

HB 188 -- NARCOTICS CONTROL ACT

SPONSOR: Rehder

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Insurance Policy by a vote of 13 to 3. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 7 to 0.

This bill establishes the "Narcotics Control Act." The Department of Health and Senior Services will establish a program for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances.

Each drug dispenser covered by the bill must electronically send dispensation information, including the prescription information and patient information of each drug dispensed. The information must be sent within 24 hours of dispensation, and by 2022, the information must be sent in real-time. An extension on the time requirements can be given for temporary unforeseen circumstances. If a dispenser cannot send the information electronically, they may apply for a waiver to send the information in an alternative format.

The information sent is confidential and the department must maintain procedures to ensure the privacy and confidentiality of the information.

The department must review the information sent by dispensers and if there is reasonable cause to believe that a violation of the law or a breach of professional standards may have occurred, law enforcement or the appropriate professional licensing board must be notified.

The department may provide information collected to dispensers, a professional licensing board, law enforcement, or MO HealthNet. An individual may also request his or her own dispensation information. The department may also provide data for statistical, research, or educational purposes after removing identifying information. The information cannot be used to prevent an individual from owning a firearm. The information cannot be used as the sole basis for probable cause to obtain an arrest or search warrant.

A pharmacist or prescriber is not required to obtain information from the Narcotics Control Program before dispensing or prescribing a drug.

The information will be removed from the program after a maximum of

three years.

The department may contract with another entity to develop and maintain the Narcotics Control Program. Any program already in effect that is being operated by a political subdivision can continue to operate until the state-wide program is available for use.

A dispenser who fails to provide the dispensation information required or who knowingly submits the incorrect information will be fined up to \$1,000 per violation. An appeal for the fine may be made to the Administrative Hearing Commission. A person who unlawfully accesses or discloses information from the Narcotics Control Program is guilty of a class E felony.

This bill is similar to HB 707 (2019), HB 1619, HB 1740, SB 737 and SB 762 (2018) and HBs 90 & 68, SB 231, SB 314, and SB 340 (2017).

PROPOSERS: Supporters say that they have heard a lot of privacy concerns and these are addressed in the bill. The amount of electronic data under the bill is no different than the amount of data pharmacists sent to third parties when filling a prescription. Prescription drug abuse is one of fastest growing epidemics in the U.S. and a prescription drug monitoring program will provide prescribers a tool to find and address abuses. When a provider searches through the program, it doesn't return with the patients' doctors and drugs, it just says, "high concern," "medium concern," etc. to protect patients' personal information and privacy. The prescription drug monitoring program will not be sharing information with other states under the current draft. This is a complex issue that will require multiple revisits by the General Assembly. Physicians want a monitoring program in the state to deal with doctor shoppers. Privacy is important, thus data is doubly encrypted. Missouri is the loophole in the country. Border states are having issues with citizens crossing into Missouri and doctor shopping without fear of monitoring. The genesis of the bill is not to catch people abusing drugs, the goal is to give doctors and pharmacists more information so they can make a better decision when prescribing.

Testifying for the bill were Representative Rehder; CVS Health; Missouri Academy of Family Physicians; Anne Eisenbeis; Missouri Society of Eye Physicians & Surgeons; Tim Mitchell; Missouri Municipal League; Missouri Department of Health and Senior Services; Missouri Catholic Conference; Tim Van Zandt, Saint Luke's Health System; Missouri Association of Rural Health Clinics; Pfizer; BJC Healthcare; SSM Healthcare; Hy-Vee; Mitchell International; B.J. Tankersley, Missouri Farm Bureau; Missouri Hospital Association; Property Casualty Insurers of America (PCI); Missouri

Insurance Coalition; Missouri Chamber of Commerce and Industry; Mallinckrodt Pharmaceuticals; Appriss; County of St. Louis; Missouri Hospice & Palliative Care Association; Missouri Nurses Association; Missouri Retailers Association; National Association of Chain Drugstores; Missouri Grocers Association; Howard Jarvis, MD; Missouri Society of Anesthesiologists; Missouri Ambulatory Surgery Center Association; Signature Medical Group; Richard Logan; Dr. Ravi Johar, Missouri State Medical Association; Missouri Pharmacy Association; Missouri College of Emergency Physicians; Fire Service Alliance; Health Forward Foundation; Mosaic Life Care; and the Missouri Pharmacy Association.

OPPONENTS: Those who oppose the bill say that there is no proof that this will stop illegal prescriptions. Opponents have civil rights concerns about the government having a database containing prescriptions that law abiding citizens receive paired with their name and they can determine who might have mental illness and take their guns. This does not do anything to stop the heroin epidemic. It is different than when your insurance company has a database that includes your information. The Fourth Amendment protects individuals from unreasonable search and seizure by the government and the prescription drug monitoring program violates citizens' Fourth Amendment rights with no useful outcome.

Testifying against the bill were Ron Staggs; John D. Lilly; Ron Calzone; James Coyne; David G. Baugh; and Wes Powell.