

HOUSE BILL NO. 344

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE SEATON

Introduced: 2/24/16

Referred: Health and Social Services

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the controlled substance prescription database; and providing for an
2 effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 17.30.200(b) is amended to read:

5 (b) The pharmacist-in-charge of each licensed or registered pharmacy, or an
6 agent or employee of the pharmacist-in-charge whom the pharmacist-in-charge
7 has authorized to submit to the database on the pharmacist-in-charge's behalf,
8 regarding each schedule IA, IIA, IIIA, IVA, or VA controlled substance under state
9 law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed
10 by a pharmacist under the supervision of the pharmacist-in-charge, and each
11 practitioner who directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled
12 substance under state law or a schedule I, II, III, IV, or V controlled substance under
13 federal law or an agent or employee of the practitioner whom the practitioner has
14 authorized to submit to the database on the practitioner's behalf, other than those

administered to a patient at a health care facility, shall submit to the **database at near real time to when the prescription is dispensed** [BOARD], by a procedure and in a format established by the board, the following information [FOR INCLUSION IN THE DATABASE]:

(1) the name of the prescribing practitioner and the practitioner's federal Drug Enforcement Administration registration number or other appropriate identifier;

(2) the date of the prescription;

(3) the date the prescription was filled and the method of payment; this paragraph does not authorize the board to include individual credit card or other account numbers in the database;

(4) the name, address, and date of birth of the person for whom the prescription was written;

(5) the name and national drug code of the controlled substance;

(6) the quantity and strength of the controlled substance dispensed;

(7) the name of the drug outlet dispensing the controlled substance;

and

(8) the name of the pharmacist or practitioner dispensing the controlled substance and other appropriate identifying information.

* **Sec. 2.** AS 17.30.200(d) is amended to read:

(d) The database and the information contained within the database are confidential, are not public records, and are not subject to public disclosure. The board shall undertake to ensure the security and confidentiality of the database and the information contained within the database. The board may allow access to the database only to the following persons, and in accordance with the limitations provided and regulations of the board:

(1) personnel of the board regarding inquiries concerning licensees or registrants of the board or personnel of another board or agency concerning a practitioner under a search warrant, subpoena, or order issued by an administrative law judge or a court;

(2) authorized board personnel or contractors as required for

1 operational and review purposes;

2 (3) a licensed practitioner having authority to prescribe controlled
3 substances or an agent or employee of the practitioner whom the practitioner has
4 authorized to access the database on the practitioner's behalf, to the extent the
5 information relates specifically to a current patient of the practitioner to whom the
6 practitioner is prescribing or considering prescribing a controlled substance;

7 (4) a licensed or registered pharmacist having authority to dispense
8 controlled substances or an agent or employee of the pharmacist whom the
9 pharmacist has authorized to access the database on the pharmacist's behalf, to
10 the extent the information relates specifically to a current patient to whom the
11 pharmacist is dispensing or considering dispensing a controlled substance;

12 (5) federal, state, and local law enforcement authorities may receive
13 printouts of information contained in the database under a search warrant, subpoena,
14 or order issued by a court establishing probable cause for the access and use of the
15 information; [AND]

16 (6) an individual who is the recipient of a controlled substance
17 prescription entered into the database may receive information contained in the
18 database concerning the individual on providing evidence satisfactory to the board that
19 the individual requesting the information is in fact the person about whom the data
20 entry was made and on payment of a fee set by the board under AS 37.10.050 that
21 does not exceed \$10;

22 (7) a pharmacist who is responsible for administering prescription
23 drug coverage for the medical assistance program under AS 47.07, to the extent
24 that the information relates specifically to prescription drug coverage under the
25 program;

26 (8) a person responsible for utilization review of prescription
27 drugs for the medical assistance program under AS 47.07, to the extent that the
28 information relates specifically to utilization review of prescription drugs under
29 the program;

30 (9) the state medical examiner, to the extent that the information
31 relates specifically to investigating the cause and manner of a person's death; and

1 **(10) an authorized employee of the Department of Health and**
 2 **Social Services may receive information from the database that does not identify**
 3 **patients, prescribers, dispensers, or dispenser locations, for the purpose of**
 4 **identifying and monitoring public health issues in the state.**

5 * **Sec. 3.** AS 17.30.200(e) is amended to read:

6 (e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to
 7 **register with or** submit information to the database as required under this section is
 8 grounds for the board to take disciplinary action against the license or registration of
 9 the pharmacy or pharmacist or for another licensing board to take disciplinary action
 10 against a practitioner.

