

HOUSE CS FOR CS FOR SENATE BILL NO. 196(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/12/08

Offered: 4/5/08

Sponsor(s): SENATORS GREEN, Ellis, Davis, Dyson, Stevens

REPRESENTATIVE Lynn

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to establishing a controlled substance prescription database."**

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

3 *** Section 1.** AS 08.80.030(b) is amended to read:

4 (b) In order to fulfill its responsibilities, the board has the powers necessary
5 for implementation and enforcement of this chapter, including the power to

6 (1) elect a president and secretary from its membership and adopt rules
7 for the conduct of its business;

8 (2) license by examination or by license transfer the applicants who are
9 qualified to engage in the practice of pharmacy;

10 (3) assist the department in inspections and investigations for
11 violations of this chapter, or of any other state or federal statute relating to the practice
12 of pharmacy;

13 (4) adopt regulations to carry out the purposes of this chapter;

14 (5) establish and enforce compliance with professional standards and
15 rules of conduct for pharmacists engaged in the practice of pharmacy;

1 (6) determine standards for recognition and approval of degree
2 programs of schools and colleges of pharmacy whose graduates shall be eligible for
3 licensure in this state, including the specification and enforcement of requirements for
4 practical training, including internships;

5 (7) establish for pharmacists and pharmacies minimum specifications
6 for the physical facilities, technical equipment, personnel, and procedures for the
7 storage, compounding, and dispensing of drugs or related devices, and for the
8 monitoring of drug therapy;

9 (8) enforce the provisions of this chapter relating to the conduct or
10 competence of pharmacists practicing in the state, and the suspension, revocation, or
11 restriction of licenses to engage in the practice of pharmacy;

12 (9) license and regulate the training, qualifications, and employment of
13 pharmacy interns and pharmacy technicians;

14 (10) issue licenses to persons engaged in the manufacture and
15 distribution of drugs and related devices;

16 **(11) establish and maintain a controlled substance prescription**
17 **database as provided in AS 17.30.200.**

18 * **Sec. 2.** AS 17.30 is amended by adding a new section to read:

19 **Article 4A. Controlled Substance Prescription Database.**

20 **Sec. 17.30.200. Controlled substance prescription database.** (a) The
21 controlled substance prescription database is established in the Board of Pharmacy.
22 The purpose of the database is to contain data as described in this section regarding
23 every prescription for a schedule IA, IIA, IIIA, IVA, or VA controlled substance under
24 state law or a schedule I, II, III, IV, or V controlled substance under federal law
25 dispensed in the state to a person other than those administered to a patient at a health
26 care facility. The Department of Commerce, Community, and Economic Development
27 shall assist the board and provide necessary staff and equipment to implement this
28 section.

29 (b) The pharmacist-in-charge of each licensed or registered pharmacy,
30 regarding each schedule IA, IIA, IIIA, IVA, or VA controlled substance under state
31 law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed

1 by a pharmacist under the supervision of the pharmacist-in-charge, and each
 2 practitioner who directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled
 3 substance under state law or a schedule I, II, III, IV, or V controlled substance under
 4 federal law other than those administered to a patient at a health care facility, shall
 5 submit to the board, by a procedure and in a format established by the board, the
 6 following information for inclusion in the database:

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

10 (2) the date of the prescription;

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

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

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

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

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

19 and

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

22 (c) The board shall maintain the database in an electronic file or by other
 23 means established by the board to facilitate use of the database for identification of

24 (1) prescribing practices and patterns of prescribing and dispensing
 25 controlled substances;

26 (2) practitioners who prescribe controlled substances in an
 27 unprofessional or unlawful manner;

28 (3) individuals who receive prescriptions for controlled substances
 29 from licensed practitioners and who subsequently obtain dispensed controlled
 30 substances from a drug outlet in quantities or with a frequency inconsistent with
 31 generally recognized standards of dosage for that controlled substance; and

1 (4) individuals who present forged or otherwise false or altered
2 prescriptions for controlled substances to a pharmacy.

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

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

13 (2) authorized board personnel or contractors as required for
14 operational and review purposes;

15 (3) a licensed practitioner having authority to prescribe controlled
16 substances, to the extent the information relates specifically to a current patient of the
17 practitioner to whom the practitioner is prescribing or considering prescribing a
18 controlled substance;

19 (4) a licensed or registered pharmacist having authority to dispense
20 controlled substances, to the extent the information relates specifically to a current
21 patient to whom the pharmacist is dispensing or considering dispensing a controlled
22 substance;

23 (5) federal, state, and local law enforcement authorities may receive
24 printouts of information contained in the database under a search warrant, subpoena,
25 or order issued by a court establishing probable cause for the access and use of the
26 information; and

27 (6) an individual who is the recipient of a controlled substance
28 prescription entered into the database may receive information contained in the
29 database concerning the individual on providing evidence satisfactory to the board that
30 the individual requesting the information is in fact the person about whom the data
31 entry was made and on payment of a fee set by the board under AS 37.10.050 that

1 does not exceed \$10.

