



SENATE BILL 616: Heroin & Opioid Prevention & Enforcement Act.

2017-2018 General Assembly

Committee:		Date:	August 6, 2018
Introduced by:		Prepared by:	Jessica Boney Staff Attorney
Analysis of:	S.L. 2018-44		

OVERVIEW: *S.L. 2018-44 does the following:*

- *Amends laws pertaining to the North Carolina Controlled Substances Act.*
- *Amends laws pertaining to the North Carolina Controlled Substances Reporting System Act.*
- *Establishes conditions and requirements for the release of information from the Controlled Substances Reporting System to local law enforcement.*
- *Revises and establishes penalties for certain violations.*
- *Expresses the intent to appropriate additional funds in the future for community-based substance use disorder treatment and recovery services, the purchase of overdose medications, Operation Medicine Drop, and a special agent position with the State Bureau of Investigation.*
- *Amends the statewide Telepsychiatry program that delivers mental health and substance abuse care.*

This act has various effective dates. Please see the full summary for more detail.

BILL ANALYSIS:

Part I. TITLE OF ACT

Section 1 sets forth the title of the act as the Heroin and Opioid Prevention and Enforcement (HOPE) Act of 2018.

Part II. AMENDMENTS TO THE NORTH CAROLINA CONTROLLED SUBSTANCES ACT

Sections 2, 3, and 6 make technical changes to the chemical names of two controlled substances.

Section 4 includes the immediate precursor chemical required for the manufacture of fentanyl as a Schedule II Controlled Substance under G.S. 90-90.

Section 5 adds the precursor chemical used in the manufacturing process of fentanyl to the list of immediate precursor chemicals.

Section 7 makes conforming changes to the way opioids are referenced in Chapter 90, expands the criminal offenses related to MDPV to include "any substituted cathinone" and consolidates the existing offenses in light of the expansion.

Section 8 adds a new section to Article 5 of Chapter 90 of the General Statutes that does the following:

- Creates the position of a "certified diversion investigator".
- Requires that a certified diversion investigator request and receive prescription information from pharmacies when required, and only when required, for an active investigation related to a controlled substance.

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Director

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- Requires that a pharmacy provide the requested information, and protects the pharmacist from liability for sharing the confidential information.

Section 9 makes technical corrections, expands the Class 1 misdemeanor for aiding the diversion of a controlled substance and creates the following criminal offenses:

- A Class G felony for intentionally aiding the diversion of a controlled substance.
- A Class E felony for a medical professional that intentionally dilutes or substitutes any controlled substance.

Part III. AMENDMENTS PERTAINING TO THE NORTH CAROLINA CONTROLLED SUBSTANCES REPORTING SYSTEM ACT

The Controlled Substances Reporting System (CSRS) is a database maintained by DHHS that tracks prescriptions for Schedule II through Schedule V controlled substances. Dispensers are required to report certain information on prescriptions they fill within close of the next business day after the prescription is delivered, but are encouraged to report such information within 24 hours of delivery. Such information is confidential and may only be accessed by certain persons for specific purposes set forth by statute. Current law allows DHHS to release CSRS data to persons authorized to prescribe controlled substances, special agents of the North Carolina SBI, as well as others.

Section 10 requires a lawful controlled substance dispenser to report the prescriber's national provider identification number, and relieves a pharmacy or pharmacist from liability for failure to report a prescriber's national identification number when it is not received by the pharmacy.

Section 11(a) authorizes access to the controlled substance reporting system to the Attorney General of North Carolina, expands access to the Tactical Diversion Squad in North Carolina, and creates the following criminal offenses:

- A Class I felony for accessing unauthorized prescription information in the CSRS.
- A Class I felony for disclosing prescription information for an unauthorized purpose.
- A Class H felony for maliciously obtaining, disclosing, or disseminating prescription information for personal gain or to cause harm.

Section 11(a) also does the following:

- Permanently bars an individual convicted of one of these criminal offenses from accessing the CSRS.
- Expands the SBI's Diversion & Environmental Crimes Unit's jurisdiction to include suspected criminal use of the CSRS.

Section 11(b) establishes the following conditions and requirements for the release of information from the CSRS to local law enforcement:

- Release is only authorized to a certified diversion investigator, working with a qualified law enforcement agency, related to illegal controlled substance activity, and the request for information has been approved by the SBI.
- The SBI is not liable for the disclosure of confidential information as requested by the certified diversion investigator.
- Documentation of the requested information and resulting investigations will be kept, and audited by the SBI.

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- The information obtained by the certified diversion investigator may only be shared with law enforcement and prosecutors directly involved with the investigation and prosecution.
- The matter may be referred by local law enforcement to the SBI if appropriate.
- Information may not be requested or received from other states, using the CSRS.
- Defines the new terms related to the parties authorized access to the reporting system.
- The Department of Health and Human Services (DHHS) is directed to enable specific access to the CSRS.
- Direct DHHS to document the system's activity so that unauthorized access may be investigated by the SBI and prosecuted by the Office of the Attorney General.

Section 11(c) directs DHHS to begin developing ways to implement the data release provisions required.

Section 12 enables DHHS to temporarily suspend a reporting system user's access to the system in the event of a suspected unauthorized use of information, and relieves a party acting lawfully and in good faith from liability for accessing and disclosing confidential information.

Section 13 authorizes and describes the training and certification of diversion investigators.

Section 14 creates the minimum standards and levels of training for diversion investigators and diversion supervisors, and requires recertification at least every three years, and authorizes Training and Standards Commission to suspend, revoke, and deny certification.

Part IV. APPROPRIATIONS

Section 15 expresses the General Assembly's intent to appropriate additional funds in the future for community-based substance use disorder treatment and recovery services, the purchase of overdose medications, Operation Medicine Drop, and a special agent position within the SBI.

Part IV-A. TELEPSYCHIATRY

Section 15.1 adds new definitions and modifies existing definitions of G.S. 143B-139.4B, which requires the Office of Rural Health to oversee and monitor establishment and administration of a statewide telepsychiatry program. This section creates a definition for community-based site. This section modifies the definition for referring site to include approved community-based sites, and removes the word acute from the definitions of consultant site, consulting provider and telepsychiatry.

Section 15.1 also requires referring sites to use consulting providers at a consultant site to provide timely psychiatric assessment and rapid initiation of treatment for patients at the referring emergency department site experiencing mental health or substance abuse or for patients at an approved community-based site in need of mental health or substance abuse care.

Part V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 16 makes any provisions of the bill held to be invalid by a court severable from the other provisions of the bill, which would remain in effect.

Section 17. The section requiring a lawful controlled substance dispenser to report the prescriber's national provider identification number, and relieving a pharmacy or pharmacist from liability for failure to report a prescriber's national identification number becomes effective September 1, 2018.

The criminal offenses expanded and created by this act become effective December 1, 2018.

The sections making technical changes to the North Carolina Controlled Substances Act, including the immediate precursor chemical required for the manufacture of fentanyl as a Schedule II Controlled

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Substance and adding the precursor chemical used in the manufacturing process of fentanyl to the list of immediate precursor chemicals become effective December 1, 2018.

The section creating the position of a certified diversion investigator, requiring a certified diversion investigator to request and receive information from pharmacies for an active investigation related to a controlled substance and requiring a pharmacy to provide the requested information becomes effective July 1, 2019.

The section establishing the conditions and requirements for the release of information from the CSRS to local law enforcement becomes effective July 1, 2019.

The remainder of this act became effective July 1, 2018.

Jennifer Bedford contributed substantially to the preparation of this summary.