



Français

Narcotics Safety and Awareness Act, 2010

S.O. 2010, CHAPTER 22

Consolidation Period: From July 24, 2023 to the e-Laws currency date.

Last amendment: 2023, c. 4, Sched. 2, s. 8.

Legislative History: [+]

Preamble

The health and safety of Ontarians is important to the people of Ontario and their government. Ontario has the highest per capita use of narcotics and other controlled substances in Canada, some of which is unwarranted and is adversely affecting the health and safety of Ontarians. Ontario has seen a significant increase in narcotics-related deaths and in the need for addiction treatment services. Public and private spending on narcotics and other controlled substances has increased out of proportion to that which is medically required.

In May 2010, the Government of Ontario developed a strategy to address the health and safety concerns related to the use of narcotics and other controlled substances, including a commitment to:

1. Provide for access to narcotics and other monitored drugs when they are medically appropriate to treat pain.
2. Reduce the abuse and misuse of narcotics and other monitored drugs, including reducing the diversion of narcotics and other monitored drugs from medically appropriate use.
3. Support treatment for and reduce narcotics-related addictions and reduce narcotics-related deaths.

Monitoring the prescribing and dispensing of narcotics and other monitored drugs is a key tool in the government's strategy. The ability to collect, analyze and report on the prescribing and dispensing of narcotics and other monitored drugs will contribute to appropriate prescribing and dispensing practices and help identify and address systemic challenges that may lead to addiction and death.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Purpose

1 The purpose of this Act is to seek to improve the health and safety of Ontarians by permitting the monitoring, analyzing and reporting of information, including personal information, related to the prescribing and dispensing of monitored drugs, in order to,

- (a) contribute to and promote appropriate prescribing and dispensing practices for monitored drugs in order to support access to monitored drugs for medically appropriate treatment, including treatment for pain and addiction;
- (b) identify and reduce the abuse, misuse and diversion of monitored drugs; and
- (c) reduce the risk of addiction and death resulting from the abuse or misuse of monitored drugs. 2010, c. 22, s. 1.

Definitions

2 In this Act,

“dispenser” means a person authorized, under a health profession Act as defined in the *Regulated Health Professions Act, 1991*, to dispense drugs or another person designated by the regulations; (“préposé à la préparation”)

“Minister” means the Minister of Health or such other member of the Executive Council to whom the administration of this Act is assigned under the *Executive Council Act*; (“ministre”)

“monitored drug” means,

- (a) a controlled substance as defined in the *Controlled Drugs and Substances Act* (Canada), unless the controlled substance has been excluded by the regulations under this Act, and
- (b) any other drug designated by the regulations; (“médicament contrôlé”)

“operator of a pharmacy” means,

- (a) the holder of a certificate of accreditation for the operation of a pharmacy under section 139 of the *Drug and Pharmacies Regulation Act*, or
- (b) the operator of a pharmacy operated in or by a hospital to which the *Public Hospitals Act* applies; (“exploitant d’une pharmacie”)

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act* and includes personal health information as defined in the *Personal Health Information Protection Act, 2004*; (“renseignements personnels”)

“prescriber” means a person authorized under a health profession Act, as defined in the *Regulated Health Professions Act, 1991*, to prescribe drugs or another person designated by the regulations; (“personne autorisée à prescrire des médicaments”)

“prescription” means a direction from a prescriber directing the dispensing of a monitored drug for a person. (“ordonnance”) 2010, c. 22, s. 2; 2023, c. 4, Sched. 2, s. 8 (1-3).

Section Amendments with date in force (d/m/y) [-]

2023, c. 4, Sched. 2, s. 8 (1-3), - 24/07/23

Application

3 This Act does not apply to any person provided for in the regulations. 2010, c. 22, s. 3.

POWERS AND FUNCTIONS OF THE EXECUTIVE OFFICER

Executive officer

4 (1) The executive officer under the *Ontario Drug Benefit Act* is the executive officer for the purpose of this Act. 2010, c. 22, s. 4 (1).

