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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 362      Session of  
2003

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INTRODUCED BY STACK, KITCHEN, KASUNIC, LOGAN, BOSCOLA, RAFFERTY,  
COSTA, ORIE AND TARTAGLIONE, MARCH 3, 2003

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REFERRED TO PUBLIC HEALTH AND WELFARE, MARCH 3, 2003

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AN ACT

1 Providing for the electronic monitoring of controlled substances  
2 dispensed by a pharmacist and for penalties.

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

5 Section 1. Short title.

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

8 Section 2. Definitions.

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

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

15 "Department." The Department of Health of the Commonwealth.

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

1 the Pharmacy Act.

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 department 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 department shall limit access to the data to a  
12 limited number of persons deemed by the department to be  
13 essential 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 department the data required by this section  
21 in a timely manner as prescribed by the department, 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 if the quantity dispensed  
26 is limited to an amount adequate to treat the patient for a  
27 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 department unless a waiver has been  
9 granted by the department to a pharmacist.

#### 10 Section 6. Provisions of data.

11 The department 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 department shall not provide

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

3 Section 7. Use of data.

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