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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1426**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Robinson, Harris, Cody, Caldier, Rodne, Slatter, Jinkins, Peterson, Kilduff, and Kagi)

AN ACT Relating to persons and entities to whom the department of health may provide prescription monitoring program data; amending RCW 70.225.040; and adding a new section to chapter 70.225 RCW.

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

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

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

(2) The department must maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) ((~~and (4)~~)) through (5) of this section.

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

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

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

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

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

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

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

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

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

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

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

(i) Assessing prescribing practices, including controlled substances-related mortality and morbidity;

(ii) Providing quality improvement feedback to providers, including comparison of a provider's respective data to aggregate data for providers with the same type of license and same specialty; and

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

((~~(j)~~)) (k) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

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

(i) The facility or entity is:

(A) Licensed by the department;

(B) Licensed or certified under chapter 70.96A, 71.05, 71.24, or 71.34 RCW or is an entity deemed, for purposes of chapter 71.24 RCW, to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body; or

(C) Operated by the federal government or a federally recognized tribe; and

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

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

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

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

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

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

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

(ii) Notice to providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, a statewide association representing advanced registered nurse practitioners, and the health care authority. The department may modify the notice as necessary to reflect current needs and best practices.

(4)(a) Subject to funds appropriated for this specific purpose, the department shall provide a facility or entity identified under subsection (3)(l) of this section or a provider group identified under subsection (3)(m) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:

(i) Uses the information only for purposes of internal quality improvement and individual prescriber quality improvement feedback;

(ii) Does not use the information as the sole basis for any medical staff sanction or adverse employment action;

(iii) Provides the department with a standardized list of the facility, entity, or provider group's current prescribers.

(b) The department, in consultation with the Washington state hospital association, Washington state medical association, and the health care authority, shall determine: (i) The specific facility, entity, and individual prescriber information that the department must provide pursuant to this subsection (4); and (ii) any requirements related to the standardized list of prescribers that a facility, entity, or provider group must provide to the department. The department may modify the specific information and requirements as necessary to reflect current needs and best practices.

(c) Subject to funds appropriated for this specific purpose, the department shall provide a facility, entity, or provider group with the information required by this subsection (4) on at least a quarterly basis and pursuant to a schedule determined by the department.

(5)(a) The department 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, dispensers, prescribers, and persons who received prescriptions from dispensers.

(b) The department may provide dispenser or prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510. Prior to receiving the data, the department and the association must enter into a written data use agreement, as described in RCW 43.70.052(8). For purposes of this subsection, "indirect patient identifier" means data that may include: Hospital or provider identifiers; five-digit zip code; county; state and country of residence; dates that include month and year; age in years; and race and ethnicity. "Indirect patient identifier" does not include: The patient's first name, middle name, or last name; the patient's social security number; a control or medical record number; a zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination.

((~~(5) A dispenser or practitioner acting~~)) (6) A person authorized under subsections (3) through (5) of this section to receive data in the prescription monitoring program from the department who acts in good faith is immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for ((~~requesting, receiving, or using information from the program~~)) taking actions authorized under this chapter.

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

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

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