Powers and functions of executive officer

(2) The executive officer may exercise the following powers and perform the following functions under this Act:

1. Monitoring and analyzing information, including personal information, related to the prescribing and dispensing of monitored drugs.
2. Collecting, using and disclosing information collected under this Act in accordance with this Act, and co-operating with other organizations, including colleges under the *Regulated Health Professions Act, 1991*, to achieve the purposes of this Act.
3. Recommending drugs to be included in or excluded from the definition of “monitored drug”.
4. Reporting to the public on any matter related to this Act as the executive officer considers appropriate.
5. Exercising any other power or performing any other function provided for in this Act or the regulations. 2010, c. 22, s. 4 (2).

COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

Collection by Minister or executive officer

5 (1) The Minister or the executive officer may directly or indirectly collect personal information, subject to any conditions provided for in the regulations, for the purpose of this Act. 2010, c. 22, s. 5 (1).

Use by Minister or executive officer

(2) The Minister or the executive officer may use personal information, subject to any conditions provided for in the regulations, for the purpose of this Act. 2010, c. 22, s. 5 (2).

Disclosure by Minister or executive officer

(3) The Minister or the executive officer may disclose personal information, subject to any conditions provided for in the regulations, if the disclosure is permitted by this Act. 2010, c. 22, s. 5 (3).

Same

(4) The Minister or the executive officer may disclose personal information if the disclosure is permitted by the *Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004*. 2010, c. 22, s. 5 (4).

Disclosure to prescriber, dispenser etc.

(5) The Minister or the executive officer may disclose personal information about any monitored drugs that have or have not been prescribed or dispensed to a person to,

- (a) a prescriber, if the prescriber is determining whether to prescribe a monitored drug to the person or has prescribed a monitored drug to the person;
- (b) a dispenser, if the dispenser is determining whether to dispense a monitored drug to the person or has dispensed a monitored drug to the person; or
- (c) an operator of a pharmacy, if a dispenser employed or retained by the pharmacy has dispensed a monitored drug to the person through the pharmacy. 2016, c. 6, Sched. 1, s. 3.

Disclosure to health care practitioner

(6) The Minister or the executive officer may disclose personal information about any monitored drugs that have or have not been prescribed or dispensed to a person, to a health care practitioner who is providing health care to the person or assisting in providing health care to the person. 2016, c. 6, Sched. 1, s. 3.

Definition, health care practitioner

(7) In subsection (6),

“health care practitioner” means a health care practitioner as defined in clause (a) of the definition of health care practitioner in section 2 of the *Personal Health Information Protection Act, 2004*. 2016, c. 6, Sched. 1, s. 3.

Section Amendments with date in force (d/m/y) [-]

2016, c. 6, Sched. 1, s. 3 - 03/06/2016

Notice

6 In addition to any notice requirements imposed under the *Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004*, the Minister shall ensure that a notice is made available to prescribers, dispensers, operators of pharmacies and the public in respect of the Minister’s or the executive officer’s collection, use and disclosure of personal information under this Act. 2010, c. 22, s. 6.

Collection by prescriber or dispenser

7 For the purpose of complying with section 10 or 11, a prescriber or dispenser may collect the information, including personal information, required by those sections. 2010, c. 22, s. 7.

Disclosure by prescriber, dispenser or operator of a pharmacy

8 (1) If directed by the Minister or the executive officer, a prescriber, dispenser or operator of a pharmacy shall disclose the following information to the Minister or the executive officer for the purpose of this Act:

1. The information, including personal information, required under subsection 10 (1) or 11 (1).
2. Any information, including personal information, required by the regulations. 2010, c. 22, s. 8 (1).

Time, form and manner of disclosure

(2) A prescriber, dispenser or operator of a pharmacy shall disclose the information in subsection (1) at the time and in the form and manner that the Minister or the executive officer directs. 2010, c. 22, s. 8 (2).

Minister or executive officer may direct

(3) The Minister’s or the executive officer’s direction to disclose information under this section may be made by any means he or she considers appropriate. 2010, c. 22, s. 8 (3).

False information, etc.

9 No person shall provide the Minister or the executive officer with information that the person knows to be false or misleading. 2010, c. 22, s. 9.

