

House Engrossed Senate Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

**CHAPTER 283
SENATE BILL 1023**

AN ACT

AMENDING SECTIONS 36-2602, 36-2604 AND 36-2608, ARIZONA REVISED STATUTES;
RELATING TO THE CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2602, Arizona Revised Statutes, is amended to
3 read:

4 36-2602. Controlled substances prescription monitoring
5 program; contracts; retention and maintenance of
6 records

7 A. The board shall adopt rules to establish a controlled substances
8 prescription monitoring program. The program shall:

9 1. Include a computerized central database tracking system to track
10 the prescribing, dispensing and consumption of schedule II, III, ~~and~~ IV
11 AND V controlled substances that are dispensed by a medical practitioner
12 or by a pharmacy that holds a valid license or permit issued pursuant to
13 title 32. The database shall include data from the department of health
14 services that identifies residents of this state who possess a registry
15 identification card issued pursuant to chapter 28.1 of this title. The
16 tracking system shall not interfere with the legal use of a controlled
17 substance for the management of severe or intractable pain.

18 2. Assist law enforcement to identify illegal activity related to
19 the prescribing, dispensing and consumption of schedule II, III, ~~and~~ IV
20 AND V controlled substances.

21 3. Provide information to patients, medical practitioners and
22 pharmacists to help avoid the inappropriate use of schedule II, III, ~~and~~
23 IV AND V controlled substances.

24 4. Be designed to minimize inconvenience to patients, prescribing
25 medical practitioners and pharmacies while effectuating the collection and
26 storage of information.

27 B. The board may enter into private or public contracts, including
28 intergovernmental agreements pursuant to title 11, chapter 7, article 3,
29 to ensure the effective operation of the program. Each contractor must
30 comply with the confidentiality requirements prescribed in this article
31 and is subject to the criminal penalties prescribed in section 36-2610.

32 C. The board shall maintain medical records information in the
33 program pursuant to the standards prescribed in section 12-2297.

34 Sec. 2. Section 36-2604, Arizona Revised Statutes, is amended to
35 read:

36 36-2604. Use and release of confidential information;
37 definition

38 A. Except as otherwise provided in this section, prescription
39 information submitted to the board pursuant to this article is
40 confidential and is not subject to public inspection. The board shall
41 establish procedures to ensure the privacy and confidentiality of patients
42 and that patient information that is collected, recorded and transmitted
43 pursuant to this article is not disclosed except as prescribed in this
44 section.

1 B. The board or its designee shall review the prescription
2 information collected pursuant to this article. If the board or its
3 designee has reason to believe an act of unprofessional or illegal conduct
4 has occurred, the board or its designee shall notify the appropriate
5 professional licensing board or law enforcement or criminal justice agency
6 and provide the prescription information required for an investigation.

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

9 1. A person who is authorized to prescribe or dispense a controlled
10 substance, or a delegate who is authorized by the prescriber or dispenser,
11 to assist that person to provide medical or pharmaceutical care to a
12 patient or to evaluate a patient.

13 2. An individual who requests the individual's own prescription
14 monitoring information pursuant to section 12-2293.

15 3. A medical practitioner regulatory board established pursuant to
16 title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 25 or 29. Except as
17 required pursuant to subsection B of this section, the board shall provide
18 this information only if the requesting board states in writing that the
19 information is necessary for an open investigation or complaint.

20 4. A local, state or federal law enforcement or criminal justice
21 agency. Except as required pursuant to subsection B of this section, the
22 board shall provide this information only if the requesting agency states
23 in writing that the information is necessary for an open investigation or
24 complaint.

25 5. The Arizona health care cost containment system administration
26 regarding persons who are receiving services pursuant to chapter 29 of
27 this title. Except as required pursuant to subsection B of this section,
28 the board shall provide this information only if the administration states
29 in writing that the information is necessary for an open investigation or
30 complaint.

31 6. A person who is serving a lawful order of a court of competent
32 jurisdiction.

33 7. A person who is authorized to prescribe or dispense a controlled
34 substance and who performs an evaluation on an individual pursuant to
35 section 23-1026.

36 8. A county medical examiner or alternate medical examiner who is
37 directing an investigation into the circumstances surrounding a death as
38 described in section 11-593 or a delegate who is authorized by the county
39 medical examiner or alternate medical examiner.

