

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO PRESCRIPTIONS DATABASE, AMENDING SECTION 37-2726, IDAHO CODE, TO CLARIFY INDIVIDUALS WITH ACCESS TO THE PRESCRIPTIONS DATABASE.

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 individual, upon the production of positive identification, or that individual's designee upon production of a notarized release of information by that individual;

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

(i) A medical examiner or coroner who is an officer of or employed by a state or local government, for determining a cause of death or for performing other duties authorized by law.

(3) The board shall require prescribers, except veterinarians, to annually register with the board to obtain online access to the controlled substances prescriptions database.

(4) 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.

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

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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

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The Board of Pharmacy desires to clarify that medical examiners or coroners may have access to information contained in the Idaho Prescription Monitoring Program (PMP) database under certain circumstances.

FISCAL IMPACT

This legislation will have no fiscal impact.

CONTACT

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