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National Alliance for Model State Drug Laws

STATE PMP LAWS THAT CONFER IMMUNITY ON PRESCRIBERS AND/OR PHARMACISTS

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Introduction

The following statutes and regulations represent those states that specifically provide civil and/or criminal immunity to prescribers and dispensers for accessing, failing to access, or reporting data to the prescription monitoring program database. This does not mean that if a state is not included in this memorandum that prescribers and dispensers can be held liable for those actions as there may be other statutes or regulations which would provide immunity that aren't included in the prescription monitoring program statutes and regulations for that state.

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Alaska
§ 17.30.200

West's Alaska Statutes Annotated (2013)
Title 17. Food and Drugs
Chapter 30. Controlled Substances
Article 5. Controlled Substance Prescription Database

§ 17.30.200. Controlled substance prescription database

(a) The controlled substance prescription database is established in the Board of Pharmacy. The purpose of the database is to contain data as described in this section regarding every prescription for a schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed in the state to a person other than those administered to a patient at a health care facility. The Department of Commerce, Community, and Economic Development shall assist the board and provide necessary staff and equipment to implement this section.

(b) The pharmacist-in-charge of each licensed or registered pharmacy, regarding each schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed by a pharmacist under the supervision of the pharmacist-in-charge, and each practitioner who directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled substance under state law or a schedule I, II, III, IV, or V controlled substance under federal law other than those administered to a patient at a health care facility, shall submit to the board, by a procedure and in a format established by the board, the following information for inclusion in the database:

- (1) the name of the prescribing practitioner and the practitioner's federal Drug Enforcement Administration registration number or other appropriate identifier;
- (2) the date of the prescription;
- (3) the date the prescription was filled and the method of payment; this paragraph does not authorize the board to include individual credit card or other account numbers in the database;
- (4) the name, address, and date of birth of the person for whom the prescription was written;
- (5) the name and national drug code of the controlled substance;
- (6) the quantity and strength of the controlled substance dispensed;
- (7) the name of the drug outlet dispensing the controlled substance; and

(8) the name of the pharmacist or practitioner dispensing the controlled substance and other appropriate identifying information.

(c) The board shall maintain the database in an electronic file or by other means established by the board to facilitate use of the database for identification of

(1) prescribing practices and patterns of prescribing and dispensing controlled substances;

(2) practitioners who prescribe controlled substances in an unprofessional or unlawful manner;

(3) individuals who receive prescriptions for controlled substances from licensed practitioners and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance; and

(4) individuals who present forged or otherwise false or altered prescriptions for controlled substances to a pharmacy.

(d) The database and the information contained within the database are confidential, are not public records, and are not subject to public disclosure. The board shall undertake to ensure the security and confidentiality of the database and the information contained within the database. The board may allow access to the database only to the following persons, and in accordance with the limitations provided and regulations of the board:

(1) personnel of the board regarding inquiries concerning licensees or registrants of the board or personnel of another board or agency concerning a practitioner under a search warrant, subpoena, or order issued by an administrative law judge or a court;

(2) authorized board personnel or contractors as required for operational and review purposes;

(3) a licensed practitioner having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing a controlled substance;

(4) a licensed or registered pharmacist having authority to dispense controlled substances, to the extent the information relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance;

(5) federal, state, and local law enforcement authorities may receive printouts of information contained in the database under a search warrant, subpoena, or order issued by a court establishing probable cause for the access and use of the information; and

(6) an individual who is the recipient of a controlled substance prescription entered into the database may receive information contained in the database concerning the individual on providing evidence satisfactory to the board that the individual requesting the information is in

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fact the person about whom the data entry was made and on payment of a fee set by the board under AS 37.10.050 that does not exceed \$10.

(e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to submit information to the database as required under this section is grounds for the board to take disciplinary action against the license or registration of the pharmacy or pharmacist or for another licensing board to take disciplinary action against a practitioner.

(f) The board may enter into agreements with (1) dispensers in this state that are not regulated by the state to submit information to and access information in the database, and (2) practitioners in this state to access information in the database, subject to this section and the regulations of the board. The board shall prohibit a dispenser that is not regulated by the state from accessing the database if the dispenser has accessed information in the database contrary to the limitations of this section, discloses information in the database contrary to the limitations of this section, or allows unauthorized persons access to the database.

(g) The board shall promptly notify the president of the senate and the speaker of the house of representatives if, at any time after September 7, 2008, the federal government fails to pay all or part of the costs of the controlled substance prescription database.

(h) An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information. Nothing in this section requires or obligates a dispenser or practitioner to access or check the database before dispensing, prescribing, or administering a medication, or providing medical care to a person. **Dispensers or practitioners may not be held civilly liable for damages for accessing or failing to access the information in the database.**

(i) A person who has reason to believe that prescription information from the database has been illegally or improperly accessed shall notify an appropriate law enforcement agency.

(j) The board shall notify any person whose prescription information from the database is illegally or improperly accessed.

(k) In the regulations adopted under this section, the board shall provide

(1) that prescription information in the database shall be purged from the database after two years have elapsed from the date the prescription was dispensed;

(2) a method for an individual to challenge information in the database about the individual that the person believes is incorrect or was incorrectly entered by a dispenser.

(l) A person

(1) with authority to access the database under (d) of this section who knowingly

(A) accesses information in the database beyond the scope of the person's authority commits a class A misdemeanor;

(B) accesses information in the database and recklessly discloses that information to a person not entitled to access or to receive the information commits a class C felony;

(C) allows another person who is not authorized to access the database to access the database commits a class C felony;

(2) without authority to access the database under (d) of this section who knowingly accesses the database or knowingly receives information that the person is not authorized to receive under (d) of this section from another person commits a class C felony.

(m) To assist in fulfilling the program responsibilities, performance measures shall be reported to the legislature annually. Performance measures may include outcomes detailed in the federal prescription drug monitoring program grant regarding efforts to

(1) reduce the rate of inappropriate use of prescription drugs by reporting education efforts conducted by the Board of Pharmacy;

(2) reduce the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit;

(3) increase coordination among prescription drug monitoring program partners; and

(4) involve stakeholders in the planning process.

(n) In this section,

(1) “board” means the Board of Pharmacy;

(2) “database” means the controlled substance prescription database established in this section;

(3) “knowingly” has the meaning given in AS 11.81.900;

(4) “pharmacist-in-charge” has the meaning given in AS 08.80.480.

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Arizona
§ 36-2609

Arizona Revised Statutes Annotated (2013)
Title 36. Public Health and Safety
Chapter 28. Controlled Substances Prescription Monitoring Program
Article 1. General Provisions

§ 36-2609. Use of information; civil immunity

A. An individual or entity that complies with the reporting requirements of § 36-2608 is not subject to civil liability or other civil relief for reporting the information to the board.

B. Unless a court of competent jurisdiction makes a finding of malice or criminal intent, the board, any other state agency or any person or entity in proper possession of information pursuant to this article is not subject to civil liability or other legal or equitable relief for any of the following acts or omissions:

- 1. Furnishing information pursuant to this article.**
- 2. Receiving, using or relying on, or not using or relying on, information received pursuant to this article.**
- 3. Information that was not furnished to the board.**
- 4. Information that was factually incorrect or that was released by the board to the wrong person or entity.**

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Delaware
16 § 4798

West's Delaware Code Annotated (2013)
Title 16. Health and Safety
Part IV. Food and Drugs
Chapter 47. Uniform Controlled Substances Act
Subchapter VII. Miscellaneous

§ 4798. The Delaware Prescription Monitoring Program

<Text of section effective upon the availability of appropriations, or of other adequate funding to implement and maintain the Prescription Monitoring Program. See Historical and Statutory Notes below.>

(a) It is the intent of the General Assembly that the Delaware Prescription Monitoring Act established pursuant to this section serves as a means to promote public health and welfare and to detect the illegal use of controlled substances. The Delaware Prescription Monitoring Act shall have the dual purpose of reducing misuse and diversion of controlled substances in the State while promoting improved professional practice and patient care.

(b) Definitions. --

(1) “Administer” or “administration” means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(2) “Controlled substance” means any substance or drug defined, enumerated or included in this chapter and Title 21, Code of Federal Regulations.

(3) “Dispense” or “dispensing” means the interpretation, evaluation, and implementation of a prescription drug or, including the preparation and delivery of a drug to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

(4) “Dispenser” means a person authorized by this State to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following: a licensed health care facility pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient care, emergency department care for the immediate use of a controlled substance or when dispensing up to a 72-hour supply of a controlled substance or a drug of concern monitored by the program at the time of discharge from such a facility.

(5) “Distribute” or “distribution” means the delivery of a drug other than by administering or dispensing.

