State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 211

SENATE BILL 1283

AN ACT

AMENDING SECTIONS 36-2606 AND 36-2608, 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 36-2606, Arizona Revised Statutes, is amended to read:

36-2606. Registration; access; renewal; requirements; mandatory use; annual user satisfaction survey; report; definition

A. Beginning November 1, 2007 and pursuant to rules adopted by the board, each medical practitioner who is issued a license pursuant to title 32 and who possesses an Arizona registration under the controlled substances act (21 United States Code sections 801 through 904) must have a current controlled substances prescription monitoring program registration issued by the board and be granted access to the program's central database tracking system. The Arizona state board of pharmacy, on receipt of licensure and license renewal confirmation from a medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 25 or 29, shall register each medical practitioner who possesses an Arizona registration under the controlled substances act (21 United States Code sections 801 through 904) and provide the medical practitioner access to the program's central database tracking system. The Arizona state board of pharmacy shall notify each medical practitioner of the person's registration and access to the database tracking system and how to use the system. The Arizona state board of pharmacy shall notify each medical practitioner receiving an initial license who intends to apply for registration under the controlled substances act (21 United States Code sections 801 through 904) of the person's responsibility and the process to register with the Arizona State board of pharmacy and be granted access to the program's central database tracking system.

B. The registration is:

1. Until January 1, 2020, subject to biennial renewal as specified in this article, except for medical practitioners whose registration and renewal are provided pursuant to subsection A of this section.

2. Not transferable or assignable.

3. Valid only in conjunction with a valid license issued by a medical practitioner regulatory board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 25 or 29.

C. An applicant for registration pursuant to this section must submit an application as prescribed by the board unless the medical practitioner's registration and renewal are provided pursuant to subsection A of this section.

D. Until January 1, 2020, the board shall assign all persons registered under this article to one of two registration renewal groups. The holder of a registration ending in an even number must renew the registration biennially on or before May 1 of the next even-numbered year. The holder of a registration ending in an odd number must renew the registration biennially on or before May 1 of the next odd-numbered year. The board shall automatically suspend the registration of any registrant who fails to renew

the registration on or before May 1 of the year in which the renewal is due. The board shall vacate a suspension if the registrant submits a renewal application. A suspended registrant is prohibited from accessing information in the prescription monitoring program database tracking system. This subsection does not apply to medical practitioners whose registration and renewal are provided pursuant to subsection A of this section.

E. A registrant shall not apply for registration renewal more than sixty days before the expiration date of the registration.

F. An applicant for registration renewal pursuant to this section must submit a renewal application prescribed by the board by rule unless the medical practitioner's registration and renewal are provided pursuant to subsection A of this section.

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

H. BEGINNING THE LATER OF OCTOBER 1, 2017 OR SIXTY DAYS AFTER THE STATEWIDE HEALTH INFORMATION EXCHANGE HAS INTEGRATED THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM DATA INTO THE EXCHANGE, A MEDICAL PRACTITIONER, BEFORE PRESCRIBING AN OPIOID ANALGESIC OR BENZODIAZEPINE CONTROLLED SUBSTANCE LISTED IN SCHEDULE II, III OR IV FOR A PATIENT, SHALL OBTAIN A PATIENT UTILIZATION REPORT REGARDING THE PATIENT FOR THE PRECEDING TWELVE MONTHS FROM THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM AT THE BEGINNING OF EACH NEW COURSE OF TREATMENT AND AT LEAST QUARTERLY WHILE THAT PRESCRIPTION REMAINS A PART OF THE TREATMENT. EACH MEDICAL PRACTITIONER REGULATORY BOARD SHALL NOTIFY THE MEDICAL PRACTITIONERS LICENSED BY THAT BOARD OF THE APPLICABLE DATE. A MEDICAL PRACTITIONER MAY BE GRANTED A ONE-YEAR WAIVER FROM THE REQUIREMENT IN THIS SUBSECTION DUE TO TECHNOLOGICAL LIMITATIONS THAT ARE NOT REASONABLY WITHIN THE CONTROL OF THE PRACTITIONER OR OTHER EXCEPTIONAL CIRCUMSTANCES DEMONSTRATED BY THE PRACTITIONER, PURSUANT TO A PROCESS ESTABLISHED BY RULE BY THE ARIZONA STATE BOARD OF PHARMACY.

