

Prescription Drug Monitoring Programs Training
and Technical Assistance Center Webinar Series
National Alliance for Model State Drug Laws: Legislative Round-Up
July 22, 2015

Prescription Monitoring Programs -
Legislative Trends and Model Law Revision

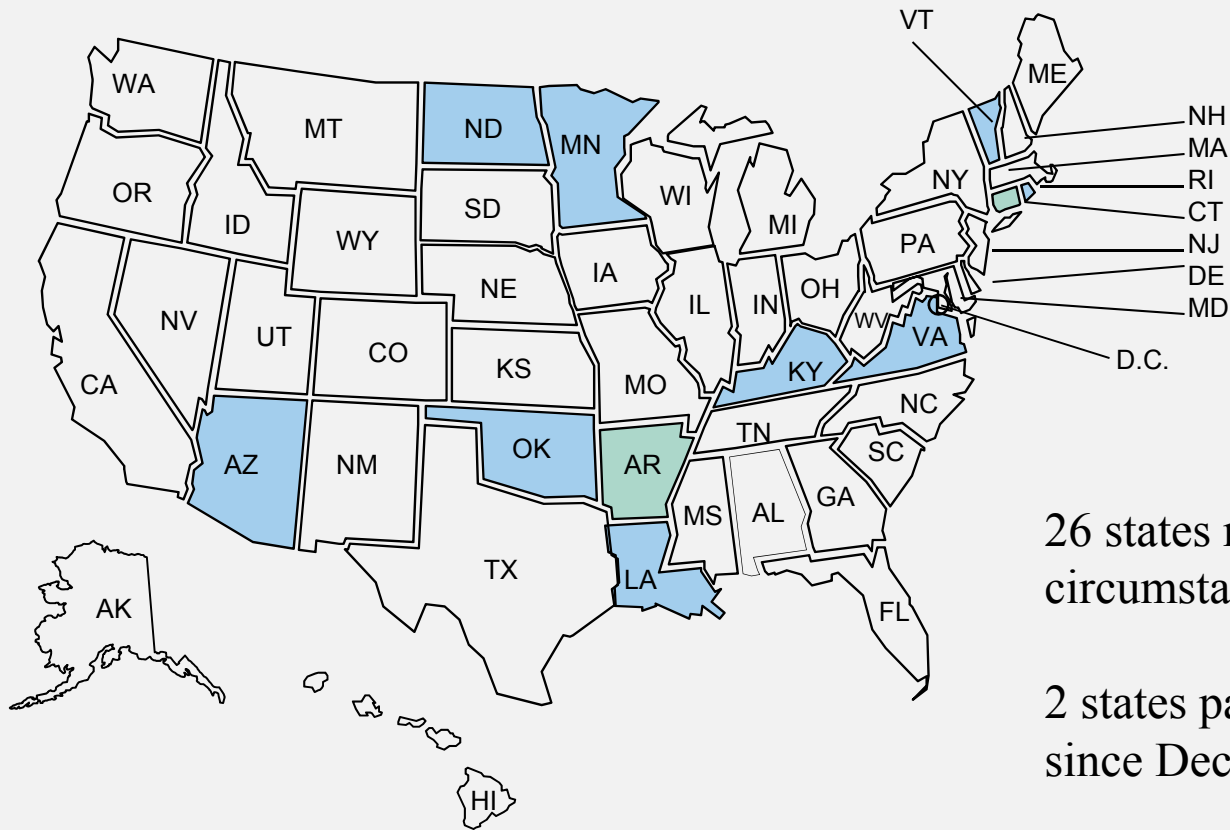
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LEGISLATIVE YEAR IN REVIEW

- Through July 15, 2015, 47 PMP related-bills passed and 15 regulations enacted in 31 states
- Areas of primary focus for the bills/regulations that passed:
 - Mandatory use of PMP
 - Mandatory registration
 - Allowing the use of delegates
 - Increasing or modifying the types of authorized recipients
 - Provision of unsolicited reports or proactive alerts
 - Changing the data collection interval to make the information more timely

MANDATORY USE OF PMP



26 states require use in certain circumstances

2 states passed such a requirement since December 2014 (AR & CT)

9 states modified or added mandatory access provisions (AZ, KY, LA, MN, ND, OK, RI, VT, VA)

