

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 317*

Short Title: Strengthen Controlled Substances Monitoring. (Public)

Sponsors: Senators Hise, Clark, Tarte (Primary Sponsors); J. Davis and Rabin.

Referred to: Rules and Operations of the Senate.

March 18, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE MONITORING OF CONTROLLED SUBSTANCES.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Statewide Opioid Prescribing Guidelines.

5 By July 1, 2016, the following State health officials and health care provider
6 licensing boards shall adopt the North Carolina Medical Board's Policy for the Use of Opiates
7 for the Treatment of Pain:

- 8 (1) The Director of the Division of Public Health of the Department of Health
9 and Human Services (DHHS).
- 10 (2) The Director of the Division of Medical Assistance, DHHS.
- 11 (3) The Director of the Division of Mental Health, Developmental Disabilities,
12 and Substance Abuse Services, DHHS.
- 13 (4) The directors of medical, dental, and mental health services within the
14 Department of Public Safety.
- 15 (5) North Carolina State Board of Dental Examiners.
- 16 (6) North Carolina Board of Nursing.
- 17 (7) North Carolina Board of Podiatry Examiners.

18 **SECTION 2.** Continuing Education Requirements.

19 (a) The following health care provider occupational licensing boards shall
20 require continuing education on the abuse of controlled substances as a condition of license
21 renewal for health care providers who prescribe controlled substances:

- 22 (1) North Carolina Board of Dental Examiners.
- 23 (2) North Carolina Board of Nursing.
- 24 (3) North Carolina Board of Podiatry Examiners.
- 25 (4) North Carolina Medical Board.

26 (b) In establishing the continuing education standards, the boards listed in
27 subsection (a) of this section shall require that at least one hour of the total required continuing
28 education hours consists of a course designed specifically to address prescribing practices. The
29 course shall include, but not be limited to, instruction on controlled substance prescribing
30 practices and controlled substance prescribing for chronic pain management.

31 **SECTION 3.** Improve Controlled Substances Reporting System Access and
32 Utilization.

- 33 (a) G.S. 90-113.74 reads as rewritten:

34 **"§ 90-113.74. Confidentiality.**

35 (a) Prescription information submitted to the Department is privileged and confidential,
36 is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any



1 other use in civil proceedings, and except as otherwise provided below may only be used (i) for
2 investigative or evidentiary purposes related to violations of State or federal ~~law and law~~, (ii)
3 ~~for regulatory activities-activities~~, or (iii) to inform medical records or clinical care. Except as
4 otherwise provided by this section, prescription information shall not be disclosed or
5 disseminated to any person or entity by any person or entity authorized to review prescription
6 information.

7 ...
8 (c) The Department shall release data in the controlled substances reporting system to
9 the following persons only:

- 10 ...
11 (8) Any county medical examiner appointed by the Chief Medical Examiner
12 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose
13 of investigating the death of an individual.
14 (9) The federal Drug Enforcement Administration's Office of Diversion Control.
15 (10) The North Carolina Health Information Exchange (NC HIE), established
16 under Article 29A of this Chapter, through Web-service calls.

17"
18 (b) The Department of Health and Human Services shall adopt appropriate
19 policies and procedures documenting and supporting the additional functionality and expanded
20 access added by subsection (a) of this section for the Controlled Substances Reporting System
21 (CSRS) for the entities added to G.S. 90-113.74(c) by subsection (a) of this section and shall
22 amend its contract with the vendor that operates the CSRS to support the additional
23 functionality and expanded access to the CSRS.

24 **SECTION 4. Improve Controlled Substances Reporting System Contract.**

25 (a) The Department of Health and Human Services (DHHS) shall modify the
26 contract for the Controlled Substances Reporting System (CSRS) to improve performance,
27 establish user access controls, establish data security protocols, and ensure availability of data
28 for advanced analytics. Specifically, the contract shall be modified to include the following:

- 29 (1) A connection to the North Carolina Health Information Exchange (NC HIE).
30 (2) The establishment of interstate connectivity.
31 (3) Data security protocols that meet or exceed the Federal Information
32 Processing Standards (FIPS) established by the National Institute of
33 Standards and Technology (NIST).

