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**SENATE BILL 6028**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Van De Wege, Walsh, Fain, Cleveland, Darneille, Keiser, Rolfes, Conway, Chase, Saldaña, and Kuderer; by request of Attorney General

AN ACT Relating to the prescription drug monitoring program; amending RCW 70.225.010; reenacting and amending RCW 69.50.308; and adding a new section to chapter 70.225 RCW.

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

**Sec.**  RCW 69.50.308 and 2016 c 148 s 8 are each reenacted and amended to read as follows:

(a) A controlled substance may be dispensed only as provided in this section. Prescriptions electronically communicated must also meet the requirements under RCW 69.50.312.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written or electronically communicated prescription of a practitioner.

(1) Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility or a hospice program; and

(iii) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) Under (1) and (2) of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) In emergency situations, as defined by rule of the commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306.

(d) A prescription for a substance included in Schedule II may not be refilled. A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(e) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing.

(f) A written, oral, or electronically communicated prescription for a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, for a resident in a long-term care facility or hospice program may be communicated to the pharmacy by an authorized agent of the prescriber. A registered nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this section, without need for a written agency agreement.

(g) The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless renewed by the practitioner.

(h) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

(i) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

(j) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

(k) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(l) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

((~~(4) [(m)]~~)) (m) For the purposes of this section, the terms "long-term care facility" and "hospice program" have the ((~~meaning[s]~~)) meanings provided in RCW 18.64.011.

(n) Prior to issuing a prescription for an opiate or benzodiazepine, a practitioner must review the patient's controlled substance history in the prescription monitoring program established in chapter 70.225 RCW.

**Sec.**  RCW 70.225.010 and 2007 c 259 s 42 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

(2) "Department" means the department of health.

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

(5) "Practitioner" means a physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances, and an advanced registered nurse practitioner licensed to prescribe controlled substances.

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

(1) Except as provided in subsection (3) of this section, prior to issuing a prescription for an opiate or benzodiazepine, a practitioner must review the patient's prescription monitoring information.

(2) A practitioner must document in the patient's medical record review of the prescription monitoring information or, if the practitioner does not review the prescription monitoring information, the practitioner must document in the patient's medical record the reason such review was not performed, including the specific exception listed in subsection (3) of this section.

(3) The duty to consult the prescription monitoring program does not apply:

(a) To medications administered to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW, or to patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license when the medications are administered to the patient in that setting;

(b) To medications administered to offenders in department of corrections institutions;

(c) When providing emergency care, as defined in RCW 4.24.310, and in the professional opinion of the practitioner, delaying care to view the patient's prescription monitoring program profile will adversely affect the patient's outcome; or

(d) When the prescription monitoring program cannot be accessed by the practitioner due to a temporary technological or electrical failure.

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