

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 374

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE CONTROLLED SUBSTANCES PRESCRIPTIONS DATABASE; AMENDING SEC-  
2 TION 37-2726, IDAHO CODE, TO PROVIDE THAT DELEGATES SUPERVISED BY PRAC-  
3 TITIONERS OR PHARMACISTS MAY ACCESS THE DATABASE UNDER CERTAIN CIRCUM-  
4 STANCES, TO PROVIDE THAT THE BOARD OF PHARMACY SHALL LIMIT THE NUMBER OF  
5 DELEGATES WITH SUCH ACCESS AND TO DEFINE A TERM.  
6

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

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

10 37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled sub-  
11 stances dispensed for humans shall be filed with the board electronically  
12 in a format established by the board or by other method as required by board  
13 rule. The board may require the filing of other prescriptions by board rule.  
14 The board shall establish by rule the information to be submitted pursuant to  
15 the purposes of this section and the purposes set forth in section 37-2730A,  
16 Idaho Code.

17 (2) The board shall create, operate and maintain a controlled sub-  
18 stances prescriptions database containing the information submitted  
19 pursuant to subsection (1) of this section, to be used for the purposes  
20 and subject to the terms, conditions and immunities described in section  
21 37-2730A, Idaho Code. The database information must be made available only  
22 to the following:

23 (a) Authorized individuals employed by Idaho's boards or other states'  
24 licensing entities charged with the licensing and discipline of practi-  
25 tioners;

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

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

33 (d) A practitioner, licensed in Idaho or another state, having author-  
34 ity to prescribe controlled substances, or a delegate under the prac-  
35 titioner's supervision, to the extent the information relates specifi-  
36 cally to a current patient of the practitioner to whom the practitioner  
37 is prescribing or considering prescribing any controlled substance;

38 (e) A pharmacist, licensed in Idaho or another state, having author-  
39 ity to dispense controlled substances, or a delegate under the pharma-  
40 cist's supervision, to the extent the information relates specifically  
41 to a current patient to whom that pharmacist is dispensing or consid-

1 ering dispensing any controlled substance, or providing pharmaceutical  
2 care as defined in the Idaho pharmacy act;

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

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

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

15 (3) The board shall require prescribers, except veterinarians, to an-  
16 nually register with the board to obtain online access to the controlled sub-  
17 stances prescriptions database.

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

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

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

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

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

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

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

39 (78) Any person in possession, whether lawfully or unlawfully, of in-  
40 formation from the controlled substances prescriptions database which iden-  
41 tifies an individual patient and who knowingly discloses such information to  
42 a person not authorized to receive or use such information under any state  
43 or federal law, rule or regulation; the lawful order of a court of compe-  
44 tent jurisdiction; or written authorization of the individual patient shall  
45 be guilty of a misdemeanor, punishable by imprisonment in a county jail not  
46 to exceed six (6) months, or by a fine not to exceed two thousand dollars  
47 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not  
48 in lieu of, any other civil or administrative penalty or sanction authorized  
49 by law. The provisions of this subsection shall not apply to disclosure of  
50 individual patient information by the patient himself. The provisions of

1 this subsection shall not apply to disclosure of information by a prosecut-  
2 ing attorney, deputy prosecuting attorney or special prosecutor of a county  
3 or city or by a special assistant attorney general from the office of the at-  
4 torney general in the course of a criminal proceeding, whether preconviction  
5 or postconviction.

6 (~~89~~) Any person with access to the board's online prescription moni-  
7 toring program pursuant to a board issued user account, login name and pass-  
8 word who intentionally shares or recklessly fails to safeguard his user ac-  
9 count, login name and password, resulting in another person not authorized  
10 to receive or use such information under the provisions of any state or fed-  
11 eral law, rule or regulation obtaining information from the controlled sub-  
12 stances prescriptions database, shall be guilty of a misdemeanor, punish-  
13 able by imprisonment in a county jail not to exceed six (6) months or by a fine  
14 not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal  
15 penalty is in addition to, and not in lieu of, any other civil or administra-  
16 tive penalty or sanction authorized by law.

17 (~~910~~) The board may, at its discretion, block access to certain con-  
18 trolled substances prescriptions database data if the board has reason to  
19 believe that access to the data is or may be used illegally.

20 (~~101~~) All costs associated with recording and submitting data as re-  
21 quired in this section are assumed by the dispensing practitioner recording  
22 and submitting the data.

23 (12) For purposes of this section, "delegate" means a nurse, medical or  
24 office assistant, or registered pharmacy technician who is designated by a  
25 supervising practitioner or pharmacist to access the database according to  
26 the provisions of this section and who must register with the state board of  
27 pharmacy for such access.