

SECOND REGULAR SESSION

# HOUSE BILL NO. 2178

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CLEMENS.

4766H.011

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To amend chapter 195, RSMo, by adding thereto six new sections relating to the narcotics control act, with penalty provisions.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 195, RSMo, is amended by adding thereto six new sections, to be known as sections 195.450, 195.453, 195.456, 195.459, 195.462, and 195.465, to read as follows:

**195.450. 1. Sections 195.450 to 195.465 shall be known and may be cited as the "Narcotics Control Act".**

**2. As used in sections 195.450 to 195.465, the following terms shall mean:**

**(1) "Controlled substance", the same meaning given to such term in section 195.010;**

**(2) "Department", the department of health and senior services;**

**(3) "Dispenser", a person who delivers a controlled substance to a patient, but does not include:**

**(a) A hospital, as defined in section 197.020, that distributes such substances for the purpose of inpatient care or dispenses prescriptions for controlled substances at the time of discharge from such facility;**

**(b) A practitioner or other authorized person who administers such a substance;**  
**or**

**(c) A wholesale distributor of a controlled substance;**

**(4) "Patient", a person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, not including a hospice patient enrolled in a**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 Medicare-certified hospice program who has controlled substances dispensed to him or her  
18 by such hospice program;

19 (5) "Schedule II, III, or IV controlled substance", a controlled substance that is  
20 listed in Schedule II, III, or IV of the schedules provided under this chapter or the  
21 Controlled Substances Act, 21 U.S.C. Section 812.

22 3. The provisions of sections 195.450 to 195.465 shall not apply to persons licensed  
23 under chapter 340.

195.453. 1. The department shall establish and maintain a program for the  
2 monitoring of prescribing and dispensing of all Schedule II, III, and IV controlled  
3 substances by professionals licensed to prescribe or dispense such substances in this state.  
4 The funding of the narcotics control program shall be subject to appropriations. In  
5 addition to appropriations from the general assembly, the department may apply for  
6 available grants and shall be able to accept other gifts, grants, and donations to develop  
7 and maintain the program.

8 2. Each dispenser shall submit to the department by electronic means information  
9 regarding each dispensation of a drug included in subsection 1 of this section. The  
10 information submitted for each dispensation shall include:

- 11 (1) The pharmacy's Drug Enforcement Administration (DEA) number;  
12 (2) The date of the dispensation;  
13 (3) The following, if there is a prescription:  
14 (a) The prescription number or other unique identifier;  
15 (b) Whether the prescription is new or a refill; and  
16 (c) The prescriber's DEA or National Provider Identifier (NPI) number;  
17 (4) The National Drug Code (NDC) for the drug dispensed;  
18 (5) The quantity and dosage of the drug dispensed;  
19 (6) The patient's identification number including, but not limited to, any one of the  
20 following:  
21 (a) The patient's driver's license number;  
22 (b) The patient's government-issued identification number; or  
23 (c) The patient's insurance cardholder identification number; and  
24 (7) The patient's name, address, and date of birth.

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26 The addition of any further information to the list of data required to be submitted in this  
27 subsection shall be the sole purview of the general assembly.

28 3. Each dispenser shall submit the information in accordance with transmission  
29 standards established by the American Society for Automation in Pharmacy or any

30 successor organization and shall report data within twenty-four hours of dispensation.  
31 Beginning January 1, 2022, the department shall begin phasing in a requirement that  
32 dispensers report data in real time, with all report data to be submitted in real time by  
33 January 1, 2023.

34 4. (1) The department may issue a waiver to a dispenser who is unable to submit  
35 dispensation information by electronic means. Such waiver may permit the dispenser to  
36 submit dispensation information by paper form or other means, provided all information  
37 required in subsection 2 of this section is submitted in such alternative format.

38 (2) The department may grant an extension to dispensers who are temporarily  
39 unable to electronically submit the dispensation information required in subsection 2 of  
40 this section in accordance with the time frame established in subsection 3 of this section  
41 due to unforeseen circumstances. If an extension is granted, dispensers shall be responsible  
42 for reporting the required data in a subsequent submission.

