

HB 2492

RECEIVED
1995 MAR 24 PM 7:00
OFFICE OF THE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Com. Sub. On
HOUSE BILL No. 2492

(By Delegate *Mr. Speaker Mr. Chambers,*
and Delegate Ashley)
[By Request of the Executive]

Passed March 11, 1995

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2492

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATE ASHLEY)
[By Request of the Executive]

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article nine, relating to controlled substances monitoring and centralized information repository; establishing the controlled substances monitoring act; reporting system requirements; implementing the act; establishing a central repository for information collected; requiring certain information be reported; providing for confidentiality of records; limiting access to records; reimbursing for certain costs associated with upgrading software; retaining records; limiting civil liability; requiring promulgation of rules; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter sixty-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article nine, to read as follows:

ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.

§60A-9-1. Short title.

1 This article shall be referred to as the controlled sub-
2 stances monitoring act.

§60A-9-2. Establishment of program; purpose.

1 There is hereby established a controlled substances
2 monitoring act the purpose of which is to require the re-
3 cordation and retention in a single repository of informa-
4 tion regarding the prescribing, dispensing and consump-
5 tion of certain controlled substances.

**§60A-9-3. Reporting system requirements; implementation;
central repository requirement.**

1 (a) On or before the first day of May, one thousand
2 nine hundred ninety-six, the board of pharmacy shall
3 implement a program wherein a central repository is es-
4 tablished and maintained which shall contain such infor-
5 mation as is required by the provisions of this article re-
6 garding Schedule II controlled substances prescriptions
7 written or filled in this state. In implementing this pro-
8 gram, the board of pharmacy shall consult with the divi-
9 sion of public safety, the licensing boards of practitioners
10 affected by this article and affected practitioners.

11 (b) The program authorized by subsection (a) of this
12 section shall be designed to minimize inconvenience to
13 patients, prescribing practitioners and pharmacists while
14 effectuating the collection and storage of the required
15 information. The board of pharmacy shall allow report-
16 ing of the required information by electronic data transfer
17 where feasible, and where such is infeasible, on reporting
18 forms promulgated by the board of pharmacy. The infor-
19 mation required to be submitted by the provisions of this
20 article shall be required to be filed no more frequently
21 than once in a two-month period.

22 (c) The program authorized by subsection (a) of this
23 section shall also provide for the reimbursement in whole
24 or in part of the costs reasonably and necessarily incurred

25 by pharmacists or pharmacies in modifying software in
26 conformance with the reporting requirements of this arti-
27 cle: *Provided*, That the total expenditures for reimburse-
28 ments shall not exceed twenty-five thousand dollars. The
29 board of pharmacy is hereby authorized to promulgate an
30 emergency legislative rule to effectuate the reimbursement
31 provisions of this section in accordance with the provisions
32 of chapter twenty-nine-a of this code. The board of phar-
33 macy shall provide for the electronic transmission of the
34 information required to be provided by this article by and
35 through the use of a toll-free telephone line.

§60A-9-4. Required information.

1 Whenever a medical services provider dispenses a
2 controlled substance listed in the provisions of section two
3 hundred six, article two of this chapter, or whenever a
4 prescription for such controlled substances is filled by (i)
5 a pharmacist or pharmacy in this state; (ii) a hospital, or
6 other health care facility, for out-patient use; or (iii) a
7 pharmacy or pharmacist, licensed by the board of phar-
8 macy, but situated outside this state for delivery to a per-
9 son residing in this state, the medical services provider,
10 health care facility, pharmacist or pharmacy shall, in a
11 manner prescribed by rules promulgated by the board of
12 pharmacy under this article, report the following informa-
13 tion, as applicable:

14 (1) The name, address, pharmacy prescription number
15 and DEA controlled substance registration number of the
16 dispensing pharmacy;

17 (2) The name and address of the person for whom the
18 prescription is written;

19 (3) The name, address and drug enforcement adminis-
20 tration controlled substances registration number of the
21 practitioner writing the prescription;

22 (4) The name and national drug code number of the
23 Schedule II controlled substance dispensed;

24 (5) The quantity and dosage of the Schedule II con-
25 trolled substance dispensed;

26 (6) The date the prescription was filled; and

27 (7) The number of refills, if any, authorized by the
28 prescription.

29 The board of pharmacy may prescribe by rule pro-
30 mulgated under this article the form to be used in pre-
31 scribing a Schedule II substance if, in the determination of
32 the board, the administration of the requirements of this
33 section would be facilitated.

§60A-9-5. Confidentiality; limited access to records; period of retention; no civil liability for required reporting.

1 The information required by this article to be kept by
2 the board of pharmacy shall be confidential and shall be
3 open to inspection only by inspectors and agents of the
4 board of pharmacy, members of the division of public
5 safety expressly authorized by the superintendent to have
6 access to the information, duly authorized agents of li-
7 censing boards of practitioners authorized to prescribe
8 Schedule II controlled substances and persons with an
9 enforceable court order or regulatory agency administra-
10 tive subpoena. The board shall maintain the information
11 required by this article for a period of no less than five
12 years. Notwithstanding any provisions of this code, data
13 obtained under the provisions of this article may be used
14 for compilation of educational, scholarly or statistical
15 purposes as long as the identities of persons or entities
16 remain confidential. No individual or entity required to
17 report under section four of this article shall be subject to
18 a claim for civil damages or other civil relief for the re-
19 porting of information to the board of pharmacy as re-
20 quired under and in accordance with the provisions of this
21 article.

§60A-9-6. Promulgation of rules.

1 The board of pharmacy shall promulgate legislative
2 rules to effectuate the purposes of this article in accor-
3 dance with the provisions of chapter twenty-nine-a of this
4 code.

§60A-9-7. Criminal penalties.

1 (a) Any person who is required to submit information
2 to the board of pharmacy pursuant to the provisions of
3 this article who fails to do so as directed by the board shall
4 be guilty of a misdemeanor, and, upon conviction thereof,
5 shall be fined not less than one hundred dollars nor more
6 than five hundred dollars.

7 (b) Any person who is required to submit information
8 to the board of pharmacy pursuant to the provisions of
9 this article who knowingly and willfully refuses to submit
10 to the information required by this article shall be guilty
11 of a misdemeanor, and, upon conviction thereof, shall be
12 confined in a county or regional jail not more than six
13 months or fined not more than one thousand dollars, or
14 both.

15 (c) Any person who is required by the provisions of
16 this article to submit information to the board of pharma-
17 cy who knowingly submits thereto information known to
18 that person to be false or fraudulent shall be guilty of a
19 misdemeanor, and, upon conviction thereof, shall be con-
20 fined in a county or regional jail not more than one year
21 or fined not more than five thousand dollars, or both.

22 (d) Any person granted access to the information
23 required by the provisions of this article to be maintained
24 by the board of pharmacy, who shall willfully disclose the
25 information required to be maintained by this article in a
26 manner inconsistent with a legitimate law-enforcement
27 purpose, a legitimate professional regulatory purpose, the
28 terms of a court order or as otherwise expressly authorized
29 by the provisions of this article shall be guilty of a misde-
30 meanor, and, upon conviction thereof, shall be confined in
31 a county or regional jail for not more than six months or
32 fined not more than one thousand dollars, or both.

Enr. Com. Sub. for H. B. 2492, 6

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Robinson
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell Adkins
Clerk of the Senate

Donald L. Kapp
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Richard L. Abner
Speaker of the House of Delegates

The within is approved this the 24th
day of March, 1995.

Gaston Caperton
Governor



PRESENTED TO THE

GOVERNOR

Date

3/24/95

Time

3:58 PM