H-4056.2

HOUSE BILL 3320

State of Washington 59th Legislature 2006 Regular Session

By Representative Hinkle

Read first time 03/07/2006. Referred to Committee on Health Care.

AN ACT Relating to a controlled substances prescription monitoring program; amending RCW 42.56.360; adding a new chapter to Title 69 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to improve the state's ability to identify and stop diversion of prescription drugs in an efficient and cost-effective manner that will not impede the appropriate medical utilization of licit controlled substances or other licit drugs of abuse.

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

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

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

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

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

(a) A person who distributes controlled substances for the purpose of inpatient hospital care;

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

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

NEW SECTION. **Sec. 3.** (1) The department shall establish and maintain an electronic system to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the board of pharmacy as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state.

(2) Each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. The information submitted for each prescription shall include, but not be limited to:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(3) Each dispenser shall submit the information in accordance with transmission methods and frequency established by the department, but shall report at least every thirty days, between the 1st and the 15th of the month following the month the prescription was dispensed.

(4) The department may issue a waiver to a dispenser that is unable to submit prescription information by electronic means; however, all dispensers shall be required to submit prescription information by electronic means within one year from the effective date of this act. The waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required in subsection (2) of this section is submitted in this alternative format.

(5) The department shall seek federal funding and state funding to cover the costs of operating the prescription monitoring program.

NEW SECTION. **Sec. 4.** (1) Prescription information submitted to the department shall be confidential, in compliance with HIPPA, and not subject to disclosure, except as provided in subsections (3), (4), and (5) of this section.

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

(3) The department shall review the prescription information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement or professional licensing, certification, or regulatory agency or entity, and provide prescription information required for an investigation.

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

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

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

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

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials;

(e) The department of social and health services regarding medicaid program recipients;

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

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

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

NEW SECTION. **Sec. 5.** The department may contract with another agency of this state or with a private vendor, as necessary, to ensure

the effective operation of the prescription monitoring program. Any contractor is bound to comply with the provisions regarding confidentiality of prescription information in section 4 of this act and is subject to the penalties specified in section 7 of this act for unlawful acts.

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

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

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

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

(4) In accordance with HIPPA, any physician or pharmacist authorized to access a patient's prescription monitoring may discuss or release that information to other health care providers involved with the patient in order to provide safe and appropriate care coordination.

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

Sec. 9. RCW 42.56.360 and 2005 c 274 s 416 are each amended to read as follows:

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

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

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

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents;

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

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

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

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

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

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1)<u>; and</u>

<u>(h) Information obtained by the department of health under chapter 69.-- RCW (sections 1 through 8 and 11 of this act)</u>.

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

<u>NEW SECTION.</u> **Sec. 10.** Sections 1 through 8 and 11 of this act

constitute a new chapter in Title 69 RCW.

NEW SECTION. **Sec. 11.** This act takes effect July 1, 2006.

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