

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 337

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PRESCRIPTIONS; AMENDING SECTION 37-2726, IDAHO CODE, TO PROVIDE
2 THAT MEDICAL EXAMINERS OR CORONERS MAY HAVE ACCESS TO INFORMATION IN THE
3 PRESCRIPTIONS DATABASE UNDER CERTAIN CIRCUMSTANCES.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 37-2726, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 37-2726. FILING PRESCRIPTIONS -- DATABASE. (1) All controlled sub-
9 stances dispensed for humans shall be filed with the board electronically
10 in a format established by the board or by other method as required by board
11 rule. The board may require the filing of other prescriptions by board rule.
12 The board shall establish by rule the information to be submitted pursuant to
13 the purposes of this section and the purposes set forth in section 37-2730A,
14 Idaho Code.

15 (2) The board shall create, operate and maintain a controlled sub-
16 stances prescriptions database containing the information submitted
17 pursuant to subsection (1) of this section, to be used for the purposes
18 and subject to the terms, conditions and immunities described in section
19 37-2730A, Idaho Code. The database information must be made available only
20 to the following:

21 (a) Authorized individuals employed by Idaho's boards or other states'
22 licensing entities charged with the licensing and discipline of practi-
23 tioners;

24 (b) Peace officers employed by federal, state and local law enforcement
25 agencies engaged as a specified duty of their employment in enforcing
26 law regulating controlled substances;

27 (c) Authorized individuals under the direction of the department of
28 health and welfare for the purpose of monitoring and enforcing that
29 department's responsibilities under the public health, medicare and
30 medicaid laws;

31 (d) A practitioner, licensed in Idaho or another state, having author-
32 ity to prescribe controlled substances, to the extent the information
33 relates specifically to a current patient of the practitioner to whom
34 the practitioner is prescribing or considering prescribing any con-
35 trolled substance;

36 (e) A pharmacist, licensed in Idaho or another state, having authority
37 to dispense controlled substances to the extent the information relates
38 specifically to a current patient to whom that pharmacist is dispensing
39 or considering dispensing any controlled substance, or providing phar-
40 maceutical care as defined in the Idaho pharmacy act;

41 (f) An individual who is the recipient of a dispensed controlled sub-
42 stance entered into the database may access records that pertain to that

1 individual, upon the production of positive identification, or that in-
2 dividual's designee upon production of a notarized release of informa-
3 tion by that individual;

4 (g) Upon a lawful order issued by the presiding judge in a court of com-
5 petent jurisdiction for the release of prescription monitoring program
6 records of a named individual; ~~and~~

7 (h) Prosecuting attorneys, deputy prosecuting attorneys and special
8 prosecutors of a county or city and special assistant attorneys general
9 from the office of the attorney general engaged in enforcing law regu-
10 lating controlled substances; and

11 (i) A medical examiner or coroner who is an officer of or employed by a
12 state or local government, for determining a cause of death or for per-
13 forming other duties authorized by law.

14 (3) The board shall require prescribers, except veterinarians, to an-
15 nually register with the board to obtain online access to the controlled sub-
16 stances prescriptions database.

17 (4) The board must maintain records on the information disclosed from
18 the database, including:

19 (a) The identification of each individual who requests or receives in-
20 formation from the database and who that individual represents;

21 (b) The information provided to each such individual; and

22 (c) The date and time the information is requested or provided.

23 (5) The board shall promulgate rules to ensure that only authorized in-
24 dividuals have access to the database.

25 (6) Any person who knowingly misrepresents to the board that he is a
26 person entitled under subsection (2) of this section to receive information
27 from the controlled substances prescriptions database under the condi-
28 tions therein provided, and who receives information from the controlled
29 substances prescriptions database resulting from that misrepresentation,
30 shall be guilty of a misdemeanor, punishable by imprisonment in a county jail
31 not to exceed six (6) months, or by a fine not to exceed two thousand dollars
32 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
33 in lieu of, any other civil or administrative penalty or sanction authorized
34 by law.

35 (7) Any person in possession, whether lawfully or unlawfully, of infor-
36 mation from the controlled substances prescriptions database which identi-
37 fies an individual patient and who knowingly discloses such information to
38 a person not authorized to receive or use such information under any state
39 or federal law, rule or regulation; the lawful order of a court of compe-
40 tent jurisdiction; or written authorization of the individual patient shall
41 be guilty of a misdemeanor, punishable by imprisonment in a county jail not
42 to exceed six (6) months, or by a fine not to exceed two thousand dollars
43 (\$2,000), or both. The foregoing criminal penalty is in addition to, and not
44 in lieu of, any other civil or administrative penalty or sanction authorized
45 by law. The provisions of this subsection shall not apply to disclosure of
46 individual patient information by the patient himself. The provisions of
47 this subsection shall not apply to disclosure of information by a prosecut-
48 ing attorney, deputy prosecuting attorney or special prosecutor of a county
49 or city or by a special assistant attorney general from the office of the at-

1 torney general in the course of a criminal proceeding, whether preconviction
2 or postconviction.

3 (8) Any person with access to the board's online prescription monitor-
4 ing program pursuant to a board issued user account, login name and pass-
5 word who intentionally shares or recklessly fails to safeguard his user ac-
6 count, login name and password, resulting in another person not authorized
7 to receive or use such information under the provisions of any state or fed-
8 eral law, rule or regulation obtaining information from the controlled sub-
9 stances prescriptions database, shall be guilty of a misdemeanor, punish-
10 able by imprisonment in a county jail not to exceed six (6) months or by a fine
11 not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal
12 penalty is in addition to, and not in lieu of, any other civil or administra-
13 tive penalty or sanction authorized by law.

14 (9) The board may, at its discretion, block access to certain con-
15 trolled substances prescriptions database data if the board has reason to
16 believe that access to the data is or may be used illegally.

17 (10) All costs associated with recording and submitting data as re-
18 quired in this section are assumed by the dispensing practitioner recording
19 and submitting the data.