

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 90 & 68

AN ACT

To amend chapter 195, RSMo, by adding thereto seven new sections relating to a program for the monitoring of certain prescribed controlled substances, 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 seven new sections, to be known as sections 195.450, 195.453, 195.456, 195.459, 195.462, 195.465, and 195.468, to read as follows:

195.450. 1. Sections 195.450 to 195.468 shall be known and may be cited as the "Narcotics Control Act".

2. As used in sections 195.450 to 195.468, the following terms shall mean:

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

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

1       (3) "Dispenser", a person who delivers a Schedule II, III,  
2 or IV controlled substance to a patient, but does not include:

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

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

9       (c) A wholesale distributor of a Schedule II, III, or IV  
10 controlled substance;

11       (4) "Patient", a person who is the ultimate user of a drug  
12 for whom a prescription is issued or for whom a drug is  
13 dispensed, not including a hospice patient enrolled in a  
14 Medicare-certified hospice program who has controlled substances  
15 dispensed to him or her by such hospice program;

16       (5) "Prescriber", a person who prescribes a Schedule II,  
17 III, or IV controlled substance to a patient;

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

22       3. Notwithstanding any other law to the contrary, the  
23 provisions of this section shall not apply to persons licensed  
24 under chapter 340.

25       195.453. 1. The department shall establish and maintain a  
26 narcotics control program for the monitoring of prescribing and  
27 dispensing of all Schedule II, III, and IV controlled substances

1 by all professionals licensed to prescribe or dispense such  
2 substances in this state. The funding of the program shall be  
3 subject to appropriations. In addition to appropriations from  
4 the general assembly, the department may apply for available  
5 grants and shall be able to accept other gifts, grants, and  
6 donations to develop and maintain the program.

7 2. Each dispenser shall submit to the department by  
8 electronic means information regarding each dispensation of a  
9 drug included in subsection 1 of this section. The information  
10 submitted for each dispensation shall include, but not be limited  
11 to:

12 (1) The dispenser's Drug Enforcement Administration (DEA)  
13 number;

14 (2) The date of the dispensation;

15 (3) The following, if there is a prescription:

16 (a) The prescription number or other unique identifier;

17 (b) Whether the prescription is new or a refill; and

18 (c) The prescriber's DEA or National Provider Identifier  
19 (NPI) number;

20 (4) The National Drug Code (NDC) for the drug dispensed;

21 (5) The quantity and dosage of the drug dispensed;

22 (6) The patient's identification number including, but not  
23 limited to, any one of the following:

24 (a) The patient's driver's license number;

25 (b) The patient's government-issued identification number;

26 or

27 (c) The patient's insurance cardholder identification

1 number; and

2 (7) The patient's name, address, and date of birth.

3 3. Each dispenser shall submit the information in  
4 accordance with transmission standards established by the  
5 American Society for Automation in Pharmacy or any successor  
6 organization and shall report data within twenty-four hours of  
7 dispensation. Beginning January 1, 2019, the department shall  
8 begin phasing in a requirement that dispensers report data in  
9 real time with all report data to be submitted in real time by  
10 January 1, 2020.

11 4. (1) The department may issue a waiver to a dispenser  
12 who is unable to submit dispensation information by electronic  
13 means. Such waiver may permit the dispenser to submit  
14 dispensation information by paper form or other means, provided  
15 all information required in subsection 2 of this section is  
16 submitted in such alternative format.

17 (2) The department may grant an extension to dispensers who  
18 are temporarily unable to electronically submit the dispensation  
19 information required in subsection 2 of this section in  
20 accordance with the time frame established in subsection 3 of  
21 this section due to unforeseen circumstances. In cases in which  
22 an extension is granted, dispensers shall be responsible for  
23 reporting the required data in a subsequent submission.

24 5. A prescriber shall utilize the program prior to  
25 prescribing any Schedule II, III, or IV controlled substance.  
26 The provisions of this subsection shall not apply in the  
27 following circumstances:



1           (1) During a medical emergency that, in the professional  
2 opinion of the prescriber, is likely to result in harm to the  
3 patient;

4           (2) When it is not reasonably possible to utilize the  
5 program due to circumstances beyond the control of the  
6 prescriber;

7           (3) When the patient has a terminal illness or resides in a  
8 facility licensed under chapter 198;

9           (4) When the patient is under the care of a hospital, as  
10 defined in section 197.020, or an ambulatory surgical center, as  
11 defined in section 197.200, that distributes controlled  
12 substances for the purpose of inpatient care or issues  
13 prescriptions for controlled substances at the time of discharge  
14 from the facility in which the prescription does not exceed a  
15 five-day supply; provided that such prescriber utilizes the  
16 program or ensures that the program has been utilized since the  
17 patient's admission;

18           (5) When the controlled substance is administered directly  
19 to the patient in an emergency room setting; or

20           (6) When there is a previously established prescriber-  
21 patient relationship and a nonopioid controlled substance, other  
22 than a benzodiazepine, is being prescribed.