PRESCRIBERS AND DISPENSERS**Prescription information**

10 (1) A prescriber who prescribes a monitored drug shall record the following information on the prescription:

1. The registration number on the certificate of registration issued to the prescriber by the College, as defined in the *Regulated Health Professions Act, 1991*, of which he or she is a member.
2. The name of the person for whom the monitored drug is prescribed.
3. The name, strength (where applicable) and quantity of the monitored drug.
4. The directions for use of the monitored drug.
5. The name and address of the prescriber.
6. The date on which the monitored drug is prescribed.
7. Any other information, including personal information, required by the regulations. 2010, c. 22, s. 10 (1).

No limitation

(2) Nothing in this section limits or replaces the application of any other Act with respect to the information a prescriber must record on a prescription. 2010, c. 22, s. 10 (2).

Application to prescriber that is not a member of a College

(3) A prescriber who is not a member of a College, as defined in the *Regulated Health Professions Act, 1991*, is not required to record the information required under paragraph 1 of subsection (1). 2023, c. 4, Sched. 2, s. 8 (4).

Section Amendments with date in force (d/m/y) [-]

2023, c. 4, Sched. 2, s. 8 (4) - 24/07/23

Dispensing information

11 (1) A dispenser who dispenses a monitored drug shall keep a record of the following information with respect to the prescription:

1. The information required under section 10.
2. The address, date of birth and gender of the person for whom the monitored drug is prescribed.
3. The drug identification number.
4. The quantity of the monitored drug dispensed.
5. The length of therapy, in number of days, of the monitored drug.
6. The date on which the monitored drug is dispensed.
7. The prescription number.
8. Any other information, including personal information, required by the regulations. 2010, c. 22, s. 11 (1).

Identity verification

(2) A dispenser shall ensure that any identity verification requirements that are required by the regulations are met before dispensing a monitored drug. 2010, c. 22, s. 11 (2).

False information, etc.

(3) No person shall provide a dispenser with information that the person knows to be false or misleading. 2010, c. 22, s. 11 (3).

Records

(4) A dispenser shall retain any records required under subsection (1) or (2) for not less than two years. 2010, c. 22, s. 11 (4).

No limitation

(5) Nothing in this section limits or replaces the application of the *Drug and Pharmacies Regulation Act* or any other Act with respect to any information that a dispenser must ensure is recorded on a prescription or of which a dispenser must keep a record. 2010, c. 22, s. 11 (5).

Operator of a pharmacy

12 The operator of a pharmacy shall ensure that every dispenser employed or retained by the pharmacy complies with the provisions of this Act. 2010, c. 22, s. 12.

INSPECTION

Inspectors

13 (1) The Minister may appoint inspectors for the purpose of this Act. 2010, c. 22, s. 13 (1).

Inspection

(2) An inspector may, without a warrant and without notice, at any reasonable time, enter a place of practice of a prescriber or dispenser that is not a dwelling and conduct inspections for the purpose of determining compliance with the requirements under this Act. 2010, c. 22, s. 13 (2).

Identification

(3) An inspector conducting an inspection shall produce, on request, evidence of his or her appointment. 2010, c. 22, s. 13 (3).

Confidentiality

(4) An inspector appointed under subsection (1) shall preserve secrecy with respect to all personal information that comes to his or her knowledge in the course of conducting an inspection, and the inspector shall not communicate any personal information to any other person except as may be required in connection with the administration of this Act or as may be permitted by the *Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004*. 2010, c. 22, s. 13 (4).

Powers of inspector

(5) An inspector conducting an inspection may,

- (a) examine and make copies of a document or other thing that is relevant to the inspection;
- (b) search for or demand the production for inspection of a document or other thing that is relevant to the inspection;
- (c) remove a document or other thing that is relevant to the inspection for the purpose of making a copy; and
- (d) question a person on matters relevant to the inspection. 2010, c. 22, s. 13 (5).

Document to be provided in readable format

(6) An inspector that requires a document or other thing relevant to the inspection is entitled to receive it in a readable format. 2010, c. 22, s. 13 (6).

