

**South Carolina General Assembly**  
120th Session, 2013-2014

**A244, R273, S840**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Bryant

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Introduced in the Senate on January 14, 2014

Introduced in the House on February 27, 2014

Last Amended on February 25, 2014

Passed by the General Assembly on June 4, 2014

Governor's Action: June 6, 2014, Signed

Summary: Prescription Monitoring Program

**HISTORY OF LEGISLATIVE ACTIONS**

Date	Body	Action Description with journal page number
12/10/2013	Senate	Prefiled
12/10/2013	Senate	Referred to Committee on <b>Medical Affairs</b>
1/14/2014	Senate	Introduced and read first time ( <a href="#">Senate Journal-page 42</a> )
1/14/2014	Senate	Referred to Committee on <b>Medical Affairs</b> ( <a href="#">Senate Journal-page 42</a> )
2/18/2014	Senate	Committee report: Favorable with amendment <b>Medical Affairs</b> ( <a href="#">Senate Journal-page 5</a> )
2/19/2014		Scrivener's error corrected
2/20/2014	Senate	Committee Amendment Amended ( <a href="#">Senate Journal-page 26</a> )
2/25/2014	Senate	Committee Amendment Amended and Adopted ( <a href="#">Senate Journal-page 17</a> )
2/25/2014	Senate	Read second time ( <a href="#">Senate Journal-page 17</a> )
2/25/2014	Senate	Roll call Ayes-43 Nays-0 ( <a href="#">Senate Journal-page 17</a> )
2/25/2014		Scrivener's error corrected
2/26/2014		Scrivener's error corrected
2/26/2014	Senate	Read third time and sent to House ( <a href="#">Senate Journal-page 20</a> )
2/27/2014	House	Referred to Committee on <b>Judiciary</b> ( <a href="#">House Journal-page 5</a> )
5/14/2014	House	Committee report: Favorable <b>Judiciary</b> ( <a href="#">House Journal-page 4</a> )
5/20/2014	House	Debate adjourned until Tues., 5-27-14 ( <a href="#">House Journal-page 50</a> )
5/27/2014	House	Debate adjourned until Wed., 5-29-14 ( <a href="#">House Journal-page 8</a> )
5/29/2014	House	Debate adjourned until Tues., 6-3-14 ( <a href="#">House Journal-page 27</a> )
6/3/2014	House	Read second time ( <a href="#">House Journal-page 79</a> )
6/3/2014	House	Roll call Yeas-105 Nays-0 ( <a href="#">House Journal-page 79</a> )
6/4/2014	House	Concurred in Senate amendment and enrolled ( <a href="#">House Journal-page 12</a> )
6/5/2014		Ratified R 273
6/6/2014		Signed By Governor
6/13/2014		Effective date 06/06/14
6/16/2014		Act No. 244

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**VERSIONS OF THIS BILL**

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(A244, R273, S840)

**AN ACT TO AMEND SECTION 44-53-1630, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE PRESCRIPTION MONITORING PROGRAM DEFINITIONS, SO AS TO ADD A DEFINITION FOR “AUTHORIZED DELEGATE”; TO AMEND SECTION 44-53-1640, RELATING TO REQUIREMENTS FOR DISPENSERS TO SUBMIT CERTAIN INFORMATION TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO REQUIRE DAILY SUBMISSION; TO AMEND SECTION 44-53-1650, RELATING TO CONFIDENTIALITY AND AUTHORIZED RELEASE OF PRESCRIPTION INFORMATION, SO AS TO ALLOW THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO RELEASE DATA TO AN AUTHORIZED DELEGATE; TO AMEND SECTION 44-53-1680, RELATING TO PENALTIES FOR VIOLATING PROGRAM REQUIREMENTS, SO AS TO CREATE A CRIMINAL PENALTY FOR AN AUTHORIZED DELEGATE WHO VIOLATES PROGRAM REQUIREMENTS AND TO REQUIRE REPORTING OF PHYSICIANS AND PHARMACISTS TO THEIR LICENSING BOARDS FOR CERTAIN VIOLATIONS; AND TO AMEND SECTION 40-47-40, RELATING TO PHYSICIAN CONTINUING EDUCATION REQUIREMENTS, SO AS TO REQUIRE CONTINUING EDUCATION REGARDING PRESCRIPTION DISPENSING AND MONITORING.**

Be it enacted by the General Assembly of the State of South Carolina:

**Definition, added**

SECTION 1. Section 44-53-1630 of the 1976 Code, as added by Act 396 of 2006, is amended by adding:

“(5) ‘Authorized delegate’ means an individual who is approved as having access to the prescription monitoring program and who is directly supervised by an authorized practitioner or pharmacist.”

**Program’s dispenser information submission requirements**

SECTION 2. Section 44-53-1640(B)(2) of the 1976 Code, as added by Act 396 of 2006, is amended to read:

“(2) A dispenser shall submit daily to the department the information required pursuant to subsection (B)(1) in accordance with transmission methods and protocols provided in the latest edition of the ‘ASAP Telecommunications Format for Controlled Substances’, developed by the American Society for Automation in Pharmacy.”

### **Confidentiality of prescription information**

SECTION 3. Section 44-53-1650 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

“Section 44-53-1650. (A) Prescription information submitted to drug control is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (C) and (D).

(B) Drug control shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (C) and (D).

(C) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, drug control shall notify the appropriate law enforcement or professional licensure, certification, or regulatory agency or entity and shall provide prescription information required for an investigation.

(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist or authorized delegate who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual’s own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of

the laws governing licit drugs and who is involved in a bona fide specific drug related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this subsection.”

### **Violations and penalties for violating program requirements**

SECTION 4. Section 44-53-1680 of the 1976 Code, as added by Act 396 of 2006, is amended to read:

“Section 44-53-1680. (A) A dispenser or authorized delegate who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person or persons authorized to have prescription monitoring information pursuant to this article who knowingly discloses this information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person or persons authorized to have prescription monitoring information pursuant to this article who uses this information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A pharmacist or practitioner, licensed in Title 40, who knowingly discloses prescription monitoring information in a manner or for a purpose in violation of this article shall be reported to his respective board for disciplinary action.

(E) Nothing in this chapter requires a pharmacist or practitioner to obtain information about a patient from the prescription monitoring

program. A pharmacist or practitioner does not have a duty and must not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program.”

### **Physician prescription dispensing and monitoring continuing education requirements**

SECTION 5. Section 40-47-40(2)(a) of the 1976 Code is amended to read:

“(2) For renewal of an active permanent license biennially, documented evidence of at least one of following options during the renewal period is required:

(a) forty hours of Category I continuing medical education sponsored by the American Medical Association, American Osteopathic Association, or another organization approved by the board as having acceptable standards for courses it sponsors, at least thirty hours of which must be related directly to the licensee’s practice area, and at least two (2) hours of which may be related to approved procedures of prescribing and monitoring controlled substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, 44-53-250, and 44-53-270, and must be received from a statewide organization recognized by the Accreditation Council for Continuing Medical Education to recognize and accredit organizations in South Carolina offering continuing medical education or from a statewide organization approved to provide continuing medical education by its national organization which is accredited by the Accreditation Council for Continuing Medical Education. Each renewal form submitted pursuant to Section 40-47-41 must include a certificate of participation with the prescribing and monitoring education requirement issued by the organization from which the education was received;”

### **Time effective**

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 5<sup>th</sup> day of June, 2014.

Approved the 6<sup>th</sup> day of June, 2014.

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