

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 628  
House Committee Substitute Favorable 7/7/09

Short Title: Release Contr. Subst. Rep. Data To CME. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE REPORTING FORMAT FOR DATA ON CONTROLLED SUBSTANCES TRANSMITTED BY DISPENSERS TO THE DEPARTMENT, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO RELEASE CONFIDENTIAL DATA IN THE CONTROLLED SUBSTANCES REPORTING SYSTEM TO THE CHIEF MEDICAL EXAMINER AND COUNTY MEDICAL EXAMINERS FOR THE PURPOSE OF INVESTIGATING DEATHS, AND TO MAKE CHANGES PERTAINING TO CONFIDENTIALITY OF PRESCRIPTION INFORMATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-113.73(a) reads as rewritten:

"(a) The Department shall establish and maintain a reporting system of prescriptions for all Schedule II through V controlled substances. Each dispenser shall submit the information in accordance with transmission methods and frequency established by rule by the Commission. The Department may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. The waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required of electronically submitted data is submitted. The dispenser shall report the information required under this section on a monthly basis for the first 12 months of the Controlled Substances Reporting System's operation, and twice monthly ~~thereafter~~ thereafter, until January 2, 2010, at which time dispensers shall report no later than seven days after the prescription is dispensed. On or after January 2, 2010, the data shall be transmitted in ASAP Telecommunication Format for Controlled Substances, published by the American Society for Automation in Pharmacy, and shall be updated to the version that is in use in the majority of the states operating a controlled substances reporting system."

**SECTION 2.** G.S. 90-113.74 reads as rewritten:

**"§ 90-113.74. Confidentiality.**

(a) Prescription information submitted to the Department is privileged and confidential, is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any other use in civil proceedings, and except as otherwise provided below may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. Except as otherwise provided by this section, prescription information shall not be disclosed or disseminated to any person or entity by any person or entity authorized to review prescription information.

(b) The Department may use prescription information data in the controlled substances reporting system only for purposes of implementing this Article in accordance with its provisions.



1 (c) The Department shall release data in the controlled substances reporting system to  
2 the following persons only:

- 3 (1) Persons authorized to prescribe or dispense controlled substances for the  
4 purpose of providing medical or pharmaceutical care for their patients.
- 5 (2) An individual who requests the individual's own controlled substances  
6 reporting system information.
- 7 (3) Special agents of the North Carolina State Bureau of Investigation who are  
8 assigned to the Diversion & Environmental Crimes Unit and whose primary  
9 duties involve the investigation of diversion and illegal use of prescription  
10 medication and who are engaged in a bona fide specific investigation related  
11 to enforcement of laws governing licit drugs. The SBI shall notify the Office  
12 of the Attorney General of North Carolina of each request for inspection of  
13 records maintained by the Department.
- 14 (4) Primary monitoring authorities for other states pursuant to a specific ongoing  
15 investigation involving a designated person, if information concerns the  
16 dispensing of a Schedule II through V controlled substance to an ultimate  
17 user who resides in the other state or the dispensing of a Schedule II through  
18 V controlled substance prescribed by a licensed health care practitioner  
19 whose principal place of business is located in the other state.
- 20 (5) To a court pursuant to a lawful court order in a criminal action.
- 21 (6) The Division of Medical Assistance for purposes of administering the State  
22 Medical Assistance Plan.
- 23 (7) Licensing boards with jurisdiction over health care disciplines pursuant to an  
24 ongoing investigation by the licensing board of a specific individual licensed  
25 by the board.
- 26 (8) Any county medical examiner appointed by the Chief Medical Examiner  
27 pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose  
28 of investigating the death of an individual.

29 (d) The Department may provide data to public or private entities for statistical,  
30 research, or educational purposes only after removing information that could be used to identify  
31 individual patients who received prescription medications from dispensers.

32 (e) In the event that the Department finds patterns of prescribing medications that are  
33 unusual, the Department shall inform the Attorney General's Office of its findings. The Office  
34 of the Attorney General shall review the Department's findings to determine if the findings  
35 should be reported to the SBI for investigation of possible violations of State or federal law  
36 relating to controlled substances.

37 (f) The Department shall purge from the controlled substances reporting system  
38 database all information more than six years old.

39 (g) Nothing in this Article shall prohibit a person authorized to prescribe or dispense  
40 controlled substances pursuant to Article 1 of Chapter 90 of the General Statutes from  
41 disclosing or disseminating data regarding a particular patient obtained under subsection (c) of  
42 this section to another person (i) authorized to prescribe or dispense controlled substances  
43 pursuant to Article 1 of Chapter 90 of the General Statutes and (ii) authorized to receive the  
44 same data from the Department under subsection (c) of this section.

45 (h) Nothing in this Article shall prevent persons licensed or approved to practice  
46 medicine or perform medical acts, tasks, and functions pursuant to Article 1 of Chapter 90 of  
47 the General Statutes from retaining data received pursuant to subsection (c) of this section in a  
48 patient's confidential health care record."

49 **SECTION 3.** This act is effective when it becomes law.