

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO UNIFORM CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO _____

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1: That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. Filing prescriptions -- Database. (1) All controlled substances dispensed for humans shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

- (a) Authorized individuals employed by Idaho's boards or other states' licensing entities charged with the licensing and discipline of practitioners;
- (b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;
- (c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;
- (d) A practitioner, licensed in Idaho or another state, having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;
- (e) A pharmacist, licensed in Idaho or another state, having authority to dispense controlled substances to the extent the information relates specifically to a current patient

to whom that pharmacist is dispensing or considering dispensing any controlled substance, or providing pharmaceutical care as defined in the Idaho pharmacy act;

(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person;

(g) Upon the lawful order of a court of competent jurisdiction; and

(h) Prosecuting attorneys, deputy prosecuting attorneys and special prosecutors of a county or city and special assistant attorneys general from the office of the attorney general engaged in enforcing law regulating controlled substances.

(i) Authorized individuals employed by a peer assistance entity as defined in section 54-4401(2), Idaho Code, to the extent that the information relates specifically to a health care professional with whom the peer assistance entity has a current contract for treatment.

(3) The board must maintain records on the information disclosed from the database, including:

(a) The identification of each individual who requests or receives information from the database and who that individual represents;

(b) The information provided to each such individual; and

(c) The date and time the information is requested or provided.

(4) The board shall promulgate rules to ensure that only authorized individuals have access to the database.

(5) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(6) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database which identifies an individual patient and who knowingly discloses such information to a person not authorized to receive or use such information under any state or federal law, rule or regulation; the lawful order of a court of competent jurisdiction; or written authorization of the individual patient shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law. The provisions of this subsection shall not apply to disclosure of individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure

of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

(7) Any person with access to the board's online prescription monitoring program pursuant to a board issued user account, login name and password who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in another person not authorized to receive or use such information under the provisions of any state or federal law, rule or regulation obtaining information from the controlled substances prescriptions database, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(8) The board may, at its discretion, block access to certain controlled substances prescriptions database data if the board has reason to believe that access to the data is or may be used illegally.

(9) All costs associated with recording and submitting data as required in this section are assumed by the dispensing practitioner recording and submitting the data.

STATEMENT OF PURPOSE

RS

FISCAL IMPACT

None.

Contact:

Mark Johnston
Board of Pharmacy
(208) 334-2356