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SENATE BILL NO. 226

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health on January 25, 2018)

(Patron Prior to Substitute—Senator Stanley)

A BILL to amend and reenact §§ 54.1-2519, 54.1-2521, 54.1-2522, and 54.1-2522.1, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to the Prescription Monitoring Program; veterinarians.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2519, 54.1-2521, 54.1-2522, and 54.1-2522.1, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2519. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or, under the practitioner's direction, his authorized agent or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Bureau" means the Virginia Department of State Police, Bureau of Criminal Investigation, Drug Diversion Unit.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of this title.

"Covered substance" means all controlled substances included in Schedules II, III, and IV and all drugs of concern that are required to be reported to the Prescription Monitoring Program, pursuant to this chapter.

"Department" means the Virginia Department of Health Professions.

"Director" means the Director of the Virginia Department of Health Professions.

"Dispense" means to deliver a controlled substance to an ultimate user ~~or~~, research subject, *or owner of an animal patient* by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a person or entity that (i) is authorized by law to dispense a covered substance or to maintain a stock of covered substances for the purpose of dispensing, and (ii) dispenses the covered substance to a citizen of the Commonwealth regardless of the location of the dispenser, or who dispenses such covered substance from a location in Virginia regardless of the location of the recipient.

"Drug of concern" means any drug or substance, including any controlled substance or other drug or substance, where there has been or there is the potential for abuse and that has been identified by the Board of Pharmacy pursuant to § 54.1-3456.1.

"Prescriber" means a practitioner licensed in the Commonwealth who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance or a practitioner licensed in another state to so issue a prescription for a covered substance.

"Recipient" means a person who receives a covered substance from a dispenser *and includes the owner of an animal patient*.

"Relevant health regulatory board" means any such board that licenses persons or entities with the authority to prescribe or dispense covered substances, including~~, but not limited to,~~ the Board of Dentistry, the Board of Medicine, *the Board of Veterinary Medicine,* and the Board of Pharmacy.

§ 54.1-2521. Reporting requirements.

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.
2. The recipient's date of birth.
3. The covered substance that was dispensed to the recipient.
4. The quantity of the covered substance that was dispensed.
5. The date of the dispensing.
6. The prescriber's identifier number.
7. The dispenser's identifier number.
8. The method of payment for the prescription.
9. Any other non-clinical information that is designated by the Director as necessary for the

implementation of this chapter in accordance with the Department's regulations.

10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. *Except as provided in subdivision 7 of § 54.1-2522, in cases where the ultimate user of a covered substance is an animal, the dispenser shall report the relevant information required by subsection B for the owner of the animal.*

D. The reports required herein shall be made to the Department or its agent within 24 hours or the dispenser's next business day, whichever comes later, and shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

§ 54.1-2522. Reporting exemptions.

The dispensing of covered substances under the following circumstances shall be exempt from the reporting requirements set forth in § 54.1-2521:

1. Dispensing of manufacturers' samples of such covered substances or of covered substances dispensed pursuant to an indigent patient program offered by a pharmaceutical manufacturer.

2. Dispensing of covered substances by a practitioner of the healing arts to his patient in a bona fide medical emergency or when pharmaceutical services are not available.

3. Administering of covered substances.

4. Dispensing of covered substances within an appropriately licensed narcotic maintenance treatment program.

5. Dispensing of covered substances to inpatients in hospitals or nursing facilities licensed by the Board of Health or facilities that are otherwise authorized by law to operate as hospitals or nursing homes in the Commonwealth.

6. Dispensing of covered substances to inpatients in hospices licensed by the Board of Health.

7. Dispensing of covered substances by veterinarians to animals within the usual course of their professional practice *for a course of treatment to last seven days or less*.

8. Dispensing of covered substances as otherwise provided in the Department's regulations.

§ 54.1-2522.1. (Effective until July 1, 2022) Requirements of prescribers.

A. Any prescriber who is licensed in the Commonwealth to treat ~~human~~ patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a ~~human~~ patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than seven consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient *and, if the patient is an animal, the owner of the animal*. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the *human* patient, request information from the Director for the purpose of determining what, if any, other covered substances the *human* patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;

2. The opioid is prescribed to a patient as part of treatment for a surgical or invasive procedure and such prescription is for no more than 14 consecutive days;

3. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;

4. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

5. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; ~~or~~

6. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record*; or*

7. The opioid is prescribed to an animal patient as part of a course of treatment lasting seven days or less.

§ 54.1-2522.1. (Effective July 1, 2022) Requirements of prescribers.

A. Any prescriber who is licensed in the Commonwealth to treat ~~human~~ patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating a new course of treatment to a ~~human~~ patient that includes the prescribing of benzodiazepine or an opiate

anticipated at the onset of treatment to last more than 90 consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient *and, if the patient is an animal, the owner of the animal*. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. The Secretary of Health and Human Resources may identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by ~~human~~ patients. Prescribers who prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the course of treatment arises from pain management relating to dialysis or cancer treatments.