

CHAPTER 295**(HB 26)**

AN ACT relating to health care and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy licensed by the Kentucky Board of Pharmacy.
- (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth or who is licensed by the Kentucky Board of Pharmacy shall report to the Cabinet for Health Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:
 - (a) A drug administered directly to a patient; or
 - (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) Drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health Services unless a waiver has been granted by the cabinet to an individual dispenser.
- (6) The Cabinet for Health Services shall be authorized to provide data to:
 - (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) A state, federal, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

- (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient; or
 - (f) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction.
- (7) The Cabinet for Health Services, all law enforcement officers, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
 - (8) The data and any report obtained therefrom shall not be a public record.
 - (9) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.
 - (10) Knowing disclosure of transmitted data to a person not authorized by subsection (6) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.
 - (11) ***The Governor's Office for Technology, in consultation with the Cabinet for Health Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:***
 - (a) ***Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and***
 - (b) ***Study the use of an interactive system that includes a relational data base with query capability.***
 - (12) ***Provisions in subsections (1) to (10) of this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (11) of this section.***

SECTION 2. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

An adult day health care program shall be required to provide skilled nursing services to Medicaid recipients only during the posted hours of operation.

Section 3. Whereas the Governor's Oxycontin/Prescription Drug Abuse Task Force recommended that the electronic system for monitoring Schedules II, III, IV, and V be converted to a real-time data entry and reporting system, and an opportunity exists for the state to apply for federal funds to pilot a real-time electronic system from the Harold Rogers Prescription Drug Monitoring Program, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 9, 2002