34 (b) DHHS shall complete the contract modifications required by subsection (a)
35 of this section by December 31, 2015. DHHS shall report by November 15, 2015, to the Joint
36 Legislative Program Evaluation Oversight Committee and the Joint Legislative Oversight
37 Committee on Health and Human Services regarding the progress to modify the contract.

38 (c) DHHS shall apply for grant funding from the National Association of
39 Boards of Pharmacy to establish the connection to PMP InterConnect. The Department shall
40 request forty thousand thirty-five dollars (\$40,035) to establish the initial interface for PMP
41 InterConnect and thirty thousand dollars (\$30,000) for two years of ongoing service,
42 maintenance, and support for PMP InterConnect in order to create interstate connectivity for
43 the drug monitoring program as required by subdivision (2) of subsection (a) of this section.

44 (d) In order to support certain requirements of subsection (a) of this section, the
45 following appropriations are made from the General Fund to DHHS:

- 46 (1) Five thousand one hundred dollars (\$5,100) for fiscal year 2015-2016 for the
47 purpose of connecting the CSRS and the NC HIE, as required by subdivision
48 (1) of subsection (a) of this section.
49 (2) The sum of fifteen thousand dollars (\$15,000) for fiscal year 2015-2016,
50 recurring, for the cost of maintaining a connection between the CSRS and
51 the NC HIE, as required by subdivision (1) of subsection (a) of this section.

1 (3) The sum of forty thousand thirty-five dollars (\$40,035) for fiscal year
2 2015-2016 to establish the initial interface for PMP InterConnect, as
3 required by subdivision (2) of subsection (a) of this section. This amount
4 shall be adjusted or eliminated if DHHS is successful in obtaining grant
5 awards or identifying other allowable receipts for this purpose. If receipts are
6 used for this purpose, this nonrecurring appropriation shall revert to the
7 General Fund.

8 (4) The sum of fifteen thousand dollars (\$15,000) for fiscal year 2015-2016,
9 nonrecurring, for the cost of annual service fees for the interstate connection
10 for the drug monitoring program, as required by subdivision (2) of
11 subsection (a) of this section. This amount shall be adjusted or eliminated if
12 DHHS is successful in obtaining grant awards or identifying other allowable
13 receipts for this purpose. If receipts are used for this purpose, this
14 nonrecurring appropriation shall revert to the General Fund.

15 **SECTION 5. Expand Monitoring Capacity.**

16 (a) The North Carolina Controlled Substances Reporting System shall expand
17 its monitoring capacity by establishing data use agreements with the Prescription Behavior
18 Surveillance System. In order to participate, the CSRS shall establish a data use agreement with
19 the Center of Excellence at Brandeis University no later than January 1, 2016.

20 (b) Beginning September 1, 2016, and every two years thereafter, the Division
21 of Mental Health, Developmental Disabilities, and Substance Abuse Services of the
22 Department of Health and Human Services shall report on its participation with the Prescription
23 Behavior Surveillance System to the Joint Legislative Oversight Committee on Health and
24 Human Services and the Joint Legislative Oversight Committee on Justice and Public Safety.

25 **SECTION 6. Medicaid Lock-In Program.**

26 The Division of Medical Assistance of the Department of Health and Human
27 Services (DMA) shall take the following steps to improve the effectiveness and efficiency of
28 the Medicaid lock-in program:

29 (1) Establish written procedures for the operation of the lock-in program,
30 including specifying the responsibilities of DMA and the program
31 contractor.

32 (2) Establish procedures for the sharing of bulk data with the Controlled
33 Substances Regulatory Branch.

34 (3) In consultation with the Physicians Advisory Group, extend lock-in duration
35 to two years and revise program eligibility criteria to align the program with
36 the statewide strategic goals for preventing prescription drug abuse. DMA
37 shall report an estimate of the cost-savings from the revisions to the
38 eligibility criteria to the Joint Legislative Program Evaluation Oversight
39 Committee and the Joint Legislative Oversight Committee on Health and
40 Human Services within one year of the lock-in program again becoming
41 operational.

42 (4) Develop a Web site and communication materials to inform lock-in
43 enrollees, prescribers, pharmacists, and emergency room health care
44 providers about the program.

45 (5) Increase program capacity to ensure that all individuals who meet program
46 criteria are locked in.