(6) “Drug” means any of the following:

a. Any substance recognized as a drug in the official compendium, or supplement thereto, designated by the Office of Controlled Substances for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans.

b. Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or pain in humans.

c. Any substance other than food intended to affect the structure or any function of the body of humans.

(7) “Drugs of concern” means drugs other than controlled substances as defined by rule which demonstrate a potential for abuse or diversion.

(8) “Patient” means the person who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

(9) “Prescriber” means a licensed health care professional with the authority to write and issue prescriptions, except it shall not include:

a. A prescriber or other authorized person who administers such controlled substance or drug upon the lawful order of a prescriber.

b. A prescriber or other authorized person who, in providing emergency patient care in a healthcare facility, causes the administration of a controlled substance for immediate relief of symptoms arising from an acute condition.

c. A prescriber or other authorized person who prescribes up to a 72 hour supply of a controlled substance for on call services or emergency care.

d. A veterinarian who prescribes for the purpose of providing veterinary services.

(10) “Prescription monitoring information” means data submitted to and maintained by the prescription monitoring program established under this section.

(11) “Prescription Monitoring Program” or “PMP” means the electronic program established by this section.

(c) The Office of Controlled Substances shall establish and maintain a PMP program to monitor the prescribing and dispensing of all Schedule II, III, IV and V controlled substances by prescribers in this State, and to research the prescribing and dispensing of drugs of concern. The

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PMP shall not interfere with the legal use of a controlled substance or drug of concern. The PMP shall be:

(1) Used to provide information to prescribers, dispensers, and patients to help avoid the illegal use of controlled substances;

(2) Used to assist law enforcement to investigate illegal activity related to the prescribing, dispensing and consumption of controlled substances or drugs of concern; and

(3) Designed to minimize inconvenience to patients and prescribing medical practitioners while effectuating the collection and storage of prescription monitoring information.

(d) A dispenser shall submit the required information regarding each prescription dispensed for a controlled substance, in accordance with the transmission methods and frequency established by regulation issued by the Office of Controlled Substances. When needed for bona fide research purposes and in accordance with applicable regulation, the Office of Controlled Substances may require a dispenser to submit the required information regarding each prescription dispensed for a drug of concern, but in no event should dispensers be required to submit such information any more frequently than that required for controlled substances. The following information shall be submitted for each prescription:

(1) Pharmacy name;

(2) Dispenser DEA registration number;

(3) Date drug was dispensed;

(4) Prescription number;

(5) Whether prescription is new or a refill;

(6) NDC code for drug dispensed;

(7) Quantity dispensed;

(8) Approximate number of days supplied;

(9) Patient name and date of birth;

(10) Patient address;

(11) Prescriber DEA registration number and name;

(12) Date prescription issued by prescriber.

(e) A prescriber, or other person authorized by the prescriber, shall obtain, before writing a prescription for a controlled substance listed in Schedule II, III, IV or V for a patient, a patient utilization report regarding the patient for the preceding 12 months from the computerized program established by the Office of Controlled Substances when the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition. The prescriber shall review the patient utilization report to assess whether the prescription for the controlled substance is necessary.

(f) The Office of Controlled Substances may issue a waiver to a prescriber who is unable to access prescription information by electronic means. A prescriber who is unable to access prescription information by electronic means shall obtain a waiver from the OCS on annual basis until such time they can access the prescription information by electronic means.

(g) Unless a court of competent jurisdiction makes a finding of gross negligence, malice or criminal intent, the Office of Controlled Substances, any other state agency, any prescriber or dispenser, or any person or entity in proper possession of information pursuant to this statute is not subject to civil liability, administrative action or other legal or equitable relief for any of the following acts or omissions:

(1) Furnishing information pursuant to this section.

(2) Receiving, using or relying on, or not using or relying on, information received pursuant to this section.

(3) Information that was not furnished to the Office of Controlled Substances.

(4) Information that was factually incorrect or that was released by the Office of Controlled Substance to the wrong person or entity.

(h) Prescription information submitted to the PMP is protected health information, not subject to public or open records law, and not subject to disclosure, except as otherwise provided in this section.

(i) The Office of Controlled Substances shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in this section.

(1) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the Office of Controlled Substances shall notify the appropriate law-enforcement or professional licensure, certification, or regulatory agency or entity and shall provide prescription information required for an investigation.

(2) The Office of Controlled Substances may provide data in the prescription monitoring program in the form of a report to the following persons:

- a. A prescriber, or other person authorized by the prescriber, or a dispenser, or other person authorized by the dispenser, who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;
- b. An individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to regulations;
- c. A designated representative of any Board or Commission pursuant to § 8735(a) of Title 29 responsible for the licensure, regulation, or discipline of prescribers, dispensers or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
- d. A local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing controlled substances and who is involved in a bona fide specific drug-related investigation in which a report of suspected criminal activity involving controlled substances by an identified suspect has been made, and provided that such information be relevant and material to such investigation, limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, and include identifying information only if non-identifying information could not be used;
- e. The Delaware Department of Health and Social Services regarding Medicaid program recipients;
- f. A properly convened grand jury pursuant to a subpoena properly issued for the records;
- g. Personnel of the Division of Professional Regulation for purposes of administration and enforcement of this section;
- h. Qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber or dispenser must be deleted or redacted from such information prior to disclosure; and further provided that, release of the information may be made only pursuant to a written agreement between qualified personnel and the Office of Controlled Substances in order to ensure compliance with this subsection.
- (j) The Division of Professional Regulation may contract with another agency of this State or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. A contractor shall comply with the provisions regarding confidentiality of prescription information under this section is subject to the penalties specified in this section for any unlawful acts.
- (k) The Office of Controlled Substances may promulgate regulations setting forth the procedures and methods for implementing this section.

(l) The Office of Controlled Substances shall design and implement an evaluation component to identify cost-benefits of the Prescription Monitoring Program, including its effect on diversion and abuse of controlled substances and drugs of concern, and other information relevant to policy, research and education involving controlled substances and drugs of concern monitored by the Prescription Monitoring Program.

(1) The Office of Controlled Substances shall report to the General Assembly the information obtained pursuant to this subsection on an annual basis.

(2) To the extent such information is made available to the Office of Controlled Substances, the report may include information and data, including surveys, polls, or other data from multi-disciplinary experts and stakeholders, relating to the negative or positive impact of the prescription monitoring program on appropriate prescribing practices of controlled substances and drugs of concern.

(m) A dispenser who fails to submit prescription monitoring information to the Office of Controlled Substances PMP as required by this section, or who knowingly submits incorrect prescription information, shall be subject to disciplinary sanction pursuant to Chapter 25 of Title 24.

(n) A person or persons authorized to have prescription monitoring information pursuant to this section who knowingly discloses this information in violation of this section is guilty of a class G felony and, upon conviction, shall be fined not more than \$5,000 nor imprisoned more than 2 years, or both.

(o) A person authorized to have prescription monitoring information pursuant to this section who intentionally uses this information in the furtherance of other crimes is guilty of a class E felony and, upon conviction, shall be fined not more than \$10,000 nor imprisoned more than 5 years, or both.

(p) A person or persons not authorized to have prescription monitoring information pursuant to this section who obtain such information fraudulently is guilty of a class E felony and, upon conviction, shall be fined not more than \$10,000 nor imprisoned more than 5 years, or both.

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Florida
§ 893.055

West's Florida Statutes Annotated (2013)
Title XLVI. Crimes (Chapters 775-899)
Chapter 893. Drug Abuse Prevention and Control

§ 893.055. Prescription drug monitoring program

(1) As used in this section, the term:

(a) “Patient advisory report” or “advisory report” means information provided by the department in writing, or as determined by the department, to a prescriber, dispenser, pharmacy, or patient concerning the dispensing of controlled substances. **All advisory reports are for informational purposes only and impose no obligations of any nature or any legal duty on a prescriber, dispenser, pharmacy, or patient.** The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The advisory reports issued by the department are not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of the report; and a person who participates in preparing, reviewing, issuing, or any other activity related to an advisory report may not be permitted or required to testify in any such civil action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with preparing, reviewing, or issuing such a report.

...