23           195.456. 1. Dispensation information submitted to the  
24 department shall be confidential and not subject to public  
25 disclosure under chapter 610 except as provided in subsections 3  
26 to 5 of this section.

27           2. The department shall maintain procedures to ensure that

1 the privacy and confidentiality of patients and personal  
2 information collected, recorded, transmitted, and maintained are  
3 not disclosed to persons except as provided in subsections 3 to 5  
4 of this section.

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

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

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

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

19 (3) The state board of pharmacy;

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

26 (5) Local, state, and federal law enforcement or  
27 prosecutorial officials, both in-state and out-of-state, engaged

1 in the administration, investigation, or enforcement of the laws  
2 governing prescription drugs based on a specific case and under a  
3 subpoena issued by a court of competent jurisdiction or court  
4 order;

5 (6) The MO HealthNet division within the department of  
6 social services regarding MO HealthNet program recipients; and

7 (7) A judge or other judicial authority under a subpoena  
8 issued by a court of competent jurisdiction or court order.

9 5. The department may provide data to public or private  
10 entities for statistical, research, or educational purposes after  
11 removing information that could be used to identify individual  
12 patients, prescribers, dispensers, or persons who received  
13 dispensations from dispensers.

14 6. Nothing in sections 195.450 to 195.468 shall be  
15 construed to require a dispenser or prescriber, except as  
16 otherwise provided in subsection 5 of section 195.453, to obtain  
17 information about a patient from the database.

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

21 8. No dispensation information submitted to the department  
22 under sections 195.450 to 195.468 shall be the sole basis for  
23 probable cause to obtain an arrest or search warrant as part of a  
24 criminal investigation.

25 9. Beginning August 28, 2019, the department shall maintain  
26 an individual's prescription and dispensation information  
27 obtained under sections 195.450 to 195.468 for a maximum of two



1 years from the date of dispensation, after which such information  
2 shall be deleted from the program.

3 10. Any individual who has authority under sections 195.450  
4 to 195.468 to access the program's database shall complete a  
5 department-approved training course prior to accessing the  
6 database for the first time.

7 195.459. The department is authorized to contract with any  
8 other agency of this state, any state government that currently  
9 runs a narcotics control program, or any private vendor. Any  
10 contractor shall comply with the provisions regarding  
11 confidentiality of prescription and dispensation information in  
12 section 195.456.

13 195.462. 1. The department shall promulgate rules setting  
14 forth the procedures and methods of implementing sections 195.450  
15 to 195.468. Any rule or portion of a rule, as that term is  
16 defined in section 536.010, that is created under the authority  
17 delegated in this section shall become effective only if it  
18 complies with and is subject to all of the provisions of chapter  
19 536 and, if applicable, section 536.028. This section and  
20 chapter 536 are nonseverable, and if any of the powers vested  
21 with the general assembly pursuant to chapter 536 to review, to  
22 delay the effective date, or to disapprove and annul a rule are  
23 subsequently held unconstitutional, then the grant of rulemaking  
24 authority and any rule proposed or adopted after August 28, 2017,  
25 shall be invalid and void.

26 2. Under section 23.253 of the Missouri sunset act:

27 (1) The provisions of the new program authorized under



1 sections 195.450 to 195.468 shall automatically sunset six years  
2 after the effective date of sections 195.450 to 195.468 unless  
3 reauthorized by an act of the general assembly;

4 (2) If such program is reauthorized, the program authorized  
5 under sections 195.450 to 195.468 shall automatically sunset  
6 twelve years after the effective date of the reauthorization of  
7 sections 195.450 to 195.468; and

8 (3) Sections 195.450 to 195.468 shall terminate on  
9 September first of the calendar year immediately following the  
10 calendar year in which the program authorized under sections  
11 195.450 to 195.468 is sunset.

12 195.465. 1. A dispenser who knowingly fails to submit  
13 dispensation information to the department as required in  
14 sections 195.450 to 195.468 or knowingly submits incorrect  
15 dispensation information shall be subject to an administrative  
16 penalty in the amount of one thousand dollars for each violation.  
17 The penalty shall be assessed through an order issued by the  
18 director of the department. Any person subject to an  
19 administrative penalty may appeal to the administrative hearing  
20 commission under the provisions of chapter 621.

21 2. Any person who unlawfully and knowingly accesses or  
22 discloses or any person authorized to have prescription or  
23 dispensation information under sections 195.450 to 195.468 who  
24 knowingly discloses such information in violation of sections  
25 195.450 to 195.468 or knowingly uses such information in a manner  
26 and for a purpose in violation of sections 195.450 to 195.468 is  
27 guilty of a class E felony.