47 (6) Conduct an audit of the lock-in program within six months after the effective
48 date of this act in order to evaluate the effectiveness of program restrictions
49 in preventing overutilization of controlled substances, identify any program
50 vulnerabilities, and address whether there is evidence of any fraud or abuse
51 within the program.

1 DMA shall report to the Joint Legislative Program Evaluation Oversight Committee by
2 September 30, 2015, on its progress toward implementing all items included in this section.

3 **SECTION 7. Statewide Strategic Plan.**

4 (a) There is hereby created the Prescription Drug Abuse Advisory Committee,
5 to be housed in and staffed by the Department of Health and Human Services (DHHS). The
6 Committee shall develop and, through its members, implement a statewide strategic plan to
7 combat the problem of prescription drug abuse. The Committee shall include representatives
8 from the following, as well as any other persons designated by the Secretary of Health and
9 Human Services:

- 10 (1) The Division of Medical Assistance, DHHS.
- 11 (2) The Division of Mental Health, Developmental Disabilities, and Substance
12 Abuse Services, DHHS.
- 13 (3) The Division of Public Health, DHHS.
- 14 (4) The Office of Rural Health and Community Care, DHHS.
- 15 (5) The State Bureau of Investigation.
- 16 (6) The Attorney General's Office.
- 17 (7) The following health care regulatory boards with oversight of prescribers
18 and dispensers of prescription drugs:
 - 19 a. North Carolina Board of Dental Examiners.
 - 20 b. North Carolina Board of Nursing.
 - 21 c. North Carolina Board of Podiatry Examiners.
 - 22 d. North Carolina Medical Board.
 - 23 e. North Carolina Board of Pharmacy.
- 24 (8) The UNC Injury Prevention Research Center.
- 25 (9) The substance abuse treatment community.
- 26 (10) Community Care of North Carolina's (CCNC's) Project Lazarus.
- 27 (11) Governor's Institute on Substance Abuse, Inc.
- 28 (12) The Department of Insurance's drug take-back program.

29 After developing the strategic plan, the Committee shall be the State's steering committee to
30 monitor achievement of strategic objectives and receive regular reports on progress made
31 toward reducing prescription drug abuse in North Carolina.

32 (b) In developing the statewide strategic plan to combat the problem of
33 prescription drug abuse, the Prescription Drug Abuse Advisory Committee shall, at a
34 minimum, complete the following steps:

- 35 (1) Identify a mission and vision for North Carolina's system to reduce and
36 prevent prescription drug abuse.
- 37 (2) Scan the internal and external environment for the system's strengths,
38 weaknesses, opportunities, and challenges (a SWOC analysis).
- 39 (3) Compare threats and opportunities to the system's ability to meet challenges
40 and seize opportunities (a GAP analysis).
- 41 (4) Identify strategic issues based on SWOC and GAP analyses.
- 42 (5) Formulate strategies and resources for addressing these issues.

43 (c) The strategic plan for reducing prescription drug abuse shall include three to
44 five strategic goals that are outcome-oriented and measureable. Each goal must be connected
45 with objectives supported by the following five mechanisms of the system:

- 46 (1) Oversight and regulation of prescribers and dispensers by State health care
47 regulatory boards.
- 48 (2) Operation of the Controlled Substances Reporting System.
- 49 (3) Operation of the Medicaid lock-in program to review behavior of patients
50 with high use of prescribed controlled substances.

- 1 (4) Enforcement of State laws for the misuse and diversion of controlled
2 substances.
- 3 (5) Any other appropriate mechanism identified by the Committee.
- 4 (d) DHHS, in consultation with the Prescription Drug Abuse Advisory
5 Committee, shall develop and implement a formalized performance management system that
6 connects the goals and objectives identified in the statewide strategic plan to operations of the
7 Controlled Substances Reporting System and Medicaid lock-in program, law enforcement
8 activities, and oversight of prescribers and dispensers. The performance management system
9 must be designed to monitor progress toward achieving goals and objectives and must
10 recommend actions to be taken when performance falls short.
- 11 (e) Beginning on December 1, 2016, and annually thereafter, DHHS shall
12 submit an annual report on the performance of North Carolina's system for monitoring
13 prescription drug abuse to the Joint Legislative Oversight Committee on Health and Human
14 Services and the Joint Legislative Oversight Committee on Justice and Public Safety.
- 15 **SECTION 8.** This act is effective when it becomes law.