MANDATORY USE LEGISLATION – NEW PROVISIONS

- AR SB 717 – provides that a prescriber with a prescription drug violation shall be required to access prescription information before writing a prescription for an opioid
- AR SB 717 – also provides that a prescriber treating a patient for chronic, non-malignant pain shall check the PMP for the patient at least once every six months
- CT HB 6856 – requires mandatory use of the PMP prior to prescribing a greater than 72-hour supply of any controlled substance to a patient and not less than once every 90 days when prescribing continuous or long term treatment with controlled substances

MANDATORY USE LEGISLATION – RELATED TO MEDICAL MARIJUANA

- AZ HB 2036 – makes it unprofessional conduct for a naturopathic physician to fail or refuse to include a copy of a patient's PMP report in the patient's medical record when providing a certificate of debilitating condition for medical marijuana
- LA SB 143 – requires prescribers and dispensers of marijuana, tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols to review a patient's information in the PMP prior to such prescribing or dispensing

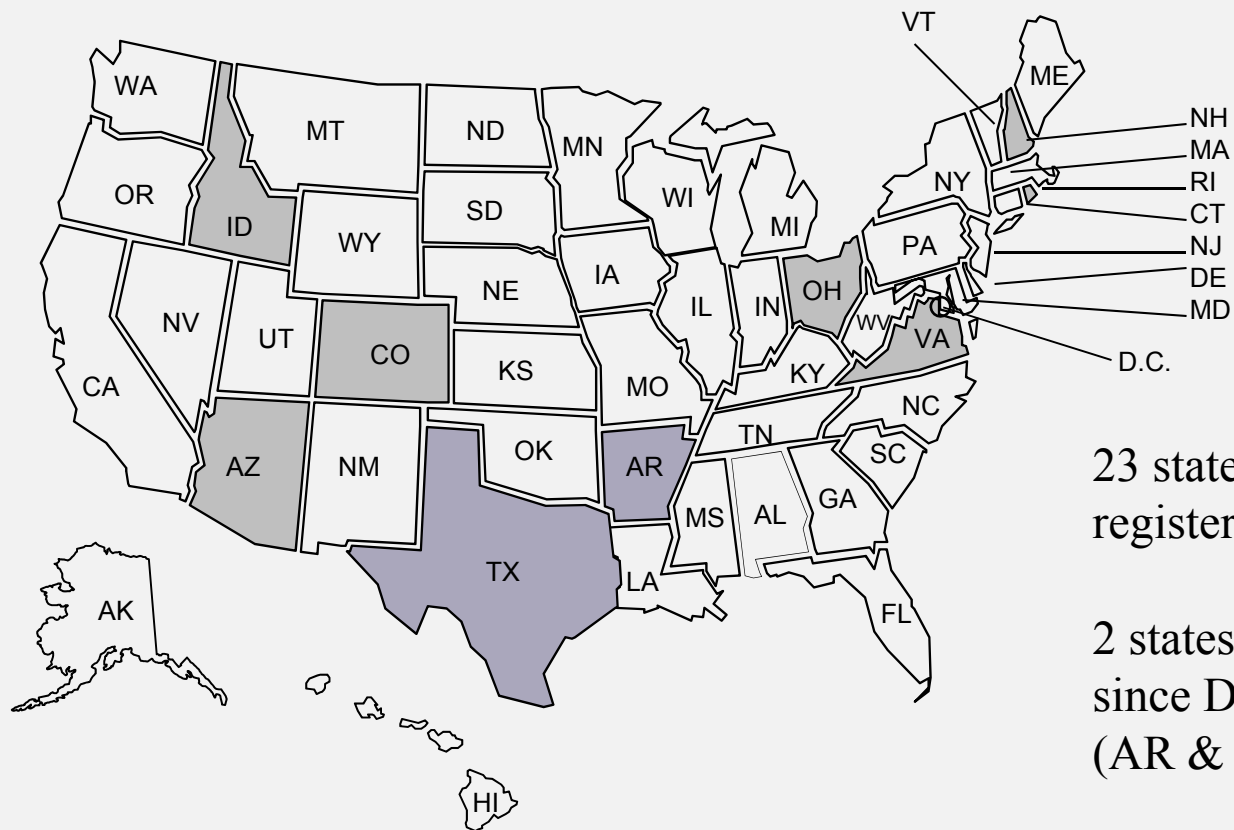
MANDATORY USE LEGISLATION – ADDITIONAL PROVISIONS OF INTEREST

- OK HB 1948 – registrants or their delegates are required to check the PMP prior to prescribing or authorizing a refill (if 180 days have elapsed since the previous check) for opiates, benzodiazepines, or carisoprodol
 - OK previously only required it for registrants that prescribed, administered, or dispensed methadone

