

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SENATE BILL 1370

AN ACT

AMENDING SECTIONS 36-2604, 36-2606 AND 36-2610, ARIZONA REVISED STATUTES;
RELATING TO THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2604, Arizona Revised Statutes, is amended to
3 read:

4 36-2604. Use and release of confidential information:
5 definitions

6 A. Except as otherwise provided in this section, prescription
7 information submitted to the board pursuant to this article is
8 confidential and is not subject to public inspection. The board shall
9 establish procedures to ensure the privacy and confidentiality of patients
10 and that patient information that is collected, recorded and transmitted
11 pursuant to this article is not disclosed except as prescribed in this
12 section.

13 B. The board or its designee shall review the prescription
14 information collected pursuant to this article. If the board or its
15 designee has reason to believe an act of unprofessional or illegal conduct
16 has occurred, the board or its designee shall notify the appropriate
17 professional licensing board or law enforcement or criminal justice agency
18 and provide the prescription information required for an investigation.
19 The board may delegate the duties prescribed in this subsection to the
20 executive director pursuant to section 32-1904.

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

23 1. A person who is authorized to prescribe or dispense a controlled
24 substance, or a delegate who is authorized by the prescriber or dispenser,
25 to assist that person to provide medical or pharmaceutical care to a
26 patient, ~~or~~ to evaluate a patient **OR TO ASSIST WITH OR VERIFY COMPLIANCE**
27 **WITH THE REQUIREMENTS OF THIS CHAPTER, THE RULES ADOPTED PURSUANT TO THIS**
28 **CHAPTER AND THE RULES ADOPTED BY THE DEPARTMENT OF HEALTH SERVICES TO**
29 **REDUCE OPIOID OVERDOSE AND DEATH.**

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

32 3. A medical practitioner regulatory board established pursuant to
33 title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 25 or 29.

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

39 5. The Arizona health care cost containment system administration
40 and contractors regarding persons who are receiving services pursuant to
41 chapters 29 and 34 of this title **OR TITLE XVIII OF THE SOCIAL SECURITY**
42 **ACT.** Except as required pursuant to subsection B of this section, the
43 board shall provide this information only if the administration or a
44 contractor states in writing that the information is necessary for an open
45 investigation or complaint, ~~or~~ **OR** for performing a drug utilization review

1 for controlled substances ~~to help combat~~ THAT SUPPORTS THE PREVENTION OF
2 opioid overuse or abuse ~~or for ensuring the continuity of care~~ AND THE
3 SAFETY AND QUALITY OF CARE PROVIDED TO THE MEMBER.

4 6. A HEALTH CARE INSURER. EXCEPT AS REQUIRED BY SUBSECTION B OF
5 THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION ONLY IF THE HEALTH
6 CARE INSURER STATES IN WRITING THAT THE INFORMATION IS NECESSARY FOR AN
7 OPEN INVESTIGATION OR COMPLAINT OR FOR PERFORMING A DRUG UTILIZATION
8 REVIEW FOR CONTROLLED SUBSTANCES THAT SUPPORTS THE PREVENTION OF OPIOID
9 OVERUSE OR ABUSE AND THE SAFETY AND QUALITY OF CARE PROVIDED TO THE
10 INSURED.

11 ~~6.~~ 7. A person who is serving a lawful order of a court of
12 competent jurisdiction.

13 ~~7.~~ 8. A person who is authorized to prescribe or dispense a
14 controlled substance and who performs an evaluation on an individual
15 pursuant to section 23-1026.

16 ~~8.~~ 9. A county medical examiner or alternate medical examiner who
17 is directing an investigation into the circumstances surrounding a death
18 as described in section 11-593 or a delegate who is authorized by the
19 county medical examiner or alternate medical examiner.

20 ~~9.~~ 10. The department of health services regarding persons who are
21 receiving or prescribing controlled substances in order to implement a
22 public health response to address opioid overuse or abuse, including a
23 review pursuant to section 36-198. Except as required pursuant to
24 subsection B of this section, the board shall provide this information
25 only if the department states in writing that the information is necessary
26 to implement a public health response to help combat opioid overuse or
27 abuse.

