the information was submitted to the department of licensing and regulation. However, an individual patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this act may be retained in the system until the end of the year in which the necessity for retention of the identity ends.

(15) On or before September 30, 1993, the department of licensing and regulation, in conjunction with the controlled substances advisory commission, shall submit a public report to the legislature on the effectiveness of the triplicate prescription program. The report shall include a recommendation on whether

the program has been a cost effective method of controlling the diversion of controlled substances.

(16) The department of licensing and regulation may enter into contractual agreements for the administration of this section.

(17) This section does not prohibit access to prescription information otherwise allowed by law.

~~(18) This section is repealed effective September 30, 1993.~~

Section 2. This amendatory act shall not take effect unless Senate Bill No. ____ or House Bill No. ____ (request no. 04627'91 a) of the 86th Legislature is enacted into law.