

An Act relating to the Iowa drug prescribing and dispensing information program, commonly known as the Iowa prescription monitoring program or PMP, required reporters and schedules of controlled substances to be reported, proactive notifications, restructuring of the PMP advisory council, fee surcharge, and providing penalties for noncompliance with program requirements.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:**

**Section 1.** Section 124.551, subsection 1, Iowa Code 2017, is amended to read as follows:

1. Contingent upon the receipt of funds pursuant to section 124.557 sufficient to carry out the purposes of this division, the board, in conjunction with the advisory ~~council~~ committee created in section 124.555, shall establish and maintain an information program for drug prescribing and dispensing.

**Sec. 2.** Section 124.552, Iowa Code 2017, is amended to read as follows:

**124.552 Information reporting.**

1. ~~Each~~ Unless otherwise prohibited by federal or state law, each licensed pharmacy that dispenses controlled substances identified pursuant to section 124.554, subsection 1, paragraph “g”, to patients in the state, and each licensed pharmacy located in the state that dispenses such controlled substances identified pursuant to section 124.554, subsection 1, paragraph “g”, to patients inside or outside the state, unless specifically excepted in this section or by rule, and each prescribing practitioner furnishing, dispensing, or supplying drugs to the prescribing practitioner’s patient, shall submit the following prescription information to the program:

a. Pharmacy identification.

- b. Patient identification.
- c. Prescribing practitioner identification.
- d. The date the prescription was issued by the prescribing practitioner.
- e. The date the prescription was dispensed.
- f. An indication of whether the prescription dispensed is new or a refill.
- g. Identification of the drug dispensed.
- h. Quantity of the drug dispensed.
- i. The number of days' supply of the drug dispensed.
- j. Serial or prescription number assigned by the pharmacy.
- k. Type of payment for the prescription.
- l. Other information identified by the board ~~and advisory council~~ by rule.

2. Information shall be submitted electronically in a secure format specified by the board unless the board has granted a waiver and approved an alternate secure format.

3. Information shall be timely transmitted as designated by the board ~~and advisory council~~ by rule, unless the board grants an extension. The board may grant an extension if either of the following occurs:

a. The pharmacy or prescribing practitioner suffers a mechanical or electronic failure, or cannot meet the deadline established by the board for other reasons beyond the pharmacy's or practitioner's control.

b. The board is unable to receive electronic submissions.

4. This section shall not apply to ~~a prescribing practitioner furnishing, dispensing, supplying, or administering drugs to the prescribing practitioner's patient, or to~~

dispensing by a licensed pharmacy for the purposes of inpatient hospital care, inpatient hospice care, or long-term residential facility patient care.

**Sec. 3.** Section 124.553, subsection 1, paragraph (b), Iowa Code 2017, is amended as follows:

b. An individual who requests the individual's own program information in accordance with the procedure established in rules of the board ~~and advisory council adopted under section 124.554.~~

**Sec. 4.** Section 124.553, subsection 1, Iowa Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH: g. By targeted distribution of proactive notifications, a prescribing practitioner or a pharmacist who has been involved in authorizing or dispensing controlled substances to a patient who has been identified, based on thresholds or criteria designed to identify doctor or pharmacy shopping or the patient's excessive use of a controlled substance, as an at-risk patient who may be abusing or misusing controlled substances or who may be in jeopardy of overdose or addiction to controlled substances.

**Sec. 5.** Section 124.553, subsection 2, Iowa Code 2017, is amended to read as follows:

2. The board shall maintain a record of each person that requests information from the program and of all proactive notifications distributed as provided in 124.553, subsection 1, paragraph "g". Pursuant to rules adopted by the board ~~and advisory council~~ under section 124.554, the board may use the records to document and report statistical information, and may provide program information for statistical, public

research, public policy, or educational purposes, after removing personal identifying information of a patient, prescribing practitioner, dispenser, or other person who is identified in the information.

**Sec. 6.** Section 124.553, subsection 3, Iowa Code 2017, is amended to read as follows:

3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program and of proactive notifications distributed to prescribing practitioners and dispensing pharmacists, is privileged and strictly confidential information. Such information is a confidential public record pursuant to section 22.7, and is not subject to discovery, subpoena, or other means of legal compulsion for release except as provided in this division. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this division.