40 9. THE DEPARTMENT OF HEALTH SERVICES REGARDING PERSONS WHO ARE
41 RECEIVING OR PRESCRIBING CONTROLLED SUBSTANCES IN ORDER TO IMPLEMENT A
42 PUBLIC HEALTH RESPONSE TO ADDRESS OPIOID OVERUSE OR ABUSE, INCLUDING A
43 REVIEW PURSUANT TO SECTION 36-198. EXCEPT AS REQUIRED PURSUANT TO
44 SUBSECTION B OF THIS SECTION, THE BOARD SHALL PROVIDE THIS INFORMATION
45 ONLY IF THE DEPARTMENT STATES IN WRITING THAT THE INFORMATION IS NECESSARY

1 TO IMPLEMENT A PUBLIC HEALTH RESPONSE TO HELP COMBAT OPIOID OVERUSE OR
2 ABUSE.

3 D. The board may provide data to public or private entities for
4 statistical, research or educational purposes after removing information
5 that could be used to identify individual patients or persons who received
6 prescriptions from dispensers.

7 E. For the purposes of this section, "delegate" means any of the
8 following:

9 1. A licensed health care professional who is employed in the
10 office of or in a hospital with the prescriber or dispenser.

11 2. An unlicensed medical records technician, medical assistant or
12 office manager who is employed in the office of or in a hospital with the
13 prescriber or dispenser and who has received training regarding both the
14 health insurance portability and accountability act privacy standards,
15 45 Code of Federal Regulations part 164, subpart E, and security
16 standards, 45 Code of Federal Regulations part 164, subpart C.

17 3. A forensic pathologist, medical death investigator or other
18 qualified person who is assigned duties in connection with a death
19 investigation pursuant to section 11-594.

20 Sec. 3. Section 36-2608, Arizona Revised Statutes, is amended to
21 read:

22 36-2608. Reporting requirements; waiver; exceptions

23 A. If a medical practitioner dispenses a controlled substance
24 listed in section 36-2513, 36-2514, or 36-2515 OR 36-2516, or if a
25 prescription for a controlled substance listed in any of those sections is
26 dispensed by a pharmacy in this state, a health care facility in this
27 state for outpatient use or a board-permitted nonresident pharmacy for
28 delivery to a person residing in this state, the medical practitioner,
29 health care facility or pharmacy must report the following information as
30 applicable and as prescribed by the board by rule:

31 1. The name, address, telephone number, prescription number and
32 UNITED STATES drug enforcement administration controlled substance
33 registration number of the dispenser.

34 2. The name, address and date of birth of the person for whom the
35 prescription is written.

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

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

41 5. The date the prescription was dispensed.

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

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

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

11 D. A dispenser who does not have an automated recordkeeping system
12 capable of producing an electronic report in the established format may
13 request a waiver from electronic reporting by submitting a written request
14 to the board. The board shall grant the request if the dispenser agrees
15 in writing to report the data by submitting a completed universal claim
16 form as prescribed by the board by rule.

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

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

23 1. A controlled substance administered directly to a patient.

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

29 3. A controlled substance sample.

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

33 5. A facility that is registered by the UNITED STATES drug
34 enforcement administration as a narcotic treatment program and that is
35 subject to the recordkeeping provisions of 21 Code of Federal Regulations
36 section 1304.24.

37 Sec. 4. Conditional enactment

38 Section 36-2604, Arizona Revised Statutes, as amended by this act,
39 does not become effective unless House Bill 2493, fifty-third legislature,
40 first regular session, relating to drug overdose deaths, becomes law.

APPROVED BY THE GOVERNOR MAY 8, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2017.

Passed the House April 26, 2017,

Passed the Senate February 9, 2017,

by the following vote: 53 Ayes,

by the following vote: 29 Ayes,

0 Nays, 7 Not Voting

0 Nays, 1 Not Voting

H. R. Boyce
Speaker of the House

Stan B. Yoder
President of the Senate

Jim Drake
Chief Clerk of the House

Season Ovens
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,
at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1023

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 2, 20 17

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Stan B. Garbarino
President of the Senate

Susan Owens
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

2nd day of May, 20 17

at 11:28 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 8th day of

May, 2017

at 4:26 o'clock P M.

Donald R. Duje
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 8 day of May, 20 17

at 5:58 o'clock P M.

Michelle Reagan
Secretary of State