I. THE MEDICAL PRACTITIONER IS NOT REQUIRED TO OBTAIN A PATIENT UTILIZATION REPORT FROM THE CENTRAL DATABASE TRACKING SYSTEM PURSUANT TO SUBSECTION H OF THIS SECTION IF ANY OF THE FOLLOWING APPLIES:

1. THE PATIENT IS RECEIVING HOSPICE CARE OR PALLIATIVE CARE FOR A SERIOUS OR CHRONIC ILLNESS.

2. THE PATIENT IS RECEIVING CARE FOR CANCER, A CANCER-RELATED ILLNESS OR CONDITION OR DIALYSIS TREATMENT.

3. A MEDICAL PRACTITIONER WILL ADMINISTER THE CONTROLLED SUBSTANCE.

4. THE PATIENT IS RECEIVING THE CONTROLLED SUBSTANCE DURING THE COURSE OF INPATIENT OR RESIDENTIAL TREATMENT IN A HOSPITAL, NURSING CARE FACILITY, ASSISTED LIVING FACILITY, CORRECTIONAL FACILITY OR MENTAL HEALTH FACILITY.

5. THE MEDICAL PRACTITIONER IS PRESCRIBING THE CONTROLLED SUBSTANCE TO THE PATIENT FOR NO MORE THAN A TEN-DAY PERIOD FOR AN INVASIVE MEDICAL OR

DENTAL PROCEDURE OR A MEDICAL OR DENTAL PROCEDURE THAT RESULTS IN ACUTE PAIN TO THE PATIENT.

6. THE MEDICAL PRACTITIONER IS PRESCRIBING THE CONTROLLED SUBSTANCE TO THE PATIENT FOR NO MORE THAN A TEN-DAY PERIOD FOR A PATIENT WHO HAS SUFFERED AN ACUTE INJURY OR A MEDICAL OR DENTAL DISEASE PROCESS THAT IS DIAGNOSED IN AN EMERGENCY DEPARTMENT SETTING AND THAT RESULTS IN ACUTE PAIN TO THE PATIENT. AN ACUTE INJURY OR MEDICAL DISEASE PROCESS DOES NOT INCLUDE BACK PAIN.

7. THE MEDICAL PRACTITIONER IS PRESCRIBING NO MORE THAN A FIVE-DAY PRESCRIPTION AND HAS REVIEWED THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM FOR THAT PATIENT WITHIN THE LAST THIRTY DAYS, AND THE SYSTEM SHOWS THAT NO OTHER PRESCRIBER HAS PRESCRIBED A CONTROLLED SUBSTANCE IN THE PRECEDING THIRTY-DAY PERIOD.

J. IF A MEDICAL PRACTITIONER USES ELECTRONIC MEDICAL RECORDS THAT INTEGRATE DATA FROM THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM, A REVIEW OF THE ELECTRONIC MEDICAL RECORDS WITH THE INTEGRATED DATA SHALL BE DEEMED COMPLIANT WITH THE REVIEW OF THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM AS REQUIRED IN SUBSECTION H OF THIS SECTION.

K. THE BOARD SHALL PROMOTE AND ENTER INTO DATA SHARING AGREEMENTS FOR THE PURPOSE OF INTEGRATING THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM INTO ELECTRONIC MEDICAL RECORDS.

L. BY COMPLYING WITH THIS SECTION, A MEDICAL PRACTITIONER ACTING IN GOOD FAITH, OR THE MEDICAL PRACTITIONER'S EMPLOYER, IS NOT SUBJECT TO LIABILITY OR DISCIPLINARY ACTION ARISING SOLELY FROM EITHER:

1. REQUESTING OR RECEIVING, OR FAILING TO REQUEST OR RECEIVE, PRESCRIPTION MONITORING DATA FROM THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM.

2. ACTING OR FAILING TO ACT ON THE BASIS OF THE PRESCRIPTION MONITORING DATA PROVIDED BY THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM.

M. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, MEDICAL PRACTITIONERS AND THEIR DELEGATES ARE NOT IN VIOLATION OF THIS SECTION DURING ANY TIME PERIOD IN WHICH THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM IS SUSPENDED OR IS NOT OPERATIONAL OR AVAILABLE IN A TIMELY MANNER. IF THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM IS NOT ACCESSIBLE, THE MEDICAL PRACTITIONER OR THE MEDICAL PRACTITIONER'S DELEGATE SHALL DOCUMENT THE DATE AND TIME THE PRACTITIONER OR DELEGATE ATTEMPTED TO USE THE CENTRAL DATABASE TRACKING SYSTEM PURSUANT TO A PROCESS ESTABLISHED BY BOARD RULE.

N. THE BOARD SHALL CONDUCT AN ANNUAL VOLUNTARY SURVEY OF PROGRAM USERS TO ASSESS USER SATISFACTION WITH THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM. THE SURVEY MAY BE CONDUCTED ELECTRONICALLY. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE BOARD SHALL PROVIDE A REPORT OF THE SURVEY RESULTS TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE GOVERNOR AND SHALL PROVIDE A COPY OF THIS REPORT TO THE SECRETARY OF STATE.

O. THIS SECTION DOES NOT PROHIBIT A MEDICAL PRACTITIONER REGULATORY BOARD FROM OBTAINING AND USING INFORMATION FROM THE PROGRAM'S CENTRAL DATABASE TRACKING SYSTEM.

