NEW CONTROLLED SUBSTANCE LAWS

Statutory Changes to Controlled Substance Prescribing Laws Effective August 28, 2012

On July 12, 2012, Governor Nixon signed a bill into law that amended certain statutes pertaining to controlled substance prescribing practices. The bill originally sponsored by Representative David Sater is SS SCS HCS HB 1563. (Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill 1563). Now signed and enacted into law, the provisions of this statute will take effect on August 28, 2012.

Although the bill addresses multiple issues and statutes pertaining to healthcare services, the following statutes and sections were the sections amended to impact controlled substance prescriptions:

Section 195.060.2, RSMo: (Missouri pharmacies can fill prescriptions from out of state providers)

A pharmacist, in good faith, may sell and dispense controlled substances to any person upon a prescription of a practitioner located in another state, provided that the:

(1) Prescription was issued according to and in compliance with the applicable laws of that state and the United States; and

(2) Quantity limitations in subsection 2 of section 195.080 apply to prescriptions dispensed to patients located in this state.

What does this mean?

When a Missouri pharmacy receives a prescription from a Missouri practitioner for a Missouri patient/citizen, then there is no change in the law.

This clarifies that when a Missouri pharmacy receives a prescription from an out of state practitioner, the Missouri pharmacy is authorized to fill that prescription, as long as the pharmacy believes in good faith the prescription that was written in that other state was legal. This will require Missouri pharmacies to know or have access to the prescribing laws of those other states.

If the prescription is for a Missouri resident, then the quantity limitations previously in place will still apply to Missouri citizens. The maximum quantity on a controlled substance prescription is 90 days; a prescription is only valid for six months from the date written, and no prescriptions may have more than 5 refills. A schedule II prescription cannot be refilled. Missouri patients/citizens are to receive the same quantities the previous statutes have always dictated.

<u>Example:</u> A pharmacy in Joplin receives a prescription. It was written by a nurse in Kansas for a patient in Missouri. The pharmacy may dispense the drug if it is authorized by Kansas law. The quantities for the state of Missouri would apply. If the patient lived in Kansas, the Kansas quantity limits would apply.

Section 195.080.2(1), RSMo: (Quantities can be increased for patients in other states)

1. Except as otherwise in sections 195.005 to 195.425 specifically provided, sections 195.005 to 195.425 shall not apply to the following cases: prescribing, administering, dispensing or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain controlled substances in such combinations of drugs as to prevent the drugs from being readily extracted from such liniments, ointments, or preparations, except that sections 195.005 to 195.425 shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

2. The quantity of Schedule II controlled substances prescribed or dispensed at any one time shall be limited to a thirtyday supply. The quantity of Schedule III, IV or V controlled substances prescribed or dispensed at any one time shall be limited to a ninety-day supply and shall be prescribed and dispensed in compliance with the general provisions of sections 195.005 to 195.425. The supply limitations provided in this subsection may be increased up to three months if the physician describes on the prescription form or indicates via telephone, fax, or electronic communication to the pharmacy to be entered on or attached to the prescription form the medical reason for requiring the larger supply. The supply limitations provided in this subsection shall not apply if:

(1) The prescription is issued by a practitioner located in another state according to and in compliance with the applicable laws of that state and the United States and dispensed to a patient located in another state;

What does this mean?

This law addresses the quantities of doses that me dispensed on prescriptions. There is no change for Missouri practitioners who are issuing prescriptions. Missouri prescribers still have the quantity restrictions as before.

There is no change for Missouri patients/citizens who will be receiving the same quantities as before.

The only change is for out of state practitioners who are prescribing for a patient in their state. When a prescriber issues a prescription from another state, their quantities are set by their statutes in their state. Those statues also dictate what patients can receive. When Missouri pharmacies are dispensing these out of state prescriptions to patients in other states, the Missouri pharmacies may dispense quantities as approved in those other states.

This will require Missouri pharmacies to be able to look up and determine what the quantity limits are in other states.

Examples:

- A doctor in Arkansas provides a Schedule III prescription to a Missouri resident. That prescription quantity may only be dispensed according to the existing quantities authorized in Section 195.080.2, which is the maximum of a 90-day supply.
- A doctor in Alaska provides a Schedule III prescription for a patient in Alaska. A Missouri pharmacy may dispense this prescription according to the quantities allowed by the state of Alaska.

Section 334.747.1, RSMo (Physicians' Assistants do not have to write BNDD #s on prescriptions)

1. A physician assistant with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017 when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances shall be limited to a fiveday supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include the Drug Enforcement Administration registration number on prescriptions for controlled substances.

What does this mean?

The previous statutory language required physicians' assistants to document their Missouri BNDD number on prescriptions, as well as their federal DEA number. This new language amends the requirement to match all other prescribers. Now only the DEA number is required and the Missouri BNDD number is not required.

These changes to controlled substance laws are not in effect until August 28, 2012.

After the statutes are in effect on August 28th, the Legislative Research staff will update the language as it appears online. This usually takes several weeks after the August 28th date.

Any questions or clarifications may be submitted to the Missouri BNDD at the email address BNDD@health.mo.gov/BNDD.