

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 586

Introduced by Linehan, 39.

Read first time January 18, 2017

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to prescription drug monitoring; to amend
- 2 section 71-2454, Revised Statutes Cumulative Supplement, 2016; to
- 3 define and redefine terms; to change requirements for the
- 4 prescription drug monitoring system; to harmonize provisions; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-2454, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 71-2454 (1) For purposes of this section:

4 (a) Designee means (i) for purposes of a dispenser, any licensed or
5 registered health care professional designated by a dispenser to act as
6 an agent of the dispenser for purposes of submitting or accessing data in
7 the prescription drug monitoring system and who is directly supervised by
8 such dispenser and (ii) for purposes of a medical director, a licensed
9 health care professional designated by the medical director to act as an
10 agent of the medical director for purposes of submitting or accessing
11 data in the prescription drug monitoring system;

12 (b) Dispenser means a person authorized in the jurisdiction in which
13 he or she is practicing to deliver a prescription to the ultimate user by
14 or pursuant to the lawful order of a prescriber but does not include (i)
15 the delivery of such prescription drug for immediate use for purposes of
16 inpatient hospital care or emergency department care, (ii) the
17 administration of a prescription drug by an authorized person upon the
18 lawful order of a prescriber, (iii) a wholesale distributor of a
19 prescription drug monitored by the prescription drug monitoring system,
20 or (iv) through December 31, 2017, a veterinarian licensed under the
21 Veterinary Medicine and Surgery Practice Act when dispensing
22 prescriptions for animals in the usual course of providing professional
23 services;

24 (c) Managed care organization means an organization that qualifies
25 to participate in the medical assistance program established under the
26 Medical Assistance Act;

27 (d) Medical director means a licensed physician who has the
28 qualifications described in subsection (7) of this section;

29 (e) Medical order means a prescription, a chart order, or an order
30 for pharmaceutical care; and

31 (f) Prescriber means a health care professional authorized to issue

1 a medical order in the profession which he or she practices.

2 (2) (1) An entity described in section 71-2455 shall establish a
3 system of prescription drug monitoring for the purposes of (a) preventing
4 the misuse of controlled substances that are prescribed and (b) allowing
5 a prescriber who is treating a patient, a dispenser who is treating a
6 patient, or a medical director of a managed care organization under
7 contract with the State of Nebraska, or such director's designee, who is
8 treating a patient, prescribers and dispensers to monitor the care and
9 treatment of the patient patients for whom such a prescription drug is
10 prescribed to ensure that such prescription drug is drugs are used for
11 medically appropriate purposes and that the State of Nebraska remains on
12 the cutting edge of medical information technology.

13 (3) (2) Such system of prescription drug monitoring shall be
14 implemented as follows: Except as provided in subsection (5) (4) of this
15 section, beginning January 1, 2017, all dispensed prescriptions of
16 controlled substances shall be reported; and beginning January 1, 2018,
17 all prescription information shall be reported to the prescription drug
18 monitoring system. The prescription drug monitoring system shall include,
19 but not be limited to, provisions that:

20 (a) Prohibit any patient from opting out of the prescription drug
21 monitoring system;

22 (b) Require all prescriptions dispensed in this state or to an
23 address in this state to be entered into the system by the dispenser or
24 his or her designee daily after such prescription is dispensed, including
25 those for a patient patients paying cash for such prescription drug or
26 otherwise not relying on a third-party payor for payment for the
27 prescription drug;

28 (c) Allow a prescriber who is treating a patient for whom a
29 prescription drug is prescribed, a dispenser who is treating a patient
30 for whom a prescription drug is prescribed, or a medical director of a
31 managed care organization under contract with the State of Nebraska, or

1 such director's designee, who is treating a patient for whom a
2 prescription drug is prescribed, all prescribers or dispensers of
3 prescription drugs to access the system at no cost to such prescriber or
4 dispenser; and

5 (d) Ensure that such system includes information relating to each
6 payor all payors, including, but not limited to, the medical assistance
7 program established pursuant to the Medical Assistance Act.

8 Dispensers may begin on February 25, 2016, to report dispensing of
9 prescriptions to the entity described in section 71-2455 which is
10 responsible for establishing the system of prescription drug monitoring.

11 (4) (3) Prescription information that shall be submitted
12 electronically to the prescription drug monitoring system shall be
13 determined by the entity described in section 71-2455 and shall include,
14 but not be limited to:

15 (a) The patient's name, address, and date of birth;

16 (b) The name and address of the pharmacy dispensing the
17 prescription;

18 (c) The date the prescription is issued;

19 (d) The date the prescription is filled;

20 (e) The name of the drug dispensed or the National Drug Code number
21 as published by the federal Food and Drug Administration of the drug
22 dispensed;

23 (f) The strength of the drug prescribed;

24 (g) The quantity of the drug prescribed and the number of days'
25 supply; and

26 (h) The prescriber's name and National Provider Identifier number or
27 Drug Enforcement Administration number when reporting a controlled
28 substance.

29 (5) (4) Beginning January 1, 2018, a veterinarian licensed under the
30 Veterinary Medicine and Surgery Practice Act shall be required to report
31 a dispensed prescription of controlled substances listed on Schedule II,

1 Schedule III, or Schedule IV pursuant to section 28-405.

2 (6) {5} All prescription drug information submitted pursuant to this
3 section, all data contained in the prescription drug monitoring system,
4 and any report obtained from data contained in the prescription drug
5 monitoring system are not public records and may be withheld pursuant to
6 section 84-712.05.

7 (7) To be eligible to participate under this section, a medical
8 director shall be actively practicing medicine in the State of Nebraska,
9 shall have a minimum of three years of training in a medical specialty
10 and five years of experience providing clinical services, shall devote a
11 minimum of forty hours each week to the operations of a managed care
12 organization to ensure timely medical decisions, including consultation
13 after hours as needed, shall be board-certified in his or her specialty,
14 and shall be actively involved in the major clinical, utilization
15 management, and quality management decisions of the managed care
16 organization.

17 (6) For purposes of this section:

18 (a) Designee means any licensed or registered health care
19 professional designated by a dispenser to act as an agent of the
20 dispenser for purposes of submitting or accessing data in the
21 prescription drug monitoring system and who is directly supervised by
22 such dispenser;

23 (b) Dispenser means a person authorized in the jurisdiction in which
24 he or she is practicing to deliver a prescription to the ultimate user by
25 or pursuant to the lawful order of a prescriber but does not include (i)
26 the delivery of such prescription drug for immediate use for purposes of
27 inpatient hospital care or emergency department care, (ii) the
28 administration of a prescription drug by an authorized person upon the
29 lawful order of a prescriber, (iii) a wholesale distributor of a
30 prescription drug monitored by the prescription drug monitoring system,
31 or (iv) through December 31, 2017, a veterinarian licensed under the

1 Veterinary Medicine and Surgery Practice Act when dispensing
2 prescriptions for animals in the usual course of providing professional
3 services; and

4 (c) Prescriber means a health care professional authorized to
5 prescribe in the profession which he or she practices.

6 Sec. 2. Original section 71-2454, Revised Statutes Cumulative
7 Supplement, 2016, is repealed.