HOUSE BILL REPORT
HB 1426

As Reported by House Committee On:
Health Care & Wellness
Appropriations

Title: An act relating to persons and entities to whom the department of health may provide prescription monitoring program data.

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 History:
Committee Activity:
Health Care & Wellness: 2/1/17, 2/17/17 [DPS];
Appropriations: 2/23/17, 2/24/17 [DP2S(w/o sub HCW)].

Brief Summary of Second Substitute 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.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Cody, Chair; Macri, Vice Chair; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 3 members: Representatives Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Maycumber.

Staff: Jim Morishima (786-7191).

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.

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.

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.

The Seven Best Practices in Emergency Medicine.

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.

Coordinated Quality Improvement Programs.

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 Substitute Bill:

Prescription monitoring program (PMP) data may be shared with:

- the Director of the Health Care Authority (HCA), or his or her designee, for Medicaid clients; and
- mental health and substance use disorder facilities.

The purposes for which 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. A facility, entity, or provider group operated by the federal government or a 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 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.

By January 1, 2023, a facility, entity, or provider group with access to PMP data must fully integrate its electronic health records with the PMP if the facility, entity, or provider group accepts reimbursement from a state purchased health care program and utilizes an electronic health records system. The facility, entity, or group must provide annual progress reports to the DOH beginning January 1, 2018.

Substitute Bill Compared to Original Bill:

The substitute bill:

- provides Prescription Monitoring Program (PMP) access to the Director of the Health Care Authority or his or her designee for Medicaid clients and mental health and substance use disorder facilities;
- requires certain facilities, entities, and provider groups to fully integrate their electronic health records with the PMP; and
- requires the facilities, entities, and groups to submit annual progress reports to the Department of Health.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is another tool to address the opioid crisis. Patients hop from town to town and provider to provider to get access to opioids. Most patients who experience an overdose will return to using the same medications. Physicians respond to and adjust behavior because of data and evidence. This bill will help get information to hospital employees and people practicing outside the hospital system. It will also allow local health jurisdictions to identify at-risk patients and provide support. Providing information to internal quality improvement programs will help entities address over-prescribing in-house. Quality improvement programs help facilities track what their providers are doing and encourage providers to adhere to best practices. This results in better, safer care. Quality improvement programs are approved by the Department of Health and are a confidential tool. This structure should be leveraged to build on success and drive quality. Data are particularly important in an overdose event. This bill will help local health jurisdictions to coordinate and provide notification to providers prescribing to the patient. The local health officer can then have a conversation with prescribers who are outliers. Providers should embed prescription monitoring program data into their electronic health records. Advanced registered nurse practitioners should be allowed to provide input when developing overdose medication information. More education is needed for providers.

(Opposed) None.

Persons Testifying: Representative Robinson, prime sponsor; Katie Kolan and Kent Hu, Washington State Medical Association; Scott Kennedy and Ian Corbridge, Washington State Hospital Association; Ian Goodhew, University of Washington School of Medicine; and Leslie Emerick, Advanced Registered Nurse Practitioners United of Washington.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by 26 members: Representatives Ormsby, Chair; Robinson, Vice Chair; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Caldier, Cody, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan, Tharinger and Vick.

Minority Report: Do not pass. Signed by 7 members: Representatives Chandler, Ranking Minority Member; Buys, Condotta, Schmick, Taylor, Volz and Wilcox.

Staff: Linda Merelle (786-7092).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care & Wellness:

The Appropriations Committee recommended that a null and void clause be added, making the provisions null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This is a statewide approach to address opiate overdoses. It is hoped that this can be funded in ways that do not involve the State General Fund.

(Opposed) None.

Persons Testifying: Kathryn Kolan, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.