CHAP TER 284

SE NATE B ILL 1469

AN ACT

AMENDING SECTION 36-2604, 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 36-2604, Arizona Revised Statutes, is amended to read:

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

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. The board may delegate the duties prescribed in this subsection to the executive director pursuant to section 32-1904.

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

1. A person who is authorized to prescribe or dispense controlled substances, 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 or to assist with or verify compliance with the requirements of this chapter, the rules adopted pursuant to this chapter and the rules adopted by the department of health services to reduce opioid overdose and death.

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.

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 and contractors regarding persons who are receiving services pursuant to chapters 29 and 34 of this title or title XVIII of the Social Security Act. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration or a contractor states in writing that the information is necessary for an open investigation or complaint or for performing a drug utilization review for...
controlled substances that supports the prevention of opioid overuse or abuse and the safety and quality of care provided to the member.

6. A health care insurer. Except as required pursuant to subsection B of this section, the board shall provide this information only if the health care insurer states in writing that the information is necessary for an open investigation or complaint or for performing a drug utilization review for controlled substances that supports the prevention of opioid overuse or abuse and the safety and quality of care provided to the insured.

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

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

9. 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.

10. 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. Data provided by the board pursuant to this section may not be used for any of the following:

1. Credentialing health care professionals.
2. Determining payment.
3. Preemployment screening.
4. Any purpose other than as specified in this section.

E. For a fee determined by the board, 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.

F. Any employee of the administration, a contractor or a health care insurer who is assigned delegate access to the program shall operate under the authority and responsibility of the administration's, contractor's or health care insurer's chief medical officer or other employee who is a licensed health care professional and who is authorized to prescribe or dispense controlled substances. A delegate of the administration, a contractor or a health care insurer shall hold a valid license or certification issued pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 19.1, 25, 29 or 33 as a condition of being assigned.
and provided delegate access to the program by the board. Each employee
of the administration, a contractor or a health care insurer who is a
licensed health care professional and who is authorized to prescribe or
dispense controlled substances may authorize not more than ten delegates.

G. IF, AFTER REVIEWING THE INFORMATION PROVIDED PURSUANT TO
SUBSECTION C, PARAGRAPH 4 OF THIS SECTION, AN INVESTIGATOR FINDS NO
EVIDENCE OF A STATUTORY CRIME BUT SUSPECTS A MEDICAL PRACTITIONER OF
PRESCRIBING CONTROLLED SUBSTANCES INAPPROPRIATELY IN MANNER OR AMOUNT, THE
INVESTIGATOR MAY REFER THE MEDICAL PRACTITIONER TO THE RELEVANT
PROFESSIONAL LICENSING BOARD FOR INVESTIGATION OF POSSIBLE DEVIAITION FROM
THE STANDARD OF CARE BUT MAY NOT ARREST OR OTHERWISE UNDERTAKE CRIMINAL
PROCEEDINGS AGAINST THE MEDICAL PRACTITIONER.

H. A person who is authorized to prescribe or dispense
controlled substances or the chief medical officer or other licensed
health care professional of the administration, a contractor or a health
care insurer who is authorized to prescribe or dispense controlled
substances shall deactivate a delegate within five business days after an
employment status change, the request of the delegate or the inappropriate
use of the controlled substances prescription monitoring program's central
database tracking system.

I. For the purposes of this section:
1. "Administration" and "contractor" have the same meanings
prescribed in section 36-2901.
2. "Delegate" means any of the following:
   (a) A licensed health care professional who is employed in the
       office of or in a hospital with the prescriber or dispenser.
   (b) 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
   (c) 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.
   (d) A licensed pharmacy technician trainee, pharmacy technician or
       pharmacy intern who works in a facility with the dispenser.
   (e) Any employee of the administration, a contractor or a health
       care insurer who is authorized by the administration's, contractor's or
       health care insurer's chief medical officer or other licensed health care
       professional who is authorized to prescribe or dispense controlled
       substances.

3. "Health care insurer" has the same meaning prescribed in section
20-3151.
S.B. 1469

APPROVED BY THE GOVERNOR JUNE 8, 2022.