NOTICE REQUIREMENTS FOR PRESCRIPTION MONITORING PROGRAMS

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Clicking on one of the options below will take you directly to that page.

Introduction

This memorandum compiles all of the statutes and regulations from states that require health care providers and/or dispensers to provide notice to their patients or clients that their information will be shared with the state prescription monitoring program and/or that their information contained within the prescription monitoring program database may be accessed.

Back to top ↑

Colorado

§ 12-42.5-403
ADC 719-1:23.00.00

West's Colorado Revised Statutes Annotated (2013)
Title 12. Professions and Occupations
Health Care
Article 42.5. Pharmacists, Pharmacy Businesses, and Pharmaceuticals
Part 4. Electronic Monitoring of Prescription Drugs

§ 12-42.5-403. Prescription drug use monitoring program

(1) The board shall develop or procure a prescription controlled substance electronic program to track information regarding prescriptions for controlled substances dispensed in Colorado, including the following information:

(a) The date the prescription was dispensed;

(b) The name of the patient and the practitioner;

(c) The name and amount of the controlled substance;

(d) The method of payment;

(e) The name of the dispensing pharmacy; and

(f) Any other data elements necessary to determine whether a patient is visiting multiple practitioners or pharmacies, or both, to receive the same or similar medication.

(2) Each practitioner and each dispensing pharmacy shall disclose to a patient receiving a controlled substance that his or her identifying prescription information will be entered into the program database and may be accessed for limited purposes by specified individuals.

(3) The board shall establish a method and format for prescription drug outlets to convey the necessary information to the board or its designee. The method must not require more than a one-time entry of data per patient per prescription by a prescription drug outlet.

(4) The division may contract with any individual or public or private agency or organization in carrying out the data collection and processing duties required by this part 4.

West's Colorado Administrative Code (2013)
Title 700. Department of Regulatory Agencies
719. State Board of Pharmacy
3 CCR 719-1. Pharmacy Rules and Regulations

719-1:23.00.00. ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

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23.00.60 PATIENT NOTIFICATION

Prescription Drug Outlets shall disclose to patients receiving controlled substance prescriptions that their prescription information is being submitted to the PDMP, and that this prescription information may be queried by specific individuals for a limited number of purposes as authorized by statute.

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Back to Top ↑

Kansas
ADC 68-21-4

Kansas Administrative Regulations (2013)
Agency 68. Board of Pharmacy
Article 21. Prescription Monitoring Program

68-21-4 Notice of requests for information.

Each dispenser who may access information maintained by the board on each drug of concern and schedule II through IV drug dispensed to one of the dispenser's patients for the purpose of providing medical or pharmaceutical care shall notify the patient of this access to prescription monitoring information by performing either of the following:

(a) Posting an easily viewable sign at the place where prescription orders are issued or accepted for dispensing; or

(b) providing written material about the dispenser's access to prescription monitoring information.

Back to Top ↑

Maryland
ADC 10.47.07.05

Code of Maryland Regulations (2013)
Title 10 Department of Health and Mental Hygiene
Subtitle 47 Alcohol and Drug Abuse Administration
Chapter 07 Prescription Drug Monitoring Program

.05 Notice to Patients.

A. Dispenser.

(1) Any dispenser who intends to request prescription monitoring data from the Program may post a sign that can be easily viewed by the public at the place where the prescription is delivered to the dispenser.

(2) The sign shall disclose to the public that the dispenser may access prescription monitoring data on a patient for whom a prescription for a monitored prescription drug is presented.

(3) In lieu of posting a sign, the dispenser may provide such notice in written material provided to the patient.

B. Prescriber.

(1) Any prescriber who intends to request prescription monitoring data from the Program may post a sign that can be easily viewed by the public that discloses to the public that the prescriber may access prescription monitoring data on a patient.

(2) In lieu of posting a sign, the prescriber may provide such notice in written material provided to the patient.

