



Senate

General Assembly

File No. 120

February Session, 2004

Senate Bill No. 439

Senate, March 17, 2004

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING ELECTRONIC MONITORING OF CONTROLLED SUBSTANCE PRESCRIPTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-254 of the general statutes is amended by
2 adding subsection (j) as follows (*Effective October 1, 2004*):

3 (NEW) (j) (1) The Commissioner of Agriculture and Consumer
4 Protection shall establish the Electronic Prescription Drug Monitoring
5 Program to collect, by electronic means, prescription information for
6 schedules II, III, IV and V controlled substances, as defined in
7 subdivision (9) of section 21a-240, that are dispensed by pharmacies
8 and outpatient pharmacies in hospitals or institutions. The program
9 shall be designed to provide information regarding the prescription of
10 controlled substances in order to prevent the improper or illegal use of
11 the controlled substances, and shall not infringe on the legitimate
12 prescribing of a controlled substance by a prescribing practitioner
13 acting in good faith and in the course of professional practice.

14 (2) Each pharmacy and each outpatient pharmacy in a hospital or
15 institution shall report to the commissioner, at least once monthly, by
16 electronic means or, if a pharmacy or outpatient pharmacy does not
17 maintain records electronically, in a format approved by the
18 commissioner, the following information for all controlled substance
19 prescriptions dispensed by such pharmacy or outpatient pharmacy:
20 (A) Dispenser identification number; (B) the date the prescription for
21 the controlled substance was filled; (C) the prescription number; (D)
22 whether the prescription for the controlled substance is new or a refill;
23 (E) the National Drug Code, NDC, for the drug dispensed; (F) the
24 amount of the controlled substance dispensed and the number of days
25 supply of the controlled substance; (G) a patient identification number;
26 (H) the patient's first and last name and street address including postal
27 code; (I) the date of birth of the patient; (J) the date the prescription for
28 the controlled substance was issued by the prescribing practitioner and
29 the prescribing practitioner's Drug Enforcement Agency's
30 identification number; (K) the name of the person receiving the
31 controlled substance from the dispenser if other than the patient; (L)
32 the type of payment for the controlled substance and the name of the
33 governmental program or health insurer paying for the controlled
34 substance, if applicable; and (M) the state issued serial number, if
35 applicable.

36 (3) The commissioner may contract with a vendor for purposes of
37 electronically collecting such controlled substance prescription
38 information. The commissioner and any such vendor shall maintain
39 the information in accordance with chapter 400j of the general statutes.

40 (4) The commissioner and any such vendor shall not disclose
41 controlled substance prescription information reported pursuant to
42 subdivision (2) of this section, except as authorized pursuant to the
43 provisions of sections 21a-240 to 21a-283, inclusive. Any person who
44 knowingly violates any provision of this subdivision or subdivision (3)
45 of this subsection shall be guilty of a class D felony.

46 (5) The commissioner shall provide, upon request, controlled

47 substance prescription information obtained in accordance with
48 subdivision (2) of this subsection to the following: (A) The prescribing
49 practitioner who is treating or has treated a specific patient, provided
50 the information is obtained for purposes related to the treatment of the
51 patient, including the monitoring of controlled substances obtained by
52 the patient; (B) the prescribing practitioner with whom a patient has
53 made contact for the purpose of seeking medical treatment, provided
54 the request is accompanied by a written consent, signed by the
55 prospective patient, for the release of controlled substance prescription
56 information; or (C) the pharmacist who is dispensing controlled
57 substances for a patient, provided the information is obtained for
58 purposes related to the scope of the pharmacist's practice and
59 management of the patient's drug therapy, including the monitoring of
60 controlled substances obtained by the patient. The prescribing
61 practitioner or pharmacist shall submit a written and signed request to
62 the commissioner for controlled substance prescription information.
63 Such prescribing practitioner or pharmacist shall not disclose any such
64 request except as authorized pursuant to sections 21a-240 to 21a-283,
65 inclusive, or sections 20-570 to 20-630, inclusive.

66 (6) The commissioner shall adopt regulations in accordance with
67 chapter 54 concerning the reporting, evaluation, management and
68 storage of electronic controlled substance prescription information.