(12) A prescriber or dispenser may have access to the information under this section which relates to a patient of that prescriber or dispenser as needed for the purpose of reviewing the patient's controlled drug prescription history. **A prescriber or dispenser acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for receiving or using information from the prescription drug monitoring program. This subsection does not create a private cause of action, and a person may not recover damages against a prescriber or dispenser authorized to access information under this subsection for accessing or failing to access such information.**

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Georgia
§ 16-13-63

West's Code of Georgia Annotated (2013)
Title 16. Crimes and Offenses
Chapter 13. Controlled Substances
Article 2. Regulation of Controlled Substances
Part 2. Controlled Substances Prescription Monitoring

§ 16-13-63. Civil liability

Nothing in this part shall require a dispenser or prescriber to obtain information about a patient from the program established pursuant to this part. **A dispenser or prescriber shall not have a duty and shall not be held civilly liable for damages to any person in any civil or administrative action or criminally responsible for injury, death, or loss to person or property on the basis that the dispenser or prescriber did or did not seek or obtain information from the electronic data base established pursuant to Code Section 16-13-57.**

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Idaho
§ 37-2730A

West's Idaho Code Annotated (2013)
Title 37. Food, Drugs, and Oil
Chapter 27. Uniform Controlled Substances
Article III

§ 37-2730A. Prescription tracking program

(1) The board shall maintain a program to track the prescriptions for controlled substances that are filed with the board under section 37-2726, Idaho Code, for the purpose of assisting in identifying illegal activity related to the dispensing of controlled substances and for the purpose of assisting the board in providing information to patients, practitioners and pharmacists to assist in avoiding inappropriate use of controlled substances. The tracking program and any data created thereby shall be administered by the board.

(2) The board shall use the information obtained through the tracking program in identifying activity it reasonably suspects may be in violation of this chapter or medical assistance law. The board shall report this information to the individuals and persons set forth in section 37-2726(2), Idaho Code. The board may release unsolicited information to pharmacists and practitioners when the release of information may be of assistance in preventing or avoiding inappropriate use of controlled substances. The board may provide the appropriate law enforcement agency, medicaid or medicare agency or licensing board with the relevant information in the board's possession, including information obtained from the tracking program, for further investigation, or other appropriate law enforcement or administrative enforcement use.

(3) Information, which does not identify individual patients, practitioners or dispensing pharmacists or pharmacies, may be released by the board for educational, research or public information purposes.

(4) Nothing herein shall prevent a pharmacist or practitioner from furnishing another pharmacist or practitioner information obtained pursuant to and in compliance with this chapter.

(5) Unless there is shown malice or criminal intent or gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, the state of Idaho, the board, any other state agency, or any person, or entity in proper possession of information as herein provided shall not be subject to any liability or action for money damages or other legal or equitable relief by reason of any of the following:

(a) The furnishing of information under the conditions herein provided;

(b) The receiving and use of, or reliance on, such information;

(c) The fact that any such information was not furnished; or

(d) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

(6) The board may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

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Illinois
720 § 570/318

West's Smith-Hurd Illinois Compiled Statutes Annotated (2013)
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 570. Illinois Controlled Substances Act
Article III. Registration and Control of Manufacture, Distribution and Dispensing
570/318. Confidentiality of information

§ 318. Confidentiality of information.

(a) Information received by the central repository under Section 316 and former Section 321 is confidential.

(b) The Department must carry out a program to protect the confidentiality of the information described in subsection (a). The Department may disclose the information to another person only under subsection (c), (d), or (f) and may charge a fee not to exceed the actual cost of furnishing the information.

(c) The Department may disclose confidential information described in subsection (a) to any person who is engaged in receiving, processing, or storing the information.

(d) The Department may release confidential information described in subsection (a) to the following persons:

(1) A governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any State or federal law that involves a controlled substance.

(2) An investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General, who is engaged in any of the following activities involving controlled substances:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution of a violation under any State or federal law that involves a controlled substance.

(3) A law enforcement officer who is:

(A) authorized by the Illinois State Police or the office of a county sheriff or State's Attorney or municipal police department of Illinois to receive information of the type requested for the purpose of investigations involving controlled substances; or

(B) approved by the Department to receive information of the type requested for the purpose of investigations involving controlled substances; and

(C) engaged in the investigation or prosecution of a violation under any State or federal law that involves a controlled substance.

(e) Before the Department releases confidential information under subsection (d), the applicant must demonstrate in writing to the Department that:

(1) the applicant has reason to believe that a violation under any State or federal law that involves a controlled substance has occurred; and

(2) the requested information is reasonably related to the investigation, adjudication, or prosecution of the violation described in subdivision (1).

(f) The Department may receive and release prescription record information under Section 316 and former Section 321 to:

(1) a governing body that licenses practitioners;

(2) an investigator for the Consumer Protection Division of the office of the Attorney General, a prosecuting attorney, the Attorney General, a deputy Attorney General, or an investigator from the office of the Attorney General;

(3) any Illinois law enforcement officer who is:

(A) authorized to receive the type of information released; and

(B) approved by the Department to receive the type of information released; or

(4) prescription monitoring entities in other states per the provisions outlined in subsection (g) and (h) below;

confidential prescription record information collected under Sections 316. and 321 (now repealed) that identifies vendors or practitioners, or both, who are prescribing or dispensing large quantities of Schedule II, III, IV, or V controlled substances outside the scope of their practice, pharmacy, or business, as determined by the Advisory Committee created by Section 320.

(g) The information described in subsection (f) may not be released until it has been reviewed by an employee of the Department who is licensed as a prescriber or a dispenser and until that employee has certified that further investigation is warranted. However, failure to comply with

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this subsection (g) does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (h).

(h) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (f) may disclose the information to a law enforcement officer or an attorney for the office of the Attorney General for use as evidence in the following:

- (1) A proceeding under any State or federal law that involves a controlled substance.
- (2) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(i) The Department may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies, by name, license or address, any practitioner, dispenser, ultimate user, or other person administering a controlled substance.

(j) Based upon federal, initial and maintenance funding, a prescriber and dispenser inquiry system shall be developed to assist the health care community in its goal of effective clinical practice and to prevent patients from diverting or abusing medications.

(1) An inquirer shall have read-only access to a stand-alone database which shall contain records for the previous 12 months.

(2) Dispensers may, upon positive and secure identification, make an inquiry on a patient or customer solely for a medical purpose as delineated within the federal HIPAA law.

(3) The Department shall provide a one-to-one secure link and encrypted software necessary to establish the link between an inquirer and the Department. Technical assistance shall also be provided.

(4) Written inquiries are acceptable but must include the fee and the requestor's Drug Enforcement Administration license number and submitted upon the requestor's business stationery.

(5) As directed by the Prescription Monitoring Program Advisory Committee and the Clinical Director for the Prescription Monitoring Program, aggregate data that does not indicate any prescriber, practitioner, dispenser, or patient may be used for clinical studies.

(6) Tracking analysis shall be established and used per administrative rule.

(7) Nothing in this Act or Illinois law shall be construed to require a prescriber or dispenser to make use of this inquiry system.

(8) If there is an adverse outcome because of a prescriber or dispenser making an inquiry, which is initiated in good faith, the prescriber or dispenser shall be held harmless from any civil liability.

(k) The Department shall establish, by rule, the process by which to evaluate possible erroneous association of prescriptions to any licensed prescriber or end user of the Illinois Prescription Information Library (PIL).

(l) The Prescription Monitoring Program Advisory Committee is authorized to evaluate the need for and method of establishing a patient specific identifier.

(m) Patients who identify prescriptions attributed to them that were not obtained by them shall be given access to their personal prescription history pursuant to the validation process as set forth by administrative rule.

(n) The Prescription Monitoring Program is authorized to develop operational push reports to entities with compatible electronic medical records. The process shall be covered within administrative rule established by the Department.

(o) Hospital emergency departments and freestanding healthcare facilities providing healthcare to walk-in patients may obtain, for the purpose of improving patient care, a unique identifier for each shift to utilize the PIL system.

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Indiana

§ 35-48-7-11.1

West's Annotated Indiana Code (2013)

Title 35. Criminal Law and Procedure

Article 48. Controlled Substances

Chapter 7. Central Repository for Controlled Substances Data

§ 35-48-7-11.1 INSPECT program; confidentiality

Sec. 11.1. (a) Information received by the INSPECT program under section 8.1 of this chapter is confidential.

(b) The board shall carry out a program to protect the confidentiality of the information described in subsection (a). The board may disclose the information to another person only under subsection (c), (d), or (g).

(c) The board may disclose confidential information described in subsection (a) to any person who is authorized to engage in receiving, processing, or storing the information.

(d) Except as provided in subsections (e) and (f), the board may release confidential information described in subsection (a) to the following persons:

(1) A member of the board or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves a controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates controlled substances or enforces controlled substances rules or laws in another state;

that is certified to receive information from the INSPECT program.

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) A controlled substance monitoring program in another state with which Indiana has established an interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(e) Information provided to an individual under:

(1) subsection (d)(3) is limited to information:

(A) concerning an individual or proceeding involving the unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding; and

(2) subsection (d)(4) may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient.

(f) Before the board releases confidential information under subsection (d), the applicant must be approved by the INSPECT program in a manner prescribed by the board.