Back to Top ↑

Minnesota
§ 152.126
§ 245A.192

Minnesota Statutes Annotated (2013)
Health (Ch. 144-159)
Chapter 152. Drugs; Controlled Substances
Prescriptions

§ 152.126. Controlled substances prescription electronic reporting system

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Subd. 4. Reporting requirements; notice. (a) Each dispenser must submit the following data to the board or its designated vendor, subject to the notice required under paragraph (d):

(1) name of the prescriber;

(2) national provider identifier of the prescriber;

(3) name of the dispenser;

(4) national provider identifier of the dispenser;

(5) prescription number;

(6) name of the patient for whom the prescription was written;

(7) address of the patient for whom the prescription was written;

(8) date of birth of the patient for whom the prescription was written;

(9) date the prescription was written;

(10) date the prescription was filled;

(11) name and strength of the controlled substance;

(12) quantity of controlled substance prescribed;

(13) quantity of controlled substance dispensed; and

(14) number of days supply.

(b) The dispenser must submit the required information by a procedure and in a format established by the board. The board may allow dispensers to omit data listed in this subdivision or may require the submission of data not listed in this subdivision provided the omission or submission is necessary for the purpose of complying with the electronic reporting or data transmission standards of the American Society for Automation in Pharmacy, the National Council on Prescription Drug Programs, or other relevant national standard-setting body.

(c) A dispenser is not required to submit this data for those controlled substance prescriptions dispensed for:

(1) individuals residing in licensed skilled nursing or intermediate care facilities;

(2) individuals receiving assisted living services under chapter 144G or through a medical assistance home and community-based waiver;

(3) individuals receiving medication intravenously;

(4) individuals receiving hospice and other palliative or end-of-life care; and

(5) individuals receiving services from a home care provider regulated under chapter 144A.

(d) A dispenser must not submit data under this subdivision unless a conspicuous notice of the reporting requirements of this section is given to the patient for whom the prescription was written.

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Minnesota Statutes Annotated (2013)
Public Welfare and Related Activities (Ch. 245-267)
Chapter 245A. Human Services Licensing

§ 245A.192. Providers licensed to provide treatment of opioid addiction.

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Subd. 11. Prescription monitoring program. **(a) Upon admission to a methadone clinic outpatient treatment program, clients shall be notified that the Department of Human Services and the medical director will monitor the prescription monitoring program to review the prescribed controlled drugs the clients have received.** The medical director or the medical director's delegate must review data from the Minnesota Board of Pharmacy, prescription monitoring program (PMP) established under section 152.126 prior to the client being ordered any controlled substance as defined under section 152.126, subdivision 1, paragraph (b), including medications used for the treatment of opioid addiction. The subsequent reviews of the PMP data must occur quarterly and be documented in the client's individual file.

When the PMP data shows a recent history of multiple prescribers or multiple prescriptions for controlled substances, then subsequent reviews of the PMP data must occur monthly and be documented in the client's individual file. If, at any time, the medical director believes the use of the controlled substances places the client at risk of harm, the program must seek consent to discuss the client's opioid treatment with other prescribers and must seek consent for the other prescriber to disclose to the opioid treatment programs' medical director the client's condition that formed the basis of the other prescriptions. Additionally, any findings from the PMP data that are relevant to the medical director's course of treatment for the client must be documented in the client's individual file. A review of the PMP is not required for every medication dose adjustment.

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Back to Top ↑

Oregon

§ 431.962 (eff. until Jan. 1, 2014)
§ 431.962 (eff. Jan. 1, 2014)
ADC 410-121-4015

West's Oregon Revised Statutes Annotated (2013)
Title 36. Public Health and Safety
Chapter 431. State and Local Administration and Enforcement of Health Laws
Prescription Monitoring Program
(Program)

§ 431.962. Prescription monitoring program

<Text of section effective until January 1, 2014>

(1)(a) The Oregon Health Authority, in consultation with the Prescription Monitoring Program Advisory Commission, shall establish and maintain a prescription monitoring program for monitoring and reporting prescription drugs dispensed by pharmacies in Oregon that are classified in schedules II through IV under the federal Controlled Substances Act, 21 U.S.C. 811 and 812, as modified under ORS 475.035.

(b)(A) To fulfill the requirements of this subsection, the authority shall establish, maintain and operate an electronic system to monitor and report drugs described in paragraph (a) of this subsection that are dispensed by prescription.

(B) The system must operate and be accessible by practitioners and pharmacies 24 hours a day, seven days a week.

(C) The authority may contract with a state agency or private entity to ensure the effective operation of the electronic system.

