
HOUSE BILL 2829

State of Washington 61st Legislature 2010 Regular Session

By Representatives Hinkle, Cody, Morrell, Green, Driscoll, and Clibborn

Read first time 01/14/10. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to authorizing a privately funded prescription
2 monitoring program; amending RCW 70.225.010, 70.225.020, 70.225.040,
3 and 70.225.060; adding new sections to chapter 70.225 RCW; and
4 repealing RCW 70.225.030 and 70.225.050.

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

6 **Sec. 1.** RCW 70.225.010 and 2007 c 259 s 42 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Controlled substance" has the meaning provided in RCW
11 69.50.101.

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

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

16 (4) "Dispenser" means a practitioner or pharmacy that delivers a
17 Schedule II, III, IV, or V controlled substance to the ultimate user,
18 but does not include:

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

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

5 (5) "Privately funded prescription monitoring program" means a
6 single, statewide program established and funded in the private sector,
7 and approved by the secretary of the department, to monitor the
8 prescribing and dispensing of all Schedule II, III, IV, and V
9 controlled substances and additional drugs identified by the board of
10 pharmacy as demonstrating potential for abuse by all professionals
11 licensed to prescribe or dispense such substances in this state.

12 (6) "Secretary" means the secretary of the department.

13 NEW SECTION. Sec. 2. (1) Between January 1st and March 30th of
14 each calendar year, proposals for a privately funded prescription
15 monitoring program may be submitted to the secretary.

16 (2) By no later than July 1st of each calendar year, the secretary
17 must complete review of proposals for privately funded prescription
18 monitoring programs, if any, submitted to the department by March 30th
19 of that year, and must complete a review of the privately funded
20 prescription monitoring program currently in effect, if any. Within
21 thirty days of completing the review, the secretary may select the
22 qualified privately funded prescription monitoring program which will
23 be in place for the succeeding twelve months. At any time, in the
24 event a privately funded prescription monitoring program ceases to
25 operate for any reason, the secretary has the authority to authorize
26 another qualified privately funded prescription monitoring program to
27 replace it.

28 (3) The secretary may choose only one privately funded prescription
29 monitoring program to operate in the state at any given time.

30 (4) The secretary has the authority to:

31 (a) Select none of the proposed privately funded prescription
32 monitoring programs;

33 (b) Remove the privately funded prescription monitoring program
34 currently in place;

35 (c) Select a new privately funded prescription monitoring program;
36 or

1 (d) Renew the authorization for the privately funded prescription
2 monitoring program currently in place.

3 (5) Any privately funded prescription monitoring program that is
4 approved by the secretary must meet the following requirements:

5 (a) Demonstrate to the secretary that it has funding adequate to
6 support its operation. This subsection shall not prohibit the
7 privately funded prescription monitoring program from accepting state
8 funding, funds from federal or private grants, or donations.

9 (b) Demonstrate to the secretary that it possesses electronic
10 infrastructure capable of receiving, storing, and retrieving data of
11 the type and magnitude contemplated by the operation of this chapter,
12 and allow real-time access, to the extent real-time access is
13 technologically feasible, to that data; and

14 (c) Demonstrate to the secretary that its electronic
15 infrastructure, data storage, and computer software is capable of
16 exchanging information of a type and in a manner that is compatible
17 with similar prescription monitoring programs in other states.

18 (6) The secretary may withdraw the department's authorization of
19 the privately funded prescription monitoring program if it fails to
20 meet all of the requirements of this section.

21 (7) This chapter does not require the secretary to select or
22 continue authorizing any privately funded prescription monitoring
23 program.

24 **Sec. 3.** RCW 70.225.020 and 2007 c 259 s 43 are each amended to
25 read as follows:

26 (1) ~~When ((sufficient funding is provided for such purpose through~~
27 ~~federal or private grants, or is appropriated by the legislature, the~~
28 ~~department shall establish and maintain a prescription monitoring~~
29 ~~program to monitor the prescribing and dispensing of all Schedules II,~~
30 ~~III, IV, and V controlled substances and any additional drugs~~
31 ~~identified by the board of pharmacy as demonstrating a potential for~~
32 ~~abuse by all professionals licensed to prescribe or dispense such~~
33 ~~substances in this state. The program shall be designed to improve~~
34 ~~health care quality and effectiveness by reducing abuse of controlled~~
35 ~~substances, reducing duplicative prescribing and overprescribing of~~
36 ~~controlled substances, and improving controlled substance prescribing~~
37 ~~practices with the intent of eventually establishing an electronic~~

1 ~~database available in real time to dispensers and prescribers of~~
2 ~~control [controlled] substances. As much as possible, the department~~
3 ~~should establish a common database with other states))~~ the secretary
4 has approved a privately funded prescription monitoring program, all
5 dispensers, except as provided in subsection (4) of this section, must
6 comply with the selected program's instructions for connecting to its
7 network and begin transmitting all required data when its connection
8 with the program is confirmed.

