

REFERENCE TITLE: controlled substances monitoring; search warrants

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1469

Introduced by
Senator Barto

AN ACT

AMENDING SECTION 36-2604, 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 36-2604, Arizona Revised Statutes, is amended to
3 read:

4 36-2604. Use and release of confidential information; definitions

5 A. Except as otherwise provided in this section, prescription
6 information submitted to the board pursuant to this article is confidential
7 and is not subject to public inspection. The board shall establish
8 procedures to ensure the privacy and confidentiality of patients and that
9 patient information that is collected, recorded and transmitted pursuant to
10 this article is not disclosed except as prescribed in this section.

11 B. The board or its designee shall review the prescription information
12 collected pursuant to this article. If the board or its designee has reason
13 to believe an act of unprofessional or illegal conduct has occurred, the
14 board or its designee shall notify the appropriate professional licensing
15 board ~~or law enforcement or criminal justice agency and provide the~~
16 ~~prescription information required for an investigation.~~ The board may
17 delegate the duties prescribed in this subsection to the executive director
18 pursuant to section 32-1904.

19 C. The board may release data collected by the program to the
20 following:

21 1. A person who is authorized to prescribe or dispense controlled
22 substances, or a delegate who is authorized by the prescriber or dispenser,
23 to assist that person to provide medical or pharmaceutical care to a patient
24 or to evaluate a patient or to assist with or verify compliance with the
25 requirements of this chapter, the rules adopted pursuant to this chapter and
26 the rules adopted by the department of health services to reduce opioid
27 overdose and death.

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

30 3. A medical practitioner regulatory board established pursuant to
31 title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 25 or 29.

32 4. A local, state or federal law enforcement or criminal justice
33 agency. ~~Except as required pursuant to subsection B of this section,~~ The
34 board shall provide this information only if the requesting agency ~~states in~~
35 ~~writing that the information is necessary~~ HAS A VALID SEARCH WARRANT AND IS
36 USING THE INFORMATION for an open investigation or complaint.

37 5. The Arizona health care cost containment system administration and
38 contractors regarding persons who are receiving services pursuant to chapters
39 29 and 34 of this title or title XVIII of the Social Security Act. Except as
40 required pursuant to subsection B of this section, the board shall provide
41 this information only if the administration or a contractor states in writing
42 that the information is necessary for an open investigation or complaint or
43 for performing a drug utilization review for controlled substances that
44 supports the prevention of opioid overuse or abuse and the safety and quality
45 of care provided to the member.

1 6. A health care insurer. Except as required pursuant to subsection B
2 of this section, the board shall provide this information only if the health
3 care insurer states in writing that the information is necessary for an open
4 investigation or complaint or for performing a drug utilization review for
5 controlled substances that supports the prevention of opioid overuse or abuse
6 and the safety and quality of care provided to the insured.

7 7. A person who is serving a lawful order of a court of competent
8 jurisdiction.

9 8. A person who is authorized to prescribe or dispense controlled
10 substances and who performs an evaluation on an individual pursuant to
11 section 23-1026.

12 9. A county medical examiner or alternate medical examiner who is
13 directing an investigation into the circumstances surrounding a death as
14 described in section 11-593 or a delegate who is authorized by the county
15 medical examiner or alternate medical examiner.

16 10. The department of health services regarding persons who are
17 receiving or prescribing controlled substances in order to implement a public
18 health response to address opioid overuse or abuse, including a review
19 pursuant to section 36-198. Except as required pursuant to subsection B of
20 this section, the board shall provide this information only if the department
21 states in writing that the information is necessary to implement a public
22 health response to help combat opioid overuse or abuse.

23 D. Data provided by the board pursuant to this section may not be used
24 for any of the following:

- 25 1. Credentialing health care professionals.
- 26 2. Determining payment.
- 27 3. Preemployment screening.
- 28 4. Any purpose other than as specified in this section.

29 E. For a fee determined by the board, the board may provide data to
30 public or private entities for statistical, research or educational purposes
31 after removing information that could be used to identify individual patients
32 or persons who received prescriptions from dispensers.

33 F. Any employee of the administration, a contractor or a health care
34 insurer who is assigned delegate access to the program shall operate under
35 the authority and responsibility of the administration's, contractor's or
36 health care insurer's chief medical officer or other employee who is a
37 licensed health care professional and who is authorized to prescribe or
38 dispense controlled substances. A delegate of the administration, a
39 contractor or a health care insurer shall hold a valid license or
40 certification issued pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17,
41 18, 19.1, 25, 29 or 33 as a condition of being assigned and provided delegate
42 access to the program by the board. Each employee of the administration, a
43 contractor or a health care insurer who is a licensed health care
44 professional and who is authorized to prescribe or dispense controlled
45 substances may authorize not more than ten delegates.

1 G. A person who is authorized to prescribe or dispense controlled
2 substances or the chief medical officer or other licensed health care
3 professional of the administration, a contractor or a health care insurer who
4 is authorized to prescribe or dispense controlled substances shall deactivate
5 a delegate within five business days after an employment status change, the
6 request of the delegate or the inappropriate use of the controlled substances
7 prescription monitoring program's central database tracking system.

8 H. For the purposes of this section:

9 1. "Administration" and "contractor" have the same meanings prescribed
10 in section 36-2901.

11 2. "Delegate" means any of the following:

12 (a) A licensed health care professional who is employed in the office
13 of or in a hospital with the prescriber or dispenser.

14 (b) An unlicensed medical records technician, medical assistant or
15 office manager who is employed in the office of or in a hospital with the
16 prescriber or dispenser and who has received training regarding both the
17 health insurance portability and accountability act privacy standards
18 (45 Code of Federal Regulations part 164, subpart E) and security standards
19 (45 Code of Federal Regulations part 164, subpart C).

20 (c) A forensic pathologist, medical death investigator or other
21 qualified person who is assigned duties in connection with a death
22 investigation pursuant to section 11-594.

23 (d) A licensed pharmacy technician trainee, pharmacy technician or
24 pharmacy intern who works in a facility with the dispenser.

25 (e) Any employee of the administration, a contractor or a health care
26 insurer who is authorized by the administration's, contractor's or health
27 care insurer's chief medical officer or other licensed health care
28 professional who is authorized to prescribe or dispense controlled
29 substances.

30 3. "Health care insurer" has the same meaning prescribed in section
31 20-3151.