MANDATORY USE LEGISLATION – ADDITIONAL PROVISIONS OF INTEREST

- RI ADC 31-2-6:3.0 – requires practitioners treating a patient for pain management to review the PMP prior to starting an opioid and at least every 12 months thereafter if the patient is continued on the opioid for a period of six months or longer
- RI ADC 31-2-6:3.0 – also requires practitioners to check prior to refilling or authorizing therapy with an intrathecal pump
 - Previously only required it for opioid treatment programs

MANDATORY REGISTRATION WITH PMP



23 states require practitioners to register with the PMP

2 states passed such a requirement since December 2014 (AR & TX)

7 states added new or modified current requirements (AZ, CO, ID, NH, OH, RI, VA)

MANDATORY REGISTRATION LEGISLATION – NEW PROVISIONS

- AR SB 717 – provides that a prescriber with a prescription drug violation shall be required to register with the PMP
- TX SB 195 – allows the board to adopt rules providing that a person authorized to access information in the PMP directly be enrolled in electronic access at the time he or she obtains or renews his/her professional or occupational license or registration

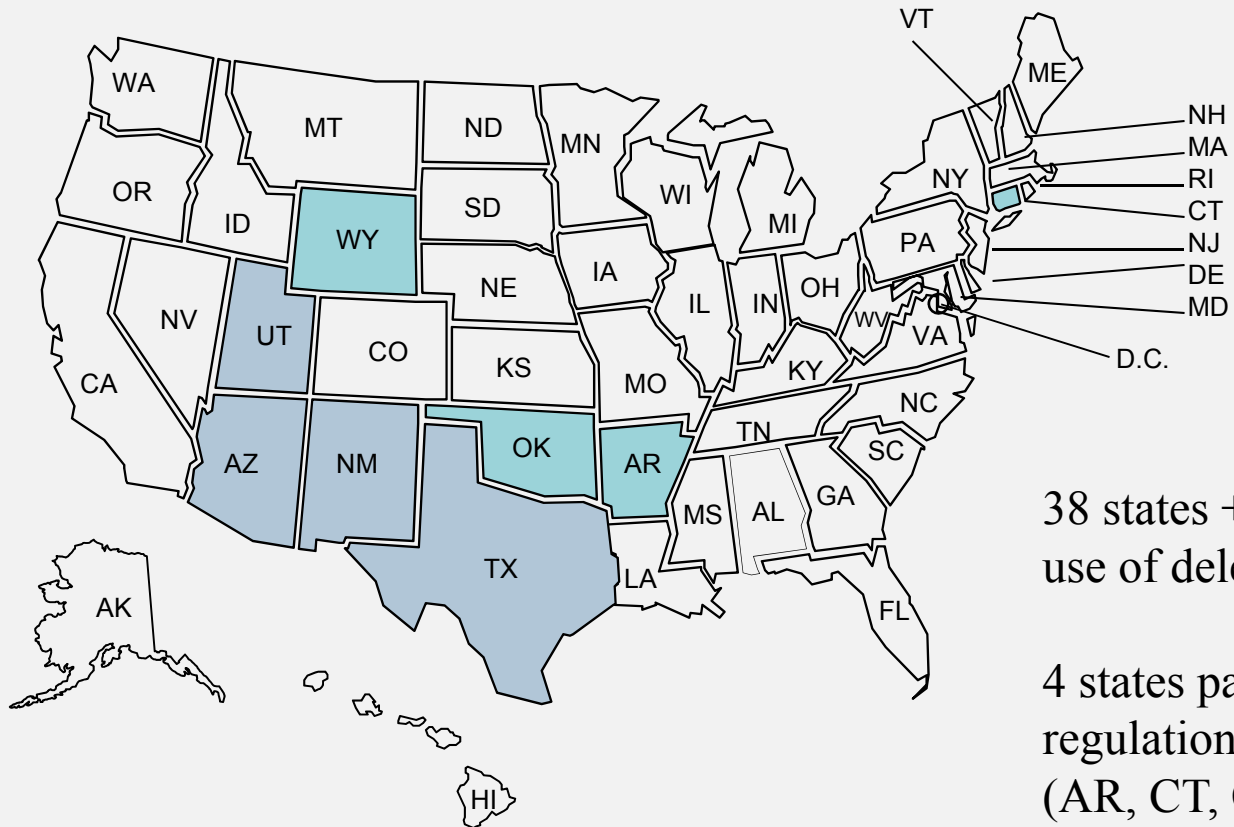
MANDATORY REGISTRATION LEGISLATION – ADDITIONAL PROVISIONS OF INTEREST