P. FOR THE PURPOSES OF THIS SECTION, "EMERGENCY DEPARTMENT" MEANS THE UNIT WITHIN A HOSPITAL THAT IS DESIGNED FOR THE PROVISION OF EMERGENCY SERVICES.

Sec. 2. Section 36-2608, Arizona Revised Statutes, is amended to read:

36-2608. Reporting requirements; waiver; exceptions

A. If a medical practitioner dispenses a controlled substance listed in section 36-2513, 36-2514 or 36-2515, or if a prescription for a controlled substance listed in any of those sections is dispensed by a pharmacy in this state, a health care facility in this state for outpatient use or a board-permitted nonresident pharmacy for delivery to a person residing in this state, the medical practitioner, health care facility or pharmacy must report the following information as applicable and as prescribed by the board by rule:

1. The name, address, telephone number, prescription number and drug enforcement administration controlled substance registration number of the dispenser.

2. The name, address and date of birth of the person ~~or, if for an animal, the owner of the animal~~ for whom the prescription is written.

3. The name, address, telephone number and drug enforcement administration controlled substance registration number of the prescribing medical practitioner.

4. The name, strength, quantity, dosage and national drug code number of the schedule II, III or IV controlled substance dispensed.

5. The date the prescription was dispensed.

6. The number of refills, if any, authorized by the medical practitioner.

B. Except as provided in subsection D of this section, a dispenser must use the September 28, 2011 version 4, release 2 standard implementation guide for prescription monitoring programs published by the American society for automation in pharmacy or any subsequent version or release of that guide to report the required information.

C. The board shall allow the reporter to transmit the required information by electronic data transfer if feasible or, if not feasible, on reporting forms as prescribed by the board. The board shall not require the reporter to submit the required information more frequently than once each day.

D. A dispenser who does not have an automated ~~record-keeping~~ RECORDKEEPING system capable of producing an electronic report in the established format may request a waiver from electronic reporting by submitting a written request to the board. The board shall grant the request if the dispenser agrees in writing to report the data by submitting a completed universal claim form as prescribed by the board by rule.

E. The board by rule may prescribe the prescription form to be used in prescribing a schedule II, III or IV controlled substance if the board determines that this would facilitate the reporting requirements of this section.

F. The reporting requirements of this section do not apply to the following:

1. A controlled substance administered directly to a patient.

2. A controlled substance dispensed by a medical practitioner at a health care facility licensed by this state if the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of seventy-two hours with not more than two seventy-two hour cycles within any fifteen-day period.

3. A controlled substance sample.

4. The wholesale distribution of a schedule II, III or IV controlled substance. For the purposes of this paragraph, "wholesale distribution" has the same meaning prescribed in section 32-1981.

5. A facility that is registered by the drug enforcement administration as a narcotic treatment program and that is subject to the ~~record-keeping~~ RECORDKEEPING provisions of 21 Code of Federal Regulations section 1304.24.

Sec. 3. Controlled substances prescription monitoring program; analysis; report; delayed repeal

A. The Arizona state board of pharmacy shall contract with a third party to conduct an analysis of the controlled substances prescription monitoring program and report on at least the following:

1. The usability and length of time to query data on the controlled substances prescription monitoring program's central database tracking system and recommendations to improve system properties for more efficient and effective clinical use by medical practitioners.

2. Strategies to increase and promote use by medical practitioners.

3. The quality of the data and recommendations to improve accuracy and validity.

4. Strategies to make it easier to integrate the controlled substances prescription monitoring program's central database into electronic health records.

5. An analysis of available and necessary resources for the Arizona state board of pharmacy to implement the requirements of section 32-2606, Arizona Revised Statutes, as amended by this act.

6. Best practices in this state and other states that have a controlled substances prescription monitoring program or database.

B. The report shall be completed on or before January 1, 2017. On or before January 15, 2017, the Arizona state board of pharmacy shall deliver the report to the president of the senate, the speaker of the house of representatives and the governor and shall provide a copy to the secretary of state.

C. This section is repealed from and after September 30, 2017.

Sec. 4. Controlled substances prescription monitoring program; electronic health records; integration; quarterly reports; delayed repeal

A. On or before October 1, 2016 and every quarter for the following four years, the Arizona state board of pharmacy shall complete a quarterly report on the number and names of electronic health records companies that have integrated the controlled substances prescription monitoring program's central database or are in the process of integrating the database for use by medical practitioners. The report shall include the number of medical practitioners who will have access to the integrated data through an electronic health records system. The board shall post each report on its public website.

B. This section is repealed from and after September 30, 2021.

Sec. 5. Rulemaking exemption

For the purposes of this act, the Arizona state board of pharmacy is exempt from the rulemaking requirement of title 41, chapter 6, Arizona Revised Statutes, for one year after the effective date of this act.

APPROVED BY THE GOVERNOR MAY 12, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2016.