

AMENDMENTS TO LB223

Introduced by Health and Human Services.

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 71-2454, Revised Statutes Cumulative Supplement,  
4 2016, is amended to read:

5           71-2454 (1) An entity described in section 71-2455 shall establish a  
6 system of prescription drug monitoring for the purposes of (a) preventing  
7 the misuse of controlled substances that are prescribed and (b) allowing  
8 prescribers and dispensers to monitor the care and treatment of patients  
9 for whom such a prescription drug is prescribed to ensure that such  
10 prescription drugs are used for medically appropriate purposes and that  
11 the State of Nebraska remains on the cutting edge of medical information  
12 technology.

13           (2) Such system of prescription drug monitoring shall be implemented  
14 as follows: Except as provided in subsection (4) of this section,  
15 beginning January 1, 2017, all dispensed prescriptions of controlled  
16 substances shall be reported; and beginning January 1, 2018, all  
17 prescription information shall be reported to the prescription drug  
18 monitoring system. The prescription drug monitoring system shall include,  
19 but not be limited to, provisions that:

20           (a) Prohibit any patient from opting out of the prescription drug  
21 monitoring system;

22           (b) Require all prescriptions dispensed in this state or to an  
23 address in this state to be entered into the system by the dispenser or  
24 his or her designee daily after such prescription is dispensed, including  
25 those for patients paying cash for such prescription drug or otherwise  
26 not relying on a third-party payor for payment for the prescription drug;

27           (c) Allow all prescribers or dispensers of prescription drugs to

1 access the system at no cost to such prescriber or dispenser; ~~and~~

2 (d) Ensure that such system includes information relating to all  
3 payors, including, but not limited to, the medical assistance program  
4 established pursuant to the Medical Assistance Act; and -

5 (e) Make the prescription information available to the statewide  
6 health information exchange described in section 71-2455 for access by  
7 its participants if such access is in compliance with the privacy and  
8 security protections set forth in the provisions of the Health Insurance  
9 Portability and Accountability Act of 1996, Public Law 104-191, and  
10 regulations promulgated thereunder, except that if a patient opts out of  
11 the statewide health information exchange, the prescription information  
12 regarding that patient shall not be accessible by the participants in the  
13 statewide health information exchange.

14 Dispensers may begin on February 25, 2016, to report dispensing of  
15 prescriptions to the entity described in section 71-2455 which is  
16 responsible for establishing the system of prescription drug monitoring.

17 (3) Except as provided in subsection (4) of this section,  
18 prescription ~~Prescription~~ information that shall be submitted  
19 electronically to the prescription drug monitoring system shall be  
20 determined by the entity described in section 71-2455 and shall include,  
21 but not be limited to:

22 (a) The patient's name, address, and date of birth;

23 (b) The name and address of the pharmacy dispensing the  
24 prescription;

25 (c) The date the prescription is issued;

26 (d) The date the prescription is filled;

27 (e) The name of the drug dispensed or the National Drug Code number  
28 as published by the federal Food and Drug Administration of the drug  
29 dispensed;

30 (f) The strength of the drug prescribed;

31 (g) The quantity of the drug prescribed and the number of days'

1 supply; and

2 (h) The prescriber's name and National Provider Identifier number or  
3 Drug Enforcement Administration number when reporting a controlled  
4 substance.

5 (4) Beginning July ~~January~~ 1, 2018, a veterinarian licensed under  
6 the Veterinary Medicine and Surgery Practice Act shall be required to  
7 report a dispensed prescription of controlled substances listed on  
8 Schedule II, Schedule III, or Schedule IV pursuant to section 28-405.  
9 Each such veterinarian shall indicate that the prescription is an animal  
10 prescription and shall include the following information in such report:

11 (a) The first and last name and address, including city, state, and  
12 ZIP code, of the individual to whom the drug is dispensed in accordance  
13 with a valid veterinarian-client-patient relationship;

14 (b) Reporting status;

15 (c) The first and last name of the prescribing veterinarian and his  
16 or her federal Drug Enforcement Administration number;

17 (d) The name of the drug dispensed and the prescription number;

18 (e) The date the prescription is written and the date the  
19 prescription is filled;

20 (f) The number of refills authorized, if any; and

21 (g) The quantity of the drug dispensed and the number of days'  
22 supply.

23 ~~(5)(a)~~ (5) All prescription drug information submitted pursuant to  
24 this section, all data contained in the prescription drug monitoring  
25 system, and any report obtained from data contained in the prescription  
26 drug monitoring system are confidential, are privileged, are not public  
27 records, and may be withheld pursuant to section 84-712.05.

28 (b) No patient-identifying data as defined in section 81-664,  
29 including the data collected under subsection (3) of this section, shall  
30 be disclosed, made public, or released to any public or private person or  
31 entity except to the statewide health information exchange described in

1 section 71-2455 and its participants and to prescribers and dispensers as  
2 provided in subsection (2) of this section.

3 (c) All other data is for the confidential use of the department and  
4 the statewide health information exchange described in section 71-2455  
5 and its participants. The department may release such information as  
6 Class I, Class II, or Class IV data in accordance with section 81-667 to  
7 the private or public persons or entities that the department determines  
8 may view such records as provided in sections 81-663 to 81-675.

9 (6) Before accessing the prescription drug monitoring system, any  
10 user shall undergo training on the purpose of the system, access to and  
11 proper usage of the system, and the law relating to the system, including  
12 confidentiality and security of the prescription drug monitoring system.  
13 Such training shall be administered by the statewide health information  
14 exchange described in section 71-2455 which shall have access to the  
15 prescription drug monitoring system for training and administrative  
16 purposes. Users who have been trained prior to the effective date of this  
17 act are deemed to be in compliance with the training requirement of this  
18 subsection.

19 (7) ~~(6)~~ For purposes of this section:

20 (a) Designee means any licensed or registered health care  
21 professional credentialed under the Uniform Credentialing Act designated  
22 by a prescriber or dispenser to act as an agent of the prescriber or  
23 dispenser for purposes of submitting or accessing data in the  
24 prescription drug monitoring system and who is ~~directly~~ supervised by  
25 such prescriber or dispenser;

26 (b) Dispenser means a person authorized in the jurisdiction in which  
27 he or she is practicing to deliver a prescription to the ultimate user by  
28 or pursuant to the lawful order of a prescriber but does not include (i)  
29 the delivery of such prescription drug for immediate use for purposes of  
30 inpatient hospital care or emergency department care, (ii) the  
31 administration of a prescription drug by an authorized person upon the

1 lawful order of a prescriber, (iii) a wholesale distributor of a  
2 prescription drug monitored by the prescription drug monitoring system,  
3 or (iv) through December 31, 2017, a veterinarian licensed under the  
4 Veterinary Medicine and Surgery Practice Act when dispensing  
5 prescriptions for animals in the usual course of providing professional  
6 services;~~and~~

7 (c) Participant means an individual or entity that has entered into  
8 a participation agreement with the statewide health information exchange  
9 described in section 71-2455 which requires the individual or entity to  
10 comply with the privacy and security protections set forth in the  
11 provisions of the Health Insurance Portability and Accountability Act of  
12 1996, Public Law 104-191, and regulations promulgated thereunder; and

13 (d) {e} Prescriber means a health care professional authorized to  
14 prescribe in the profession which he or she practices.

15 Sec. 2. Original section 71-2454, Revised Statutes Cumulative  
16 Supplement, 2016, is repealed.

17 Sec. 3. Since an emergency exists, this act takes effect when  
18 passed and approved according to law.