§ 90-113.73. Requirements for controlled substances reporting system; civil penalties for failure to properly report.

(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 who 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 no later than the close of the next business day after the prescription is delivered; however, dispensers are encouraged to report the information no later than 24 hours after the prescription was delivered. The information shall be submitted in a format as determined annually by the Department based on the format used in the majority of the states operating a controlled substances reporting system. In the event the dispenser is unable to report the information within the time frame required by this section because the system is not operational or there is some other temporary electrical or technological failure, this inability shall be documented in the dispenser's records. Once the electrical or technological failure has been resolved, the dispenser shall promptly report the information.

(b) The Commission shall adopt rules requiring dispensers to report the following information. The Commission may modify these requirements as necessary to carry out the purposes of this Article. The dispenser shall report:

(1) The dispenser's DEA number for prescriptions of controlled substances, and for prescriptions of gabapentin, whether the dispenser has a DEA number.

(2) The name of the patient for whom the controlled substance is being dispensed, and the patient's:

a. Full address, including city, state, and zip code.

b. Telephone number.

c. Date of birth.

(3) The date the prescription was written.

(4) The date the prescription was filled.

(5) The prescription number.

(6) Whether the prescription is new or a refill.

(7) The metric quantity of the dispensed drug.

(8) The estimated days of supply of dispensed drug, if provided to the dispenser.

(9) The National Drug Code of dispensed drug.

(10) The prescriber's DEA number for prescriptions of controlled substances, and for prescriptions of gabapentin, if the prescriber has a DEA number and the number is known by the dispenser.

(10a) The presciber's national provider identification number, for any prescriber that has a national provider identification number. A pharmacy shall not be subject to a civil penalty under subsection (e) of this section for failure to report the prescriber's national provider identification number when it is not received by the pharmacy.

(11) The method of payment for the prescription.

(c) A dispenser shall not be required to report instances in which a controlled substance, or gabapentin, is provided directly to the ultimate user and the quantity provided does not exceed a 48-hour supply.

(c1) A dispenser shall not be required to report gabapentin to the controlled substances reporting system when gabapentin is a component of a compounded prescription that is dispensed in dosages of 100 milligrams or less.

(d) A dispenser shall not be required to report instances in which a Schedule V non-narcotic, non-anorectic Schedule V controlled substance is provided directly to the ultimate user for the purpose of assessing a therapeutic response when prescribed according to indications approved by the United States Food and Drug Administration.

(e) The Department shall assess, against any pharmacy that employs dispensers found to have failed to report information in the manner required by this section within a reasonable period of time after being informed by the Department that the required information is missing or incomplete, a civil penalty of not more than one hundred dollars ($100.00) for a first violation, two hundred fifty dollars ($250.00) for a second violation, and five hundred dollars ($500.00) for each subsequent violation if the pharmacy fails to report as required under this section, up to a maximum of five thousand dollars ($5,000) per pharmacy per calendar year. Each day of a continuing violation shall constitute a separate violation. A pharmacy acting in good faith that attempts to report the information required by this section shall not be assessed any civil penalty. The clear proceeds of penalties assessed under this section shall be deposited to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the General Statutes. The Commission shall adopt rules to implement this subsection that include factors to be considered in determining the amount of the penalty to be assessed.

(f) For purposes of this section, a "dispenser" includes a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes when that person dispenses any Schedule II through V controlled substance or gabapentin. Notwithstanding subsection (b) of this section, the Commission shall adopt rules requiring the information to be reported by a person licensed to practice veterinary medicine pursuant to Article 11 of Chapter 90 of the General Statutes.

(g) Expired pursuant to Session Laws 2018-76, s. 10, effective October 1, 2019. (2005-276, s. 10.36(a); 2005-345, s. 17; 2009-438, s. 1; 2013-152, s. 2; 2014-115, s. 41.5; 2017-74, s. 10; 2018-44, s. 10; 2018-76, ss. 6, 10; 2023-65, ss. 11.1, 11.2, 11.2A, 11.3.)