195.456. 1. Dispensation information submitted to the department shall be  
2 confidential and not subject to public disclosure under chapter 610 except as provided in  
3 subsections 3 to 5 of this section.

4 2. The department shall maintain procedures to ensure that the privacy and  
5 confidentiality of patients and personal information collected, recorded, transmitted, and  
6 maintained are not disclosed to persons except as provided in subsections 3 to 5 of this  
7 section.

8 3. The department shall review the dispensation information and, if there is  
9 reasonable cause to believe a violation of law or breach of professional standards may have  
10 occurred, the department shall notify the appropriate law enforcement or professional  
11 licensing board and provide any dispensation information required for an investigation.

12 4. The department may provide data in the narcotics control program to the  
13 following persons:

14 (1) Persons, both in-state and out-of-state, authorized to prescribe or dispense  
15 controlled substances for the purpose of providing medical or pharmaceutical care for  
16 their patients;

17 (2) An individual who requests his or her own dispensation information in  
18 accordance with state law;

19 (3) Any state board charged with regulating a professional who has the authority  
20 to prescribe or dispense controlled substances that requests data related to a specific  
21 professional under the authority of such board if such board has a current and open  
22 investigation into such professional and the data provided is limited to such professional;

23           **(4) Local, state, and federal law enforcement or prosecutorial officials, both in-state**  
24 **and out-of-state, engaged in the investigation or enforcement of the laws governing**  
25 **prescription drugs, based on a specific case and under a subpoena issued by a court of**  
26 **competent jurisdiction or court order; and**

27           **(5) The MO HealthNet division within the department of social services regarding**  
28 **MO HealthNet program recipients.**

29           **5. The department may provide data to public and private entities for statistical,**  
30 **research, or educational purposes only after removing information that could be used to**  
31 **identify individual patients, prescribers, dispensers, or persons who received dispensations**  
32 **from dispensers.**

33           **6. Nothing in sections 195.450 to 195.465 shall be construed to require a pharmacist**  
34 **or prescriber to obtain information about a patient from the database.**

35           **7. No dispensation information submitted to the department shall be used by any**  
36 **local, state, or federal authority to prevent an individual from owning or obtaining a**  
37 **firearm.**

38           **8. No dispensation information submitted to the department shall be the sole basis**  
39 **for probable cause to obtain an arrest or search warrant as part of a criminal investigation.**

**195.459. 1. The department is authorized to contract with any other agency of this**  
2 **state, a political subdivision of this state, any other state with a private vendor, or any state**  
3 **government that currently operates a narcotics control program. Any contractor shall**  
4 **comply with the provisions regarding confidentiality of prescription information in section**  
5 **195.456.**

6           **2. If a political subdivision of this state is operating a narcotics control program,**  
7 **the political subdivision's program shall be permitted to continue operating until such time**  
8 **as the department's program is available for utilization by prescribers and dispensers**  
9 **throughout the state.**

**195.462. The department shall promulgate rules setting forth the procedures and**  
2 **methods of implementing sections 195.450 to 195.465. Any rule or portion of a rule, as that**  
3 **term is defined in section 536.010, that is created under the authority delegated in this**  
4 **section shall become effective only if it complies with and is subject to all of the provisions**  
5 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**  
6 **nonseverable, and if any powers vested in the general assembly pursuant to chapter 536**  
7 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
8 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
9 **adopted after August 28, 2020, shall be invalid and void.**

195.465. 1. A dispenser who knowingly fails to submit dispensation information  
2 to the department as required in sections 195.450 to 195.465 or knowingly submits the  
3 incorrect dispensation information shall be subject to an administrative penalty in the  
4 amount of one thousand dollars for each violation. The penalty shall be assessed through  
5 an order issued by the director of the department. Any person subject to an administrative  
6 penalty may appeal to the administrative hearing commission under the provisions of  
7 chapter 621.

8 2. Any person who unlawfully and knowingly accesses or discloses or any person  
9 authorized to have prescription or dispensation information under sections 195.450 to  
10 195.465 who knowingly discloses such information in violation of sections 195.450 to  
11 195.465 or knowingly uses such information in a manner and for a purpose in violation of  
12 sections 195.450 to 195.465 is guilty of a class E felony.

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