



LEGISLATURE OF THE STATE OF IDAHO



Sixty-third Legislature

First Regular Session - 2015

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO CLARIFY THAT AN ORDER FOR THE RELEASE OF PRESCRIPTION MONITORING PROGRAM RECORDS MUST BE ISSUED BY A JUDGE.

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 dispensed controlled substance entered into the database may access records that pertain to that

1 individual, upon the production of positive identification, or that in-
2 dividual's designee upon production of a notarized release of informa-
3 tion by that individual;

4 (g) Upon ~~the~~ a lawful order ~~of~~ issued by the presiding judge in a court
5 of competent jurisdiction for the release of prescription monitoring
6 program records of a named individual; and

7 (h) Prosecuting attorneys, deputy prosecuting attorneys and special
8 prosecutors of a county or city and special assistant attorneys general
9 from the office of the attorney general engaged in enforcing law regu-
10 lating controlled substances.

11 (3) The board shall require prescribers, except veterinarians, to an-
12 nually register with the board to obtain online access to the controlled sub-
13 stances prescriptions database.

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

16 (a) The identification of each individual who requests or receives in-
17 formation from the database and who that individual represents;

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

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

20 (5) The board shall promulgate rules to ensure that only authorized in-
21 dividuals have access to the database.

22 (6) Any person who knowingly misrepresents to the board that he is a
23 person entitled under subsection (2) of this section to receive information
24 from the controlled substances prescriptions database under the condi-
25 tions therein provided, and who receives information from the controlled
26 substances prescriptions database resulting from that misrepresentation,
27 shall be guilty of a misdemeanor, punishable by imprisonment in a county jail
28 not to exceed six (6) months, or by a fine not to exceed two thousand dollars
29 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
30 in lieu of, any other civil or administrative penalty or sanction authorized
31 by law.

32 (7) Any person in possession, whether lawfully or unlawfully, of infor-
33 mation from the controlled substances prescriptions database which identi-
34 fies an individual patient and who knowingly discloses such information to
35 a person not authorized to receive or use such information under any state
36 or federal law, rule or regulation; the lawful order of a court of compe-
37 tent jurisdiction; or written authorization of the individual patient shall
38 be guilty of a misdemeanor, punishable by imprisonment in a county jail not
39 to exceed six (6) months, or by a fine not to exceed two thousand dollars
40 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
41 in lieu of, any other civil or administrative penalty or sanction authorized
42 by law. The provisions of this subsection shall not apply to disclosure of
43 individual patient information by the patient himself. The provisions of
44 this subsection shall not apply to disclosure of information by a prosecut-
45 ing attorney, deputy prosecuting attorney or special prosecutor of a county
46 or city or by a special assistant attorney general from the office of the at-
47 torney general in the course of a criminal proceeding, whether preconviction
48 or postconviction.

49 (8) Any person with access to the board's online prescription monitor-
50 ing program pursuant to a board issued user account, login name and pass-

1 word who intentionally shares or recklessly fails to safeguard his user ac-
2 count, login name and password, resulting in another person not authorized
3 to receive or use such information under the provisions of any state or fed-
4 eral law, rule or regulation obtaining information from the controlled sub-
5 stances prescriptions database, shall be guilty of a misdemeanor, punish-
6 able by imprisonment in a county jail not to exceed six (6) months or by a fine
7 not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal
8 penalty is in addition to, and not in lieu of, any other civil or administra-
9 tive penalty or sanction authorized by law.

10 (9) The board may, at its discretion, block access to certain con-
11 trolled substances prescriptions database data if the board has reason to
12 believe that access to the data is or may be used illegally.

13 (10) All costs associated with recording and submitting data as re-
14 quired in this section are assumed by the dispensing practitioner recording
15 and submitting the data.

STATEMENT OF PURPOSE

RS 421-03

This legislation would clarify that the authorization to provide Prescription Monitoring Program (PMP) database information "upon the lawful order of a court of competent jurisdiction" requires an order be signed by the presiding judge specifically requesting controlled substance records for an identified individual. This clarification furthers the mission of the Board in identifying the inappropriate use of controlled substances while protecting the database information from being utilized as a means of discovery in civil cases through the use of subpoenas executed by attorneys.

FISCAL NOTE

This legislation has no fiscal impact.

Contact

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334-2356

Statement of Purpose/Fiscal Note

Bill No.