
SUBSTITUTE SENATE BILL 5973

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Rasmussen, Keiser, Sheldon, Delvin and Shin)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to a controlled substances prescription monitoring
2 program; reenacting and amending RCW 42.56.360; adding a new chapter to
3 Title 69 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that prescription drug
6 abuse has been on the rise and that often dispensers and prescribing
7 providers are unaware of prescriptions provided by others both in and
8 out of state.

9 It is the intent of the legislature to establish an electronic
10 database available in real time to dispensers and prescribers of
11 controlled substances. And further, that the department in as much as
12 possible should establish a common dataset with other sets of other
13 states.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Controlled substance" has the meaning provided in RCW
17 69.50.101.

18 (2) "Department" means the department of health.

1 (3) "Patient" means the person or animal who is the ultimate user
2 of a drug for whom a prescription is issued or for whom a drug is
3 dispensed.

4 (4) "Dispenser" means a person who delivers a Schedule II, III, IV,
5 or V controlled substance to the ultimate user, but does not include:

6 (a) A practitioner or other authorized person who administers, as
7 defined in RCW 69.41.010, a controlled substance; or

8 (b) A licensed wholesale distributor or manufacturer, as defined in
9 chapter 18.64 RCW, of a controlled substance.

10 NEW SECTION. **Sec. 3.** (1) The department shall establish and
11 maintain a web-based interactive prescription monitoring program
12 available in real time to monitor the prescribing and dispensing of all
13 Schedules II, III, IV, and V controlled substances and any additional
14 drugs identified by the board of pharmacy as demonstrating a potential
15 for abuse by all professionals licensed to prescribe or dispense such
16 substances in this state. As much as possible, the department should
17 establish a common database with other states.

18 (2) Each dispenser shall submit to the department by electronic
19 means information regarding each prescription dispensed for a drug
20 included under subsection (1) of this section. Drug prescriptions for
21 more than immediate one day use should be immediately reported. The
22 information submitted for each prescription shall include, but not be
23 limited to:

24 (a) Patient identifier;

25 (b) Drug dispensed;

26 (c) Date of dispensing;

27 (d) Quantity dispensed;

28 (e) Prescriber; and

29 (f) Dispenser.

30 (3) Each dispenser shall immediately submit the information in
31 accordance with transmission methods established by the department.

32 (4) The department may issue a waiver to a dispenser that is unable
33 to submit prescription information by electronic means; however, all
34 dispensers shall be required to submit prescription information by
35 electronic means within one year from the effective date of this act.
36 The waiver may permit the dispenser to submit prescription information

1 by paper form or other means, provided all information required in
2 subsection (2) of this section is submitted in this alternative format.

3 (5) The department shall seek federal grants to cover the costs of
4 operating the prescription monitoring program. The department may not
5 require a practitioner or a pharmacist to pay a fee or tax specifically
6 dedicated to the operation of the system.

7 (6) The department shall report to the legislature on the
8 implementation of this chapter by December 1, 2009.

9 NEW SECTION. **Sec. 4.** (1) Prescription information submitted to
10 the department shall be confidential, in compliance with the health
11 insurance portability and accountability act, and not subject to
12 disclosure, except as provided in subsections (3), (4), and (5) of this
13 section.

14 (2) The department shall maintain procedures to ensure that the
15 privacy and confidentiality of patients and patient information
16 collected, recorded, transmitted, and maintained is not disclosed to
17 persons except as in subsections (3), (4), and (5) of this section.

18 (3) The department shall review the prescription information. The
19 department shall notify the practitioner and allow explanation or
20 correction of any problem. If there is reasonable cause to believe a
21 violation of law or breach of professional standards may have occurred,
22 the department shall notify the appropriate law enforcement or
23 professional licensing, certification, or regulatory agency or entity,
24 and provide prescription information required for an investigation.

25 (4) The department may provide data in the prescription monitoring
26 program to the following persons:

27 (a) Persons authorized to prescribe or dispense controlled
28 substances, for the purpose of providing medical or pharmaceutical care
29 for their patients;

30 (b) An individual who requests the individual's own prescription
31 monitoring information;

32 (c) Health professional licensing, certification, or regulatory
33 agency or entity;

34 (d) Appropriate local, state, and federal law enforcement or
35 prosecutorial officials who are engaged in a bona fide specific
36 investigation involving a designated person;

1 (e) Authorized practitioners of the department of social and health
2 services regarding medicaid program recipients;

3 (f) Other entities under grand jury subpoena or court order; and

4 (g) Personnel of the department for purposes of administration and
5 enforcement of this chapter or chapter 69.50 RCW.

