
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 785 Session of
2007

INTRODUCED BY STACK, RAFFERTY, STOUT, TARTAGLIONE, FONTANA,
WASHINGTON, LOGAN, C. WILLIAMS, COSTA, VANCE, KASUNIC AND
BROWNE, APRIL 27, 2007

REFERRED TO PUBLIC HEALTH AND WELFARE, APRIL 27, 2007

AN ACT

1 Providing for the electronic monitoring of controlled substances
2 dispensed by a pharmacist and for the powers and duties of
3 the Office of Attorney General; and prescribing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Controlled
8 Substance Electronic Monitoring Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Controlled substance." Any Schedule II or III controlled
14 substance as defined under 28 Pa. Code § 25.72 (relating to
15 schedules of controlled substances).

16 "Medical practitioner." A medical practitioner as defined
17 under the act of September 27, 1961 (P.L.1700, No.699), known as
18 the Pharmacy Act.

1 "Office." The Office of Attorney General.

2 "Pharmacist." A pharmacist as defined under the act of
3 September 27, 1961 (P.L.1700, No.699), known as the Pharmacy
4 Act.

5 Section 3. Electronic system for monitoring controlled
6 substances.

7 The office shall establish an electronic system for
8 monitoring controlled substances that are dispensed within this
9 Commonwealth by a pharmacist or dispensed to an address within
10 this Commonwealth by a pharmacy licensed by the State Board of
11 Pharmacy. The office shall limit access to the data to a limited
12 number of persons deemed by the office to be essential
13 personnel.

14 Section 4. Tax.

15 A pharmacist shall not have to pay a fee or tax specifically
16 dedicated to the operation of the system established in section
17 3.

18 Section 5. Report.

19 (a) Reporting.--Every pharmacist within this Commonwealth
20 shall report to the office the data required by this section in
21 a timely manner as prescribed by the office, except that
22 reporting shall not be required for:

23 (1) A drug administered directly to a patient.

24 (2) A drug dispensed by a medical practitioner at a
25 facility licensed by the Department of Health if the quantity
26 dispensed is limited to an amount adequate to treat the
27 patient for a maximum of 72 hours.

28 (b) Data.--Data for each controlled substance that is
29 dispensed shall include, but not be limited to, the following:

30 (1) Patient identifier.

- 1 (2) Date prescribed.
- 2 (3) Drug dispensed.
- 3 (4) Date of dispensing.
- 4 (5) Quantity dispensed.
- 5 (6) Prescriber.
- 6 (7) Dispenser.

7 (c) Format.--The data shall be provided in the electronic
8 format specified by the office unless a waiver has been granted
9 by the office to a pharmacist.

10 Section 6. Provisions of data.

11 The office shall be authorized to provide data to:

12 (1) A designated representative of a board responsible
13 for the licensure, regulation or discipline of practitioners,
14 pharmacists or other person who is authorized to prescribe,
15 administer or dispense controlled substances and who is
16 involved in a bona fide specific investigation involving a
17 designated person.

18 (2) A Federal, State or municipal officer whose duty is
19 to enforce the laws of this Commonwealth or the United States
20 relating to drugs and who is engaged in a bona fide specific
21 investigation involving a designated person.

22 (3) A State-operated Medicaid program.

23 (4) A properly convened grand jury pursuant to a
24 subpoena properly issued for the records.

25 (5) A medical practitioner or pharmacist who requests
26 information and certifies that the requested information is
27 for the purpose of providing medical or pharmaceutical
28 treatment to a bona fide current patient.

29 A person who receives data or any report of the system
30 established in section 3 from the office shall not provide it to

1 any other person or entity except by order of a court of
2 competent jurisdiction.

3 Section 7. Use of data.

4 The office, law enforcement officers, officers of the court
5 and regulatory agencies and officers shall consider the nature
6 of the prescriber's and dispenser's practice and the condition
7 for which the patient is being treated in using the data for
8 investigative or prosecutorial purposes.

9 Section 8. Public record.

10 The data and any report obtained under this act shall not be
11 considered a public record under the act of June 21, 1957
12 (P.L.390, No.212), referred to as the Right-to-Know Law, and
13 shall not be subject to public disclosure.

14 Section 9. Penalties.

15 (a) Failure to transmit.--Any person who intentionally fails
16 to transmit data to the office as required under section 5
17 commits a misdemeanor of the third degree.

18 (b) Disclosure.--Any person who intentionally discloses
19 transmitted data to a person not authorized to receive it under
20 section 6 or obtains information under this act while not
21 conducting a bona fide specific investigation commits a felony
22 of the third degree.

23 (c) Obtaining information.--Any person who attempts to
24 obtain or obtains information from the system established in
25 section 3 through fraudulent means commits a felony of the third
26 degree.

27 Section 14. Effective date.

28 This act shall take effect in 60 days.