

Senate Bill 1093

Sponsored by Senators KRUSE, GORDLY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires State Board of Pharmacy to establish electronic database for information reported by drug outlets regarding dispensing of certain controlled substances. Restricts access to and limits use of information in database.

Establishes Controlled Substance Reporting Database Advisory Task Force.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to electronic controlled substance reporting database; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 4 of this 2005 Act:

(1) "Controlled substance" means a drug classified in Schedule II, III or IV under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035.

(2) "Dispense" has the meaning given that term in ORS 689.005.

(3) "Drug outlet" has the meaning given that term in ORS 689.005.

(4) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

(5) "Practitioner" has the meaning given that term in ORS 689.005.

(6) "Prescription" has the meaning given that term in ORS 689.005.

(7) "Ultimate user" means a person who lawfully obtained or possesses a controlled substance for use by the person, by a member of the person's household or by an animal owned by the person or a member of the person's household.

SECTION 2. (1) The State Board of Pharmacy shall establish and maintain a database for electronically reporting the dispensing of controlled substances.

(2) The board may adopt rules for the operation of the electronic controlled substance reporting database established under subsection (1) of this section, including standards for:

(a) Electronic reporting, maintenance, security and disclosure of the data;

(b) Ensuring accuracy and completeness of the data;

(c) Ensuring accurate identification of persons or entities requesting information from the database;

(d) Penalties for failing to report or for wrongful disclosure of the data; and

(e) Adding drugs that have potential for abuse, other than controlled substances, to the reporting requirements of section 3 of this 2005 Act when deemed necessary by the board.

(3) For purposes of sections 1 to 4 of this 2005 Act, the board may not require the reporting of controlled substances that are dispensed pursuant to ORS 127.800 to 127.897.

SECTION 3. (1) Not later than one week after dispensing a controlled substance, a drug outlet shall report to the State Board of Pharmacy the:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (a) Name and address of the ultimate user;
- 2 (b) Name of the drug outlet dispensing the controlled substance;
- 3 (c) Name of the practitioner who prescribed the controlled substance;
- 4 (d) Identification of the controlled substance by a national drug code number;
- 5 (e) Date of origin of the prescription;
- 6 (f) Date the controlled substance was dispensed;
- 7 (g) Quantity dispensed; and
- 8 (h) Other relevant information as required by rules adopted by the board.

9 (2) Controlled substances administered directly to an ultimate user need not be reported
10 under this section.

11 (3) Upon receipt of the data reported pursuant to subsection (1) of this section, the board
12 shall record the data in the electronic controlled substance reporting database established
13 in section 2 of this 2005 Act.

14 (4) The board may not disclose data from the database except:

15 (a) To a practitioner who certifies that the requested information is for the purpose of
16 evaluating the need for, or providing, medical or pharmaceutical treatment for a current
17 patient;

18 (b) Pursuant to a valid court order issued at the request of a federal, state or local law
19 enforcement agency engaged in an authorized investigation involving a person to whom the
20 requested information pertains;

21 (c) To a health professional regulatory board that certifies that the requested informa-
22 tion is necessary for an investigation related to licensure, renewal or disciplinary action in-
23 volving the applicant, licensee or registrant to whom the requested information pertains; or

24 (d) To a controlled substance reporting program of another state, if the data released
25 concern:

26 (A) The dispensing of a controlled substance to an ultimate user who resides in the other
27 state; or

28 (B) A controlled substance prescribed by a practitioner whose principal place of business
29 is located in the other state.

30 (5) Data from the database that do not identify an ultimate user, practitioner or drug
31 outlet may be released by the State Board of Pharmacy for educational, research or public
32 information purposes.

33 (6) A drug outlet required to report data to the board, or a person or entity authorized
34 under subsection (4) of this section to obtain or use data from the database established under
35 section 2 of this 2005 Act, is immune from civil liability if the drug outlet, person or entity
36 reports, obtains or uses the data in good faith.

37 (7) Reports from the database established in section 2 of this 2005 Act may not be used
38 as evidence in any criminal or civil proceeding.

39 **SECTION 4.** The State Board of Pharmacy may accept grants, donations, gifts or moneys
40 from any source for expenditures consistent with the purposes of sections 2 and 3 of this 2005
41 Act. Any moneys received under this section shall be paid into the State Treasury and
42 credited to the Board of Pharmacy Account in the Public Health Account.

43 **SECTION 5.** (1) The Controlled Substance Reporting Database Advisory Task Force is
44 created for the purposes of studying issues related to the electronic controlled substance
45 reporting database established under section 2 of this 2005 Act and making recommendations

1 to the State Board of Pharmacy about which controlled substances should be subject to the
 2 reporting requirements of section 3 of this 2005 Act and the criteria that should be used to
 3 evaluate the data regarding those substances.

4 (2) The task force shall consist of 13 members selected as follows:

5 (a) One member nominated by each of the following, appointed by the State Board of
 6 Pharmacy:

7 (A) State Board of Pharmacy;

8 (B) Board of Medical Examiners;

9 (C) Oregon Board of Dentistry;

10 (D) Oregon State Board of Nursing;

11 (E) Board of Naturopathic Examiners;

12 (F) Oregon State Pharmacy Association;

13 (G) Oregon Medical Association;

14 (H) Oregon Dental Association;

15 (I) Oregon Nurses Association;

16 (J) Oregon Association of Naturopathic Physicians; and

17 (K) Pain Management Commission;

18 (b) One member of the Senate who is appointed by the President of the Senate; and

19 (c) One member of the House of Representatives who is appointed by the Speaker of the
 20 House of Representatives.

21 (3) If there is a vacancy for any cause, the appointing authority shall make an appoint-
 22 ment to become immediately effective.

23 (4) The task force shall elect one of its members to serve as chairperson.

24 (5) The task force shall meet at times and places specified by the call of the chairperson
 25 or of a majority of the members of the task force.

26 (6) The task force may adopt rules necessary for the operation of the task force.

27 (7) A majority of the members of the task force constitutes a quorum for the transaction
 28 of business.

29 (8) Official action by the task force requires the approval of a majority of the members
 30 of the task force.

31 (9) The State Board of Pharmacy shall provide staff support to the task force.

32 (10) Members of the task force who are not members of the Legislative Assembly are not
 33 entitled to compensation, but may be reimbursed for actual and necessary travel and other
 34 expenses incurred by them in the performance of their official duties in the manner and
 35 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
 36 of the task force shall be paid out of funds appropriated to the State Board of Pharmacy for
 37 that purpose.

38 (11) All agencies of state government, as defined in ORS 174.111, are directed to assist
 39 the task force in the performance of its duties and, to the extent permitted by laws relating
 40 to confidentiality, to furnish such information and advice as the members of the task force
 41 consider necessary to perform their duties.

42 **SECTION 6.** Section 5 of this 2005 Act is repealed on January 2, 2012.

43 **SECTION 7.** This 2005 Act being necessary for the immediate preservation of the public
 44 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
 45 on its passage.

