

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 5

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE THAT THE BOARD SHALL RETAIN CERTAIN INFORMATION FOR A PERIOD OF FIVE YEARS, TO PROVIDE THAT PHARMACISTS MUST REGISTER TO ACCESS THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 37-2726, Idaho Code, be, and the same is hereby amended to read as follows:

37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled substances dispensed for humans shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The board shall retain the information submitted pursuant to subsection (1) of this section for a period of five (5) years from the date the controlled substance was dispensed. The database information must be made available only to the following:

(a) Authorized individuals employed by Idaho's boards or other states' licensing entities charged with the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;

(d) A practitioner, licensed in Idaho or another state, having authority to prescribe controlled substances, or a delegate under the practitioner's supervision, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;

(e) A pharmacist, licensed in Idaho or another state, having authority to dispense controlled substances, or a delegate under the pharmacist's supervision, to the extent the information relates specifically

1 to a current patient to whom that pharmacist is dispensing or consid-
 2 ering dispensing any controlled substance, or providing pharmaceutical
 3 care as defined in the Idaho pharmacy act;

4 (f) An individual who is the recipient of a dispensed controlled sub-
 5 stance entered into the database may access records that pertain to that
 6 individual, upon the production of positive identification, or that in-
 7 dividual's designee upon production of a notarized release of informa-
 8 tion by that individual;

9 (g) Upon a lawful order issued by the presiding judge in a court of com-
 10 petent jurisdiction for the release of prescription monitoring program
 11 records of a named individual;

12 (h) Prosecuting attorneys, deputy prosecuting attorneys and special
 13 prosecutors of a county or city and special assistant attorneys general
 14 from the office of the attorney general engaged in enforcing law regu-
 15 lating controlled substances; and

16 (i) A medical examiner or coroner who is an officer of or employed by a
 17 state or local government, for determining a cause of death or for per-
 18 forming other duties authorized by law.

19 (3) The board shall require pharmacists and prescribers, except vet-
 20 erinarians, to annually register with the board to obtain online access to
 21 the controlled substances prescriptions database.

22 (4) The board must maintain records on the information disclosed from
 23 the database, including:

24 (a) The identification of each individual who requests or receives in-
 25 formation from the database and who that individual represents;

26 (b) The information provided to each such individual; and

27 (c) The date and time the information is requested or provided.

28 (5) The board shall promulgate rules to ensure that only authorized in-
 29 dividuals have access to the database.

30 (6) The board shall limit to four (4) the number of delegates that a
 31 practitioner or pharmacist may permit to access the database under the prac-
 32 titioner's or pharmacist's supervision.

33 (7) Any person who knowingly misrepresents to the board that he is a
 34 person entitled under subsection (2) of this section to receive information
 35 from the controlled substances prescriptions database under the condi-
 36 tions therein provided, and who receives information from the controlled
 37 substances prescriptions database resulting from that misrepresentation,
 38 shall be guilty of a misdemeanor, punishable by imprisonment in a county jail
 39 not to exceed six (6) months, or by a fine not to exceed two thousand dollars
 40 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
 41 in lieu of, any other civil or administrative penalty or sanction authorized
 42 by law.

43 (8) Any person in possession, whether lawfully or unlawfully, of in-
 44 formation from the controlled substances prescriptions database ~~which~~ that
 45 identifies an individual patient and who knowingly discloses such infor-
 46 mation to a person not authorized to receive or use such information under
 47 any state or federal law, ~~or rule or regulation,~~ or the lawful order of a
 48 court of competent jurisdiction, ~~or written authorization of the individ-~~
 49 ual patient shall be guilty of a misdemeanor, punishable by imprisonment
 50 in a county jail not to exceed six (6) months, or by a fine not to exceed two

1 thousand dollars (\$2,000), or both. The foregoing criminal penalty is in
2 addition to, and not in lieu of, any other civil or administrative penalty
3 or sanction authorized by law. The provisions of this subsection shall
4 not apply to disclosure of individual patient information by the patient
5 himself. The provisions of this subsection shall not apply to disclosure
6 of information by a prosecuting attorney, deputy prosecuting attorney or
7 special prosecutor of a county or city or by a special assistant attorney
8 general from the office of the attorney general in the course of a criminal
9 proceeding, whether preconviction or postconviction.

10 (9) Any person with access to the board's online prescription monitor-
11 ing program pursuant to a board-issued user account, login name and pass-
12 word who intentionally shares or recklessly fails to safeguard his user ac-
13 count, login name and password, resulting in another person not authorized
14 to receive or use such information under the provisions of any state or fed-
15 eral law, rule or regulation obtaining information from the controlled sub-
16 stances prescriptions database, shall be guilty of a misdemeanor, punish-
17 able by imprisonment in a county jail not to exceed six (6) months or by a fine
18 not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal
19 penalty is in addition to, and not in lieu of, any other civil or administra-
20 tive penalty or sanction authorized by law.

21 (10) The board may, at its discretion, block access to certain con-
22 trolled substances prescriptions database data if the board has reason to
23 believe that access to the data is or may be used illegally.

24 (11) All costs associated with recording and submitting data as re-
25 quired in this section are assumed by the dispensing practitioner recording
26 and submitting the data.

27 (12) For purposes of this section, "delegate" means a nurse, medical or
28 office assistant, current student of a health profession if a licensed prac-
29 titioner or registered graduate of such profession may access the database,
30 or a registered pharmacy technician who is designated by a supervising prac-
31 itioner or pharmacist to access the database according to the provisions of
32 this section and who must register with the state board of pharmacy for such
33 access.