- AZ SB 1370 – provides that a medical practitioner regulatory board shall notify the Board of Pharmacy monthly of any initial licensures for practitioners who intend to apply for registration under the controlled substances act and any renewals for the purpose of registering the practitioner with the PMP (essentially going to automatic registration)

MANDATORY REGISTRATION LEGISLATION – ADDITIONAL PROVISIONS OF INTEREST

- NH SB 31 – provides that practitioners who prescribe but don't dispense must register as prescribers, practitioners who dispense but don't prescribe must register as dispensers, and those who do both must register as both
- VA HB 1841 – requires all dispensers to register with the PMP (previously just prescribers were required to register)

USE OF DELEGATES



38 states + DC allow the use of delegates

4 states passed such a statute or regulation since December 2014 (AR, CT, OK, WY)

4 states added/modified their delegate provisions (AZ, NM, TX, UT)

USE OF DELEGATES – NEW PROVISIONS

- AR SB 717 – provides PMP information may be provided to an agent or employee of a prescriber or dispenser to whom the prescriber or dispenser has delegated the task of assessing the data, but only if the agent or employee has been granted access by a delegate account
- CT HB 6856 – allows receipt of PMP data by a practitioner's agent who is a licensed health care professional
- OK HB 1948 – allows receipt of PMP data by registrants or members of their medical or administrative staff
- WY SF 100 – allows receipt of PMP information by practitioner or pharmacist appointed delegates