(2) In consultation with the commission, the authority shall adopt rules for the operation of the electronic prescription monitoring program established under subsection (1) of this section, including but not limited to standards for:

(a) Reporting data;

(b) Providing maintenance, security and disclosure of data;

(c) Ensuring accuracy and completeness of data;

(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal

alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581;

(e) Ensuring accurate identification of persons or entities requesting information from the database;

(f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability to provide electronic reports; and

(g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed to the patient, about the prescription monitoring program and the entry of the prescription in the system.

(3) The authority shall submit an annual report to the commission regarding the prescription monitoring program established under this section.

West's Oregon Revised Statutes Annotated (2013)
Title 36. Public Health and Safety
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(3) The authority shall submit an annual report to the commission regarding the prescription monitoring program established under this section.

Oregon Administrative Rules Compilation (2013)
Chapter 410. Oregon Health Authority, Division of Medical Assistance Programs
Division 121. Pharmaceutical Services
Non-medicaid Rules Prescription Drug Monitoring Program

410-121-4015. Notification to Patients

Using language provided by the Authority, a pharmacy shall notify each patient receiving a controlled substance about the Prescription Drug Monitoring Program before or when the controlled substance is dispensed to the patient. The notification shall include that the prescription will be entered into the system.

Back to Top ↑

Rhode Island
§ 21-28-3.32

West's General Laws of Rhode Island Annotated (2013)
Title 21. Food and Drugs
Chapter 28. Uniform Controlled Substances Act
Article III. Regulation of Manufacturing, Distributing, Prescribing, Administering, and Dispensing Controlled Substances

§ 21-28-3.32. Electronic prescription database.

(a) The information contained in any prescription drug monitoring database maintained by the department of health pursuant to section 3.18 of this chapter shall be disclosed only:

(1) To a practitioner who certifies that the requested information is for the purpose of evaluating the need for or providing medical treatment for a current patient to whom the practitioner is prescribing or considering prescribing a controlled substance;

(2) To a pharmacist who certifies that the requested information is for a current client to whom the pharmacist is dispensing or considering dispensing a controlled substance;

(3) Pursuant to a valid search warrant based on probable cause to believe a violation of federal or state criminal law has occurred and that specified information contained in the database would assist in the investigation of the crime;

(4) To a patient who requests his or her own prescription information, or the parent or legal guardian of a minor child who requests the minor child's prescription information;

(5) To a health professional regulatory board that documents, in writing, that the requested information is necessary for an investigation related to licensure, renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains;

(6) To any vendor or contractor with whom the department has contracted to establish or maintain the electronic system of the prescription drug monitoring database; or

(7) To public or private entities for statistical, research or educational purposes, after removing the patient and prescriber information that could be used to identify individual patients. This shall not include entities receiving a waiver from the institutional review board;

(b) Information stored in the prescription drug monitoring database shall include only the following:

(1) Patient's first and last name, and/or patient identification number; provided, however, the patient's social security number shall not be recorded in whole or in part, patient sex, patient date of birth, and patient address;

(2) Prescribing practitioner's name and drug enforcement administration prescriber information number;

(3) Prescribing practitioner's office or hospital contact information;

(4) Prescription name, prescription number, prescription species code, national drug code number, prescription dosage, prescription quantity, days' supply, new-refill code, number of refills authorized, date the prescription was written, date the prescription was filled, payment type; provided, however, no credit card number shall be recorded in whole or in part; and

(5) The drug enforcement administration pharmacy number of the pharmacy filling the prescription.

(c) The department shall disclose any information relating to a patient maintained in the prescription drug monitoring database to that patient, at no cost to the patient, within thirty (30) business days after the department receives a written request from the patient for the information. This information shall include the records maintained by the department pursuant to subsection (e). Notwithstanding the above, the department may, at the request of the law enforcement agency, withhold for up to sixty (60) days following the conclusion of a law enforcement investigation, the disclosure to the patient that information has been obtained pursuant to subdivision (a)(3).

(d) A patient may request from the dispensing pharmacy correction of any inaccurate information contained within the prescription drug monitoring database in accordance with the procedure specified by subsection 5-37.3-5(c).

(e) The department shall, for the period of time that prescription information is maintained, maintain records of the information disclosed through the prescription drug monitoring database, including, but not limited to:

(1) The identity of each person who requests or receives information from the prescription drug monitoring database and the organization, if any, the person represents;

(2) The information released to each person or organization and the basis for its release under subsection (a); and

(3) The dates the information was requested and provided.