69 Sec. 2. Section 20-13c of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective October 1, 2004*):

71 The board is authorized to restrict, suspend or revoke the license or
72 limit the right to practice of a physician or take any other action in
73 accordance with section 19a-17, for any of the following reasons: (1)
74 Physical illness or loss of motor skill, including, but not limited to,
75 deterioration through the aging process; (2) emotional disorder or
76 mental illness; (3) abuse or excessive use of drugs, including alcohol,
77 narcotics or chemicals; (4) illegal, incompetent or negligent conduct in
78 the practice of medicine; (5) possession, use, prescription for use, or
79 distribution of controlled substances or legend drugs, except for

80 therapeutic purposes, the management of pain or other medically
81 proper purposes; (6) misrepresentation or concealment of a material
82 fact in the obtaining or reinstatement of a license to practice medicine;
83 (7) failure to adequately supervise a physician assistant; (8) failure to
84 fulfill any obligation resulting from participation in the National
85 Health Service Corps; (9) failure to maintain professional liability
86 insurance or other indemnity against liability for professional
87 malpractice as provided in subsection (a) of section 20-11b; (10) failure
88 to provide information requested by the department for purposes of
89 completing a health care provider profile, as required by section 20-13j;
90 (11) engaging in any activity for which accreditation is required under
91 section 19a-690 or 19a-691 without the appropriate accreditation
92 required by section 19a-690 or 19a-691; (12) failure to provide evidence
93 of accreditation required under section 19a-690 or 19a-691 as requested
94 by the department pursuant to section 19a-690 or 19a-691; or (13)
95 violation of any provision of this chapter or any regulation established
96 hereunder. In each case, the board shall consider whether the
97 physician poses a threat, in the practice of medicine, to the health and
98 safety of any person. If the board finds that the physician poses such a
99 threat, the board shall include such finding in its final decision and act
100 to suspend or revoke the license of said physician.

101 Sec. 3. Subsection (a) of section 21a-252 of the general statutes, as
102 amended by section 146 of public act 03-6 of the June 30 special
103 session, is repealed and the following is substituted in lieu thereof
104 (*Effective October 1, 2004*):

105 (a) A physician, in good faith and in the course of the physician's
106 professional practice only, may prescribe, administer and dispense
107 controlled substances, or may cause the same to be administered by a
108 physician assistant, nurse or intern under the physician's direction and
109 supervision, for demonstrable physical or mental disorders, including
110 the management of pain, but not for drug dependence except in
111 accordance with state and federal laws and regulations. [adopted
112 thereunder.] Notwithstanding the provisions of this subsection the
113 Department of Agriculture and Consumer Protection may approve

114 protocols allowing the dispensing of take-home doses of methadone,
115 by a registered nurse or licensed practical nurse, to outpatients in duly
116 licensed substance abuse treatment facilities. Such dispensing shall be
117 done pursuant to the order of a licensed prescribing practitioner and
118 using computerized dispensing equipment into which bulk supplies of
119 methadone are dispensed by a pharmacist. The quantity of methadone
120 dispensed by such nurse shall not exceed at any one time that amount
121 allowed under federal or state statutes or regulations governing the
122 treatment of drug dependent patients. The Department of Agriculture
123 and Consumer Protection shall conduct inspections of such treatment
124 facilities to ensure that the computerized dispensing equipment and
125 related dispensing procedures documented in the approved protocols
126 are adhered to.

127 Sec. 4. (*Effective October 1, 2004*) The Commissioner of Agriculture
128 and Consumer Protection shall appoint a Prescription Drug
129 Monitoring Working Group for the purpose of advising said
130 commissioner on the implementation of the Electronic Prescription
131 Drug Monitoring Program, including the adoption of regulations by
132 the commissioner, established pursuant to subsection (j) of section 21a-
133 254 of the general statutes, as amended by this act. Such advice shall
134 include, but not be limited to, recommendations on how to effectively
135 use the data collected pursuant to said subsection (j) to detect fraud
136 while protecting legitimate use of controlled substances. The working
137 group shall include, but not be limited to: (1) A physician, licensed
138 pursuant to chapter 370 of the general statutes, specializing in internal
139 medicine; (2) a board certified oncologist; (3) a person licensed to
140 perform advanced level nursing practice activities pursuant to
141 subsection (b) of section 20-87a of the general statutes; (4) a
142 representative from an acute care hospital licensed pursuant to chapter
143 368v of the general statutes; (5) a state police officer appointed as
144 provided in section 29-4 of the general statutes; (6) a municipal police
145 chief; (7) a representative from the Division of Criminal Justice; (8) a
146 representative from a hospice licensed by the Department of Public
147 Health or certified pursuant to 42 USC Section 1395x; (9) a pain
148 management specialist, as defined in section 38a-492i of the general

149 statutes; and (10) a pharmacist licensed pursuant to section 20-590, 20-
150 591 or 20-592 of the general statutes.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>

GL *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - Cost	150,000	100,000

Note: GF=General Fund

Municipal Impact: None

Explanation

Effective October 1, 2004, this bill would require the electronic submission of controlled substance prescriptions to the Commissioner of Consumer Protection in order to facilitate monitoring to prevent their improper or illegal use. It also establishes the Prescription Drug Monitoring Working Group and requires the commissioner to adopt regulations, with the advice of the Prescription Monitoring Working Group, concerning the reporting, evaluation, management and storage of electronic controlled substance information.