28 D. DATA PROVIDED BY THE BOARD PURSUANT TO THIS SECTION MAY NOT BE
29 USED FOR ANY OF THE FOLLOWING:

- 30 1. CREDENTIALING HEALTH CARE PROFESSIONALS.
- 31 2. DETERMINING PAYMENT.
- 32 3. PREEMPLOYMENT SCREENING.
- 33 4. ANY OTHER PURPOSE OTHER THAN AS SPECIFIED IN THIS SECTION.

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

38 F. ANY EMPLOYEE OF THE ADMINISTRATION, A CONTRACTOR OR A HEALTH
39 CARE INSURER WHO IS ASSIGNED DELEGATE ACCESS TO THE PROGRAM SHALL OPERATE
40 UNDER THE AUTHORITY AND RESPONSIBILITY OF THE ADMINISTRATION'S,
41 CONTRACTOR'S OR HEALTH CARE INSURER'S CHIEF MEDICAL OFFICER OR OTHER
42 EMPLOYEE WHO IS A LICENSED HEALTH CARE PROFESSIONAL AND WHO IS AUTHORIZED
43 TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES. A DELEGATE OF THE
44 ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER SHALL HOLD A VALID
45 LICENSE OR CERTIFICATION ISSUED PURSUANT TO TITLE 32, CHAPTER 7, 11, 13,

1 14, 15, 16, 17, 18, 19.1, 25, 29 OR 33 AS A CONDITION OF BEING ASSIGNED
2 AND PROVIDED DELEGATE ACCESS TO THE PROGRAM BY THE BOARD. EACH EMPLOYEE OF
3 THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER WHO IS A
4 LICENSED HEALTH CARE PROFESSIONAL AND WHO IS AUTHORIZED TO PRESCRIBE OR
5 DISPENSE CONTROLLED SUBSTANCES MAY AUTHORIZE NOT MORE THAN TEN DELEGATES.

6 ~~F.~~ G. A person who is authorized to prescribe or dispense a
7 controlled substance or the chief medical officer OR OTHER LICENSED HEALTH
8 CARE PROFESSIONAL of the administration, ~~OR~~ a contractor OR A HEALTH CARE
9 INSURER WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE CONTROLLED SUBSTANCES
10 shall deactivate a delegate within five business days after an employment
11 status change, the request of the delegate or the inappropriate use of the
12 controlled substances prescription monitoring program's central database
13 tracking system.

14 ~~F.~~ H. For the purposes of this section:

15 1. "Administration" and "contractor" have the same meanings
16 prescribed in section 36-2901.

17 2. "Delegate" means any of the following:

18 (a) A licensed health care professional who is employed in the
19 office of or in a hospital with the prescriber or dispenser.

20 (b) An unlicensed medical records technician, medical assistant or
21 office manager who is employed in the office of or in a hospital with the
22 prescriber or dispenser and who has received training regarding both the
23 health insurance portability and accountability act privacy standards (45
24 Code of Federal Regulations part 164, subpart E) and security standards
25 (45 Code of Federal Regulations part 164, subpart C).

26 (c) A forensic pathologist, medical death investigator or other
27 qualified person who is assigned duties in connection with a death
28 investigation pursuant to section 11-594.

29 (d) A licensed pharmacy technician trainee, pharmacy technician or
30 pharmacy intern who works in a facility with the dispenser.

31 (e) Any employee of the administration, ~~OR~~ a contractor OR A HEALTH
32 CARE INSURER who is authorized by the administration's, ~~OR~~ contractor's OR
33 HEALTH CARE INSURER'S chief medical officer OR OTHER LICENSED HEALTH CARE
34 PROFESSIONAL WHO IS AUTHORIZED TO PRESCRIBE OR DISPENSE CONTROLLED
35 SUBSTANCES.

36 3. "HEALTH CARE INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION
37 20-3151.