(f) Prescription information contained within the prescription drug monitoring database shall be removed no later than five (5) years from the date the information is entered into the database.

Records in existence prior to the enactment of this section shall be removed no later than ten (10) years from the date the information is entered into the database.

(g) The department shall promptly notify any affected individual of an improper disclosure of information from the prescription drug monitoring database or a breach in the security of the prescription drug monitoring database that poses a significant risk of disclosure of patient information to an unauthorized individual.

(h) At the time of signing a prescription which is required by the department to be entered into the prescription drug monitoring database, the prescribing practitioner shall inform the patient in writing of the existence of the prescription drug monitoring database, the patient's right to access their own prescription information, and the name and contact information of the agency operating the program.

(i) No person shall access information in the prescription monitoring database except to the extent and for the purposes authorized by subsection (a).

(j) In any civil action allowing a violation of this chapter, the court may award damages, including punitive damages, and reasonable attorneys' fees and costs to a prevailing plaintiff, and injunctive and any other appropriate relief.

(k) Any pharmacist who, in his or her professional judgment, refuses to fill a prescription based on information contained within the prescription drug monitoring database shall inform the prescribing physician within twenty-four (24) hours.

Back to Top ↑

Utah
§ 26-1-36

West's Utah Code Annotated (2013)
Title 26. Utah Health Code
Chapter 1. Department of Health Organization

§ 26-1-36. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain

(1) As used in this section, “opiate” means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section 26-1-30, the department shall develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:

(a) investigate the causes of and risk factors for death and nonfatal complications of prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section 58-37f-201;

(b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;

(c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and

(d) educate the public regarding:

(i) the purpose of the Controlled Substance Database established in Section 58-37f-201; and

(ii) the requirement that a person's name and prescription information be recorded on the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

Back to Top ↑

Vermont
18 § 4283
ADC 12-5-21:1

West's Vermont Statutes Annotated (2013)
Title Eighteen. Health
Part 5. Foods and Drugs
Chapter 84A. Vermont Prescription Monitoring System

§ 4283. Creation; implementation

(a) The Department shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed within the State of Vermont by a health care provider or dispenser or dispensed to an address within the State by a pharmacy licensed by the Vermont Board of Pharmacy.

(b) As required by the department, every dispenser who is licensed by the Vermont board of pharmacy shall report to the department in a timely manner data for each controlled substance in Schedules II, III, and IV, as amended and as may be amended, dispensed to a patient within Vermont. Reporting shall not be required for:

(1) a drug administered directly to a patient; or

(2) a drug dispensed by a health care provider at a facility licensed by the department, provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of 48 hours.

(c) Data for each controlled substance that is dispensed shall include the following:

(1) patient identifier, which may include the patient's name and date of birth;

(2) drug dispensed;

(3) date of dispensing;

(4) quantity and dosage dispensed;

(5) the number of days' supply;

(6) health care provider; and

(7) dispenser.

(d) The data shall be provided in the electronic format defined by the department. To the extent possible, the format shall not require data entry in excess of that required in the regular course of business. Electronic transmission is not required if a waiver has been granted by the department to an individual dispenser. The department shall strive to create VPMS in a manner that will enable real-time transmittal to VPMS and real-time retrieval of information stored in VPMS.

(e) It is not the intention of the Department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the Department specifically for the establishment, maintenance, or transmission of the data. The Department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

(f) The department shall purge from VPMS all data that is more than six years old.

(g) The commissioner shall develop and provide advisory notices, which shall make clear that all prescriptions for controlled drugs in Schedules II, III, and IV are entered into a statewide database in order to protect the public. The notices shall be distributed at no cost to dispensers and health care providers who are subject to this chapter.

(h) A dispenser shall be subject to discipline by the board of pharmacy or by the applicable licensing entity if the dispenser intentionally fails to comply with the requirements of subsection (b), (c), or (d) of this section.

Vermont Administrative Code (2013)
Title 12. Agency of Human Services
Subtitle 5. Department of Health
General
Rule 21. Prescription Monitoring System

12-5-21:1. GENERAL PROVISIONS

Section 1.1 Purpose.

This rule implements the Vermont Prescription Monitoring System ("VPMS") created by 18 V.S.A. Chapter 84A, which authorizes the Department to establish an electronic database and reporting system for electronic monitoring of prescriptions of certain controlled substances to promote the public health through enhanced opportunities for treatment for and prevention of abuse of controlled substances, without interfering with the legal medical use of those substances.

