

Senate Engrossed

controlled substances monitoring; search warrants

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

SENATE BILL 1469

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;
5 definitions

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

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

21 C. The board may release data collected by the program to the
22 following:

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

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

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

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

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

1 controlled substances that supports the prevention of opioid overuse or
2 abuse and the safety and quality of care provided to the member.

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

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

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

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

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

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

- 29 1. Credentialing health care professionals.
- 30 2. Determining payment.
- 31 3. Preemployment screening.
- 32 4. Any purpose other than as specified in this section.

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

37 F. Any employee of the administration, a contractor or a health
38 care insurer who is assigned delegate access to the program shall operate
39 under the authority and responsibility of the administration's,
40 contractor's or health care insurer's chief medical officer or other
41 employee who is a licensed health care professional and who is authorized
42 to prescribe or dispense controlled substances. A delegate of the
43 administration, a contractor or a health care insurer shall hold a valid
44 license or certification issued pursuant to title 32, chapter 7, 11, 13,
45 14, 15, 16, 17, 18, 19.1, 25, 29 or 33 as a condition of being assigned

1 and provided delegate access to the program by the board. Each employee
2 of the administration, a contractor or a health care insurer who is a
3 licensed health care professional and who is authorized to prescribe or
4 dispense controlled substances may authorize not more than ten delegates.

5 G. IF, AFTER REVIEWING THE INFORMATION PROVIDED PURSUANT TO
6 SUBSECTION C, PARAGRAPH 4 OF THIS SECTION, AN INVESTIGATOR FINDS NO
7 EVIDENCE OF A STATUTORY CRIME BUT SUSPECTS A MEDICAL PRACTITIONER OF
8 PRESCRIBING CONTROLLED SUBSTANCES INAPPROPRIATELY IN MANNER OR AMOUNT, THE
9 INVESTIGATOR MAY REFER THE MEDICAL PRACTITIONER TO THE RELEVANT
10 PROFESSIONAL LICENSING BOARD FOR INVESTIGATION OF POSSIBLE DEVIATION FROM
11 THE STANDARD OF CARE BUT MAY NOT ARREST OR OTHERWISE UNDERTAKE CRIMINAL
12 PROCEEDINGS AGAINST THE MEDICAL PRACTITIONER.

13 ~~G.~~ H. A person who is authorized to prescribe or dispense
14 controlled substances or the chief medical officer or other licensed
15 health care professional of the administration, a contractor or a health
16 care insurer who is authorized to prescribe or dispense controlled
17 substances shall deactivate a delegate within five business days after an
18 employment status change, the request of the delegate or the inappropriate
19 use of the controlled substances prescription monitoring program's central
20 database tracking system.

21 ~~H.~~ I. For the purposes of this section:

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

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

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

27 (b) An unlicensed medical records technician, medical assistant or
28 office manager who is employed in the office of or in a hospital with the
29 prescriber or dispenser and who has received training regarding both the
30 health insurance portability and accountability act privacy standards
31 (45 Code of Federal Regulations part 164, subpart E) and security
32 standards (45 Code of Federal Regulations part 164, subpart C).

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

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

38 (e) Any employee of the administration, a contractor or a health
39 care insurer who is authorized by the administration's, contractor's or
40 health care insurer's chief medical officer or other licensed health care
41 professional who is authorized to prescribe or dispense controlled
42 substances.

43 3. "Health care insurer" has the same meaning prescribed in section
44 20-3151.