38 Sec. 2. Section 36-2606, Arizona Revised Statutes, is amended to
39 read:

40 36-2606. Registration; access; requirements; mandatory use;
41 annual user satisfaction survey; report;
42 definitions

43 A. A medical practitioner regulatory board shall notify each
44 medical practitioner who receives an initial or renewal license and who
45 intends to apply for registration or has an active registration under the

1 controlled substances act (21 United States Code sections 801 through 904)
2 of the medical practitioner's responsibility to register with the Arizona
3 state board of pharmacy and be granted access to the controlled substances
4 prescription monitoring program's central database tracking system. The
5 Arizona state board of pharmacy shall provide access to the central
6 database tracking system to each medical practitioner who has a valid
7 license pursuant to title 32 and who possesses an Arizona registration
8 under the controlled substances act (21 United States Code sections 801
9 through 904). The Arizona state board of pharmacy shall notify each
10 pharmacist of the pharmacist's responsibility to register with the Arizona
11 state board of pharmacy and be granted access to the controlled substances
12 prescription monitoring program's central database tracking system. The
13 Arizona state board of pharmacy shall provide access to the central
14 database tracking system to each pharmacist who has a valid license
15 pursuant to title 32, chapter 18 and who is employed by EITHER:

16 1. A facility that has a valid United States drug enforcement
17 administration registration number.

18 2. THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER AND
19 WHO HAS A NATIONAL PROVIDER IDENTIFIER NUMBER.

20 B. The registration is:

21 1. Valid in conjunction with a valid United States drug enforcement
22 administration registration number and a valid license issued by a medical
23 practitioner regulatory board established pursuant to title 32, chapter 7,
24 11, 13, 14, 15, 16, 17, 25 or 29.

25 2. Valid in conjunction with a valid license issued by the Arizona
26 state board of pharmacy for a pharmacist who is employed by EITHER:

27 (a) A facility that has a valid United States drug enforcement
28 administration registration number.

29 (b) THE ADMINISTRATION, A CONTRACTOR OR A HEALTH CARE INSURER AND
30 WHO HAS A NATIONAL PROVIDER IDENTIFIER NUMBER.

31 3. Not transferable or assignable.

32 C. An applicant for registration pursuant to this section must
33 submit an application as prescribed by the board.

34 D. Pursuant to a fee prescribed by the board by rule, the board may
35 issue a replacement registration to a registrant who requests a
36 replacement because the original was damaged or destroyed, because of a
37 change of name or for any other good cause as prescribed by the board.

38 E. A person who is authorized to access the controlled substances
39 prescription monitoring program's central database tracking system may do
40 so using only that person's assigned identifier and may not use the
41 assigned identifier of another person.

42 F. Beginning the later of October 1, 2017 or sixty days after the
43 statewide health information exchange has integrated the controlled
44 substances prescription monitoring program data into the exchange, a
45 medical practitioner, before prescribing an opioid analgesic or

1 benzodiazepine controlled substance listed in schedule II, III or IV for a
2 patient, shall obtain a patient utilization report regarding the patient
3 for the preceding twelve months from the controlled substances
4 prescription monitoring program's central database tracking system at the
5 beginning of each new course of treatment and at least quarterly while
6 that prescription remains a part of the treatment. Each medical
7 practitioner regulatory board shall notify the medical practitioners
8 licensed by that board of the applicable date. A medical practitioner may
9 be granted a one-year waiver from the requirement in this subsection due
10 to technological limitations that are not reasonably within the control of
11 the practitioner or other exceptional circumstances demonstrated by the
12 practitioner, pursuant to a process established by rule by the Arizona
13 state board of pharmacy.

14 G. Before a pharmacist dispenses or before a pharmacy technician or
15 pharmacy intern of a remote dispensing site pharmacy dispenses a schedule
16 II controlled substance, a dispenser shall obtain a patient utilization
17 report regarding the patient for the preceding twelve months from the
18 controlled substances prescription monitoring program's central database
19 tracking system at the beginning of each new course of treatment. The
20 Arizona state board of pharmacy shall establish a process to provide to a
21 dispenser a waiver for up to one year after the effective date of this
22 amendment to this section from the requirement in this subsection due to
23 technological limitations that are not reasonably within the control of
24 the dispenser or other exceptional circumstances as demonstrated by the
25 dispenser.

26 H. The medical practitioner or dispenser is not required to obtain
27 a patient utilization report from the central database tracking system
28 pursuant to subsection F of this section if any of the following applies:

29 1. The patient is receiving hospice care or palliative care for a
30 serious or chronic illness.

31 2. The patient is receiving care for cancer, a cancer-related
32 illness or condition or dialysis treatment.

33 3. A medical practitioner will administer the controlled substance.