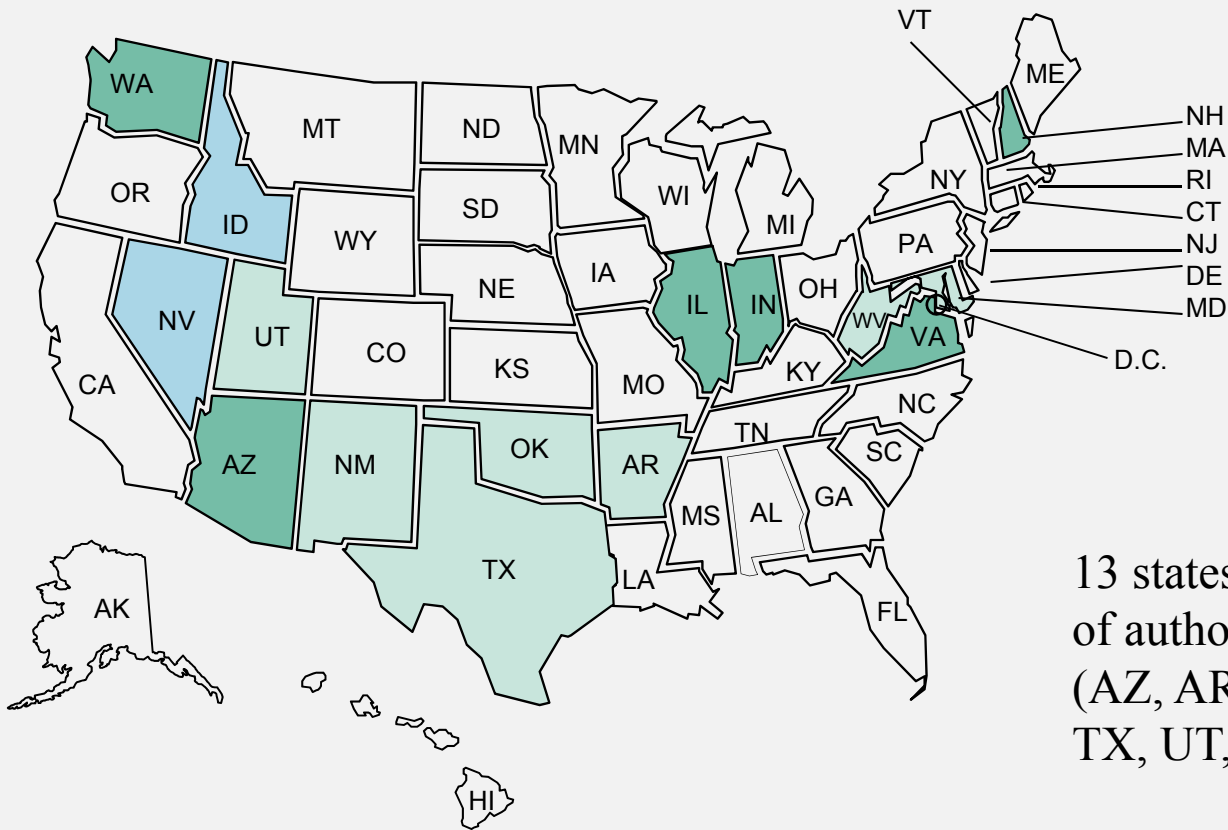
USE OF DELEGATES – ADDITIONAL PROVISIONS OF INTEREST

- AZ SB 1370 – adds the county medical examiner or alternate medical examiner as individuals who can appoint a delegate
- AZ SB 1370 – also amends the definition of delegate to allow dispensers to appoint a delegate and includes a forensic pathologist, medical death investigator, or other qualified person assigned duties in connection with a death investigation as delegates
- NM ADC 16.19.29 – modifies delegate provisions to provide that the delegating practitioner must also maintain an active account

USE OF DELEGATES – ADDITIONAL PROVISIONS OF INTEREST

- TX SB 195 – modifies the delegate provision to allow provision of PMP data to an employee or other agent of the practitioner as long as such person is authorized to do so under HIPAA
- UT SB 158 – modifies delegate provisions to allow a pharmacy intern to be a delegate and allow a pharmacist-in-charge to delegate up to five employees

INCREASED TYPES OF AUTHORIZED RECIPIENTS



13 states added additional types of authorized recipients of PMP data (AZ, AR, IL, IN, MD, NH, NM, OK, TX, UT, VA, WA, WV)

9 states modified access provisions already in place (AR, ID, MD, NV, NM, OK, TX, UT, WV)

TYPES OF AUTHORIZED RECIPIENTS – NEW PROVISIONS

- AR SB 129 – allows the Department of Human Services to petition a circuit court to allow an investigator to access the PMP for a record concerning a person
 - Must show probable cause that: 1) the person is or was in possession of one or more prescription drugs; 2) the person recently gave birth to a baby; and 3) that the person or the baby tested positive for one or more prescription drugs at the time of birth of the baby
- WV ADC 15-8-7 – allows a practitioner whose patient is a newborn child or a child being fed human breast milk to obtain PMP information on the child’s mother, wet nurse, or other direct source of human breast milk

TYPES OF AUTHORIZED RECIPIENTS – NEW PROVISIONS

- IL 77 ADC 2080.210 – allows a hospital emergency department or a freestanding healthcare facility providing healthcare to walk-in patients to obtain access to the PMP system
- IN SB 168 – allows receipt by person with a temporary medical permit
- MD SB 757 – on approval of the secretary for the purpose of furthering a bona fide individual case review, the following entities may receive PMP information: state or local child fatality review team, local overdose fatality review team, the maternal mortality review program, or a medical review committee

TYPES OF AUTHORIZED RECIPIENTS – NEW PROVISIONS

- NH SB 31 – allows provision of de-identified PMP data for program analysis and evaluation, statistical analysis, public research, public policy, and educational purposes
- NM ADC 16.19.29 – allows provision of PMP data to state drug courts