Section 1.2 Authority.

This rule is adopted under the authority of 3 V.S.A. §§ 801(b)(11) and 3003(a) and 18 V.S.A. §§ 102 and 4287.

Section 1.3 Effective Date.

This rule shall be effective on June 1, 2008.

Section 1.4 Definitions.

The definitions of terms contained in these rules are the same as those contained in 18 V.S.A. § 4282. If any of such legislative definitions are amended, the amended definitions shall be the definitions of the terms contained in these rules.

Additional definitions for purposes of these rules:

1. "Commissioner" means the Commissioner of the Vermont Department of Health.

2. "Controlled substance" means a substance listed on Schedules II, III or IV as defined in 21 C.F.R. Part 1308, as amended and as may be amended.

3. "Report of Controlled Substances Dispensed" means the report generated by dispensers of required data on each reportable prescription dispensed pursuant to this rule.

4. "Department" means the Vermont Department of Health.

5. "Dispense" or "dispensing" shall have the same meaning as those terms are defined in 26 V.S.A. § 2022(5).

6. "Pharmacist-manager" shall have the same meaning as defined in the Vermont Board of Pharmacy Administrative Rules.

7. "Reportable prescription" means each controlled substance dispensed from any pharmacy to a patient within Vermont during the reporting period, except (1) a controlled substance administered directly to a patient; or (2) a controlled substance dispensed by a health care provider at a facility licensed by the Department of Health, provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of 48 hours.

8. "VPMS report" means a report released by the Department of information from the VPMS database to an individual or entity eligible to receive the information pursuant to a specific provision of law.

Section 1.5 Distribution of Advisory Notices.

Each dispenser shall provide to customers to whom a reportable prescription is dispensed the advisory notice developed and distributed by the Department by: 1) prominently displaying the advisory notice in a manner readily accessible to its customers, or 2) duplicating the complete text of the advisory notice in another format, such as by printing

on customer receipts or on patient instructions or providing a written insert for delivery to the patient, or 3) both.

Section 1.6 Confidentiality.

All data submitted to the VPMS database pursuant to this rule are confidential, not subject to disclosure pursuant to public records law, and shall only be disclosed as provided in 18 V.S.A. § 4284 or this rule.

A person who receives information from the VPMS database shall only use that information as permitted by law and shall share that information only with other persons eligible by law to receive it. There is no restriction on the right of a patient to share his or her own data received from the VPMS database.

Section 1.7 Correction of Information in the VPMS Database.

A patient, health care provider, dispenser, or professional licensure board, or other individual having knowledge of what they believe to be an error in the VPMS database, may submit a request to correct information in writing to the Department that shall include:

1. A statement explaining in detail the basis for the requested correction;

2. The precise change requested;

3. Documentation of the error and of the correct information;

4. The requester's name, address, telephone number and original signature.

The Department will review all requests to correct information in the VPMS database and contact the reporting pharmacy that provided the data. If the reporting pharmacy concurs that the data should be corrected as requested, the Department will correct the data. If the reporting pharmacy does not concur, the Department will decline to make the change and refer the requester to the reporting pharmacy. Upon request by a health care provider, dispenser or professional licensure board or other individual, and as permitted by 18 V.S.A. § 4284 and Part III of this rule, the Department will notify the requester whether the requested correction has been made. Any patient who has requested a correction will be notified of whether the requested correction has been made.

Back to Top ↑

Virginia
18 VAC 76-20-70

Virginia Administrative Code (2013)
Title 18. Professional and Occupational Licensing
Vac Agency No. 76. Department of Health Professions
Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-70. Notice of requests for information.

A. Any dispenser who intends to request information from the program for a recipient or prospective recipient of a Schedule II, III, or IV controlled substance shall post a sign that can be easily viewed by the public at the place where the prescription is accepted for dispensing and that discloses to the public that the pharmacist may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the dispenser may provide such notice in written material provided to the recipient, or may obtain written consent from the recipient.

B. Any prescriber who intends to request information from the program about a patient or prospective patient shall post a sign that can be easily viewed by the public that discloses to the public that the prescriber may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the prescriber may provide such notice in written material provided to the patient, or may obtain written consent from the patient.

Back to Top ↑