
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; adding a new section to chapter 70.225 RCW; and creating
4 a new section.

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

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

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

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

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

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

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

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

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

12 (e) Authorized practitioners of the department of social and
13 health services and the health care authority regarding medicaid
14 program recipients;

15 (f) The director or the director's designee within the health
16 care authority regarding medicaid clients;

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

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

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

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

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

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

31 (iii) Administration and enforcement of this chapter or chapter
32 69.50 RCW;

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

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

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

1 facility or entity and individual prescriber information if the
2 facility, entity, or provider group:

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

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

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

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

18 (c) The department shall provide a facility, entity, or provider
19 group with the information required by this subsection (4) on at
20 least a quarterly basis and pursuant to a schedule determined by the
21 department.

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

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

1 a zip code plus four digits; dates that include day, month, and year;
2 or admission and discharge date in combination.

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

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

12 (1) By January 1, 2023, a facility or entity identified in RCW
13 70.225.040(3)(1) or provider group identified in RCW 70.225.040(3)(m)
14 must fully integrate its federally certified electronic health
15 records with the prescription monitoring program utilizing the state
16 health information exchange if the facility, entity, or provider
17 group:

18 (a) Accepts reimbursement from a state purchased health care
19 program; and

20 (b) Utilizes a federally certified electronic health records
21 system.

22 (2) A facility, entity, or provider group required to fully
23 integrate its electronic health records with the prescription
24 monitoring program under this section shall provide annual progress
25 reports to the department beginning January 1, 2018.

26 (3) For purposes of this section, "state purchased health care"
27 has the same meaning as in RCW 41.05.011.

28 NEW SECTION. Sec. 3. If specific funding for the purposes of
29 this act, referencing this act by bill or chapter number, is not
30 provided by June 30, 2017, in the omnibus appropriations act, this
31 act is null and void.

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