
SUBSTITUTE SENATE BILL 5248

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rivers, Cleveland, Becker, Carlyle, and Kuderer)

1 AN ACT Relating to addressing use and misuse of opioids; amending
2 RCW 70.225.040; adding a new section to chapter 70.225 RCW; adding a
3 new section to chapter 18.22 RCW; adding a new section to chapter
4 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new
5 section to chapter 18.57A RCW; adding a new section to chapter 18.71
6 RCW; adding a new section to chapter 18.71A RCW; and adding a new
7 section to chapter 18.79 RCW.

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

9 **Part I - Prescription Monitoring Program**

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

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

17 (2) The department must maintain procedures to ensure that the
18 privacy and confidentiality of patients and patient information
19 collected, recorded, transmitted, and maintained is not disclosed to

1 persons except as in subsections (3) (~~and~~), (4), and (5) of this
2 section.

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

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

8 (b) An individual who requests the individual's own prescription
9 monitoring information;

10 (c) Health professional licensing, certification, or regulatory
11 agency or entity;

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

16 (e) Authorized practitioners of the department of social and
17 health services and the health care authority regarding medicaid
18 program recipients;

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

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

25 (~~(g)~~) (h) The director or the director's designee within the
26 department of corrections regarding offenders committed to the
27 department of corrections;

28 (~~(h)~~) (i) Other entities under grand jury subpoena or court
29 order;

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

31 (i) Assessing prescribing practices, including controlled
32 substances related to mortality and morbidity;

33 (ii) Providing quality improvement feedback to providers,
34 including comparison of their respective data to aggregate data for
35 providers with the same type of license and same specialty; and

36 (iii) Administration and enforcement of this chapter or chapter
37 69.50 RCW;

38 (~~(j)~~) (k) Personnel of a test site that meet the standards
39 under RCW 70.225.070 pursuant to an agreement between the test site
40 and a person identified in (a) of this subsection to provide

1 assistance in determining which medications are being used by an
2 identified patient who is under the care of that person;

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

6 (i) The facility or entity is licensed by the department or is
7 operated by the federal government or a federally recognized Indian
8 tribe; and

9 (ii) The facility or entity is a trading partner with the state's
10 health information exchange; ~~(and~~

11 ~~(l))~~ (m) A health care provider group of five or more providers
12 for purposes of providing medical or pharmaceutical care to the
13 patients of the provider group, or for quality improvement purposes
14 if:

15 (i) All the providers in the provider group are licensed by the
16 department or the provider group is operated by the federal
17 government or a federally recognized Indian tribe; and

18 (ii) The provider group is a trading partner with the state's
19 health information exchange;

20 (n) The local health officer of a local health jurisdiction for
21 the purposes of patient follow-up and care coordination following a
22 controlled substance overdose event. For the purposes of this
23 subsection "local health officer" has the same meaning as in RCW
24 70.05.010; and

25 (o) The coordinated care electronic tracking program developed in
26 response to section 213, chapter 7, Laws of 2012 2nd sp. sess.,
27 commonly referred to as the seven best practices in emergency
28 medicine, for the purposes of providing:

29 (i) Prescription monitoring program data to emergency department
30 personnel when the patient registers in the emergency department; and

31 (ii) Notice to providers, appropriate care coordination staff,
32 and prescribers listed in the patient's prescription monitoring
33 program record that the patient has experienced a controlled
34 substance overdose event. The department shall determine the content
35 and format of the notice in consultation with the Washington state
36 hospital association, Washington state medical association, and
37 Washington state health care authority, and the notice may be
38 modified as necessary to reflect current needs and best practices.

39 (4) The department shall, on at least a quarterly basis, and
40 pursuant to a schedule determined by the department, provide a

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

5 (a) Uses the information only for internal quality improvement
6 and individual prescriber quality improvement feedback purposes and
7 does not use the information as the sole basis for any medical staff
8 sanction or adverse employment action; and

9 (b) Provides to the department a standardized list of current
10 prescribers of the facility, entity, or provider group. The specific
11 facility, entity, or provider group information provided pursuant to
12 this subsection and the requirements under this subsection must be
13 determined by the department in consultation with the Washington
14 state hospital association, Washington state medical association, and
15 Washington state health care authority, and may be modified as
16 necessary to reflect current needs and best practices.

17 (5)(a) The department may provide data to public or private
18 entities for statistical, research, or educational purposes after
19 removing information that could be used to identify individual
20 patients, dispensers, prescribers, and persons who received
21 prescriptions from dispensers.

22 (b)(i) The department may provide dispenser and prescriber data
23 and data that includes indirect patient identifiers to the Washington
24 state hospital association for use solely in connection with its
25 coordinated quality improvement program maintained under RCW
26 43.70.510 after entering into a data use agreement as specified in
27 RCW 43.70.052(8) with the association.

