

By: Representative Holland

To: Drug Policy

HOUSE BILL NO. 131

1 AN ACT TO AMEND SECTION 73-21-127, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE DISPENSERS AND PRESCRIBERS OF PRESCRIPTION DRUGS TO
3 CHECK THE PRESCRIPTION MONITORING PROGRAM DATABASE BEFORE
4 DISPENSING OR PRESCRIBING CONTROLLED SUBSTANCES AND SPECIFIED
5 NONCONTROLLED SUBSTANCE DRUGS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 73-21-127, Mississippi Code of 1972, is
8 amended as follows:

9 73-21-127. The Board of Pharmacy shall develop and implement
10 a computerized program to track prescriptions for controlled
11 substances and to report suspected abuse and misuse of controlled
12 substances in compliance with the federal regulations promulgated
13 under authority of the National All Schedules Prescription
14 Electronic Reporting Act of 2005 and in compliance with the
15 federal HIPAA law, under the following conditions:

16 (a) Submission or reporting of dispensing information
17 shall be mandatory and required by the State Board of Pharmacy for
18 any entity dispensing controlled substances in or into the State



19 of Mississippi, except for the dispensing of controlled substance
20 drugs by a veterinarian residing in the State of Mississippi.

21 (b) The prescriptions tracked shall be prescriptions
22 for controlled substances listed in Schedule II, III, IV or V and
23 specified noncontrolled substances identified by the State Board
24 of Pharmacy that are dispensed to residents in the State of
25 Mississippi by licensed pharmacies, nonresident pharmacies,
26 institutions and dispensing practitioners, regardless of dispenser
27 location.

28 (c) The Board of Pharmacy shall report any activity it
29 reasonably suspects may be fraudulent or illegal to the
30 appropriate law enforcement agency or occupational licensing board
31 and provide them with the relevant information obtained for
32 further investigation.

33 (d) The program shall provide information regarding the
34 potential inappropriate use of controlled substances and the
35 specified noncontrolled substances to practitioners,
36 pharmacists-in-charge and appropriate state agencies in order to
37 prevent the inappropriate or illegal use of these controlled
38 substances. The specific purposes of the program shall be to: be
39 proactive in safeguarding public health and safety; support the
40 legitimate use of controlled substances; facilitate and encourage
41 the identification, intervention with and treatment of individuals
42 addicted to controlled substances and specified noncontrolled
43 drugs; identify and prevent drug diversion; provide assistance to



44 those state and federal law enforcement and regulatory agencies
45 investigating cases of drug diversion or other misuse; and inform
46 the public and health care professionals of the use and abuse
47 trends related to controlled substance and specified noncontrolled
48 drugs.

49 (e) (i) Access to collected data shall be confidential
50 and not subject to the provisions of the federal Freedom of
51 Information Act or the Mississippi Public Records Act. Upon
52 request, the State Board of Pharmacy shall provide collected
53 information to: pharmacists or practitioners who are properly
54 registered with the State Board of Pharmacy and are authorized to
55 prescribe or dispense controlled substances for the purpose of
56 providing medical and pharmaceutical care for their patients;
57 local, state and federal law enforcement officials engaged in the
58 administration, investigation or enforcement of the laws governing
59 illicit drug use; regulatory and licensing boards in this state;
60 Division of Medicaid regarding Medicaid and Medicare Program
61 recipients; judicial authorities under grand jury subpoena; an
62 individual who requests the individual's own prescription
63 monitoring information; and prescription monitoring programs in
64 other states through mutual agreement adhering to State Board of
65 Pharmacy policies.

66 (ii) The Director of the Mississippi Bureau of
67 Narcotics, or his designee, shall have access to the Prescription
68 Monitoring Program (PMP) database for the purpose of investigating



69 the potential illegal acquisition, distribution, dispensing,
70 prescribing or administering of the controlled and noncontrolled
71 substances monitored by the program, subject to all legal
72 restrictions on further dissemination of the information obtained.

73 (iii) The State Board of Pharmacy may also provide
74 statistical data for research or educational purposes if the board
75 determines the use of the data to be of significant benefit to
76 public health and safety. The board maintains the right to refuse
77 any request for PMP data.

78 (iv) A pharmacist licensed by the Mississippi
79 Board of Pharmacy must be a registered user of the PMP. Failure
80 of a pharmacist licensed by the Mississippi Board of Pharmacy to
81 register as a user of the PMP is grounds for disciplinary action
82 by the board.

83 (v) All licensed practitioners as defined under
84 Section 73-21-73(cc) holding an active DEA number shall register
85 as users of the PMP.

86 (f) The Prescription Monitoring Program through the
87 Board of Pharmacy may:

88 (i) Establish the cost of administration,
89 maintenance, and operation of the program and charge to like
90 agencies a fee based on a formula to be determined by the board
91 with collaboration and input from participating agencies; and

92 (ii) Assess charges for information and/or
93 statistical data provided to agencies, institutions and



94 individuals. The amounts of those fees shall be set by the
95 Executive Director of the Board of Pharmacy based on the
96 recommendation of the Director of the PMP.

97 All such fees collected shall be deposited into the special
98 fund of the State Board of Pharmacy and used to support the
99 operations of the PMP.

100 (g) A dispenser pharmacist or practitioner licensed to
101 dispense or prescribe controlled substances and the specified
102 noncontrolled substance drugs shall obtain drug-monitoring
103 information from the PMP before dispensing or prescribing
104 controlled substances or the specified noncontrolled substance
105 drugs.

106 (* * *h) (i) A dispenser pharmacist or practitioner
107 licensed to dispense controlled substances and the specified
108 noncontrolled substance drugs who knowingly fails to submit drug
109 monitoring information or knowingly submits incorrect dispensing
110 information shall be subject to actions against the pharmacist's
111 or practitioner's license, registrations or permit and/or an
112 administrative penalty as provided in Sections 73-21-97 and
113 73-21-103. Any misuse of the PMP is subject to penalties as
114 provided in Sections 73-21-97 and 73-21-103.

115 (ii) A dispenser pharmacist or practitioner
116 licensed to dispense or prescribe controlled substances and the
117 specified noncontrolled substance drugs who knowingly fails to
118 obtain drug-monitoring information from the PMP before dispensing



119 or prescribing controlled substances or the specified
120 noncontrolled substance drugs shall be subject to actions against
121 the pharmacist's or practitioner's license, registrations or
122 permit, an administrative penalty as provided in Sections 73-21-97
123 and 73-21-103, or both.

124 (* * *i) The Board of Pharmacy and the Prescription
125 Monitoring Program shall be immune from civil liability arising
126 from inaccuracy of any of the information submitted to the
127 program.

128 (* * *j) "Practitioner," as used in this section,
129 shall include any person licensed, registered or otherwise
130 permitted to distribute, dispense, prescribe or administer a
131 controlled substance, as defined under Section 41-29-105(y), and
132 any person defined as a "practitioner" under Section 73-21-73(cc).

133 (* * *k) In addition to any funds appropriated by the
134 Legislature, the State Board of Pharmacy may apply for any
135 available grants and accept any gifts, grants or donations to
136 assist in future development or in maintaining the program.

137 **SECTION 2.** This act shall take effect and be in force from
138 and after July 1, 2018.

