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Newsroom

June 27, 2016

Goldstein on Drug Databases

Professor Jared Goldstein on whether a RI initiative to allow warrantless searches of drug databases is constitutional. Key cases point in opposite directions.

From Rhode Island Lawyers Weekly: ["Warrantless access to drug database weighed: Constitutional, privacy concerns raised by bills"](#) by Sheri Qualters



May 26, 2016: The General Assembly's bid to stem the opioid crisis through measures that would allow law enforcement to access prescription drug database records without a warrant has incited debate about whether patient privacy or public safety concerns should govern release of the information.

The House Health, Education and Welfare Committee passed H. 7518 in April. The bill would amend the current electronic prescription database law to allow local, state and federal law enforcement personnel and prosecutors to retrieve information from the database in connection with a specific investigation involving drugs.

The Senate Judiciary Committee approved a companion measure, S. 2713, in May. The bills are pending in both chambers. [...]



The debate over the Rhode Island legislation is framed by the larger question of whether such laws violate the Constitution, **said Roger Williams University School of Law professor Jared A. Goldstein.**

The U.S. Supreme Court has not directly addressed whether warrantless searches of prescription drug databases are constitutional, and key cases seem to point in opposite directions, **Goldstein said.**

The 1977 ruling in *Whalen v. Roe* rejected a 14th Amendment privacy challenge to a New York law that called for keeping patient prescription information in a database.

In 2001, the court's split ruling in *Ferguson v. City of Charleston* held that a state hospital's drug tests on patients to get evidence for law enforcement purposes without the patients' consent violated the Fourth Amendment.

"That suggests that the same principle applies to prescription drugs," **Goldstein said** of the *Ferguson* ruling.

Lower courts are starting to tackle the issue, but there is no consensus, **he added.** [...]

"We're having this crisis of abuse of various kinds of opioids, but that doesn't mean the police should have access to all of our prescription drugs without a showing and without a warrant," **Goldstein said.**