**Sec. 7.** Section 124.553, subsection 7, Iowa Code 2017, is amended to read as follows:

7. ~~The~~ Except for a registration fee surcharge as provided in section 124.557, the board shall not charge a fee to a pharmacy, pharmacist, or prescribing practitioner for the establishment, maintenance, or administration of the program, including costs for forms required to submit information to or access information from the program, ~~except that the~~ The board may charge a fee to an individual who requests the individual's own program information. A fee charged to an individual pursuant to this subsection shall not exceed the actual cost of providing the requested information and shall be considered a repayment receipt as defined in section 8.2.

**Sec. 8.** Section 124.554, Iowa Code 2017, is amended to read as follows:

**124.554 Rules and reporting.**

1. The board, ~~and advisory council~~ in consultation with the advisory committee, shall ~~jointly~~ adopt rules in accordance with chapter 17A to carry out the purposes of, and to enforce the provisions of, this division. The rules shall include but not be limited to the development of procedures relating to:

a. Identifying each patient about whom information is entered into the program.

b. An electronic format for the submission of information from pharmacies and prescribing practitioners.

c. A waiver to submit information in another format for a pharmacy or prescribing practitioner unable to submit information electronically.

d. An application by a pharmacy or prescribing practitioner for an extension of time for transmitting information to the program.

e. The submission by an authorized requestor of a request for information and a procedure for the verification of the identity of the requestor.

f. Use by the board or advisory ~~council~~ committee of the program request records required by section 124.553, subsection 2, to document and report statistical information.

g. Including all schedule II through IV controlled substances and ~~those substances in schedules III and IV that the advisory council and board determine can be addictive or fatal if not taken under the proper care and direction of a prescribing practitioner~~ schedule V controlled substances except when dispensed by a pharmacist without a prescription.

h. Access by a pharmacist or prescribing practitioner to information in the program pursuant to a written agreement with the board and advisory council.

i. The correction or deletion of erroneous information in the program.

j. The establishment of thresholds or other criteria or measures to be used in identifying an at-risk patient as provided in section 124.553, subsection 1, paragraph “g,” and the targeted distribution of proactive notifications suggesting review of the patient’s prescription history.

k. User registration processes and requirements.

2. Beginning January 4, ~~2007~~ 15, 2019, and annually by January 4 15 thereafter, the board and advisory ~~council~~ committee shall present to the general assembly and the governor a report prepared consistent with section 124.555, subsection 3, paragraph “d”, which shall include but not be limited to the following:

a. The cost to the state of implementing and maintaining the program.

b. Information from pharmacies, prescribing practitioners, the board, the advisory ~~council~~ committee, and others regarding the benefits or detriments of the program.

c. Information from pharmacies, prescribing practitioners, the board, the advisory ~~council~~ committee, and others regarding the board’s effectiveness in providing information from the program.

**Sec. 9.** Section 124.555, Iowa Code 2017, is amended to read as follows:

**124.555 Advisory ~~council~~ committee established.**

An advisory ~~council~~ committee shall be established to provide oversight to the board and the program and to comanage program activities. The board, ~~and in consultation with the~~ and in consultation with the advisory ~~council~~ committee, shall jointly adopt rules specifying the

duties and activities of the advisory ~~council~~ committee and related matters.

1. The ~~council~~ committee shall consist of ~~eight~~ a minimum of four members appointed by the ~~governor~~ board. The members shall include, but are not limited to, at least one member from each of the following categories: three licensed pharmacists pharmacist, four physicians physician licensed under chapter 148, and one licensed prescribing practitioner who is not a physician, and a representative of the public who is not a health care professional. The ~~governor shall~~ board may solicit recommendations for ~~council~~ committee members from Iowa health professional licensing boards, associations, ~~and societies,~~ and other interested groups. The license of each health care professional member appointed to and serving on the advisory ~~council~~ committee shall be current and in good standing with the professional's licensing board.

2. The ~~council~~ board and the committee shall advance the goals of the program, which include identification of misuse and diversion of controlled substances identified pursuant to section 124.554, subsection 1, paragraph "g", the reduction of overdoses and deaths as a result of prescription controlled substance use and abuse, and enhancement of the quality of health care delivery in this state.