Currently, the Department of Consumer Protection's Drug Control Agents have access to this information. However, the agents are required to go to the pharmacies in order to obtain the information. Since this bill requires the pharmacies to electronically transfer this information on a monthly basis, the department would need up to \$150,000 start up costs in FY 05 to purchase the necessary software to implement the program using an outside vendor, and \$100,000 each year, thereafter, for upkeep and maintenance.

Appointing a Prescription Drug Monitoring Working Group or the promulgation of regulations will necessitate additional budgetary resources.

OLR Bill Analysis

SB 439

AN ACT CONCERNING ELECTRONIC MONITORING OF CONTROLLED SUBSTANCE PRESCRIPTIONS**SUMMARY:**

This bill requires the commissioner of the Department of Agriculture and Consumer Protection (DACP) to establish the Electronic Prescription Drug Monitoring Program to collect prescription information from pharmacies about Schedules II, III, IV, and V controlled substances. It requires the program to be designed to provide information about the prescription of these substances to prevent their improper or illegal use. It prohibits the program from infringing on legitimate prescriptions of controlled substances made in good faith and in the course of professional practice.

The bill (1) sets requirements for information reporting, (2) makes the information confidential and establishes a mechanism allowing it to be reported, and (3) establishes the Prescription Drug Monitoring Working Group.

The law authorizes a physician, in good faith and in the course of practice, to prescribe controlled substances for demonstrable physical or mental disorders. The bill states that this includes the management of pain. It revises the law authorizing the Connecticut Medical Examining Board (the licensing board for physicians) to impose discipline on physicians by providing that the management of pain is a medically proper purpose.

The bill requires the commissioner to adopt regulations about the reporting, evaluation, management, and storage of electronic controlled substance prescription information.

EFFECTIVE DATE: October 1, 2004

REPORTING

The bill requires each pharmacy and outpatient pharmacy in a hospital or institution to report electronically at least once each month the

following information for each dispensed controlled substance prescription:

1. dispenser identification number,
2. dispensing date,
3. prescription number,
4. whether it was a new or refilled prescription,
5. National Drug Code of the dispensed controlled substance,
6. the amount dispensed and number of days supply,
7. patient identification number,
8. patient's name and address,
9. patient's date of birth,
10. date the prescription was issued and prescriber's Drug Enforcement Agency's identification number,
11. name of the individual receiving the prescription from the dispenser if other than the patient,
12. type of payment and name of government program or insurer paying for the prescription, and
13. state-issued serial number, if any.

The bill allows pharmacies that do not keep records electronically to submit the reports in a format approved by the consumer protection commissioner.

CONFIDENTIALITY AND RELEASE OF REPORTED INFORMATION

The bill allows the commissioner to contract with a vendor to collect the information. It requires the commissioner and vendor to keep the information in accordance with the state's Pharmacy Practice Act. The bill prohibits the disclosure of collected information, except as

specifically authorized. It makes a violator guilty of a class D felony.

The bill requires the commissioner to release the information, on request, to the following:

1. a prescribing practitioner who is treating, or has treated, a specific patient, if the information is to be used in relation to the patient's treatment, including the monitoring of these drugs;
2. a prescribing practitioner contacted by a prospective patient seeking medical treatment, if the request is accompanied by the patient's signed, written consent; and
3. a pharmacist dispensing controlled substances for a patient, if the information is being sought for purposes related to the pharmacist's scope of practice and management of the patient's drug therapy, including the monitoring of these drugs.

The bill requires prescribing practitioners and pharmacists to request the information in writing and to sign their requests. They may not disclose the request except as authorized by the law on dependency-producing drugs and the Pharmacy Practice Act.

WORKING GROUP

The bill requires the DACP commissioner to appoint the Prescription Drug Monitoring Working Group. The group must advise the commissioner on the implementation of the program, including the adoption of regulations. It must advise the commissioner on how to effectively use the data to detect fraud while protecting legitimate use of controlled substances.

The group must include:

1. an internal medicine specialist,
2. a board-certified oncologist,
3. an advanced practice registered nurse,
4. a representative from an acute care hospital,
5. a state police officer,
6. a local police chief,
7. a representative from the Division of Criminal Justice,
8. a representative from a hospice,

9. a pain management specialist, and
10. a pharmacist.

It may also include additional members.

BACKGROUND

Controlled Substances

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs in Schedules II through V; most Schedule I drugs do not have any approved medical use.

COMMITTEE ACTION

General Law Committee

Joint Favorable Report
Yea 19 Nay 0