9 (2) Except as provided in subsection (4) of this section, each
10 dispenser shall submit to the ((~~department~~)) privately funded
11 prescription monitoring program by electronic means information
12 regarding each prescription dispensed for a drug included under
13 subsection (1) of this section. Drug prescriptions for more than
14 immediate one day use should be reported. The information submitted
15 for each prescription shall include, but not be limited to:

- 16 (a) Patient identifier;
- 17 (b) Drug dispensed;
- 18 (c) Date of dispensing;
- 19 (d) Quantity dispensed;
- 20 (e) Prescriber; and
- 21 (f) Dispenser.

22 (3) Each dispenser shall submit the information in accordance with
23 transmission methods established by the ((~~department~~)) privately funded
24 prescription monitoring program.

25 (4) The data submission requirements of this section do not apply
26 to:

27 (a) Medications provided to patients receiving inpatient services
28 provided at hospitals licensed under chapter 70.41 RCW; or patients of
29 such hospitals receiving services at the clinics, day surgery areas, or
30 other settings within the hospital's license where the medications are
31 administered in single doses; or

32 (b) Pharmacies operated by the department of corrections for the
33 purpose of providing medications to offenders in department of
34 corrections institutions who are receiving pharmaceutical services from
35 a department of corrections pharmacy, except that the department of
36 corrections must submit data related to each offender's current
37 prescriptions for controlled substances upon the offender's release
38 from a department of corrections institution.

1 (~~(5) The department shall seek federal grants to support the~~
2 ~~activities described in chapter 259, Laws of 2007. The department may~~
3 ~~not require a practitioner or a pharmacist to pay a fee or tax~~
4 ~~specifically dedicated to the operation of the system.))~~

5 **Sec. 4.** RCW 70.225.040 and 2007 c 259 s 45 are each amended to
6 read as follows:

7 (1) Prescription information submitted to the (~~department~~)
8 privately funded prescription monitoring program shall be confidential,
9 in compliance with chapter 70.02 RCW and federal health care
10 information privacy requirements and not subject to disclosure, except
11 as provided in subsections (3) and (4) of this section.

12 (2) The department shall (~~maintain~~) verify that the privately
13 funded prescription monitoring program has procedures in place to
14 ensure that the privacy and confidentiality of patients and patient
15 information collected, recorded, transmitted, and maintained is not
16 disclosed to persons except as in subsections (3) and (4) of this
17 section.

18 (3) The (~~department may~~) privately funded prescription monitoring
19 program must provide data in the prescription monitoring program to the
20 following persons:

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

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

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

28 (~~d~~)) Appropriate local, state, and federal law enforcement or
29 prosecutorial officials who are engaged in a bona fide specific
30 investigation involving a designated person, and who have appropriate
31 warrants or court orders permitting such disclosure;

32 (~~e~~)) (d) Authorized practitioners of the department of social
33 and health services regarding medicaid program recipients;

34 (~~f~~)) (e) The director or director's designee within the
35 department of labor and industries regarding workers' compensation
36 claimants;

1 ~~((g))~~ (f) The director or the director's designee within the
2 department of corrections regarding offenders committed to the
3 department of corrections; and

4 ~~((h))~~ (g) Other entities under grand jury subpoena or court
5 order ~~(; and~~

6 ~~(i) Personnel of the department for purposes of administration and
7 enforcement of this chapter or chapter 69.50 RCW)).~~

8 (4) The ~~((department))~~ privately funded prescription monitoring
9 program may provide data to public or private entities for statistical,
10 research, or educational purposes after removing information that could
11 be used to identify individual patients, dispensers, prescribers, and
12 persons who received prescriptions from dispensers.

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

17 NEW SECTION. Sec. 5. A dispenser or practitioner acting in good
18 faith is immune from any civil, criminal, or administrative liability
19 that might otherwise be incurred or imposed for requesting, receiving,
20 or using information from the program.

21 **Sec. 6.** RCW 70.225.060 and 2007 c 259 s 48 are each amended to
22 read as follows:

23 (1) A dispenser who knowingly fails to submit prescription
24 monitoring information to the ~~((department))~~ privately funded
25 prescription monitoring program as required by this chapter or
26 knowingly submits incorrect prescription information is subject to
27 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, as determined by
31 the secretary by rule.

32 (3) A person authorized to have prescription monitoring information
33 under this chapter who uses such information in a manner or for a
34 purpose in violation of this chapter is subject to civil penalty, as
35 determined by the secretary by rule.

1 (4) In accordance with chapter 70.02 RCW and federal health care
2 information privacy requirements, any physician or pharmacist
3 authorized to access a patient's prescription monitoring may discuss or
4 release that information to other health care providers involved with
5 the patient in order to provide safe and appropriate care coordination.

6 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
7 repealed:

8 (1) RCW 70.225.030 (Enhancement of program--Feasibility study) and
9 2007 c 259 s 44; and

10 (2) RCW 70.225.050 (Department may contract for operation of
11 program) and 2007 c 259 s 46.

12 NEW SECTION. **Sec. 8.** Sections 2 and 5 of this act are each added
13 to chapter 70.225 RCW.

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