6 (5) The department may provide data to public or private entities
7 for statistical, research, or educational purposes after removing
8 information that could be used to identify individual patients,
9 dispensers, prescribers, and persons who received prescriptions from
10 dispensers.

11 (6) A dispenser or practitioner acting in good faith is immune from
12 any civil, criminal, or administrative liability that might otherwise
13 be incurred or imposed for requesting, receiving, or using information
14 from the program.

15 NEW SECTION. **Sec. 5.** The department may contract with another
16 agency of this state or with a private vendor, as necessary, to ensure
17 the effective operation of the prescription monitoring program. Any
18 contractor is bound to comply with the provisions regarding
19 confidentiality of prescription information in section 4 of this act
20 and is subject to the penalties specified in section 7 of this act for
21 unlawful acts.

22 NEW SECTION. **Sec. 6.** The department shall adopt rules to
23 implement this chapter.

24 NEW SECTION. **Sec. 7.** (1) A dispenser who knowingly fails to
25 submit prescription monitoring information to the department as
26 required by this chapter or knowingly submits incorrect prescription
27 information is subject to disciplinary action under chapter 18.130 RCW.

28 (2) A person authorized to have prescription monitoring information
29 under this chapter who knowingly discloses such information in
30 violation of this chapter is subject to civil penalty.

31 (3) A person authorized to have prescription monitoring information
32 under this chapter who uses such information in a manner or for a
33 purpose in violation of this chapter is subject to civil penalty.

34 (4) In accordance with the health insurance portability and
35 accountability act, any physician or pharmacist authorized to access a

1 patient's prescription monitoring may discuss or release that
2 information to other health care providers involved with the patient in
3 order to provide safe and appropriate care coordination.

4 NEW SECTION. **Sec. 8.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 **Sec. 9.** RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are
9 each reenacted and amended to read as follows:

10 (1) The following health care information is exempt from disclosure
11 under this chapter:

12 (a) Information obtained by the board of pharmacy as provided in
13 RCW 69.45.090;

14 (b) Information obtained by the board of pharmacy or the department
15 of health and its representatives as provided in RCW 69.41.044,
16 69.41.280, and 18.64.420;

17 (c) Information and documents created specifically for, and
18 collected and maintained by a quality improvement committee under RCW
19 43.70.510 or 70.41.200, or by a peer review committee under RCW
20 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
21 or 18.20.390, and notifications or reports of adverse events or
22 incidents made under RCW 70.56.020 or 70.56.040, regardless of which
23 agency is in possession of the information and documents;

24 (d)(i) Proprietary financial and commercial information that the
25 submitting entity, with review by the department of health,
26 specifically identifies at the time it is submitted and that is
27 provided to or obtained by the department of health in connection with
28 an application for, or the supervision of, an antitrust exemption
29 sought by the submitting entity under RCW 43.72.310;

30 (ii) If a request for such information is received, the submitting
31 entity must be notified of the request. Within ten business days of
32 receipt of the notice, the submitting entity shall provide a written
33 statement of the continuing need for confidentiality, which shall be
34 provided to the requester. Upon receipt of such notice, the department
35 of health shall continue to treat information designated under this
36 subsection (1)(d) as exempt from disclosure;

1 (iii) If the requester initiates an action to compel disclosure
2 under this chapter, the submitting entity must be joined as a party to
3 demonstrate the continuing need for confidentiality;

4 (e) Records of the entity obtained in an action under RCW 18.71.300
5 through 18.71.340;

6 (f) Except for published statistical compilations and reports
7 relating to the infant mortality review studies that do not identify
8 individual cases and sources of information, any records or documents
9 obtained, prepared, or maintained by the local health department for
10 the purposes of an infant mortality review conducted by the department
11 of health under RCW 70.05.170; (~~and~~)

12 (g) Complaints filed under chapter 18.130 RCW after July 27, 1997,
13 to the extent provided in RCW 18.130.095(1); and

14 (h) Information obtained by the department of health under chapter
15 69.-- RCW (sections 1 through 8 of this act).

16 (2) Chapter 70.02 RCW applies to public inspection and copying of
17 health care information of patients.

18 NEW SECTION. Sec. 10. Sections 1 through 8 of this act constitute
19 a new chapter in Title 69 RCW.

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