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HOUSE BILL 170

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Deborah A. Armstrong

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE NEW MEXICO  
DRUG, DEVICE AND COSMETIC ACT TO EXEMPT PRACTITIONERS FROM  
FOLLOWING THE REQUIREMENTS OF THE STATE'S PRESCRIPTION  
MONITORING PROGRAM WHEN PRESCRIBING TO CANCER PATIENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 26-1-16.1 NMSA 1978 (being Laws 2016,  
Chapter 46, Section 1) is amended to read:

"26-1-16.1. OPIOIDS--REQUIRING PRACTITIONERS TO OBTAIN  
AND REVIEW REPORTS FROM THE PRESCRIPTION MONITORING PROGRAM--  
EXEMPTIONS.--

A. For purposes of this section:

(1) "opioid" means the class of drugs that  
includes the natural derivatives of opium, which are morphine  
and codeine, and related synthetic and semi-synthetic compounds

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1 that act upon opioid receptors;

2 (2) "practitioner" does not include a  
3 pharmacist, veterinarian or euthanasia technician;

4 (3) "prescription monitoring program" means a  
5 program that includes a centralized system to collect, monitor  
6 and analyze electronically, for Schedule II through V  
7 controlled substances, prescribing and dispensing data  
8 submitted by dispensers; and

9 (4) "Schedule II through V controlled  
10 substance" means a substance listed in Schedule II, III, IV or  
11 V pursuant to the Controlled Substances Act or the federal  
12 controlled substances regulation, pursuant to 21 U.S.C. 812.

13 B. Before a practitioner prescribes or dispenses an  
14 opioid for the first time to a patient, the practitioner shall  
15 obtain and review a report from the state's prescription  
16 monitoring program for such patient for the previous twelve  
17 calendar months. If the practitioner has access to a similar  
18 report from an adjacent state for the patient, the practitioner  
19 shall also obtain and review that report. The provisions of  
20 this subsection shall not apply to the prescription or  
21 dispensing of an opioid for a supply of four days or less.

22 C. A practitioner shall obtain and review a report  
23 from the state's prescription monitoring program and similar  
24 reports from an adjacent state, if any, no less than once every  
25 three months for each established patient for whom the

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1 practitioner continuously prescribes or dispenses opioids.

2 D. A practitioner shall document the receipt and  
3 review of reports required by this section in the patient's  
4 medical record.

5 E. Nothing in this section shall be construed to  
6 prevent a practitioner from obtaining and reviewing a report  
7 regarding a practitioner's patient from the state's  
8 prescription monitoring program or a similar report from  
9 another state with greater frequency than that required by this  
10 section, in accordance with the practitioner's professional  
11 judgment.

12 F. Nothing in this section shall be construed to  
13 require a practitioner to obtain a prescription monitoring  
14 report when prescribing an opioid to a patient:

15 (1) who is experiencing pain caused by cancer  
16 or the treatment of cancer;

17 (2) in a nursing facility; or

18 (3) in hospice care.

19 G. The professional licensing board of each  
20 category of practitioner that is licensed or otherwise  
21 authorized to prescribe or dispense an opioid shall promulgate  
22 rules to implement the provisions of this section. Nothing in  
23 this section shall be construed to prevent a professional  
24 licensing board from requiring by rule that practitioners  
25 obtain prescription monitoring program reports with greater

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frequency than that required by this section."

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