TYPES OF AUTHORIZED RECIPIENTS – NEW PROVISIONS

- OK HB 1948 & SB 140 – allows receipt of PMP information by the following new recipients: medical practitioners employed by the Department of Veterans’ Affairs, the US military, or other federal agencies treating patients in OK; designated legal, communications, and analytical employees of the Bureau; and allows the provision of de-identified data to the Department of Mental Health and Substance Abuse Services for statistical, research, substance abuse prevention, or educational purposes

TYPES OF AUTHORIZED RECIPIENTS – NEW PROVISIONS

- UT HB 395 & SB 119 – allows receipt of information by a physician employed as the medical director for a licensed worker’s compensation insurer or approved self-insured employer
- VA SB 817 – allows provision of PMP information to probation and parole officers
- WA HB 1637 – allows local, state, and federal officials and officials of federally recognized tribes to have access to PMP data
- WA SB 5027 – allows receipt of PMP information by personnel of a test site pursuant to an agreement between the test site and the patient’s prescriber or dispenser

TYPES OF AUTHORIZED RECIPIENTS – NEW PROVISIONS

- AZ SB 1370 & TX SB 195 – added provisions to allow the medical examiner to receive PMP information
- TX SB 195 – also allows provision of information to optometrists

TYPES OF AUTHORIZED RECIPIENTS – ADDITIONAL PROVISIONS OF INTEREST

- Five states modified their law enforcement access provisions –
 - 1) AR – changed to provide that data will be provided to a certified law enforcement prescription drug diversion investigator with a qualified law enforcement agency and who provides identification credentials assigned by the department and a case number
 - 2) NV – amended to provide that law enforcement may have internet access to the PMP if the officer’s primary responsibility is drug investigations, the officer has been approved by his or her supervisor, has completed the required training course, and employer has submitted a certification for the officer to the board

