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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO FOOD AND DRUGS - UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Representatives Walsh, Lombardi, O'Grady, Hull, and Kazarian

Date Introduced: February 01, 2018

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28-3.32 of the General Laws in Chapter 21-28 entitled "Uniform
2 Controlled Substances Act" is hereby amended to read as follows:

3 **21-28-3.32. Electronic prescription database. [Effective January 1, 2018.].**

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

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

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

11 (3) To an authorized designee of the practitioner and/or pharmacist to consult the
12 prescription-drug-monitoring database on the practitioner's and/or pharmacist's behalf, provided
13 that:

14 (i) The designee so authorized is employed by the same professional practice or
15 pharmacy;

16 (ii) The practitioner or pharmacist takes reasonable steps to ensure that such designee is
17 sufficiently competent in the use of the database;

18 (iii) The practitioner or pharmacist remains responsible for ensuring that access to the
19 database by the designee is limited to authorized purposes as provided for in subsections (a)(1)

1 and (a)(2);

2 (iv) The practitioner or pharmacist remains responsible for ensuring access to the
3 database by the designee occurs in a manner that protects the confidentiality of information
4 obtained from the database and remains responsible for any breach of confidentiality;

5 (v) The practitioner or pharmacist terminates the designee's access to the database at the
6 termination of the designee's employment; and

7 (vi) The ultimate decision as to whether or not to prescribe or dispense a controlled
8 substance remains with the practitioner or pharmacist and is reasonably informed by the relevant,
9 controlled-substance history information obtained from the database;

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

13 (5) By a department employee to a certified law enforcement prescription drug diversion
14 investigator of a qualified law enforcement agency for use in an investigation.

15 (i) A certified law enforcement prescription drug diversion investigator shall provide to
16 the department the following information in order to receive information from the database:

17 (A) The identification credentials assigned by the department; and

18 (B) The case number of the investigation.

19 (ii) A qualified law enforcement agency shall submit to the department quarterly reports
20 of the data received by all certified law enforcement prescription drug diversion investigators in
21 the qualified law enforcement agency, including, without limitation:

22 (A) Written verification that the inquiries were part of a lawful prescription drug
23 diversion investigation as provided to the department through the case number of the
24 investigation; and

25 (B) A brief description of each case closed during that quarter for which the qualified law
26 enforcement agency used information from the database; and

27 (C) The disposition of the investigation.

28 (iii) The department shall:

29 (A) Create a verification form for use under subsection (5)(ii)(A) of this section; and

30 (B) Make the verification form available annually to the qualified law enforcement
31 agency.

32 (iv) The verification form under subsection (5)(ii)(A) of this section shall be submitted to
33 the department within thirty (30) days of receipt of the form by the qualified law enforcement
34 agency.

1 (v) Failure to submit a verification form under subsection (5)(iv) of this section shall
2 result in the immediate suspension of disclosure of information from the database by the
3 department to the qualified law enforcement agency and its certified law enforcement prescription
4 drug diversion investigators until a determination is made by the department to allow continued
5 disclosure.

6 (vi) The director shall, beginning January 1, 2018, and annually thereafter, review
7 disclosure of information pursuant to subsection (a)(5) of this section. Thereafter, the disclosure
8 of information pursuant to subsection (a)(5) of this section shall automatically renew for
9 successive one-year terms unless the director provides written notice to:

10 (A) The qualified law enforcement agencies; and

11 (B) The speaker of the house and the president of the senate, at least sixty (60) days in
12 advance of the then-existing term's end, that the department wishes to discontinue providing
13 information from the database pursuant to this subsection. The director may reinstitute disclosure
14 by providing written notice to the same parties;

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

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

21 (8) To any vendor or contractor with whom the department has contracted, pursuant to
22 state purchasing law and regulations in the contracting of vendors, to establish or maintain the
23 electronic system of the prescription-drug-monitoring database;

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

27 (10) To any vendor, agent, contractor, or designee who operates an electronic health
28 record or clinical-management system for the purpose of sharing data with practitioners,
29 pharmacists, or licensed health care facilities or designees.

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

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

1 (2) Prescribing practitioner's name and Drug Enforcement Administration prescriber-
2 information number;

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

4 (4) Prescription name, prescription number, prescription species code, national drug code
5 number, prescription dosage, prescription quantity, days' supply, new-refill code, number of
6 refills authorized, date the prescription was written, date the prescription was filled, payment
7 type; provided, however, no credit card number shall be recorded in whole or in part; and

8 (5) The Drug Enforcement Administration pharmacy number of the pharmacy filling the
9 prescription.