28 (ii) For the purposes of this subsection, "indirect patient
29 identifiers" means data that may include: Hospital or provider
30 identifiers, a five-digit zip code, county, state, and country of
31 resident; dates that include month and year; age in years; and race
32 and ethnicity; but does not include the patient's first name; middle
33 name; last name; social security number; control or medical record
34 number; zip code plus four digits; dates that include day, month, and
35 year; or admission and discharge date in combination.

36 ((~~5~~) A dispenser or practitioner)) (6) Persons authorized in
37 subsections (3), (4), and (5) of this section to receive data in the
38 prescription monitoring program from the department, acting in good
39 faith (~~is~~), are immune from any civil, criminal, disciplinary, or
40 administrative liability that might otherwise be incurred or imposed

1 for (~~requesting, receiving, or using information from the program~~)
2 acting under this chapter.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.225
4 RCW to read as follows:

5 Beginning November 15, 2017, the department shall annually report
6 to the governor and the appropriate committees of the legislature on
7 the number of facilities, entities, or provider groups identified in
8 RCW 70.225.040(3) (1) and (m) that have integrated their federally
9 certified electronic health records with the prescription monitoring
10 program utilizing the state health information exchange.

11 **Part II - Opioid Prescribing**

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.22
13 RCW to read as follows:

14 (1) By January 1, 2019, the board must adopt rules establishing
15 requirements for prescribing opioid drugs. The rules may contain
16 exemptions based on education, training, amount of opioids
17 prescribed, patient panel, and practice environment.

18 (2) In developing the rules, the board must consider the agency
19 medical directors' group and centers for disease control guidelines,
20 and may consult with the department of health, the University of
21 Washington, and the largest professional association of podiatric
22 physicians and surgeons in the state.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.32
24 RCW to read as follows:

25 (1) By January 1, 2019, the commission must adopt rules
26 establishing requirements for prescribing opioid drugs. The rules may
27 contain exemptions based on education, training, amount of opioids
28 prescribed, patient panel, and practice environment.

29 (2) In developing the rules, the commission must consider the
30 agency medical directors' group and centers for disease control
31 guidelines, and may consult with the department of health, the
32 University of Washington, and the largest professional association of
33 dentists in the state.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.57
35 RCW to read as follows:

1 (1) By January 1, 2019, the board must adopt rules establishing
2 requirements for prescribing opioid drugs. The rules may contain
3 exemptions based on education, training, amount of opioids
4 prescribed, patient panel, and practice environment.

5 (2) In developing the rules, the board must consider the agency
6 medical directors' group and centers for disease control guidelines,
7 and may consult with the department of health, the University of
8 Washington, and the largest professional association of osteopathic
9 physicians and surgeons in the state.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.57A
11 RCW to read as follows:

12 (1) By January 1, 2019, the board must adopt rules establishing
13 requirements for prescribing opioid drugs. The rules may contain
14 exemptions based on education, training, amount of opioids
15 prescribed, patient panel, and practice environment.

16 (2) In developing the rules, the board must consider the agency
17 medical directors' group and centers for disease control guidelines,
18 and may consult with the department of health, the University of
19 Washington, and the largest professional association of osteopathic
20 physician assistants in the state.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.71
22 RCW to read as follows:

23 (1) By January 1, 2019, the commission must adopt rules
24 establishing requirements for prescribing opioid drugs. The rules may
25 contain exemptions based on education, training, amount of opioids
26 prescribed, patient panel, and practice environment.

27 (2) In developing the rules, the commission must consider the
28 agency medical directors' group and centers for disease control
29 guidelines, and may consult with the department of health, the
30 University of Washington, and the largest professional association of
31 physicians in the state.

32 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.71A
33 RCW to read as follows:

34 (1) By January 1, 2019, the commission must adopt rules
35 establishing requirements for prescribing opioid drugs. The rules may
36 contain exemptions based on education, training, amount of opioids
37 prescribed, patient panel, and practice environment.

1 (2) In developing the rules, the commission must consider the
2 agency medical directors' group and centers for disease control
3 guidelines, and may consult with the department of health, the
4 University of Washington, and the largest professional association of
5 physician assistants in the state.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 18.79
7 RCW to read as follows:

8 (1) By January 1, 2019, the commission must adopt rules
9 establishing requirements for prescribing opioid drugs. The rules may
10 contain exemptions based on education, training, amount of opioids
11 prescribed, patient panel, and practice environment.

12 (2) In developing the rules, the commission must consider the
13 agency medical directors' group and centers for disease control
14 guidelines, and may consult with the department of health, the
15 University of Washington, and the largest professional associations
16 for advanced registered nurse practitioners and certified registered
17 nurse anesthetists in the state.

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