(g) The board may release to:

(1) a member of the board or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive the type of information released; and

(B) approved by the board to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(h) The information described in subsection (g) may not be released until it has been reviewed by:

(1) a member of the board who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

(2) the board's designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (i).

(i) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (g) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(j) The board may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering a controlled substance. Statistical reports compiled under this subsection are public records.

(k) This section may not be construed to require a practitioner to obtain information about a patient from the data base.

(l) A practitioner is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner seeking or not seeking information from the INSPECT

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program. The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

(m) The board may review the records of the INSPECT program. If the board determines that a violation of the law may have occurred, the board shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe controlled substances.

(n) A practitioner who in good faith discloses information based on a report from the INSPECT program to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

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Iowa
§ 124.553

Iowa Code Annotated (2013)
Title IV. Public Health
Subtitle 1. Alcoholic Beverages and Controlled Substances
Chapter 124. Controlled Substances
Division VI. Drug Prescribing and Dispensing--Information Program

§ 124.553. Information access

1. The board may provide information from the program to the following:
 - a. (1) A pharmacist or prescribing practitioner who requests the information and certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical care to a patient of the pharmacist or prescribing practitioner. A pharmacist or a prescribing practitioner may delegate program information access to another authorized individual or agent only if that individual or agent registers for program information access, pursuant to board rules, as an agent of the pharmacist or prescribing practitioner. Board rules shall identify the qualifications for a pharmacist's or prescribing practitioner's agent and shall limit the number of agents to whom each pharmacist or prescribing practitioner may delegate program information access.
 - (2) Notwithstanding subparagraph (1), a prescribing practitioner may delegate program information access to another licensed health care professional in emergency situations where the patient would be placed in greater jeopardy if the prescribing practitioner was required to access the information personally.
 - b. An individual who requests the individual's own program information in accordance with the procedure established in rules of the board and advisory council adopted under section 124.554.
 - c. Pursuant to an order, subpoena, or other means of legal compulsion for access to or release of program information that is issued based upon a determination of probable cause in the course of a specific investigation of a specific individual.
2. The board shall maintain a record of each person that requests information from the program. Pursuant to rules adopted by the board and advisory council under section 124.554, the board may use the records to document and report statistical information.
3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program, is privileged and strictly confidential information. Such information is a confidential public record pursuant to section 22.7, and is not subject to discovery, subpoena, or other means of legal compulsion for release

except as provided in this division. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this division.

4. Information collected for the program shall be retained in the program for four years from the date of dispensing. The information shall then be destroyed.

5. A pharmacist or other dispenser making a report to the program reasonably and in good faith pursuant to this division is immune from any liability, civil, criminal, or administrative, which might otherwise be incurred or imposed as a result of the report.

6. Nothing in this section shall require a pharmacist or prescribing practitioner to obtain information about a patient from the program. **A pharmacist or prescribing practitioner does not have a duty and shall not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or prescribing practitioner did or did not seek or obtain or use information from the program. A pharmacist or prescribing practitioner acting reasonably and in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving or using information from the program.**

7. The board shall not charge a fee to a pharmacy, pharmacist, or prescribing practitioner for the establishment, maintenance, or administration of the program, including costs for forms required to submit information to or access information from the program, except that the board may charge a fee to an individual who requests the individual's own program information. A fee charged pursuant to this subsection shall not exceed the actual cost of providing the requested information and shall be considered a repayment receipt as defined in section 8.2.

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Kansas
§ 65-1688

West's Kansas Statutes Annotated (2013)
Chapter 65. Public Health
Article 16. Regulation of Pharmacists

§ 65-1688. Same; act does not create civil liability or duty

No person authorized to prescribe or dispense scheduled substances and drugs of concern shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense scheduled substances and drugs of concern did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense scheduled substances and drug of concern to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to such patient.

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Maryland

Health-General § 21-2A-08

ADC 10.47.07.08

West's Annotated Code of Maryland (2013)

Health--General

Title 21. Food, Drugs, and Cosmetics

Subtitle 2A. Prescription Drug Monitoring Program

§ 21-2A-08. Liability of Department agents and employees, prescribers or dispensers

Department agents and employees

(a) With respect to the administration and operation of the Program, the Department and its agents and employees are not subject to liability arising from:

(1) The inaccuracy of any information submitted to the Program in accordance with this subtitle; or

(2) The unauthorized use or disclosure of prescription monitoring data by a person to whom the Program was authorized to provide the prescription monitoring data under this subtitle.

Prescribers or dispensers

(b) A prescriber or dispenser, acting in good faith, is not subject to liability or disciplinary action arising solely from:

(1) Requesting or receiving, or failing to request or receive, prescription monitoring data from the Program; or

(2) Acting, or failing to act, on the basis of prescription monitoring data provided by the Program.

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

.08 General Provisions.

A. The Program shall make available the information technology necessary for dispensers to report prescription monitoring data to the Program.

B. The Program may not impose any fees or other assessments on prescribers or dispensers to support the operation of the Program.

C. A prescriber or dispenser:

(1) Is not required or obligated to access or use the prescription monitoring data available under the Program; and

(2) When acting in good faith, is not subject to liability or disciplinary action arising solely from:

(a) Requesting or receiving, or failing to request or receive, prescription monitoring data from the Program; or

(b) Acting, or failing to act, on the basis of prescription monitoring data provided by the Program.

D. Rediscovery of prescription monitoring data received under Health-General Article, §21-2A-06, Annotated Code of Maryland, and Regulation .04 of this chapter is prohibited unless intended to facilitate the treatment of a patient and is consistent with all other State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records. The release of prescription monitoring data by a prescriber or dispenser to a licensed health care professional solely for treatment purposes in a manner otherwise consistent with State and federal law is not a violation of Health-General Article, §21-2A, Annotated Code of Maryland.

E. The Program shall retain prescription monitoring data for 3 years from the date of receipt.

F. A member of the Technical Advisory Committee:

(1) Shall serve for a term of 3 years from the date of appointment; and

(2) May be reappointed at the discretion of the Secretary.

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Minnesota
§ 152.126

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

§ 152.126. Controlled substances prescription electronic reporting system

...

Subd. 9. Immunity from liability; no requirement to obtain information. (a) A pharmacist, prescriber, or other dispenser making a report to the program in good faith under this section is immune from any civil, criminal, or administrative liability, which might otherwise be incurred or imposed as a result of the report, or on the basis that the pharmacist or prescriber did or did not seek or obtain or use information from the program.

(b) Nothing in this section shall require a pharmacist, prescriber, or other dispenser to obtain information about a patient from the program, and the pharmacist, prescriber, or other dispenser, if acting in good faith, is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

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Montana
§ 37-7-1507

West's Montana Code Annotated (2013)
Title 37. Professions and Occupations
Chapter 7. Pharmacy
Part 15. Prescription Drug Registry

§ 37-7-1507. Prescription drug registry--immunity

(1) A person or entity that complies with the reporting requirements of 37-7-1503 is not subject to civil liability or other legal or equitable relief for reporting the information to the board.

(2) Unless a court of competent jurisdiction finds that a person or entity committed an unlawful act pursuant to 37-7-1513, a person or entity in proper possession of information pursuant to this part is not subject to civil liability or other legal or equitable relief for any of the following acts or omissions:

(a) furnishing information pursuant to 37-7-1502 through 37-7-1506;

(b) receiving, using or relying on, or not using or relying on information received pursuant to 37-7-1502 through 37-7-1506; or

(c) relying on information that was entered into the registry in error, was factually incorrect, or was released by the board to the wrong person or entity.

(3) The immunity provisions of this section do not apply to the board, a state agency, or any political subdivision of the state.

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New Jersey
§ 45:1-48

New Jersey Statutes Annotated (2013)
Title 45. Professions and Occupations
Subtitle 1. Professions and Occupations Regulated by State Boards of Registration and Examination
Chapter 1. General Provisions
Article 4. Health Care Professional Responsibility and Reporting Act

§ 45:1-48. Immunity from liability

a. The division shall be immune from civil liability arising from inaccuracy of any of the information submitted to it pursuant to sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 et seq.).

b. A pharmacy permit holder, pharmacist or practitioner shall be immune from civil liability arising from compliance with sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 et seq.).