10 (c) The department shall disclose any information relating to a patient maintained in the
11 prescription-drug-monitoring database to that patient, at no cost to the patient, within thirty (30)
12 business days after the department receives a written request from the patient for the information.
13 This information shall include the records maintained by the department pursuant to subsection
14 (e). Notwithstanding the above, the department may, at the request of the law-enforcement
15 agency, withhold, for up to sixty (60) days following the conclusion of a law-enforcement
16 investigation that has been confirmed by the department, the disclosure to the patient that
17 information has been obtained pursuant to subsections (a)(4) and (a)(5) of this section.

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

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

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

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

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

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

33 (g) The department shall promptly notify any affected individual of an improper
34 disclosure of information from the prescription-drug-monitoring database or a breach in the

1 security of the prescription-drug-monitoring database that poses a significant risk of disclosure of
2 patient information to an unauthorized individual.

3 (h) At the time of signing a prescription that is required by the department to be entered
4 into the prescription-drug-monitoring database, the prescribing practitioner shall inform the
5 patient in writing of the existence of the prescription-drug-monitoring database; the patient's right
6 to access his or her own prescription information; and the name and contact information of the
7 agency operating the program.

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

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

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

16 (l) All practitioners shall, as a condition of the initial registration or renewal of the
17 practitioner's authority to prescribe controlled substances, register with the prescription-drug-
18 monitoring database maintained by the department of health.

19 (m) The prescription-monitoring program shall be reviewed prior to starting any opioid.
20 A prescribing practitioner, or designee as authorized by subsection (a)(3) of this section, shall
21 review the prescription-monitoring program prior to refilling or initiating opioid therapy with an
22 intrathecal pump. For patients the prescribing practitioner is maintaining on continuous opioid
23 therapy for pain for three (3) months or longer, the prescribing practitioner shall review
24 information from the prescription-monitoring program at least every three (3) months.
25 Documentation of that review shall be noted in the patient's medical record.

26 (n) The department shall improve the usefulness and value of the prescription-drug-
27 monitoring database program by increasing its analytical functionality, timeliness, and scope,
28 such as by:

29 (1) Utilizing data from additional data sources as permissible under state and federal
30 statutes;

31 (2) Analyzing information submitted to the prescription-drug-monitoring database to
32 ensure that prescription data collected from dispensing pharmacists is readily accessible for a
33 given patient; to identify unusual or aberrant patterns of prescribing, dispensing, or receiving
34 controlled substances; and to generate an automatic alert when such patterns arise to automate

1 standard reports; and to provide ad hoc reports on a real-time basis on this data as well as other
2 data feeds. These reports shall comply with the patient confidentiality requirements of federal and
3 state law;

4 (3) Developing regulations to ensure that prescription-drug-monitoring analyses are
5 updated and disseminated regularly to appropriate officials and that summary reports are provided
6 to the general assembly on or before February 1st of each year. Given the intent to decrease the
7 number of Rhode Island citizens affected by opioid use, the department shall provide an interim
8 report on the status of the directives included herein and any progress made as of October 1,
9 2016. In the development of said regulations, the department may include any of the following
10 analytical functions, within the boundaries of patient confidentiality rights under state and federal
11 law:

12 (i) Consolidate raw prescription data collected from dispensing pharmacists into a single
13 view of all prescriptions filled for a given patient;

14 (ii) Identify unusual or aberrant patterns of prescribing controlled substances, by relevant
15 prescriber attributes, and generate an automatic alert when such patterns arise;

16 (iii) Identify unusual or aberrant patterns of receiving prescriptions for controlled
17 substances, by relevant patient attributes, and generate an automatic alert when such patterns
18 arise;

19 (iv) Identify unusual or aberrant patterns of dispensing controlled substances, by relevant
20 dispenser attributes, and generate an automatic alert when such patterns arise;

21 (v) Identify and visually display linkages among prescribers, patients, and dispensers that
22 can be used to detect any collusive behaviors; and

23 (vi) The department shall apply for federal funding in support of the goals and objectives
24 contained in this subsection.

25 (o) Information stored in the prescription-drug monitoring database shall not include any
26 record collected from a patient pursuant to chapter 28.6 of title 21 "The Edward O. Hawkins and
27 Thomas C. Slater Medical Marijuana Act.

28 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

1 This act would exempt patients in the medical marijuana program from the data
2 collection provisions of the "Uniform Controlled Substances Act".

3 This act would take effect upon passage.

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