3. Duties of the ~~council~~ advisory committee shall include but not be limited to the following:

a. Ensuring the confidentiality of the patient, prescribing practitioner, and dispensing pharmacist and pharmacy.

b. Respecting and preserving the integrity of the patient's treatment relationship with the patient's health care providers.

c. Encouraging and facilitating cooperative efforts among health care

practitioners and other interested and knowledgeable persons in developing best practices for prescribing and dispensing controlled substances and in educating health care practitioners and patients regarding controlled substance use and abuse.

d. Making recommendations regarding the continued benefits of maintaining the program in relationship to cost and other burdens to the patient, prescribing practitioner, pharmacist, and the board. The ~~council's~~ committee's recommendations shall be included in reports required by section 124.554, subsection 2.

~~e. One physician and one pharmacist member of the council shall include in their duties the responsibility for monitoring and ensuring that patient confidentiality, best interests, and civil liberties are at all times protected and preserved during the existence of the program.~~

4. Members of the advisory ~~council~~ committee shall be eligible to request and receive actual expenses for their duties as members of the advisory ~~council~~ committee, subject to reimbursement limits imposed by the department of administrative services, and shall also be eligible to receive a per diem compensation as provided in section 7E.6, subsection 1.

**Sec. 10.** Section 124.557, Iowa Code 2017, is amended to read as follows:

**124.557 Drug information program fund.**

The drug information program fund is established to be used by the board to fund or assist in funding the program. The board may make deposits into the fund from any source, public or private, including grants or contributions of money or other items of value, which it determines necessary to carry out the purposes of this division. The board may add a surcharge of not more than twenty-five percent of the applicable fee



for a registration issued pursuant to section 124.302 and the surcharge shall be deposited into the fund. Moneys received by the board to establish and maintain the program must be used for the expenses of administering this division. Notwithstanding section 8.33, amounts contained in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in future years.

**Sec. 11.** Section 124.558, subsection 1, Iowa Code 2017, is amended to read as follows:

1. *Failure to comply with requirements.* A pharmacist, pharmacy, prescribing practitioner, or agent of a pharmacist or prescribing practitioner who knowingly fails to comply with the confidentiality requirements of this division or who delegates program information access to another individual except as provided in section 124.553, is subject to disciplinary action by the appropriate professional licensing board. A prescribing practitioner, pharmacist, or pharmacy that knowingly fails to comply with other requirements of this division is subject to disciplinary action by the board. Each licensing board may adopt rules in accordance with chapter 17A to implement the provisions of this section.

## EXPLANATION

The bill adds dispensing prescribers, unless otherwise prohibited by federal or state law, to those required to submit to the Iowa Prescription Monitoring Program (PMP) any reportable controlled substances dispensed or distributed to patients in Iowa. Dispensing prescribers are added to respective sections and paragraphs regarding

extensions of time to submit required records, form of record submission, and penalties for failing to submit required records to the Iowa PMP.

The bill restructures the PMP advisory council from a council, appointed by the governor, whose membership is specifically defined and limited in number, to an advisory committee consisting of an unspecified number of health care professionals and non-health care professionals and whose members are appointed by the board.

The bill authorizes the board and the PMP advisory committee to establish criteria for the identification of patients whose use of controlled substances may raise concerns about the safety of the patients' drug regimens and use patterns for the purpose of communicating those concerns with the prescribers and pharmacists involved in the patients' care. This process is referred to as *targeted proactive notification* because notification that the patient's record should be reviewed prior to prescribing controlled substances is sent only to those practitioners currently providing health care services to the patient. The information is not available to law enforcement, regulatory boards and agencies, or other nonpractitioner users.

The bill authorizes the collection of dispensing records for all Schedule II, III, IV, and V controlled substances except when the Schedule V controlled substance is dispensed by a pharmacist without a prescription. The bill also authorizes the board to impose a surcharge on Controlled Substances Act registrations to be used for the expenses of administering the PMP.

The bill adds to the goals of the program the reduction of overdoses and deaths as a result of prescription controlled substance use and abuse. The bill also changes the due date for annual reports to the Governor and the Legislature from January 1 to

January 15 to provide sufficient time to compile prior calendar year data and statistics to be included in the annual report.