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North Dakota
§ 19-03.5-05

West's North Dakota Century Code Annotated (2013)
Title 19. Foods, Drugs, Oils, and Compounds
Chapter 19-03.5. Prescription Drug Monitoring Program

§ 19-03.5-05. Immunity

Nothing in this chapter requires a prescriber or dispenser to obtain information about a patient from the central repository prior to prescribing or dispensing a controlled substance. **A prescriber, dispenser, or other health care practitioner may not be held liable in damages to any person in any civil action on the basis that the prescriber, dispenser, or other health care practitioner did or did not seek to obtain information from the central repository. Unless there is shown a lack of good faith, the board, any other state agency, a prescriber, dispenser, or any other individual in proper possession of information provided under this chapter may not be subject to any civil liability by reason of:**

- 1. The furnishing of information under the conditions provided in this chapter;**
- 2. The receipt and use of, or reliance on, such information;**
- 3. The fact that any such information was not furnished; or**
- 4. The fact that such information was factually incorrect or was released by the board to the wrong person or entity.**

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Ohio
§ 4729.80

Baldwin's Ohio Revised Code Annotated (2013)
Title XLVII. Occupations--Professions
Chapter 4729. Pharmacists; Dangerous Drugs
Miscellaneous Provisions

§ 4729.80 Disclosure of database information; disclosure of requests for database information

(A) If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board is authorized or required to provide information from the database in accordance with the following:

(1) On receipt of a request from a designated representative of a government entity responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs, the board may provide to the representative information from the database relating to the professional who is the subject of an active investigation being conducted by the government entity.

(2) On receipt of a request from a federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs, the board shall provide to the officer information from the database relating to the person who is the subject of an active investigation of a drug abuse offense, as defined in section 2925.01 of the Revised Code, being conducted by the officer's employing government entity.

(3) Pursuant to a subpoena issued by a grand jury, the board shall provide to the grand jury information from the database relating to the person who is the subject of an investigation being conducted by the grand jury.

(4) Pursuant to a subpoena, search warrant, or court order in connection with the investigation or prosecution of a possible or alleged criminal offense, the board shall provide information from the database as necessary to comply with the subpoena, search warrant, or court order.

(5) On receipt of a request from a prescriber or the prescriber's delegate approved by the board, the board may provide to the prescriber information from the database relating to a patient who is either of the following, if the prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request;

(a) A current patient of the prescriber;

(b) A potential patient of the prescriber based on a referral of the patient to the prescriber.

(6) On receipt of a request from a pharmacist or the pharmacist's delegate approved by the board, the board may provide to the pharmacist information from the database relating to a current patient of the pharmacist, if the pharmacist certifies in a form specified by the board that it is for the purpose of the pharmacist's practice of pharmacy involving the patient who is the subject of the request.

(7) On receipt of a request from an individual seeking the individual's own database information in accordance with the procedure established in rules adopted under section 4729.84 of the Revised Code, the board may provide to the individual the individual's own database information.

(8) On receipt of a request from the medical director of a managed care organization that has entered into a data security agreement with the board required by section 5167.14 of the Revised Code, the board shall provide to the medical director information from the database relating to a medicaid recipient enrolled in the managed care organization, including information in the database related to prescriptions for the recipient that were not covered or reimbursed under a program administered by the department of medicaid.

(9) On receipt of a request from the medicaid director, the board shall provide to the director information from the database relating to a recipient of a program administered by the department of medicaid, including information in the database related to prescriptions for the recipient that were not covered or paid by a program administered by the department.

(10) On receipt of a request from the administrator of workers' compensation, the board may provide to the administrator information from the database relating to a claimant under Chapter 4121., 4123., 4127., or 4131. of the Revised Code.

(11) On receipt of a request from a requestor described in division (A)(1), (2), (5), or (6) of this section who is from or participating with another state's prescription monitoring program, the board may provide to the requestor information from the database, but only if there is a written agreement under which the information is to be used and disseminated according to the laws of this state.

(B) The state board of pharmacy shall maintain a record of each individual or entity that requests information from the database pursuant to this section. In accordance with rules adopted under section 4729.84 of the Revised Code, the board may use the records to document and report statistics and law enforcement outcomes.

The board may provide records of an individual's requests for database information to the following:

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information;

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(2) A federal officer, or a state or local officer of this or any other state, whose duties include enforcing laws relating to drugs and who is involved in an active investigation being conducted by the officer's employing government entity of the individual who submitted the requests for database information.

(C) Information contained in the database and any information obtained from it is not a public record. Information contained in the records of requests for information from the database is not a public record. Information that does not identify a person may be released in summary, statistical, or aggregate form.

(D) A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

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Oklahoma

63 § 2-309D (eff. until Nov. 1, 2013)

63 § 2-309D (eff. Nov. 1, 2013)

Oklahoma Statutes Annotated (2013)

Title 63. Public Health and Safety

Chapter 2. Uniform Controlled Dangerous Substances Act

Article III. Regulation of Manufacture, Distribution, Dispensing, Prescribing, Administering and Using for Scientific Purposes of Controlled Dangerous Substances

Anti-Drug Diversion Act

§ 2-309D. Central repository information--Confidentiality--Access-- Disclosure--Penalties--Liability

<Text of section effective until November 1, 2013>

A. The information collected at the central repository pursuant to the Anti-Drug Diversion Act shall be confidential and shall not be open to the public. Access to the information shall be limited to:

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
2. The United States Drug Enforcement Administration Diversion Group Supervisor;
3. The executive director or chief investigator, as designated by each board, of the following state boards:
 - a. Board of Podiatric Medical Examiners,
 - b. Board of Dentistry,
 - c. State Board of Pharmacy,
 - d. State Board of Medical Licensure and Supervision,
 - e. State Board of Osteopathic Examiners,
 - f. State Board of Veterinary Medical Examiners, and
 - g. Oklahoma Health Care Authority;

provided, however, that the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of the employing board of such executive director or chief investigator; and

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act.

B. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, of investigative information to peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

E. Notwithstanding the provisions of subsection B, registrants shall have no requirement or obligation to access or check the information in the central repository prior to dispensing or administering medications or as part of their professional practices. **Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the central repository and no lawsuit may be predicated thereon.** Nothing herein shall be construed to relieve a registrant from any duty to monitor and report the sales of certain products pursuant to subsection E of Section 2-309C of this title.

F. Information regarding nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

Oklahoma Statutes Annotated (2013)

Title 63. Public Health and Safety

Chapter 2. Uniform Controlled Dangerous Substances Act

Article III. Regulation of Manufacture, Distribution, Dispensing, Prescribing, Administering and Using for Scientific Purposes of Controlled Dangerous Substances

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1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

2. The United States Drug Enforcement Administration Diversion Group Supervisor;

3. The executive director or chief investigator, as designated by each board, of the following state boards:

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. State Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners,

g. Oklahoma Health Care Authority,

h. Department of Mental Health and Substance Abuse Services, and

i. State Board of Health;

provided, however, that the executive director or chief investigator of each of these boards shall be limited to access to information relevant to licensees of the employing board of such executive director or chief investigator;

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act; and

5. The Department of Mental Health and Substance Abuse Services and the State Department of Health for statistical, research, substance abuse prevention or educational purposes provided that the consumer's confidentiality is not compromised.

B. This section shall not prevent access, at the discretion of the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, to investigative information by peace officers and investigative agents of federal, state, county or municipal law enforcement agencies, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions within their respective jurisdictions, and to registrants in furtherance of efforts to guard against the diversion of controlled dangerous substances.

C. This section shall not prevent the disclosure, at the discretion of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, of statistical information gathered from the central repository to the general public which shall be limited to types and quantities of controlled substances dispensed and the county where dispensed.

D. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

E. Notwithstanding the provisions of subsection B of this section, registrants shall have no requirement or obligation to access or check the information in the central repository prior to dispensing or administering medications or as part of their professional practices. **Registrants shall not be liable to any person for any claim of damages as a result of accessing or failing to access the information in the central repository and no lawsuit may be predicated thereon.** Nothing herein shall be construed to relieve a registrant from any duty to monitor and report the sales of certain products pursuant to subsection E of Section 2-309C of this title.

F. Information regarding nonfatal overdoses, other than statistical information as required by Section 2-106 of this title, shall be completely confidential. Access to this information shall be strictly limited to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or designee, the Chief Medical Examiner, and the registrant that enters the information. Registrants shall not be liable to any person for a claim of damages for information reported pursuant to the provisions of Section 2-105 of this title.

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Oregon

§ 431.966 (eff. until Jan. 1, 2014)

§ 431.966 (eff. Jan. 1, 2014)

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)

§ 431.966. Prescription monitoring information disclosure; limitations

<Text subject to final change by the Oregon Office of the Legislative Counsel.>

<Text of section effective until January 1, 2014>

(1)(a) Except as provided under subsection (2) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program established in ORS 431.962:

(A) Is protected health information under ORS 192.518 to 192.529.

(B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.

(b) Except as provided under subsection (2)(a)(D) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program may not be used to evaluate a practitioner's professional practice.

