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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, and Keiser; by request of Attorney General

Prefiled 12/15/17.

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

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

5 **Sec. 1.** RCW 69.50.308 and 2016 c 148 s 8 are each reenacted and  
6 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

20 (e) Except when dispensed directly by a practitioner authorized  
21 to prescribe or administer a controlled substance, other than a  
22 pharmacy, to an ultimate user, a substance included in Schedule III,  
23 IV, or V, which is a prescription drug as determined under RCW  
24 69.04.560, may not be dispensed without a written, oral, or  
25 electronically communicated prescription of a practitioner. Any oral  
26 prescription must be promptly reduced to writing.

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

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

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

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

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

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

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

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

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

33 **Sec. 2.** RCW 70.225.010 and 2007 c 259 s 42 are each amended to  
34 read as follows:

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

37 (1) "Controlled substance" has the meaning provided in RCW  
38 69.50.101.

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

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

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

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

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

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

19 NEW SECTION. Sec. 3. A new section is added to chapter 70.225  
20 RCW to read as follows:

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

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

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

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

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

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

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

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