
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1426

State of Washington

65th Legislature

2017 Regular Session

By House Appropriations (originally sponsored by Representatives Robinson, Harris, Cody, Caldier, Rodne, Slatter, Jinkins, Peterson, Kilduff, and Kagi)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to persons and entities to whom the department of
2 health may provide prescription monitoring program data; amending RCW
3 70.225.040; and adding a new section to chapter 70.225 RCW.

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

5 **Sec. 1.** RCW 70.225.040 and 2016 c 104 s 1 are each amended to
6 read as follows:

7 (1) Prescription information submitted to the department must be
8 confidential, in compliance with chapter 70.02 RCW and federal health
9 care information privacy requirements and not subject to disclosure,
10 except as provided in subsections (3) (~~and (4)~~) through (5) of this
11 section.

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

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

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

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

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

5 (d) Appropriate law enforcement or prosecutorial officials,
6 including local, state, and federal officials and officials of
7 federally recognized tribes, who are engaged in a bona fide specific
8 investigation involving a designated person;

9 (e) Authorized practitioners of the department of social and
10 health services and the health care authority regarding medicaid
11 program recipients;

12 (f) The director or the director's designee within the health
13 care authority regarding medicaid clients for the purposes of quality
14 improvement, patient safety, and care coordination. The information
15 may not be used for contracting or value-based purchasing decisions;

16 (g) The director or director's designee within the department of
17 labor and industries regarding workers' compensation claimants;

18 ~~((g))~~ (h) The director or the director's designee within the
19 department of corrections regarding offenders committed to the
20 department of corrections;

21 ~~((h))~~ (i) Other entities under grand jury subpoena or court
22 order;

23 ~~((i))~~ (j) Personnel of the department for purposes of:

24 (i) Assessing prescribing practices, including controlled
25 substances-related mortality and morbidity;

26 (ii) Providing quality improvement feedback to providers,
27 including comparison of a provider's respective data to aggregate
28 data for providers with the same type of license and same specialty;
29 and

30 (iii) Administration and enforcement of this chapter or chapter
31 69.50 RCW;

32 ~~((j))~~ (k) Personnel of a test site that meet the standards
33 under RCW 70.225.070 pursuant to an agreement between the test site
34 and a person identified in (a) of this subsection to provide
35 assistance in determining which medications are being used by an
36 identified patient who is under the care of that person;

37 ~~((k))~~ (l) A health care facility or entity for quality
38 improvement purposes or for the purpose of providing medical or
39 pharmaceutical care to the patients of the facility or entity, if:

40 (i) The facility or entity is:

1 (A) Licensed by the department;
2 (B) Licensed or certified under chapter 70.96A, 71.05, 71.24, or
3 71.34 RCW or is an entity deemed, for purposes of chapter 71.24 RCW,
4 to meet state minimum standards as a result of accreditation by a
5 recognized behavioral health accrediting body; or
6 (C) Operated by the federal government or a federally recognized
7 tribe; and
8 (ii) The facility or entity is a trading partner with the state's
9 health information exchange; ~~((and~~
10 ~~(+))~~ (m) A health care provider group of five or more providers
11 for quality improvement purposes or for purposes of providing medical
12 or pharmaceutical care to the patients of the provider group if:
13 (i) All the providers in the provider group are licensed by the
14 department or the provider group is operated by the federal
15 government or a federally recognized tribe; and
16 (ii) The provider group is a trading partner with the state's
17 health information exchange;
18 (n) The local health officer of a local health jurisdiction for
19 the purposes of patient follow-up and care coordination following a
20 controlled substance overdose event. For purposes of this subsection,
21 "local health officer" has the same meaning as in RCW 70.05.010; and
22 (o) The coordinated care electronic tracking program developed in
23 response to section 213, chapter 7, Laws of 2012 2nd sp. sess.,
24 commonly referred to as the seven best practices in emergency
25 medicine, for purposes of providing:
26 (i) Prescription monitoring program data to emergency department
27 personnel when the patient registers in the emergency department; and
28 (ii) Notice to providers, appropriate care coordination staff,
29 and prescribers listed in the patient's prescription monitoring
30 program record that the patient has experienced a controlled
31 substance overdose event. The department shall determine the content
32 and format of the notice in consultation with the Washington state
33 hospital association, Washington state medical association, a
34 statewide association representing advanced registered nurse
35 practitioners, and the health care authority. The department may
36 modify the notice as necessary to reflect current needs and best
37 practices.
38 (4)(a) Subject to funds appropriated for this specific purpose,
39 the department shall provide a facility or entity identified under
40 subsection (3)(1) of this section or a provider group identified

1 under subsection (3)(m) of this section with facility or entity and
2 individual prescriber information if the facility, entity, or
3 provider group:

4 (i) Uses the information only for purposes of internal quality
5 improvement and individual prescriber quality improvement feedback;

6 (ii) Does not use the information as the sole basis for any
7 medical staff sanction or adverse employment action;

8 (iii) Provides the department with a standardized list of the
9 facility, entity, or provider group's current prescribers.

10 (b) The department, in consultation with the Washington state
11 hospital association, Washington state medical association, and the
12 health care authority, shall determine: (i) The specific facility,
13 entity, and individual prescriber information that the department
14 must provide pursuant to this subsection (4); and (ii) any
15 requirements related to the standardized list of prescribers that a
16 facility, entity, or provider group must provide to the department.
17 The department may modify the specific information and requirements
18 as necessary to reflect current needs and best practices.

19 (c) Subject to funds appropriated for this specific purpose, the
20 department shall provide a facility, entity, or provider group with
21 the information required by this subsection (4) on at least a
22 quarterly basis and pursuant to a schedule determined by the
23 department.

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

29 (b) The department may provide dispenser or prescriber data and
30 data that includes indirect patient identifiers to the Washington
31 state hospital association for use solely in connection with its
32 coordinated quality improvement program maintained under RCW
33 43.70.510. Prior to receiving the data, the department and the
34 association must enter into a written data use agreement, as
35 described in RCW 43.70.052(8). For purposes of this subsection,
36 "indirect patient identifier" means data that may include: Hospital
37 or provider identifiers; five-digit zip code; county; state and
38 country of residence; dates that include month and year; age in
39 years; and race and ethnicity. "Indirect patient identifier" does not
40 include: The patient's first name, middle name, or last name; the

1 patient's social security number; a control or medical record number;
2 a zip code plus four digits; dates that include day, month, and year;
3 or admission and discharge date in combination.

4 ~~((5) A dispenser or practitioner acting))~~ (6) A person
5 authorized under subsections (3) through (5) of this section to
6 receive data in the prescription monitoring program from the
7 department who acts in good faith is immune from any civil, criminal,
8 disciplinary, or administrative liability that might otherwise be
9 incurred or imposed for ~~((requesting, receiving, or using information~~
10 ~~from the program))~~ taking actions authorized under this chapter.

11 NEW SECTION. Sec. 2. A new section is added to chapter 70.225
12 RCW to read as follows:

13 Beginning November 15, 2017, the department shall annually report
14 to the governor and the appropriate committees of the legislature on
15 the number of facilities, entities, or provider groups identified in
16 RCW 70.225.040(3) (l) and (m) that have integrated their federally
17 certified electronic health records with the prescription monitoring
18 program utilizing the state health information exchange.

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