(2)(a) If a disclosure of prescription monitoring information complies 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 192.518 to 192.529, the Oregon Health Authority shall disclose the information:

(A) To a practitioner or pharmacist who certifies that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) To designated representatives of the authority or any vendor or contractor with whom the authority has contracted to establish or maintain the electronic system of the prescription monitoring program.

(C) Pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency engaged in an authorized drug-related investigation involving a person to whom the requested information pertains.

(D) To a health professional regulatory board that certifies 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.

(E) To a prescription monitoring program of another state if the confidentiality, security and privacy standards of the requesting state are determined by the authority to be equivalent to those of the authority.

(b) The authority may disclose information from the prescription monitoring program that does not identify a patient, practitioner or drug outlet:

(A) For educational, research or public health purposes; and

(B) To officials of the authority who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 432.060 and rules adopted under ORS 431.110.

(c) The authority shall disclose information relating to a patient maintained in the electronic system operated pursuant to the prescription monitoring program established under ORS 431.962 to that patient at no cost to the patient within 10 business days after the authority receives a request from the patient for the information.

(d)(A) A patient may request the authority to correct any information about the patient that is erroneous. The authority shall grant or deny a request to correct information within 10 business days after the authority receives the request.

(B) If the authority denies a patient's request to correct information under this paragraph, or fails to grant a patient's request to correct information under this paragraph within 10 business days after the authority receives the request, the patient may appeal the denial or failure to grant the request. Upon receipt of an appeal under this subparagraph, the authority shall conduct a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, in the contested case hearing, the authority has the burden of establishing that the information included in the prescription monitoring program is correct.

(e) The information in the prescription monitoring program may not be used for any commercial purpose.

(f) In accordance with ORS 192.518 to 192.529 and federal privacy regulations, any person authorized to prescribe or dispense a prescription drug and who is entitled to access a patient's prescription monitoring information may discuss or release the information to other health care providers involved with the patient's care, in order to provide safe and appropriate care coordination.

(3)(a) The authority shall maintain records of the information disclosed through the prescription monitoring program including, but not limited to:

(A) The identity of each person who requests or receives information from the program and the organization, if any, the person represents;

(B) The information released to each person or organization; and

(C) The date and time the information was requested and the date and time the information was provided.

(b) Records maintained as required by this subsection may be reviewed by the Prescription Monitoring Program Advisory Commission.

(4) Information in the prescription monitoring program that identifies an individual patient must be removed no later than three years from the date the information is entered into the program.

(5) The authority shall notify the Attorney General and each affected individual of an improper disclosure of information from the prescription monitoring program.

(6)(a) If the authority or a person or entity required to report or authorized to receive or release controlled substance prescription information under this section violates this section or ORS 431.964, or 431.968, a person injured by the violation may bring a civil action against the authority person or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

(b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity required to report or authorized to receive or release controlled substance prescription information under this section are immune from civil liability for violations of this section or ORS 431.964 or 431.968 unless the authority person or entity acts with malice, criminal intent, gross negligence, recklessness or willful intent.

(7) Nothing in ORS 431.962 to 431.978 and 431.992 requires a practitioner or pharmacist who prescribes or dispenses a prescription drug to obtain information about a patient from the prescription monitoring program. **A practitioner or pharmacist who prescribes or dispenses a prescription drug may not be held liable for damages in any civil action on the basis that the practitioner or pharmacist did or did not request or obtain information from the prescription monitoring program.**

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)

§ 431.966. Prescription monitoring information disclosure; limitations

<Text of section effective January 1, 2014>

(1)(a) Except as provided under subsection (2) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program established in ORS 431.962:

(A) Is protected health information under ORS 192.553 to 192.581.

(B) Is not subject to disclosure pursuant to ORS 192.410 to 192.505.

(b) Except as provided under subsection (2)(a)(E) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program may not be used to evaluate a practitioner's professional practice.

(2)(a) To the extent that the law or regulation is applicable to the prescription monitoring program, if a disclosure of prescription monitoring information, other than the sex of a patient for whom a drug was prescribed, complies 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, the Oregon Health Authority shall disclose the information:

(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the information to a member of the practitioner's or pharmacist's staff under this subparagraph, the practitioner or pharmacist remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a practitioner or pharmacist must certify that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) To a practitioner in a form that catalogs all prescription drugs prescribed by the practitioner according to the number assigned to the practitioner by the Drug Enforcement Administration of the United States Department of Justice.

(C) To designated representatives of the authority or any vendor or contractor with whom the authority has contracted to establish or maintain the electronic system of the prescription monitoring program.

(D) Pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency engaged in an authorized drug-related investigation involving a person to whom the requested information pertains.

(E) To a health professional regulatory board that certifies 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.

(F) To a prescription monitoring program of another state if the confidentiality, security and privacy standards of the requesting state are determined by the authority to be equivalent to those of the authority.

(G) To the State Medical Examiner or designee of the State Medical Examiner, for the purpose of conducting a medicolegal investigation or autopsy.

(b) The authority may disclose information from the prescription monitoring program that does not identify a patient, practitioner or drug outlet:

(A) For educational, research or public health purposes;

(B) To a local public health authority, as defined in ORS 431.260; or

(C) To officials of the authority who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 432.060 and rules adopted under ORS 431.110.

(c) The authority shall disclose information relating to a patient maintained in the electronic system operated pursuant to the prescription monitoring program established under ORS 431.962 to that patient at no cost to the patient within 10 business days after the authority receives a request from the patient for the information.

(d)(A) A patient may request the authority to correct any information about the patient that is erroneous. The authority shall grant or deny a request to correct information within 10 business days after the authority receives the request.

(B) If the authority denies a patient's request to correct information under this paragraph, or fails to grant a patient's request to correct information under this paragraph within 10 business days after the authority receives the request, the patient may appeal the denial or failure to grant the request. Upon receipt of an appeal under this subparagraph, the authority shall conduct a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, in the contested case hearing, the authority has the burden of establishing that the information included in the prescription monitoring program is correct.

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(e) The information in the prescription monitoring program may not be used for any commercial purpose.

(f) In accordance with ORS 192.553 to 192.581 and federal privacy regulations, any person authorized to prescribe or dispense a prescription drug and who is entitled to access a patient's prescription monitoring information may discuss or release the information to other health care providers involved with the patient's care, in order to provide safe and appropriate care coordination.

(3)(a) The authority shall maintain records of the information disclosed through the prescription monitoring program including, but not limited to:

(A) The identity of each person who requests or receives information from the program and the organization, if any, the person represents;

(B) The information released to each person or organization; and

(C) The date and time the information was requested and the date and time the information was provided.

(b) Records maintained as required by this subsection may be reviewed by the Prescription Monitoring Program Advisory Commission.

(4) Information in the prescription monitoring program that identifies an individual patient must be removed no later than three years from the date the information is entered into the program.

(5) The authority shall notify the Attorney General and each affected individual of an improper disclosure of information from the prescription monitoring program.

(6)(a) If the authority or a person or entity required to report or authorized to receive or release controlled substance prescription information under this section violates this section or ORS 431.964 or 431.968, a person injured by the violation may bring a civil action against the authority, person or entity and may recover damages in the amount of \$1,000 or actual damages, whichever is greater.

(b) Notwithstanding paragraph (a) of this subsection, the authority and a person or entity required to report or authorized to receive or release controlled substance prescription information under this section are immune from civil liability for violations of this section or ORS 431.964 or 431.968 unless the authority, person or entity acts with malice, criminal intent, gross negligence, recklessness or willful intent.

(7) Nothing in ORS 431.962 to 431.978 and 431.992 requires a practitioner or pharmacist who prescribes or dispenses a prescription drug to obtain information about a patient from the prescription monitoring program. **A practitioner or pharmacist who prescribes or dispenses a prescription drug may not be held liable for damages in any civil action on the basis that**

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the practitioner or pharmacist did or did not request or obtain information from the prescription monitoring program.

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South Carolina

§ 44-53-1680

Code of Laws of South Carolina 1976 Annotated (2013)

Title 44. Health

Chapter 53. Poisons, Drugs and Other Controlled Substances

Article 15. Prescription Monitoring Program

§ 44-53-1680. Violations and penalties.

