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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO FOOD AND DRUGS - UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Senator Donna M. Nesselbush

Date Introduced: March 06, 2013

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Section 21-28-3.18 of the General Laws in Chapter 21-28 entitled "Uniform Controlled Substances Act" is hereby amended to read as follows:

21-28-3.18. Prescriptions. -- (a) An apothecary in good faith may sell and dispense controlled substances in schedule II, III, IV and V to any person upon a ~~written~~ valid prescription by a practitioner licensed by law to prescribe or administer those substances, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient to whom, or of the owner of the animal for which the substance is dispensed and the full name, address and registration number under the federal law of the person prescribing, if he or she is required by that law to be registered. If the prescription is for an animal, it shall state the species of the animal for which the substance is prescribed.

(b) ~~The~~ When filling a hard-copy prescription for a schedule II controlled substance, the apothecary filling the prescription shall sign his or her full name and shall write the date of filling on the face of the prescription.

(c) The prescription shall be retained on file by the proprietor of the pharmacy in which it was filled for a period of two (2) years so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter.

(d) (1) ~~Prescriptions~~ Hard copy prescriptions for controlled substances in schedule II shall be filed separately and shall not be refilled.

(2) The director of health may, after appropriate notice and hearing pursuant to § 42-35-3,

promulgate rules and regulations for the purpose of adopting a system for electronic data transmission of prescriptions for controlled substances in schedule II ~~and~~, III and IV.

(3) A practitioner may sign and transmit electronic prescriptions for controlled substances and a pharmacy may dispense an electronically transmitted prescription in accordance with the code of federal regulations, title 21 part 1300, et seq.

(e) A prescription for a schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by the practitioner or practitioner's agent to the pharmacy by facsimile. The facsimile will serve as the original prescription.

(f) A prescription ~~written~~ for a schedule II substance for a resident of a long term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile serves as the original prescription.

(g) A prescription for a schedule II narcotic substance for a patient residing in a hospice certified by Medicare under title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq., or licensed by the state, may be transmitted by the practitioner or practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or the practitioner's agent will note on the prescription that the patient is a hospice patient. The facsimile serves as the original written prescription.

(h) An apothecary, in lieu of a written prescription, may sell and dispense controlled substances in schedules III, IV, and V to any person upon an oral prescription of a practitioner. In issuing an oral prescription the prescriber shall furnish the apothecary with the same information as is required by subsection (a) of this section ~~in the case of a written prescription for controlled substances in schedule II, except for the written signature of the person prescribing,~~ and the apothecary who fills the prescription, shall immediately reduce the oral prescription to writing and shall inscribe the information on the written record of the prescription made. This record shall be filed and preserved by the proprietor of the pharmacy in which it is filled in accordance with the provisions of subsection (c) of this section. In no case may a prescription for a controlled substance listed in schedules III, IV, or V be filled or refilled more than six (6) months after the date on which the prescription was issued and no prescription shall be authorized to be refilled more than five (5) times. Each refilling shall be entered on the face or back of the prescription and note the date and amount of controlled substance dispensed, and the initials or identity of the dispensing apothecary.

(i) In the case of an emergency situation as defined in federal law, an apothecary may dispense a controlled substance listed in schedule II upon receiving an oral authorization of a

prescribing practitioner provided that:

(1) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period and dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing practitioner.

(2) The prescription shall be immediately reduced to writing and shall contain all the information required in subsection (a) of this section.

(3) The prescription must be dispensed in good faith in the normal course of professional practice.

(4) Within seven (7) days after authorizing an emergency oral prescription, the prescribing practitioner shall cause a ~~written~~ prescription for the emergency quantity prescribed to be delivered to the dispensing apothecary. The prescription shall have written on its face "Authorization for emergency dispensing" and the date of the oral order. The ~~written~~ prescription upon receipt by the apothecary shall be attached to the oral emergency prescription which had earlier been reduced to writing.

(j) (1) The partial filling of a prescription for a controlled substance listed in schedule II is permissible, if the apothecary is unable to supply the full quantity called for in a ~~written~~ prescription or emergency oral prescription and he or she makes a notation of the quantity supplied on the face of the ~~written~~ prescription or oral emergency prescription which has been reduced to writing. The remaining portion of the prescription may be filled within seventy-two (72) hours of the first partial filling, however, if the remaining portion is not, or cannot be filled within seventy-two (72) hours, the apothecary shall notify the prescribing practitioner. No further quantity may be supplied beyond seventy-two (72) hours without a new prescription.