2 (e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to submit
3 information to the database as required under this section is grounds for the board to
4 take disciplinary action against the license or registration of the pharmacy or
5 pharmacist or for another licensing board to take disciplinary action against a
6 practitioner.

7 (f) The board may enter into agreements with (1) dispensers in this state that
8 are not regulated by the state to submit information to and access information in the
9 database, and (2) practitioners in this state to access information in the database,
10 subject to this section and the regulations of the board. The board shall prohibit a
11 dispenser that is not regulated by the state from accessing the database if the dispenser
12 has accessed information in the database contrary to the limitations of this section,
13 discloses information in the database contrary to the limitations of this section, or
14 allows nonauthorized persons access to the database.

15 (g) The board shall promptly notify the president of the senate and the speaker
16 of the house of representatives if, at any time after the effective date of this Act, the
17 federal government fails to pay all or part of the costs of the controlled substance
18 prescription database.

19 (h) An individual who has submitted information to the database in
20 accordance with this section may not be held civilly liable for having submitted the
21 information. Nothing in this section requires or obligates a dispenser or practitioner to
22 access or check the database before dispensing, prescribing, or administering a
23 medication, or providing medical care to a person. Dispensers or practitioners may not
24 be held civilly liable for damages for accessing or failing to access the information in
25 the database.

26 (i) A person who has reason to believe that prescription information from the
27 database has been illegally or improperly accessed shall notify an appropriate law
28 enforcement agency.

29 (j) The board shall notify any person whose prescription information from the
30 database is illegally or improperly accessed.

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

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

4 (2) a method for an individual to challenge information in the database
 5 about the individual that the person believes is incorrect or was incorrectly entered by
 6 a dispenser.

7 (l) A person

8 (1) with authority to access the database under (d) of this section who
 9 knowingly

10 (A) accesses information in the database beyond the scope of
 11 the person's authority commits a class A misdemeanor;

12 (B) accesses information in the database and recklessly
 13 discloses that information to a person not entitled to access or to receive the
 14 information commits a class C felony;

15 (C) allows another person who is not authorized to access the
 16 database to access the database commits a class C felony;

17 (2) without authority to access the database under (d) of this section
 18 who knowingly accesses the database or knowingly receives information that the
 19 person is not authorized to receive under (d) of this section from another person
 20 commits a class C felony.

21 (m) To assist in fulfilling the program responsibilities, performance measures
 22 shall be reported to the legislature annually. Performance measures may include
 23 outcomes detailed in the federal prescription drug monitoring program grant regarding
 24 efforts to;

25 (1) reduce the rate of inappropriate use of prescription drugs by
 26 reporting education efforts conducted by the Board of Pharmacy;

27 (2) reduce the quantity of pharmaceutical controlled substances
 28 obtained by individuals attempting to engage in fraud and deceit;

29 (3) increase coordination among prescription drug monitoring program
 30 partners; and

31 (4) involve stakeholders in the planning process.

1 (n) In this section,

2 (1) "board" means the Board of Pharmacy;

3 (2) "database" means the controlled substance prescription database
4 established in this section;

5 (3) "knowingly" has the meaning given in AS 11.81.900;

6 (4) "pharmacist-in-charge" has the meaning given in AS 08.80.480.

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

9 **REPORT TO THE LEGISLATURE.** (a) The Board of Pharmacy shall, by the first day
10 of the First Regular Session of the Twenty-Sixth Alaska State Legislature, submit a report to
11 the legislature that

12 (1) identifies how the controlled substance prescription database would be
13 designed, identifies the measures that would be undertaken to limit, identify, and log
14 unauthorized accesses to the information in the database, discloses where the database would
15 be maintained and the persons that would be allowed access to the database, and identifies
16 best practices of other states that have implemented similar databases;

17 (2) identifies measures that would be undertaken to ensure the privacy of the
18 records maintained in the database;

19 (3) identifies possible alternatives for including information in the database as
20 opposed to including all prescription information automatically in the database. This should
21 include whether other states have alternatives for inclusion of prescription information in the
22 database.

23 (b) The Board of Pharmacy shall submit the report required under (a) of this section
24 to the senate secretary and the chief clerk and shall notify the members of the legislature that
25 the report is available.