

HOUSE BILL No. 6494

September 29, 2010, Introduced by Reps. Elsenheimer, Liss, Wayne Schmidt, Knollenberg, Moss and Kowall and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7333a (MCL 333.7333a), as added by 2001 PA 231.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7333a. (1) The department shall establish, by rule, an
2 electronic system for monitoring schedule 2, 3, 4, and 5 controlled
3 substances dispensed in this state by veterinarians, and by
4 pharmacists and dispensing prescribers licensed under part 177 or
5 dispensed to an address in this state by a pharmacy licensed in
6 this state. The rules shall provide an appropriate electronic
7 format for the reporting of data including, but not limited to,
8 patient identifiers, the name of the controlled substance
9 dispensed, date of dispensing, quantity dispensed, prescriber, and

1 dispenser. The department shall require a veterinarian, pharmacist,
2 or dispensing prescriber to utilize the electronic data transmittal
3 process developed by the department or the department's contractor.
4 A veterinarian, pharmacist, or dispensing prescriber shall not be
5 required to pay a new fee dedicated to the operation of the
6 electronic monitoring system and shall not incur any additional
7 costs solely related to the transmission of data to the department.
8 The rules promulgated under this subsection shall exempt both of
9 the following circumstances from the reporting requirements:

10 (a) The administration of a controlled substance directly to a
11 patient.

12 (b) The dispensing from a health facility or agency licensed
13 under article 17 of a controlled substance by a dispensing
14 prescriber in a quantity adequate to treat a patient for not more
15 than 48 hours.

16 (2) Notwithstanding any practitioner-patient privilege, the
17 director of the department may provide data obtained under this
18 section to all of the following:

19 (a) A designated representative of a board responsible for the
20 licensure, regulation, or discipline of a practitioner, pharmacist,
21 or other person who is authorized to prescribe, administer, or
22 dispense controlled substances.

23 (b) An employee or agent of the department.

24 (c) A state, federal, or municipal employee or agent whose
25 duty is to enforce the laws of this state or the United States
26 relating to drugs.

27 (d) A state-operated medicaid program.

1 (e) A state, federal, or municipal employee who is the holder
2 of a search warrant or subpoena properly issued for the records.

3 (f) A practitioner or pharmacist who requests information and
4 certifies that the requested information is for the purpose of
5 providing medical or pharmaceutical treatment to a bona fide
6 current patient.

7 (g) An individual with whom the department has contracted
8 under subsection ~~(9)~~—(8).

9 (H) A PRACTITIONER OR OTHER PERSON WHO IS AUTHORIZED TO
10 PRESCRIBE CONTROLLED SUBSTANCES FOR THE PURPOSE OF DETERMINING IF
11 PRESCRIPTIONS WRITTEN BY THAT PRACTITIONER OR OTHER PERSON HAVE
12 BEEN DISPENSED.

13 (3) Except as otherwise provided in this part, information
14 submitted under this section shall be used only for bona fide drug-
15 related criminal investigatory or evidentiary purposes or for the
16 investigatory or evidentiary purposes in connection with the
17 functions of a disciplinary subcommittee or 1 or more of the
18 licensing or registration boards created in article 15.

19 (4) A person who receives data or any report under subsection
20 (2) containing any patient identifiers of the system from the
21 department shall not provide it to any other person or entity
22 except by order of a court of competent jurisdiction.

23 (5) Except as otherwise provided in this subsection, reporting
24 under subsection (1) is mandatory for a veterinarian, pharmacist,
25 and dispensing prescriber. However, the department may issue a
26 written waiver of the electronic reporting requirement to a
27 veterinarian, pharmacist, or dispensing prescriber who establishes

1 grounds that he or she is unable to use the electronic monitoring
2 system. The department shall require the applicant for the waiver
3 to report the required information in a manner approved by the
4 department.

5 (6) In addition to the information required to be reported
6 annually under section 7112(3), the controlled substances advisory
7 commission shall include in the report information on the
8 implementation and effectiveness of the electronic monitoring
9 system.

10 (7) The department, in consultation with the controlled
11 substances advisory commission, the Michigan board of pharmacy, the
12 Michigan board of medicine, the Michigan board of osteopathic
13 medicine and surgery, the Michigan state police, and appropriate
14 medical professional associations, shall examine the need for and
15 may promulgate rules for the production of a prescription form on
16 paper that minimizes the potential for forgery. The rules shall not
17 include any requirement that sequential numbers, bar codes, or
18 symbols be affixed, printed, or written on a prescription form or
19 that the prescription form be a state produced prescription form.
20 In examining the need for rules for the production of a
21 prescription form on paper that minimizes the potential for
22 forgery, the department shall consider and identify the following:

23 (a) Cost, benefits, and barriers.

24 (b) Overall cost-benefit analysis.

25 (c) Compatibility with the electronic monitoring system
26 required under this section.

27 ~~(8) The department shall report its findings under subsection~~

~~(7) to the members of the house and senate standing committees
having jurisdiction over health policy issues not later than
October 1, 2002, and before the electronic monitoring system
required under this section becomes operational.~~

(8) ~~(9)~~—The department may enter into 1 or more contractual agreements for the administration of this section.

(9) ~~(10)~~—The department, all law enforcement officers, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) ~~(11)~~—The data and any report containing any patient identifiers obtained therefrom is not a public record, and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) ~~(12)~~—As used in this section, "department" means the department of ~~consumer and industry services~~ **COMMUNITY HEALTH**.