

SS SB 63 -- MONITORING CERTAIN CONTROLLED SUBSTANCES

SPONSOR: Rehder (Smith (155))

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Veterans by a vote of 10 to 1. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 5 to 4.

This bill establishes the "Joint Oversight Task Force of Prescription Drug Monitoring" within the Office of Administration, with members selected from the Board of Registration for the Healing Arts, the Board of Pharmacy, the Board of Nursing, and the Missouri Dental Board. The Task Force will enter into a contract with a vendor, through a competitive bid process, to collect and maintain patient controlled substance prescription dispensation information submitted by dispensers throughout the state as specified in the bill. Such information will be retained by the vendor for no more than three years before deletion from the program.

The Task Force may apply for and accept any grants or other moneys to develop and maintain the program and will be authorized to work cooperatively with the MO HealthNet Division to apply for and accept federal moneys and other grants for the program.

The vendor must treat patient dispensation information and any other individually identifiable patient information submitted under this bill as protected health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any regulations promulgated thereunder. Such information will only be accessed and utilized in accordance with the privacy and security provisions of HIPAA and the provisions of this bill. Such information will also be considered a closed record under state law.

The patient dispensation information submitted under this bill will only be utilized for the provision of health care services to the patient. Prescribers, dispensers, and other health care providers will be permitted to access a patient's dispensation information collected by the vendor in the course of providing health care services to the patient. The vendor will also provide dispensation information to the individual patient, upon his or her request. The MO HealthNet Division will have access to dispensation information for MO HealthNet recipients.

The vendor will provide patient dispensation information to any health information exchange operating in the state, upon the request of the health information exchange and at a cost not to exceed the cost of the technology connection or recurring

maintenance of the connection. Any health information exchange receiving information under this bill will comply with the provisions of this bill regarding privacy and security and permitted uses of dispensation information.

The Task Force may provide data to public and private entities for statistical, research, or educational purposes after removing identifying information.

No patient dispensation information will be provided to law enforcement or prosecutorial officials or any regulatory body, professional or otherwise, for purposes other than those explicitly set forth in HIPAA and any regulations promulgated thereunder. No dispensation information will be used to prevent an individual from owning or obtaining a firearm or as the basis for probable cause to obtain an arrest or search warrant as part of a criminal investigation.

Dispensers who knowingly fail to submit the required information or who knowingly submit incorrect dispensation information will be subject to a penalty of \$1,000 per violation. Any persons who are authorized to have patient dispensation information under this bill and who purposefully disclose such information or who purposefully use it in a manner and for a purpose in violation of this bill will be guilty of a Class E felony.

These provisions will supercede any local law, ordinance, order, rule, or regulation in this state for the purpose of monitoring the prescription or dispensation of prescribed controlled substances within the state. Any such program operating prior to August 28, 2021, must cease operation when the vendor's program is available for utilization by dispensers throughout the state. The Task Force may enter into an agreement with such program to transfer patient dispensation information from the program to the program operated by the vendor under this bill (Section 195.450, RSMo).

These provisions are similar to CCS SS#2 HB 1693 (2020).

This bill also modifies the expiration date of the RX Cares for Missouri Program from August 28, 2019, to August 28, 2026 (Section 338.710).

This provision is the same as SB 519 (2021).

PROPONENTS: Supporters say that a prescription drug monitoring program is a tool for medical professionals and is used for the same reason as other electronic medical records. The program allows medical professionals to better understand their patient's history. The program will allow providers to see concerning trends

in patients' narcotic history and can intervene with alternative treatment options for the patient. The program's goal is to prevent addiction. The program also assists providers and patients in receiving unsafe combinations of medication. Currently, every state, other than Missouri, has a statewide prescription drug monitoring program. Missouri needs to establish a program. Additionally, there are numerous safeguards in this bill to designed to protect patients' privacy.

Testifying for the bill were Senator Rehder; Missouri Chamber of Commerce and Industry; St. Louis Regional Health Commission; Appriss Health; Springfield Area Chamber of Commerce; HCA; Missouri Academy of Family Physicians; Missouri Psychiatric Physician Association; Associated Industries of Missouri; Missouri Association of Osteopathic Physicians and Surgeons (MAOPS); KCMO Health Commission; Missouri Association of Rural Health Clinics; BJC Healthcare; Cox Health; National Association of Social Workers; Missouri Farm Bureau; Missouri Society of Anesthesiologists; Health Forward; Missouri Ambulatory Surgery Center Associates; Greater St. Louis; Signature Medical Group; Missouri Dermatological Society; Missouri State Medical Association; Kendall Martinez-Wright; Missouri Nurses Association; Greater Kansas City Chamber Of Commerce; City of Kansas City; Carpenters Council of St. Louis and Kansas City; Vever Health; Missouri Pharmacy Association; and Missouri Retailers Association.

OPPONENTS: Those who oppose the bill say that the program would be intrusive into patients medical histories and does not do enough to protect 2nd Amendment rights. The program would prevent certain individuals with chronic pain from receiving medications that alleviate pain. Prescription drug monitoring program are ineffective in decreasing deaths from prescription opioids. Additionally, this would force individuals from safer drugs to illegal drugs.

Testifying against the bill were Karen Cooksey; Arnie Dienoff; Sherry Kuttenkuler Arthaud; Ron Calzone; Concerned Women For America Legislative Action Committee; John D. Lilly; Mary Cremer; Ron Staggs; and Mary R. Byrne, Ed.D..

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.