

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1119  
Committee Substitute Favorable 5/12/09

Short Title: Controlled Substance Act Changes/Sheriff. (Public)

Sponsors:

Referred to:

April 7, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CONTROLLED SUBSTANCES REPORTING ACT TO  
3 AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO  
4 RELEASE DATA COLLECTED UNDER THE CONTROLLED SUBSTANCE  
5 REPORTING ACT TO A SHERIFF OR A DESIGNATED DEPUTY SHERIFF  
6 INVESTIGATING THE DIVERSION AND ILLEGAL USE OF CONTROLLED  
7 SUBSTANCES AND TO MAKE CHANGES PERTAINING TO CONFIDENTIALITY  
8 OF PRESCRIPTION INFORMATION.

9 The General Assembly of North Carolina enacts:

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

11 "§ 90-113.73. Requirements for controlled substances reporting system.

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

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

27 "§ 90-113.74. Confidentiality.

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

35 (b) The Department may use prescription information data in the controlled substances  
36 reporting system only for purposes of implementing this Article in accordance with its  
37 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) A sheriff or a designated deputy sheriff who is assigned to investigate the  
27 diversion and illegal use of prescription medication or pharmaceutical  
28 products identified in Article 5 of this Chapter of the General Statutes as  
29 Schedule II through V controlled substances and who is engaged in a bona  
30 fide specific investigation relating to the enforcement of laws governing licit  
31 drugs. The sheriff or designated deputy sheriff shall notify the Office of the  
32 Attorney General of North Carolina of each request for inspection of records  
33 maintained by the Department.

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

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

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

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

50 (h) Nothing in the Article shall prevent persons licensed or approved to practice  
51 medicine or perform medical acts, tasks, and functions pursuant to Article 1 of Chapter 90 of

1 the General Statutes from retaining data received pursuant to subsection (c) of this section in a  
2 patient's confidential health care record."

3 **SECTION 3.** This act becomes effective December 1, 2009.