

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

529Y0029

SENATE HEALTH AND HUMAN SERVICES

ENGROSSED NO. **SB 1** - 1/18/2017

Introduced by: Senators White, Bolin, and Monroe and Representatives Stevens, Haugaard, and Tieszen at the request of the Interim Substance Abuse Prevention Study Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions of the prescription drug
2 monitoring program.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-20E-1 be amended to read:

5 34-20E-1. Terms used in this chapter mean:

6 (1) "Administer," the direct application of a controlled substance to the body of a patient.

7 The term does not include the prescribing of a controlled substance for administration
8 by the patient or someone other than the health care provider;

9 (2) "Board," the Board of Pharmacy;

10 (3) "Central repository," a place where electronic data related to the prescribing and
11 dispensing of controlled substances is collected;

12 (4) "Controlled substance," any drug, substance, or immediate precursor as provided in
13 schedules II through IV pursuant to §§ 34-20B-11 to 34-20B-26, inclusive;

14 (5) "De-identified information," health information that is not individually identifiable



1 information because an expert has made that determination pursuant to 45 C.F.R.
2 164.514, or direct identifiers and specified demographic information have been
3 removed in accordance with the requirements of that section;

4 (6) "Dispense," to deliver a controlled substance to an ultimate user by or pursuant to the
5 lawful order of a health care provider, including the prescribing, administering,
6 packaging, labeling, or compounding necessary to prepare the substance for delivery;

7 (7) "Dispenser," any person who delivers a controlled substance to the ultimate user, but
8 does not include:

9 (a) A licensed hospital pharmacy that provides a controlled substance for the
10 purpose of inpatient hospital care;

11 (b) A licensed health care provider or other authorized individual in those
12 instances when the practitioner administers a controlled substance to a patient;
13 or

14 (c) A licensed veterinarian;

15 (8) "Individually identifiable health information," the meaning set forth in 45 C.F.R.
16 160.103;

17 (9) "Integration," the linking of the central repository into the electronic health records
18 to allow health systems, pharmacies, or health information exchanges to seamlessly
19 access data;

20 (10) "Patient," any individual or owner of an animal who is the ultimate user of a
21 controlled substance for whom a prescription is issued and for whom a controlled
22 substance is dispensed;

23 ~~(10)~~(11) "Prescriber," an individual licensed, registered, or otherwise authorized by the
24 jurisdiction in which the individual is practicing to prescribe drugs in the

1 course of professional practice. The term does not include a veterinarian;

2 ~~(11)~~(12) "Program," the prescription drug monitoring program established by this
3 chapter.

4 Section 2. That § 34-20E-2 be amended to read:

5 34-20E-2. The board shall establish and maintain a prescription drug monitoring program
6 to monitor the prescribing and dispensing of all controlled substances. The program shall utilize
7 a central repository, to which each dispenser shall submit, by electronic means, information
8 regarding each prescription dispensed for a controlled substance. The information submitted for
9 each prescription shall include specifically identified data elements adopted by the board and
10 contained in the ~~2005~~ 2011 version of the electronic reporting standard for prescription
11 monitoring programs, version ~~003, release 000~~, 4.2 of the American Society for Automation in
12 Pharmacy.

13 Section 3. That § 34-20E-3 be amended to read:

14 34-20E-3. Each dispenser shall submit the information required by this chapter to the central
15 repository at least ~~once each week~~ every twenty-four hours unless the board waives this
16 requirement for good cause shown by the dispenser.

17 Section 4. That § 34-20E-7 be amended to read:

18 34-20E-7. Unless disclosure is prohibited by law, the board may provide data in the central
19 repository to:

20 (1) Any prescriber for the purpose of providing medical care to a patient, a dispenser for
21 the purpose of filling a prescription or providing pharmaceutical care for a patient,
22 a prescriber or dispenser inquiring about the prescriber's or dispenser's own
23 prescribing activity, or a prescriber or dispenser in order to further the purposes of
24 the program including integration with electronic medical records;

- 1 (2) Any individual who requests the prescription information of the individual or the
2 individual's minor child;
- 3 (3) Any state board or regulatory agency that is responsible for the licensing of
4 individuals authorized to prescribe or dispense controlled substances if the board or
5 regulatory agency is seeking information from the central repository that is relevant
6 to an investigation of an individual who holds a license issued by that board or
7 regulatory agency;
- 8 (4) Any local, state, and federal law enforcement or prosecutorial officials engaged in the
9 enforcement of laws relating to controlled substances who seek information for the
10 purpose of an investigation or prosecution of the drug-related activity or probation
11 compliance of an individual;
- 12 (5) The Department of Social Services for purposes regarding the utilization of
13 controlled substances by a medicaid recipient;
- 14 (6) Any insurer for purposes regarding the utilization of controlled substances by a
15 claimant;
- 16 (7) Any judicial authority under grand jury subpoena or court order or equivalent judicial
17 process for investigation of criminal violations of controlled substances laws;
- 18 (8) Any public or private entity for statistical, research, or educational purposes after the
19 information is de-identified with respect to any prescriber, dispenser, or patient who
20 received a prescription for a controlled substance; or
- 21 (9) Any peer review committee, which means any committee of a health care
22 organization, composed of health care providers, employees, administrators,
23 consultants, agents, or members of the health care organization's governing body,
24 which conducts professional peer review.

1 Section 5. That chapter 34-20E be amended by adding a NEW SECTION to read:

2 Any person who has a controlled drug or substance registration pursuant to § 34-20B-29 to
3 prescribe or dispense any controlled drug or substance within this state must register with the
4 program. Veterinarians licensed pursuant to chapter 36-12 are not subject to this requirement.
5 The program shall work with the Department of Health to assure compliance with the
6 requirement.