Return of document or other thing

(7) An inspector shall return, as promptly as reasonably possible, a document or other thing removed by the inspector conducting an inspection. 2010, c. 22, s. 13 (7).

Copy admissible in evidence

(8) A copy of a document or other thing that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value as the document or other thing itself without proof of the signature or official character of the person appearing to have certified the copy. 2010, c. 22, s. 13 (8).

Obstruction

(9) No person shall obstruct, hinder or interfere with or attempt to obstruct, hinder or interfere with an inspector conducting an inspection or refuse to answer questions on matters relevant to the inspection. 2010, c. 22, s. 13 (9).

False information, etc.

(10) No person shall provide an inspector with information that the person knows to be false or misleading, or conceal or destroy anything that the person knows to be relevant to an inspection. 2010, c. 22, s. 13 (10).

Definition

(11) In this section,

“document” means all or part of a record of information, including personal information, in any form. 2010, c. 22, s. 13 (11).

OFFENCES AND PENALTIES

Offence

14 (1) A person is guilty of an offence if the person,

- (a) fails to disclose information as directed by the Minister or the executive officer in accordance with the requirements of section 8;
- (b) fails to comply with the requirements of section 10, 11 or 12;
- (c) provides false or misleading information to the Minister, the executive officer, a dispenser or an inspector in connection with the administration of this Act or conceals or destroys anything the person knows to be relevant to an inspection contrary to the requirements of section 9 or subsection 11 (3) or 13 (10); or
- (d) obstructs, hinders or interferes with or attempts to obstruct, hinder or interfere with an inspector conducting an inspection or refuses to answer questions on matters relevant to the inspection contrary to the requirements of subsection 13 (9). 2010, c. 22, s. 14 (1).

Penalty, individual

(2) An individual who is guilty of an offence under subsection (1) is liable on conviction to a fine of not more than \$50,000 or to imprisonment for a term of not more than 12 months, or to both. 2010, c. 22, s. 14 (2).

Penalty, corporation

(3) A corporation that is guilty of an offence under subsection (1) is liable on conviction to a fine of not more than \$200,000. 2010, c. 22, s. 14 (3).

Accused liable for acts or alleged neglect of officers, etc.

(4) In a prosecution of an offence under any provision of this Act, any act or alleged neglect or default on the part of an officer, director, partner, manager, designated manager, agent or representative of the accused, whether a corporation or not, is deemed to be the act or alleged neglect or default of the accused. 2010, c. 22, s. 14 (4).

No limitation

(5) Section 76 of the *Provincial Offences Act* does not apply to a prosecution under this section. 2010, c. 22, s. 14 (5).

Presiding judge

15 The Crown may, by notice to the clerk of the Ontario Court of Justice, require that a provincial judge preside over a proceeding in respect of an offence under this Act. 2010, c. 22, s. 15.

GENERAL

No personal liability

16 (1) No action or other proceeding shall be commenced against the Minister, the executive officer or any person employed or retained by the Crown with respect to any act done in good faith in the execution or intended execution of the person's power or function or for any alleged neglect or default in the execution in good faith of the person's power or function under this Act. 2010, c. 22, s. 16 (1).

Crown liability

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject. 2010, c. 22, s. 16 (2); 2019, c. 7, Sched. 17, s. 124.

No action or proceeding against prescriber, dispenser or operator of a pharmacy

(3) No action or other proceeding shall be commenced against an individual who is a prescriber, dispenser or operator of a pharmacy for any act done in good faith in the performance or intended performance of a power or duty or for any alleged neglect or default in the execution in good faith of the person's power or duty under this Act. 2010, c. 22, s. 16 (3).

Corporation remains liable

(4) Subsection (3) does not relieve a corporation of any liability to which it would otherwise be subject in respect of a tort committed by a director, officer or employee. 2010, c. 22, s. 16 (4).

Prosecution under this Act

(5) For greater clarity, nothing in this section limits the Crown's ability to prosecute an offence under this Act. 2010, c. 22, s. 16 (5).