(A) A dispenser who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor, and upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person or persons authorized to have prescription monitoring information pursuant to this article who knowingly discloses this information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person or persons authorized to have prescription monitoring information pursuant to this article who uses this information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) Nothing in this chapter requires a pharmacist or practitioner to obtain information about a patient from the prescription monitoring program. **A pharmacist or practitioner does not have a duty and must not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program.**

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South Dakota
§ 34-20E-11

South Dakota Codified Laws (2013)
Title 34. Public Health and Safety
Chapter 34-20E. Prescription Drug Monitoring Program

§ 34-20E-11. Immunity from civil liability

Nothing in this chapter requires a prescriber or dispenser to obtain information about a patient from the central repository prior to prescribing or dispensing a controlled substance. **A prescriber, dispenser, or other health care provider may not be held liable in damages to any person in any civil action on the basis that the prescriber, dispenser, or other health care provider did or did not seek to obtain information from the central repository. Unless there is shown a lack of good faith, the board, a prescriber, dispenser, or any other person in proper possession of information provided under this chapter is not subject to any civil liability by reason of:**

- (1) The furnishing of information under the conditions provided in this chapter;**
- (2) The receipt and use of, or reliance on, such information;**
- (3) The fact that any such information was not furnished; or**
- (4) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.**

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Tennessee

§ 53-10-306 (eff. until July 1, 2016)

§ 53-10-306 (eff. July 1, 2016)

§ 53-10-307 (eff. until July 1, 2016)

§ 53-10-307 (eff. July 1, 2016)

§ 53-10-310 (eff. until July 1, 2016)

§ 53-10-310 (eff. July 1, 2016)

§ 53-11-309 (eff. until July 1, 2016)

§ 53-11-309 (eff. July 1, 2016)

West's Tennessee Code Annotated (2013)

Title 53. Food, Drugs and Cosmetics

Chapter 10. Legend Drugs

Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-306. Confidentiality; disclosure; penalties

<Text of section effective until July 1, 2016>

(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons in accordance with the limitations stated and rules promulgated pursuant to this part, or as otherwise provided for in § 53-10-311:

(1) Personnel of the committee specifically assigned to conduct analysis or research;

(2) Authorized committee, board, or department of health personnel or any designee appointed by the committee engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;

(3) A prescriber conducting medication history reviews who is actively involved in the care of the patient; a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber; or a prescriber having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;

(4) A dispenser or pharmacist not authorized to dispense controlled substances conducting drug utilization or medication history reviews who is actively involved in the care of the patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or a bona fide prospective patient to whom that dispenser has dispensed,

is dispensing, or considering dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;

(5) A county medical examiner appointed pursuant to § 38-7-104 when acting in an official capacity as established in § 38-7-109; provided, any access to information from the database shall be subject to the confidentiality provisions of this part except where information obtained from the database is appropriately included in any official report of the county medical examiners, toxicological reports or autopsy reports issued by the county medical examiner under § 38-7-110(c);

(6) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities related directly to TennCare:

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

(C) The bureau of TennCare's chief medical officer, associate chief medical directors, director of quality oversight, and associate director of pharmacy;

(7) A quality improvement committee as defined in § 68-11-272 of a hospital licensed under title 68 or title 33, as part of the committee's confidential and privileged activities under § 68-11-272(b)(4) with respect to the evaluation, supervision or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital's administrator to be prescribing controlled substances for the prescriber's personal use;

(8) Law enforcement personnel; provided, that such personnel are engaged in the official investigation and enforcement of state or federal laws involving controlled substances or violations under this part; and that any law enforcement personnel receiving information from the database pursuant to this section shall comply with the requirements of this subsection (a):

(A)(i) Any law enforcement agency or judicial district drug task force that wants one (1) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff or the judicial district drug task force director. The list of pre-approved applicants shall be sent to the district attorney general in the judicial district in which the agency or task force has jurisdiction;

(ii) By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year;

(B)(i) If the Tennessee bureau of investigation (TBI) wants one (1) or more of its agents to have the authorization to request information from the database each such agent shall first be pre-

approved by the agent's immediate supervisor and division head. Approved applicants shall be sent to the board by the director;

(ii) By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year;

(C) An application submitted by law enforcement personnel shall include, but not be limited to the:

(i) Applicant's name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number or commission number, and the business email address of each applicant officer or agent, the appropriate district attorney general and, if a TBI agent, the TBI director and their business email addresses; and

(ii) Signatures of the applicant, the applicants approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving division head and the TBI director;

(D) It shall be a duty of the board, as part of its duties to maintain the database pursuant to § 53-10-305(c), to receive and verify the lists of authorized applications sent to it by the district attorneys general and the director of the TBI pursuant to this subsection (a); or

(9) A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access.

...

(5) Where an individual authorized under subsection (a) acts in good faith in accessing or using information from the database in accordance with the limitations under this part, that person shall not incur any civil or criminal liability as a result of that use or access.

...

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 10. Legend Drugs
Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-306. Confidentiality; disclosure; penalties

<Text of section effective July 1, 2016>

(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons, and in accordance with the limitations stated and rules promulgated pursuant to this part:

- (1) Personnel of the committee specifically assigned to conduct analysis or research;
- (2) Authorized committee, board, or department of health personnel engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;
- (3) A licensed health care practitioner having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the practitioner, to whom the practitioner has prescribed or dispensed or is prescribing or dispensing or considering prescribing or dispensing any controlled substance;
- (4) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist has dispensed, is dispensing or considering dispensing any controlled substance;
- (5) A county medical examiner appointed pursuant to § 38-7-104 when acting in an official capacity as established in § 38-7-109; provided, any access to information from the database shall be subject to the confidentiality provisions of this part except where information obtained from the database is appropriately included in any official report of the county medical examiners, toxicological reports or autopsy reports issued by the county medical examiner under § 38-7-110(c);
- (6) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities related directly to TennCare:
 - (A) The office of inspector general;
 - (B) The medicaid fraud control unit; and

(C) The bureau of TennCare's chief medical officer, associate chief medical directors, director of quality oversight, and associate director of pharmacy; or

(7) A quality improvement committee as defined in § 68-11-272 of a hospital licensed under title 68 or title 33, as part of the committee's confidential and privileged activities under § 68-11-272(b)(4) with respect to the evaluation, supervision or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital's administrator to be prescribing controlled substances for the prescriber's personal use;

(8) Law enforcement personnel; provided, that such personnel are engaged in the official investigation and enforcement of state or federal laws involving controlled substances; and that any law enforcement personnel receiving information from the database pursuant to this section shall comply with the requirements of this subsection (a):

(A)(i) Any law enforcement agency or judicial district drug task force that wants one (1) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff or the judicial district drug task force director. The list of pre-approved applicants shall be sent to the district attorney general in the judicial district in which the agency or task force has jurisdiction.

(ii) By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year.

(B)(i) If the Tennessee bureau of investigation (TBI) wants one (1) or more of its agents to have the authorization to request information from the database each such agent shall first be pre-approved by the agent's immediate supervisor and division head. Approved applicants shall be sent to the board by the director.

(ii) By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year.

(C) An application submitted by a law enforcement agency, a judicial drug task force or the TBI shall include, but not be limited to the:

(i) Applicant's name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number or commission number, and the business email address of each applicant officer or agent, the appropriate district attorney general and, if a TBI agent, the TBI director and their business email addresses; and

(ii) Signatures of the applicant, the applicants approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving division head and the TBI director.

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(D) It shall be a duty of the board, as part of its duties to maintain the database pursuant to § 53-10-305(c), to receive and verify the lists of authorized applications sent to it by the district attorneys general and the director of the TBI pursuant to this subsection (a).

...

(5) Where an individual authorized under subsection (a) acts in good faith in accessing or using information from the database in accordance with the limitations under this part, that person shall not incur any civil or criminal liability as a result of that use or access.

...

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 10. Legend Drugs
Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-307. Submission and dissemination of information; immunity

<Text of section effective until July 1, 2016>

(a) The failure of a dispenser to submit information to the database required under this part after the committee has submitted a specific written request for the information, or when the committee determines the individual has a demonstrable pattern of failing to submit the information as required, is grounds for the denial of licensure, renewal of licensure, or other disciplinary action against the dispenser before the licensing board with jurisdiction over the dispenser and for the committee to take the following actions:

- (1) Recommend to the appropriate licensure board that it should refuse to issue a license to the individual;
- (2) Recommend to the appropriate licensure board that it should refuse to renew the individual's license; and
- (3) Recommend to the appropriate licensure board that it should commence disciplinary action against the licensee seeking revocation, suspension or other appropriate discipline, including civil penalties.

(b) An individual or entity that has submitted information to the database in accordance with this part and in good faith shall not be subject to a suit for civil damages nor held civilly liable for having submitted the information.

(c) An individual or entity that in good faith disseminates information contained in, or derived from, the database to the individuals authorized by this part to receive it in the

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manner authorized by this part or rules promulgated pursuant to this part, shall not be subject to a suit for civil damages nor held individually liable for having done so.

(d) Submitting the information as required by this part shall not subject the person submitting the information to licensure disciplinary action or any action for breach of confidentiality, ethical duty to a patient, or the sharing of any professional secret.