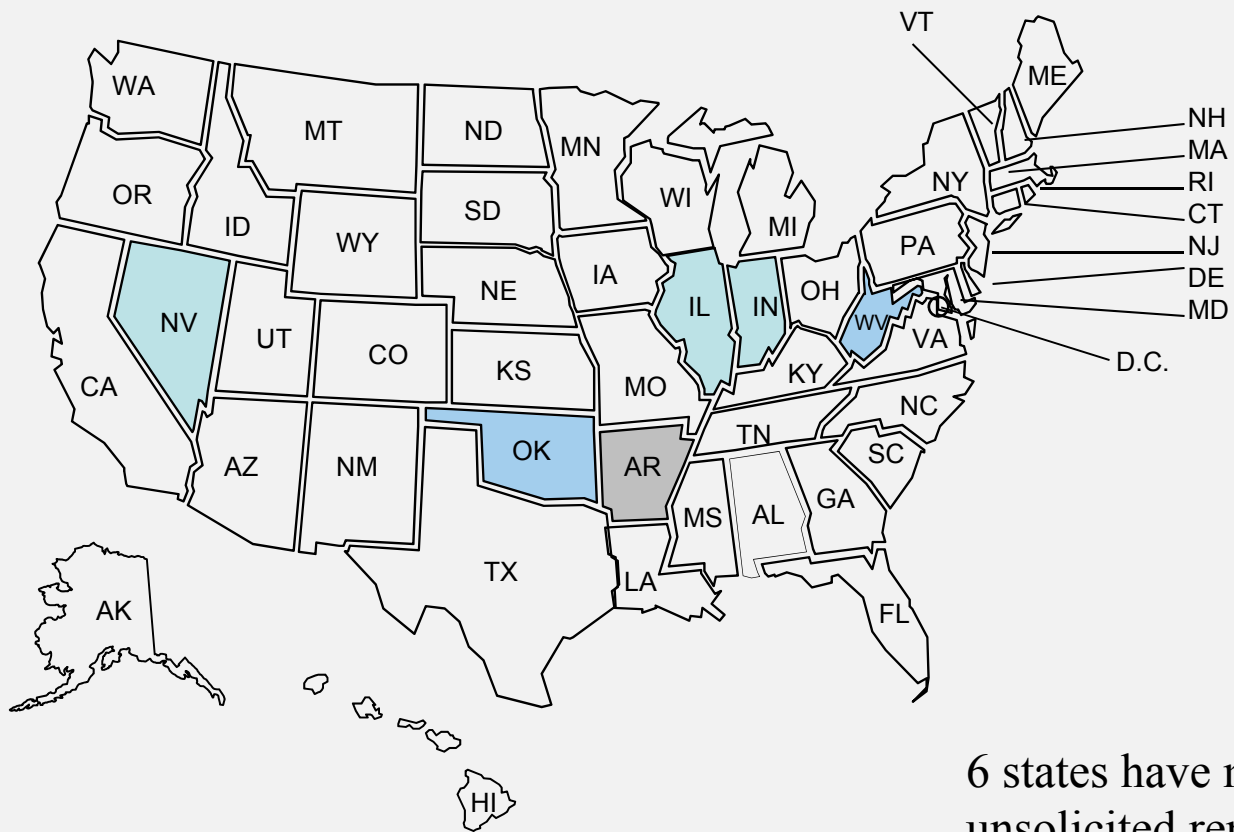
TYPES OF AUTHORIZED RECIPIENTS – ADDITIONAL PROVISIONS OF INTEREST

- Five states modified their law enforcement access provisions –
 - 3) TX – law enforcement and prosecutorial officials may only receive PMP information after submitting a request to the department and is reviewed by the department and proper need has been shown
 - 4) UT – now requires law enforcement to have a search warrant
 - 5) WV – replaces requirement that law enforcement have completed DEA diversion training and Nat’l Assn. of Drug Diversion training with one requiring law enforcement to complete training approved by the board

TYPES OF AUTHORIZED RECIPIENTS – ADDITIONAL PROVISIONS OF INTEREST

- Four states modified their provisions related to providing PMP data to licensing/regulatory boards (MD, NV, OK, WV)
- WV modified its provision regarding access to PMP information by prescribers to allow a practitioner or his/her delegate to access PMP information of a prospective patient for the purpose of determining whether to accept the patient and provide treatment

UNSOLICITED REPORTS/PROACTIVE ALERTS



6 states have modified or added unsolicited reports/proactive alerts provisions since December 2014 (AR, IL, IN, NV, OK, WV)

UNSOLICITED REPORTS/PROACTIVE ALERS – NEW & MODIFIED PROVISIONS

- AR SB 717 – provides that, once a licensing board has notified the department of the parameters for triggering a notification, the department may notify the licensing board for a prescriber or dispenser who is identified as prescribing or dispensing in a manner that may represent misuse or abuse
- AR SB 717 – requires the department to develop an algorithm to alert a practitioner if his/her patient is being prescribed opioids by more than 3 physicians within any 30 day period
- AR SB 698 – provides that if information of misuse or abuse is identified, the department will notify the Office of Diversion Control of the US DEA, in addition to other parties

