

Regular Session, 2014

HOUSE BILL NO. 275

BY REPRESENTATIVE GREENE

DRUGS/PRESCRIPTION: Provides with respect to the subpoenaing of prescription monitoring information

1 AN ACT

2 To amend and reenact R.S. 40:1007(A), (B), (F), and (J) and 1013(D) and to enact R.S.  
3 40:1007(K) and 1013(E), relative to the prescription monitoring program; to  
4 authorize the release of prescription monitoring information in response to a  
5 subpoena in a child custody or visitation case; to provide for admissibility of  
6 prescription monitoring information as evidence in a child custody or visitation case;  
7 to authorize the collection of fees for the reproduction of prescription monitoring  
8 information pursuant to a subpoena in a child custody or visitation case; to make  
9 technical changes; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 40:1007(A), (B), (F), and (J) and 1013(D) are hereby amended and  
12 reenacted and R.S. 40:1007(K) and 1013(E) are hereby enacted to read as follows:

13 §1007. Access to prescription monitoring information

14 A. Except as provided in Subsections C, D, E, F, G, H, and I of this Section,  
15 prescription monitoring information submitted to the board shall be protected health  
16 information, not subject to public or open records law, including but not limited to  
17 R.S. 44:1 et seq., and not subject to disclosure. ~~Prescription~~ Except as provided in  
18 Subsection J of this Section, prescription monitoring information shall not be  
19 available for civil subpoena nor shall such information be disclosed, discoverable,  
20 or compelled to be produced in any civil proceeding nor shall such records be

1 deemed admissible as evidence in any civil proceeding for any reason.  
2 Notwithstanding this provision, law enforcement and professional licensing,  
3 certification, or regulatory agencies may utilize prescription monitoring information  
4 in the course of any investigation and subsequent criminal and administrative  
5 proceedings, but only in accordance with federal and state law and the requirements  
6 of this Part.

7 B. The board shall maintain procedures to ensure that the privacy and  
8 confidentiality of patients and patient information collected, recorded, transmitted,  
9 and maintained is not disclosed to persons or entities except as in Subsections C, D,  
10 E, F, G, H, I, and I J of this Section.

11 \* \* \*

12 F. The board may provide a report containing prescription monitoring  
13 information upon application of local, state, out-of-state, and federal law  
14 enforcement or prosecutorial officials engaged in the administration, investigation,  
15 or enforcement of the laws governing controlled substances or other drugs of concern  
16 or in response to a validly issued subpoena within the limits of Subsection J of this  
17 Section in compliance with and as limited by the relevant requirements of any of the  
18 following:

19 \* \* \*

20 J.(1) The board may provide prescription monitoring information pursuant  
21 to a validly issued subpoena when the prescription monitoring information relates  
22 to an individual who is a party to a proceeding for custody or visitation of a child and  
23 the requested information has a substantial bearing on the fitness of that person, but  
24 only in accordance with federal and state law and the requirements of this Part.

25 (2) The prescription monitoring information provided pursuant to this  
26 Subsection shall be admissible as evidence only in a proceeding for custody or  
27 visitation of a child and only to the extent the information has a substantial bearing  
28 on the fitness of a party to the proceeding.

1           K. The board and the advisory council shall be immune from civil liability  
2           arising from inaccuracy of any of the information submitted to the board pursuant  
3           to this Part.

4   \*       \*       \*

5           §1013. Funding authority

6   \*       \*       \*

7           D. The board may levy and collect reasonable fees for the reproduction of  
8           any documents requested pursuant to a validly issued subpoena in accordance with  
9           R.S. 40:1007(J).

10          E. The board shall not be required to fund any aspect of the prescription  
11          monitoring program.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Greene

HB No. 275

**Abstract:** Authorizes the release of prescription drug monitoring information pursuant to a subpoena in a child custody or visitation proceeding.

Present law prohibits the disclosure of prescription monitoring information, except as provided in present law.

Proposed law retains present law.

Present law provides that prescription monitoring information shall not be available for civil subpoena nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.

Proposed law retains present law but adds an exception for prescription monitoring information provided pursuant to a validly issued subpoena when the prescription monitoring information relates to an individual who is a party to a proceeding for custody or visitation of a child and the requested information has a substantial bearing on the fitness of that person.

Proposed law provides that the prescription monitoring information shall be admissible as evidence only in a proceeding for custody or visitation of a child and only to the extent the information has a substantial bearing on the fitness of a party to the proceeding.

Present law authorizes the La. Board of Pharmacy (board) to provide a report containing prescription monitoring information upon application of local, state, out-of-state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or

enforcement of the laws governing controlled substances or other drugs of concern in compliance with and as limited by the relevant requirements of any of the following:

- (1) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer.
- (2) A grand jury subpoena.
- (3) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:
  - (a) The information sought is relevant and material to a legitimate law enforcement inquiry.
  - (b) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.
  - (c) De-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

Proposed law retains present law and adds an authorization for a validly issued subpoena in a proceeding for custody or visitation of a child when the prescription monitoring information relates to an individual who is a party to the proceedings and the requested information has a substantial bearing on the fitness of that person.

Present law provides immunity for the board and the advisory council from civil liability arising from inaccuracy of any of the information submitted to the board pursuant to present law.

Proposed law retains present law.

Proposed law authorizes the board to levy and collect reasonable fees for the reproduction of any documents requested pursuant to a validly issued subpoena when the records sought are for an individual who is a party to a proceeding for custody or visitation and the records sought have a substantial bearing on the fitness of that individual.

Present law provides that the board shall not be required to fund any aspect of the prescription monitoring program.

Proposed law retains present law.

(Amends R.S. 40:1007(A), (B), (F), and (J) and 1013(D); Adds R.S. 40:1007(K) and 1013(E))