Section Amendments with date in force (d/m/y) [-]

2019, c. 7, Sched. 17, s. 124 - 01/07/2019

Regulations

17 (1) The Lieutenant Governor in Council may make regulations,

- (a) designating drugs to be included in or excluded from the definition of "monitored drug";
- (a.1) designating persons for the purposes of the definition of a "dispenser" or "prescriber";
- (b) excluding a person from the application of this Act, or from one or more provisions of this Act, subject to the conditions, if any, provided for in the regulations;
- (c) for the purpose of paragraph 5 of subsection 4 (2), specifying additional powers or functions of the executive officer under this Act;
- (d) specifying requirements or conditions in respect of the collection, use or disclosure of personal information by the Minister or the executive officer under this Act;
- (e) governing the notice that is required to be made available under section 6 in respect of the collection, use and disclosure of personal information by the Minister or the executive officer;
- (f) for the purpose of paragraph 2 of subsection 8 (1), respecting any information, including personal information, that shall be disclosed to the Minister or the executive officer;
- (g) for the purpose of paragraph 7 of subsection 10 (1), specifying additional information, including personal information, that a prescriber must record on a prescription;
- (h) for the purpose of paragraph 8 of subsection 11 (1), specifying additional information, including personal information, that a dispenser must keep a record of with respect to a prescription;
- (i) respecting the identity verification requirements that a dispenser must ensure are met before dispensing a monitored drug under subsection 11 (2);
- (j) respecting any matter considered necessary or advisable to carry out effectively the purpose of this Act. 2010, c. 22, s. 17 (1); 2023, c. 4, Sched. 2, s. 8 (5).

Public consultation before making regulations

(2) The Lieutenant Governor in Council shall not make any regulations under clause (1) (a.1), (b), (d), (f), (g), (h) or (i) unless,

- (a) the Minister has published a notice of the proposed regulation on the website of the Ministry and in any other format the Minister considers advisable;
- (b) the notice complies with the requirements of this section;
- (c) the time periods specified in the notice, during which members of the public may exercise a right described in clause (3) (b) or (c), have expired; and
- (d) the Minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (3) (b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate. 2010, c. 22, s. 17 (2); 2023, c. 4, Sched. 2, s. 8 (6).

Contents of notice

(3) The notice mentioned in clause (2) (a) shall contain,

- (a) a description of the proposed regulation and the text of it;
- (b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the Minister and the manner in which and the address to which the comments must be submitted;
- (c) a description of whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;
- (d) a statement of where and when members of the public may review written information about the proposed regulation; and
- (e) all other information that the Minister considers appropriate. 2010, c. 22, s. 17 (3).

Time period for comments

(4) The time period mentioned in clauses (3) (b) and (c) shall be at least 30 days after the Minister gives the notice mentioned in clause (2) (a) unless the Minister shortens the time period in accordance with subsection (5). 2010, c. 22, s. 17 (4).

Shorter time period for comments

(5) The Minister may shorten the time period if, in the Minister's opinion,

- (a) the urgency of the situation requires it;
- (b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or
- (c) the proposed regulation is of a minor or technical nature. 2010, c. 22, s. 17 (5).

Discretion to make regulations

(6) Upon receiving the Minister's report mentioned in clause (2) (d), the Lieutenant Governor in Council, without further notice under subsection (2), may make the proposed regulation with the changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister's report. 2010, c. 22, s. 17 (6).

No review

(7) Subject to subsection (8), a court shall not review any action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the Minister under subsections (2) to (6). 2010, c. 22, s. 17 (7).

Exception

(8) Any person resident in Ontario may make an application for judicial review under the *Judicial Review Procedure Act* on the grounds that the Minister has not taken a step required by subsections (2) to (6). 2010, c. 22, s. 17 (8).

Time for application

(9) No person shall make an application under subsection (8) with respect to a regulation later than 21 days after the day on which the Minister publishes a notice with respect to the regulation under clause (2) (a). 2010, c. 22, s. 17 (9).

Section Amendments with date in force (d/m/y) [-]

2023, c. 4, Sched. 2, s. 8 (5, 6) - 24/07/23

18 OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2010, c. 22, s. 18.

19 OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2010, c. 22, s. 19.

Français