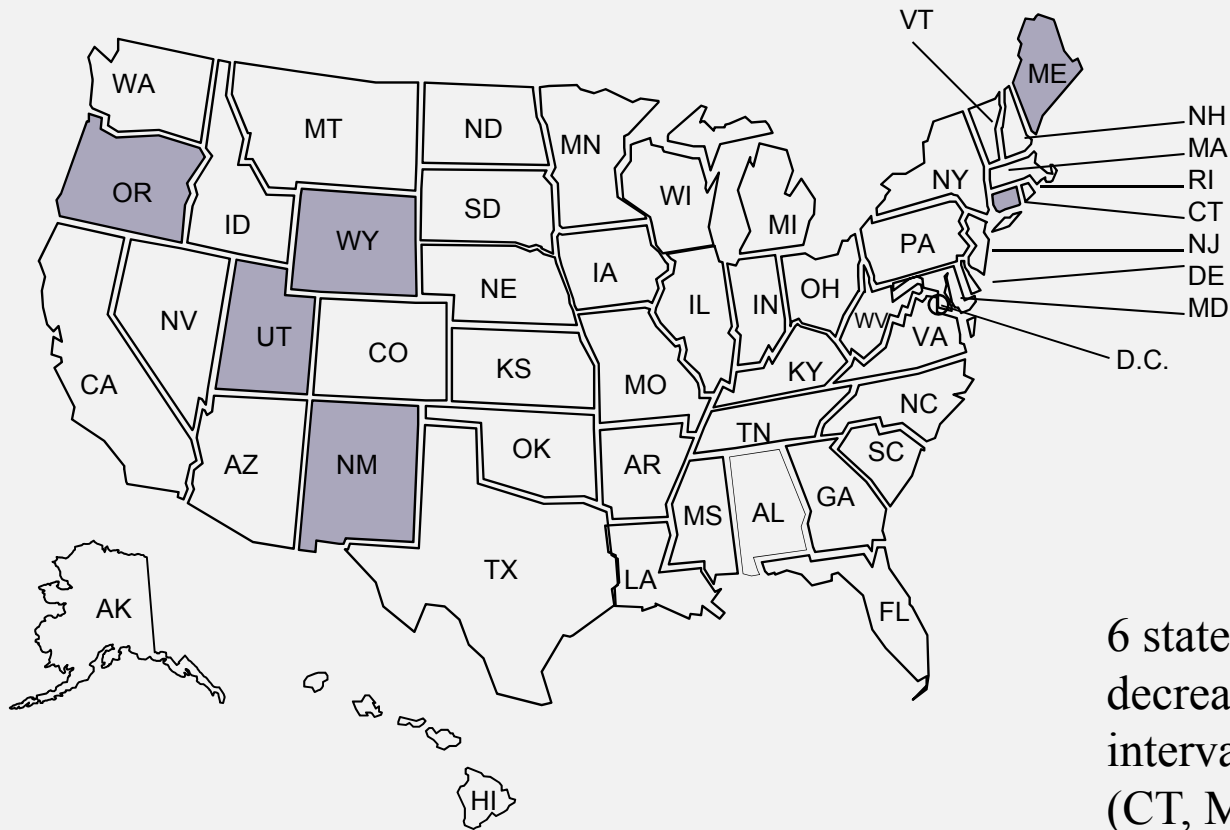
UNSOLICITED REPORTS/PROACTIVE ALERS – NEW & MODIFIED PROVISIONS

- IL 77 ADC 2080 – adds potential misuse criteria as persons who have been identified as having 6 or more prescribers, 6 or more pharmacies, or both, within a 30-day period for the issuance of unsolicited reports to prescribers and authorizes the PMP to develop operational push reports with compatible electronic medical records
- IN SB 199 – provides that boards that regulate health care providers must establish prescribing norms and dispensing guidelines that, if violated, justify the unsolicited dissemination of reports

UNSOLICITED REPORTS/PROACTIVE ALERS – NEW & MODIFIED PROVISIONS

- NV SB 114 – provides that the board may report any activity it suspects may indicate the inappropriate use by a patient of a controlled substance to the licensing board of each practitioner who has prescribed controlled substances for the patient
- OK HB 1948 – requires that the Director provide the various licensing boards with a list of the top 20 prescribers each month and notify the relevant board if the prescriber is prescribing outside the limitations of their licensure or outside of drug registration rules or state laws, and that such notice will be treated as a complaint by the board for purpose of investigations
- WV ADC 15-8-7 – provides for unsolicited alerts to prescribers and dispensers whose patients exceed set parameters

DATA COLLECTION INTERVAL



6 states have decreased or will decrease their data collection interval since December 2014 (CT, ME, NM, OR, UT, WY)

DATA COLLECTION INTERVAL

CT: weekly → daily (7/1/2016)
ME: weekly → daily
NM: weekly → daily
OR: weekly → 72 hours (1/1/2016)
UT: weekly → daily or real-time
WY: weekly → daily (1/1/2016)

Daily reporting went from 15 states in 2014 to 20 states in 2015 (including those with later effective dates)

PMP MODEL LAW REVISIONS

- Added a definition of “designee” which provides that a delegate may be either a licensed or registered health care professional or an unlicensed employee of the prescriber or dispenser if a licensed health care provider isn’t available
- Added provision to require dispensers to report identifying data on persons who pick up a prescription who are not the patient for whom the prescription was written
- Changed data collection interval from weekly to within 24 hours

PMP MODEL LAW REVISIONS

- Added a second option to the law enforcement access provision that requires law enforcement and prosecutorial officials to have a subpoena, court order, or search warrant
- Added Medicaid or state health insurance representative as authorized recipient
- Added new section to provide that all prescribers with DEA or state registration numbers shall be registered with the PMP
- Added new section to require prescribers to query the PMP prior to initially prescribing or personally dispensing a controlled substance to a patient and periodically thereafter if the patient's course of treatment continues for more than 90 days

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