34 4. The patient is receiving the controlled substance during the
35 course of inpatient or residential treatment in a hospital, nursing care
36 facility, assisted living facility, correctional facility or mental health
37 facility.

38 5. The medical practitioner is prescribing the controlled substance
39 to the patient for no more than a five-day period for an invasive medical
40 or dental procedure or a medical or dental procedure that results in acute
41 pain to the patient.

42 6. The medical practitioner is prescribing the controlled substance
43 to the patient for no more than a five-day period for a patient who has
44 suffered an acute injury or a medical or dental disease process that is
45 diagnosed in an emergency department setting and that results in acute

1 pain to the patient. An acute injury or medical disease process does not
2 include back pain.

3 I. If a medical practitioner or dispenser uses electronic medical
4 records that integrate data from the controlled substances prescription
5 monitoring program, a review of the electronic medical records with the
6 integrated data shall be deemed compliant with the review of the program's
7 central database tracking system as required in subsection F of this
8 section.

9 J. The board shall promote and enter into data sharing agreements
10 for the purpose of integrating the controlled substances prescription
11 monitoring program into electronic medical records.

12 K. By complying with this section, a medical practitioner or
13 dispenser acting in good faith, or the medical practitioner's or
14 dispenser's employer, is not subject to liability or disciplinary action
15 arising solely from either:

16 1. Requesting or receiving, or failing to request or receive,
17 prescription monitoring data from the program's central database tracking
18 system.

19 2. Acting or failing to act on the basis of the prescription
20 monitoring data provided by the program's central database tracking
21 system.

22 L. Notwithstanding any provision of this section to the contrary,
23 medical practitioners or dispensers and their delegates are not in
24 violation of this section during any time period in which the controlled
25 substances prescription monitoring program's central database tracking
26 system is suspended or is not operational or available in a timely manner.
27 If the program's central database tracking system is not accessible, the
28 medical practitioner or dispenser or the medical practitioner's or
29 dispenser's delegate shall document the date and time the practitioner,
30 dispenser or delegate attempted to use the central database tracking
31 system pursuant to a process established by board rule.

32 M. The board shall conduct an annual voluntary survey of program
33 users to assess user satisfaction with the program's central database
34 tracking system. The survey may be conducted electronically. On or
35 before December 1 of each year, the board shall provide a report of the
36 survey results to the president of the senate, the speaker of the house of
37 representatives and the governor and shall provide a copy of this report
38 to the secretary of state.

39 N. This section does not prohibit a medical practitioner regulatory
40 board or the Arizona state board of pharmacy from obtaining and using
41 information from the program's central database tracking system.

42 O. For the purposes of this section:

43 1. "ADMINISTRATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
44 36-2901.

45 2. "CONTRACTOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 36-2901.

1 ~~3.~~ 3. "Dispenser" means a pharmacist who is licensed pursuant to
2 title 32, chapter 18.
3 ~~4.~~ 4. "Emergency department" means the unit within a hospital that
4 is designed for the provision of emergency services.
5 5. "HEALTH CARE INSURER" HAS THE SAME MEANING PRESCRIBED IN SECTION
6 20-3151.
7 Sec. 3. Section 36-2610, Arizona Revised Statutes, is amended to
8 read:
9 36-2610. Prohibited acts; violations; classification
10 A. A person who is subject to this article and who fails to report
11 required information pursuant to section 36-2608 is guilty of a class 2
12 misdemeanor.
13 B. A person who is subject to this article and who knowingly fails
14 to report required information to the board in violation of section
15 36-2608 is guilty of a class 1 misdemeanor.
16 C. A person who is subject to this article and who knowingly
17 reports information to the board that the person knows to be false or
18 fraudulent is guilty of a class 6 felony.
19 D. A person who is granted access to the information maintained by
20 the board as required by this article and who knowingly discloses the
21 information in a manner inconsistent with a legitimate professional or
22 regulatory purpose, a legitimate law enforcement purpose, ~~OR~~ OR the terms of
23 a court order or as otherwise expressly authorized by this article is
24 guilty of a class 6 felony.
25 E. A LICENSED HEALTH CARE PROFESSIONAL WHO FAILS TO SUPERVISE A
26 DELEGATE PURSUANT TO THIS CHAPTER COMMITS AN ACT OF UNPROFESSIONAL
27 CONDUCT.