Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Health Care & Wellness Committee

HB 1426

Brief Description: Concerning persons and entities to whom the department of health may provide prescription monitoring program data.

Sponsors: Representatives Robinson, Harris, Cody, Caldier, Rodne, Slatter, Jinkins, Peterson, Kilduff and Kagi.

Brief Summary of Bill

- Expands access to the data in the prescription monitoring program.
- Expands the permissible uses for data from the prescription monitoring program.
- Changes the situations in which a person is immune from liability for participating in the prescription monitoring program.

Hearing Date: 2/1/17

Staff: Jim Morishima (786-7191).

Background:

The Prescription Monitoring Program.

The Department of Health (DOH) maintains a prescription monitoring program (PMP) to monitor the prescribing and dispensing of controlled substances and other drugs that demonstrate a potential for abuse. Each time one of these drugs is dispensed, the dispenser must electronically submit the following information to the PMP:

- a patient identifier;
- the drug dispensed;
- the dispensing date;
- the quantity dispensed;
- the prescriber; and
- the dispenser.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Prescribers are not required to query the PMP prior to prescribing a controlled substance. Data in the PMP may be accessed by:

- a person authorized to prescribe or dispense a controlled substance or legend drug for the purpose of providing medical or pharmaceutical care for his or her patients;
- a person requesting his or her own PMP information;
- a health professional licensing, certification, or regulatory agency;
- an appropriate law enforcement or prosecutorial official;
- an authorized practitioner of the Department of Social and Health Services or the Health Care Authority regarding Medicaid recipients;
- the Director of the Department of Labor and Industries (or designee) regarding workers' compensation claimants;
- the Secretary of the Department of Corrections (or designee) regarding offenders in the custody of the Department of Corrections;
- an entity under grand jury subpoena or court order;
- personnel of the DOH for administration of the PMP or the Uniform Controlled Substances Act;
- certain medical test sites licensed by the DOH;
- a health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity if: (1) the facility or entity is licensed by the DOH; and (2) the facility or entity is a trading partner with the Health Information Exchange (HIE); and
- a health care provider group of five or more providers for the purpose of providing medical or pharmaceutical care to the patients of the provider group if: (1) all of the providers in the group are licensed; and (2) the provider group is a trading partner with the HIE.

A dispenser or practitioner acting in good faith is immune from civil, criminal, or administrative liability for requesting, receiving, or using information from the PMP.

<u>The Seven Best Practices in Emergency Medicine</u>.

In order to achieve a 12 percent reduction in emergency room expenditures, the 2012 Supplemental Operating Budget required the Health Care Authority (HCA) to designate best practices and performance measures to reduce medically unnecessary emergency room visits for Medicaid clients. The Washington State Hospital Association, the Washington State Medical Association, and the Washington chapter of the American College of Emergency Physicians were directed to work with the HCA to promote the best practices. The Seven Best Practices in Emergency Medicine, as identified by the HCA, are:

- an electronic system to exchange patient information between emergency departments;
- patient education to help clients understand the difference between emergencies and non-emergencies;
- emergency department awareness of patients who are frequent visitors;
- referring non-emergency patients to primary care providers;
- stricter prescription guidelines for narcotics;
- enrolling emergency department prescribers in the PMP; and
- providing feedback to emergency department staff.

<u>Coordinated Quality Improvement Programs</u>.

Certain entities, including health care institutions and medical facilities, may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. Information and documents created specifically for a quality improvement committee are exempt from disclosure under the Public Records Act. Discovery and use of the information and documents in civil proceedings are also limited.

Summary of Bill:

The purposes for which prescription monitoring program (PMP) data may be shared with Department of Health (DOH) personnel are expanded to include assessing prescribing practices and providing quality improvement feedback to providers.

A facility, entity, or group may use the PMP data for quality improvement purposes. The facility, entity, or provider group operated by the federal government or federally recognized Indian tribe may access PMP data.

The DOH must provide a facility, entity, or group individual prescriber information, on at least a quarterly basis, if the facility, entity, or group uses the information only for internal quality improvement and individual prescriber quality improvement feedback. The information may not be the sole basis for any medical staff sanction or adverse employment action. The facility, entity, or group must provide the DOH with a standardized list of its current prescribers. The DOH, in consultation with the Washington State Hospital Association (WSHA), Washington State Medical Association (WSMA), and the Health Care Authority (HCA), must determine the specific facility, entity, and prescriber information that the DOH must provide and any requirements related to the standardized list of prescribers that must be provided to the DOH. The DOH may modify the specific information and requirements as necessary to reflect best practices.

The WSHA's coordinated care electronic tracking program, developed in response to the Seven Best Practices in Emergency Medicine, may access PMP data for purposes of providing: (1) data to emergency department personnel when a patient registers and (2) notice to providers, appropriate care coordination staff, and prescribers listed in the patient's PMP record that the patient has experienced a controlled substance overdose event. The DOH must determine the content and format of the notice in consultation with the WSHA, the WSMA, and the HCA. The DOH may modify the notice as necessary to reflect current needs and best practices.

A local health jurisdiction may access PMP data for patient follow-up and care coordination following a controlled substance overdose event.

The DOH may provide dispenser or prescriber data and data that includes indirect patient identifiers to the WSHA for use in its coordinated quality improvement program. Prior to receiving the data, the WSHA must enter into a written data use agreement with the DOH.

The individuals eligible for immunity for accessing PMP data are expanded to include any person authorized to receive the data, instead of only dispensers and practitioners. It is clarified that the immunity includes immunity from disciplinary actions. The actions for which immunity

is granted are expanded to include any actions statutorily authorized in connection with the PMP, instead of only for requesting, receiving, or using PMP information.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.