State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 283

SENATE BILL 1023

AN ACT

AMENDING SECTIONS 36-2602, 36-2604 AND 36-2608, ARIZONA REVISED STATUTES;
RELATING TO THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-2602, Arizona Revised Statutes, is amended to read:

36-2602. Controlled substances prescription monitoring program; contracts; retention and maintenance of records

A. The board shall adopt rules to establish a controlled substances prescription monitoring program. The program shall:

1. Include a computerized central database tracking system to track the prescribing, dispensing and consumption of schedule II, III, and IV AND V controlled substances that are dispensed by a medical practitioner or by a pharmacy that holds a valid license or permit issued pursuant to title 32. The database shall include data from the department of health services that identifies residents of this state who possess a registry identification card issued pursuant to chapter 28.1 of this title. The tracking system shall not interfere with the legal use of a controlled substance for the management of severe or intractable pain.

2. Assist law enforcement to identify illegal activity related to the prescribing, dispensing and consumption of schedule II, III, and IV AND V controlled substances.

3. Provide information to patients, medical practitioners and pharmacists to help avoid the inappropriate use of schedule II, III, and IV AND V controlled substances.

4. Be designed to minimize inconvenience to patients, prescribing medical practitioners and pharmacies while effectuating the collection and storage of information.

B. The board may enter into private or public contracts, including intergovernmental agreements pursuant to title 11, chapter 7, article 3, to ensure the effective operation of the program. Each contractor must comply with the confidentiality requirements prescribed in this article and is subject to the criminal penalties prescribed in section 36-2610.

C. The board shall maintain medical records information in the program pursuant to the standards prescribed in section 12-2297.

Sec. 2. Section 36-2604, Arizona Revised Statutes, is amended to read:

36-2604. Use and release of confidential information;
definition

A. Except as otherwise provided in this section, prescription information submitted to the board pursuant to this article is confidential and is not subject to public inspection. The board shall establish procedures to ensure the privacy and confidentiality of patients and that patient information that is collected, recorded and transmitted pursuant to this article is not disclosed except as prescribed in this section.
B. The board or its designee shall review the prescription information collected pursuant to this article. If the board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.

C. The board may release data collected by the program to the following:

1. A person who is authorized to prescribe or dispense a controlled substance, or a delegate who is authorized by the prescriber or dispenser, to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient.

2. An individual who requests the individual's own prescription monitoring information pursuant to section 12-2293.

3. A medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 25 or 29. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint.

4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint.

5. The Arizona health care cost containment system administration regarding persons who are receiving services pursuant to chapter 29 of this title. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration states in writing that the information is necessary for an open investigation or complaint.

6. A person who is serving a lawful order of a court of competent jurisdiction.

7. A person who is authorized to prescribe or dispense a controlled substance and who performs an evaluation on an individual pursuant to section 23-1026.

8. A county medical examiner or alternate medical examiner who is directing an investigation into the circumstances surrounding a death as described in section 11-593 or a delegate who is authorized by the county medical examiner or alternate medical examiner.

9. THE DEPARTMENT OF HEALTH SERVICES REGARDING PERSONS WHO ARE RECEIVING OR PRESCRIBING CONTROLLED SUBSTANCES IN ORDER TO IMPLEMENT A PUBLIC HEALTH RESPONSE TO ADDRESS OPIOID OVERUSE OR ABUSE, INCLUDING A REVIEW PURSUANT TO SECTION 36-198. EXCEPT AS REQUIRED PURSUANT TO SUBSECTION B OF THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION ONLY IF THE DEPARTMENT STATES IN WRITING THAT THE INFORMATION IS NECESSARY
TO IMPLEMENT A PUBLIC HEALTH RESPONSE TO HELP COMBAT OPIOID OVERUSE OR
ABUSE.

D. The board may provide data to public or private entities for
statistical, research or educational purposes after removing information
that could be used to identify individual patients or persons who received
prescriptions from dispensers.

E. For the purposes of this section, "delegate" means any of the
following:

1. A licensed health care professional who is employed in the
   office of or in a hospital with the prescriber or dispenser.

2. An unlicensed medical records technician, medical assistant or
   office manager who is employed in the office of or in a hospital with the
   prescriber or dispenser and who has received training regarding both the
   health insurance portability and accountability act privacy standards,
   45 Code of Federal Regulations part 164, subpart E, and security
   standards, 45 Code of Federal Regulations part 164, subpart C.

3. A forensic pathologist, medical death investigator or other
   qualified person who is assigned duties in connection with a death
   investigation pursuant to section 11-594.

Sec. 3. Section 36-2608, Arizona Revised Statutes, is amended to
read:

36-2608. Reporting requirements; waiver; exceptions

A. If a medical practitioner dispenses a controlled substance
listed in section 36-2513, 36-2514, or 36-2515, or if a
prescription for a controlled substance listed in any of those sections is
dispensed by a pharmacy in this state, a health care facility in this
state for outpatient use or a board-permitted nonresident pharmacy for
delivery to a person residing in this state, the medical practitioner,
health care facility or pharmacy must report the following information as
applicable and as prescribed by the board by rule:

1. The name, address, telephone number, prescription number and
   UNITED STATES drug enforcement administration controlled substance
   registration number of the dispenser.

2. The name, address and date of birth of the person for whom the
   prescription is written.

3. The name, address, telephone number and UNITED STATES drug
   enforcement administration controlled substance registration number of the
   prescribing medical practitioner.

4. The name, strength, quantity, dosage and national drug code
   number of the schedule II, III, or IV or V controlled substance dispensed.

5. The date the prescription was dispensed.

6. The number of refills, if any, authorized by the medical
   practitioner.
B. Except as provided in subsection D of this section, a dispenser must use the September 28, 2011 version 4, release 2 standard implementation guide for prescription monitoring programs published by the American society for automation in pharmacy or any subsequent version or release of that guide to report the required information.

C. The board shall allow the reporter to transmit the required information by electronic data transfer if feasible or, if not feasible, on reporting forms as prescribed by the board. The board shall not require the reporter to submit the required information more frequently than once each day.

D. A dispenser who does not have an automated recordkeeping system capable of producing an electronic report in the established format may request a waiver from electronic reporting by submitting a written request to the board. The board shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form as prescribed by the board by rule.

E. The board by rule may prescribe the prescription form to be used in prescribing a schedule II, III, IV OR V controlled substance if the board determines that this would facilitate the reporting requirements of this section.

F. The reporting requirements of this section do not apply to the following:
   1. A controlled substance administered directly to a patient.
   2. A controlled substance dispensed by a medical practitioner at a health care facility licensed by this state if the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of seventy-two hours with not more than two seventy-two hour cycles within any fifteen-day period.
   3. A controlled substance sample.
   4. The wholesale distribution of a schedule II, III, IV OR V controlled substance. For the purposes of this paragraph, "wholesale distribution" has the same meaning prescribed in section 32-1981.
   5. A facility that is registered by the UNITED STATES drug enforcement administration as a narcotic treatment program and that is subject to the recordkeeping provisions of 21 Code of Federal Regulations section 1304.24.

Sec. 4. Conditional enactment

Section 36-2604, Arizona Revised Statutes, as amended by this act, does not become effective unless House Bill 2493, fifty-third legislature, first regular session, relating to drug overdose deaths, becomes law.

APPROVED BY THE GOVERNOR MAY 8, 2017.