(2) (i) A prescription for a schedule II controlled substance ~~written~~ for a patient in a long term care facility (LTCF), or for a patient with a medical diagnosis documenting a terminal illness, may be filled in partial quantities to include individual dosage units. If there is a question whether a patient may be classified as having a terminal illness, the pharmacist must contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient.

(ii) The pharmacist must record on the prescription whether the patient is "terminally ill" or an "LTCF patient." A prescription that is partially filled, and does not contain the notation "terminally ill" or "LTCF patient", shall be deemed to have been filled in violation of this chapter.

(iii) For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable),

the:

(A) Date of the partial filling;

(B) Quantity dispensed;

(C) Remaining quantity authorized to be dispensed; and

(D) Identification of the dispensing pharmacist.

(iv) The total quantity of schedule II controlled substances dispensed in all partial fillings must not exceed the total quantity prescribed.

(v) Schedule II prescriptions for patients in a LTCF, or patients with a medical diagnosis documenting a terminal illness, are valid for a period not to exceed sixty (60) days from the issue date, unless sooner terminated by the discontinuance of medication.

(k) Automated data processing systems. As an alternative to the prescription record keeping provision of subsection (h) of this section, an automated data processing system may be employed for the record keeping system, if the following conditions have been met:

(1) The system shall have the capability of producing sight-readable documents of all original and refilled prescription information. The term "sight-readable" means that an authorized agent shall be able to examine the record and read the information. During the course of an on-site inspection, the record may be read from the CRT, microfiche, microfilm, printout, or other method acceptable to the director. In the case of administrative proceedings, records must be provided in a paper printout form.

(2) The information shall include, but not be limited to, the prescription requirements and records of dispensing as indicated in subsection (h) of this section.

(3) The individual pharmacist responsible for completeness and accuracy of the entries to the system must provide documentation of the fact that prescription information entered into the computer is correct. In documenting this information, the pharmacy shall have the option to either:

(i) Maintain a bound log book, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement each day, attesting to the fact that the prescription information entered into the computer that day has been reviewed and is correct as shown. The book or file must be maintained at the pharmacy employing that system for a period of at least two (2) years after the date of last dispensing; or

(ii) Provide a printout of each day's prescription information. That printout shall be verified, dated, and signed by the individual pharmacist verifying that the information indicated is correct. The printout must be maintained at least two (2) years from the date of last dispensing.

(4) An auxiliary record keeping system shall be established for the documentation of

refills, if the automated data processing system is inoperative for any reason. The auxiliary system shall ensure that all refills are authorized by the original prescription, and that the maximum number of refills is not exceeded. When this automated data processing system is restored to operation, the information regarding prescriptions filled and refilled during the inoperative period, shall be entered into the automated data processing system within ninety-six (96) hours.

(5) Any pharmacy using an automated data processing system must comply with all applicable state and federal laws and regulations.

(6) A pharmacy shall make arrangements with the supplier of data processing services or materials to ensure that the pharmacy continues to have adequate and complete prescription and dispensing records if the relationship with the supplier terminates for any reason. A pharmacy shall ensure continuity in the maintenance of records.

(7) The automated data processing system shall contain adequate safeguards for security of the records, to maintain the confidentiality and accuracy of the prescription information. Safeguards against unauthorized changes in data after the information has been entered and verified by the registered pharmacist shall be provided by the system.

(l) Prescriptions for controlled substances as found in schedules II, will become void unless dispensed within ninety (90) days of the original date of the prescription, and in no event shall more than a thirty (30) day supply be dispensed at any one time.

(1) In prescribing controlled substances in schedule II, practitioners may write up to three (3) separate prescriptions, each for up to a one-month supply, each signed and dated on the date written. For those prescriptions for the second and/or third month, the practitioner must write the earliest date each of those subsequent prescription may be filled, with directions to the pharmacist to fill no earlier than the date specified on the face of the prescription.

(m) The prescriptions in schedules III, IV, and V will become void unless dispensed within one hundred eighty (180) days of the original date of the prescription. For purposes of this section, a "dosage unit" shall be defined as a single capsule, tablet or suppository, or not more than one five (5) ml. of an oral liquid.

(1) Prescriptions in Schedule III cannot be written for more than one hundred (100) dosage units and not more than one hundred (100) dosage units may be dispensed at one time.

(2) Prescriptions in Schedule IV and V may be written for up to a ninety (90) day supply based on directions. No more than three hundred and sixty (360) dosage units may be dispensed at one time.