11 * **Sec. 4.** AS 17.30.200(h) is amended to read:

12 (h) An individual who has submitted information to the database in
 13 accordance with this section may not be held civilly liable for having submitted the
 14 information. [NOTHING IN THIS SECTION REQUIRES OR OBLIGATES A
 15 DISPENSER OR PRACTITIONER TO ACCESS OR CHECK THE DATABASE
 16 BEFORE DISPENSING, PRESCRIBING, OR ADMINISTERING A
 17 MEDICATION, OR PROVIDING MEDICAL CARE TO A PERSON.] Dispensers or
 18 practitioners may not be held civilly liable for damages for accessing or failing to
 19 access the information in the database.

20 * **Sec. 5.** AS 17.30.200(k) is amended to read:

21 (k) In the regulations adopted under this section, the board shall provide

22 (1) that prescription information in the database shall be purged from
 23 the database after two years have elapsed from the date the prescription was
 24 dispensed;

25 (2) a method for an individual to challenge information in the database
 26 about the individual that the person believes is incorrect or was incorrectly entered by
 27 a dispenser;

28 **(3) that a pharmacist and practitioner, or an agent or employee of**
 29 **the pharmacist or practitioner whom the pharmacist or practitioner has**
 30 **authorized to access the database on the pharmacist's or practitioner's behalf,**
 31 **shall**

(A) access the database to check a patient's prescription records before dispensing a controlled substance to the patient;

(B) enter a prescription into the database at near real time to when a controlled substance is dispensed under (b) of this section;

(4) a procedure and time frame for registration with the database.

* **Sec. 6.** AS 17.30.200 is amended by adding new subsections to read:

(o) A pharmacist or practitioner may apply in writing for an exemption from the requirements of (k)(3)(B) of this section. The board may grant the exemption if the board finds that the pharmacist or practitioner is unable to enter prescription information directly into the database because of a technological or infrastructure barrier. A pharmacist or practitioner who receives an exemption shall submit to the board, by a procedure and in a format established by the board, the prescription information required under (b) of this section for inclusion in the database.

(p) The board shall develop in the database an alert system that automatically sends an electronic notification to a pharmacist and practitioner at the time the pharmacist or practitioner enters a prescription for a patient into the database if the same patient has received one or more prescriptions for controlled substances in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance.

(q) A pharmacist who dispenses or a practitioner who prescribes, administers, or directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law shall register with the database by a procedure and in a format established by the board.

(r) The board shall promptly notify the State Medical Board, the Board of Nursing, the Board of Dental Examiners, and the Board of Examiners in Optometry when a practitioner registers with the database under (q) of this section.

* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Board of Pharmacy may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant

1 provision of this Act implemented by the regulation.

2 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 TRANSITION. (a) The Board of Pharmacy shall provide necessary information and
5 training to the State Medical Board, the Board of Nursing, the Board of Dental Examiners,
6 and the Board of Examiners in Optometry for implementing the requirements of this Act.

7 (b) Notwithstanding AS 17.30.200(q), a pharmacist who dispenses and a practitioner
8 who prescribes, administers, or directly dispenses a schedule IA, IIA, IIIA, IVA, or VA
9 controlled substance under state law or a schedule I, II, III, IV, or V controlled substance
10 under federal law shall register with the Board of Pharmacy not later than 180 days after the
11 effective date of this Act.

12 * **Sec. 9.** Section 7 of this Act takes effect July 1, 2016.

13 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2017.