SECTION 1. Chapter 21-28 of the General Laws entitled “Uniform Controlled

Substances Act" is hereby amended by adding thereto the following section:

21-28-3.32. Electronic prescription database. -- (a) The information contained in any prescription drug monitoring database maintained by the department of health pursuant to section 3.18 of this chapter shall be disclosed only:

(1) To a practitioner who certifies that the requested information is for the purpose of evaluating the need for or providing medical treatment for a current patient to whom the practitioner is prescribing or considering prescribing a controlled substance;

(2) To a pharmacist who certifies that the requested information is for a current client to whom the pharmacist is dispensing or considering dispensing a controlled substance;

(3) Pursuant to a valid search warrant based on probable cause to believe a violation of federal or state criminal law has occurred and that specified information contained in the database would assist in the investigation of the crime;

(4) To a patient who requests his or her own prescription information, or the parent or legal guardian of a minor child who requests the minor child's prescription information;

(5) To a health professional regulatory board that documents, in writing, that the requested information is necessary for an investigation related to licensure, renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains;

(6) To any vendor or contractor with whom the department has contracted to establish or maintain the electronic system of the prescription drug monitoring database; or

(7) To public or private entities for statistical, research, or educational purposes, after removing the patient and prescriber information that could be used to identify individual patients. This shall not include entities receiving a waiver from the institutional review board.

(b) Information stored in the prescription drug monitoring database shall include only the following:

(1) Patient's first and last name, and/or patient identification number; provided, however, the patient's social security number shall not be recorded in whole or in part, patient sex, patient date of birth, and patient address;

(2) Prescribing practitioner's name and drug enforcement administration prescriber information number;

(3) Prescribing practitioner's office or hospital contact information;

(4) Prescription name, prescription number, prescription species code, national drug code number, prescription dosage, prescription quantity, days' supply, new-refill code, number of refills authorized, date the prescription was written, date the prescription was filled, payment

type; provided, however, no credit card number shall be recorded in whole or in part; and

(5) The drug enforcement administration pharmacy number of the pharmacy filling the prescription.

(c) The department shall disclose any information relating to a patient maintained in the prescription drug monitoring database to that patient, at no cost to the patient, within thirty (30) business days after the department receives a written request from the patient for the information. This information shall include the records maintained by the department pursuant to subsection (e). Notwithstanding the above, the department may, at the request of the law enforcement agency, withhold for up to sixty (60) days following the conclusion of a law enforcement investigation, the disclosure to the patient that information has been obtained pursuant to subdivision (a)(3).

(d) A patient may request from the dispensing pharmacy correction of any inaccurate information contained within the prescription drug monitoring database in accordance with the procedure specified by subsection 5-37.3-5(c).

(e) The department shall, for the period of time that prescription information is maintained, maintain records of the information disclosed through the prescription drug monitoring database, including, but not limited to:

(1) The identity of each person who requests or receives information from the prescription drug monitoring database and the organization, if any, the person represents;

(2) The information released to each person or organization and the basis for its release under subsection (a); and

(3) The dates the information was requested and provided.

(f) Prescription information contained within the prescription drug monitoring database shall be removed no later than five (5) years from the date the information is entered into the database. Records in existence prior to the enactment of this section shall be removed no later than ten (10) years from the date the information is entered into the database.

(g) The department shall promptly notify any affected individual of an improper disclosure of information from the prescription drug monitoring database or a breach in the security of the prescription drug monitoring database that poses a significant risk of disclosure of patient information to an unauthorized individual.

(h) At the time of signing a prescription which is required by the department to be entered into the prescription drug monitoring database, the prescribing practitioner shall inform the patient in writing of the existence of the prescription drug monitoring database, the patient’s right to access their own prescription information, and the name and contact information of the agency

operating the program.

(i) No person shall access information in the prescription monitoring database except to the extent and for the purposes authorized by subsection (a).

(j) In any civil action allowing a violation of this chapter, the court may award damages, including punitive damages, and reasonable attorneys' fees and costs to a prevailing plaintiff, and injunctive and any other appropriate relief.

(k) Any pharmacist who, in his or her professional judgment, refuses to fill a prescription based on information contained within the prescription drug monitoring database shall inform the prescribing physician within twenty-four (24) hours.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO FOOD AND DRUGS - UNIFORM CONTROLLED SUBSTANCES ACT

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This act would require the director of the department of health, after appropriate notice and hearing, to promulgate rules and regulations for the purpose of adopting a system for electronic data transmission of prescriptions for controlled substances in schedule II, III and IV.

This act would take effect upon passage.

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