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 10. Legend Drugs
Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-307. Submission and dissemination of information; immunity

<Text of section effective July 1, 2016>

(a) The failure of a dispenser to submit information to the database required under this part after the committee has submitted a specific written request for the information, or when the committee determines the individual has a demonstrable pattern of failing to submit the information as required, is grounds for the denial of licensure, renewal of licensure, or other disciplinary action against the dispenser before the licensing board with jurisdiction over the dispenser and for the committee to take the following actions:

- (1) Recommend to the appropriate licensure board that it should refuse to issue a license to the individual;
- (2) Recommend to the appropriate licensure board that it should refuse to renew the individual's license; and
- (3) Recommend to the appropriate licensure board that it should commence disciplinary action against the licensee seeking revocation, suspension or other appropriate discipline, including civil penalties.

(b) An individual or entity that has submitted information to the database in accordance with this part and in good faith shall not be subject to a suit for civil damages nor held civilly liable for having submitted the information.

(c) An individual or entity that in good faith disseminates information contained in, or derived from, the database to the individuals authorized by this part to receive it in the manner authorized by this part or rules promulgated pursuant to this part, shall not be subject to a suit for civil damages nor held individually liable for having done so.

(d) No health care practitioner licensed by any board or committee shall be subject to licensure disciplinary action for submitting the information required by this part to the committee and the

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submission of the information shall not be deemed to be a breach of any confidentiality, ethical duty to a patient, or the sharing of any professional secret.

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 10. Legend Drugs
Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-310. Electronic access to controlled substance database; penalty

<Text of section effective until July 1, 2016>

(a) Each person or entity operating a practice site where a controlled substance is prescribed or dispensed to a human patient shall provide for electronic access to the database at all times when a prescriber or dispenser provides healthcare services to a human patient potentially receiving a controlled substance.

(b) This section shall not apply to any dispensers that are not required to report pursuant to § 53-10-304(d) or § 53-10-305(g).

(c) A violation of subsection (a) is punishable by a civil penalty not to exceed one hundred dollars (\$100) per day assessed against the person or entity operating the practice site; provided, however, that the penalty shall only be imposed when there is a continued pattern or practice of not providing electronic access to the database.

(d) Any prescriber, dispenser, individual or entity who is authorized to access the database by this part shall not be subject to a suit for civil damages or held civilly liable for the failure to register in, report to, or check the database, or for actions taken after reasonable reliance on information in the database, or accessing the database to determine whether or not the prescriber or dispenser's professional medical credentials are being inappropriately used or for reporting the same to the appropriate authorities, except as otherwise provided in this part.

(e)(1) All prescribers or their designated healthcare practitioner's extenders, unless otherwise exempted under this part, shall check the controlled substance database prior to prescribing one of the controlled substances identified in subdivision (e)(3) to a human patient at the beginning of a new episode of treatment and shall check the controlled substance database for that human patient at least annually when that prescribed controlled substance remains part of the treatment.

(2) Before dispensing, a dispenser shall have the professional responsibility to check the database or have a healthcare practitioner extender check the database if the dispenser is aware or reasonably certain that a person is attempting to obtain a Schedule II-V controlled substance, identified by the committee as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of § 53-11-402.

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(3) The controlled substances which trigger a check of the controlled substance database pursuant to subdivision (e)(1) include, but are not limited to, all opioids and benzodiazepines. By rule, the committee may require a check of the database for additional Schedule II-V controlled substances that are identified by the committee as demonstrating a potential for abuse.

(4) The board shall adopt rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that establish standards and procedures to be followed by a dispenser regarding the review of patient information available through the database.

(5) Prescribers are not required to check the controlled substance database before prescribing or dispensing one of the controlled substances identified in subdivision (e)(3) or added to that list by the committee if one (1) or more of the following conditions is met:

(A) The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;

(B) The committee has determined that prescribers in a particular medical specialty shall not be required to check the database as a result of the low potential for abuse by patients receiving treatment in that medical specialty;

(C) The controlled substance is prescribed or dispensed to a patient as a non-refillable prescription as part of treatment for a surgical procedure that occurred in a licensed healthcare facility;

(D) The quantity of the controlled substance which is prescribed or dispensed does not exceed an amount which is adequate for a single, seven-day treatment period and does not allow a refill.

(E) The controlled substance is prescribed for administration directly to a patient during the course of inpatient or residential treatment in a hospital or nursing home licensed under title 68 or a mental health hospital licensed under title 33.

(f) Each appropriate licensure board shall promulgate rules pursuant to the Uniform Administrative Procedures Act, to establish procedures, notice requirements, and penalties for prescribers and dispensers who fail to register in, report to, or check the controlled substance database as required.

(g) Notwithstanding any other provision of this part to the contrary, a prescriber, dispenser or healthcare practitioner extender shall not be in violation of this part during any time period in which the controlled substance database is suspended or not operational or the Internet is not operational or available as defined by rules promulgated by the commissioner after consultation with the committee.

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 10. Legend Drugs
Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-310. Electronic access to controlled substance database; penalty

<Text of section effective July 1, 2016>

(a) Each practice site where a controlled substance is dispensed shall provide for electronic access to the database at all times when the dispenser provides health care services to a human patient potentially receiving a controlled substance.

(b) This section shall not apply to any dispensers that are not required to report pursuant to § 53-10-304(d).

(c) A violation of subsection (a) is punishable by a civil penalty not to exceed one hundred dollars (\$100) a day assessed against the prescriber or the pharmacy as defined in § 63-10-204; provided, however, that the penalty shall only be imposed where there is a continued pattern or practice of not providing electronic access to the database.

(d) Any dispenser, individual or entity shall not be subject to a suit for civil damages nor held civilly liable for the failure to check the database or for actions taken after reasonable reliance on information in the database.

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 11. Narcotic Drugs and Drug Control
Part 3. Regulations and Registration

§ 53-11-309. Controlled substances; attempt to obtain; report; immunity for health care providers

<Text of section effective until July 1, 2016>

(a) Any physician, dentist, optometrist, podiatrist, veterinarian, pharmacist, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant, hereinafter referred to collectively as “health care providers”, who has actual knowledge that a person has knowingly, willfully and with intent to deceive, obtained or attempted to obtain controlled substances in the manner prohibited by § 53-11-402(a)(6) shall cause a report to be submitted regarding such activity within five (5) business days of obtaining such knowledge. The report should be submitted to the local law enforcement agency where the health care provider is located or, where one exists, to a judicial district or multi-judicial district drug task force. The controlled substance database advisory committee established by § 53-10-303 shall develop a

form by no later than August 1, 2010, that health care providers may choose to use to make reports. The department of health shall make the form available on its web site.

(b) Any physician or advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant who has actual knowledge that a person has knowingly, willfully and with the intent to deceive, obtained or attempted to obtain controlled substances in the manner prohibited by § 53-11-402(a)(6) and who is providing treatment to a person with a mental illness as defined in § 33-1-101 may, but is not required to, report as provided for under subsection (a).

(c) If the health care provider's actual knowledge of conduct prohibited by § 53-11-402(a)(6) is a result of the health care provider accessing the information available in the controlled substance database established in § 53-10-304, then notwithstanding the confidentiality provisions in § 53-10-306, the local law enforcement agency or, where one exists, a judicial district or multi-judicial district drug task force may receive from the health care provider only the pertinent information from the database for the thirty (30) days prior to the date of treatment leading to the alleged offense which ostensibly demonstrates non-compliance with § 53-11-402(a)(6). A report with information from the database not exceeding thirty (30) days prior to the date of treatment made under this provision to local law enforcement or, where one exists, to a judicial district or multi-judicial district drug task force is sufficient grounds for the production of complete or more detailed controlled substance database information for purposes of a criminal investigation or pending prosecution pursuant to the procedures established by § 53-10-306(b).

(d) A health care provider, or any person under the direction of the health care provider or any entity that assumes the responsibility of reporting for the provider who furnishes any information in good faith is immune from liability if a complaint, report, information, or record is furnished to a law enforcement agency.

(e) This section shall not apply in the case of a person who, on the date of treatment by the health care provider, is enrolled in or covered by TennCare.

West's Tennessee Code Annotated (2013)
Title 53. Food, Drugs and Cosmetics
Chapter 11. Narcotic Drugs and Drug Control
Part 3. Regulations and Registration

§ 53-11-309. Controlled substances; attempt to obtain; report; immunity for health care providers

<Text of section effective July 1, 2016>

(a) Any physician, dentist, optometrist, podiatrist, veterinarian, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant, hereinafter referred to collectively as “health care providers”, who has actual knowledge that a person has knowingly, willfully and with intent to deceive, obtained or attempted to obtain controlled substances in the

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manner prohibited by § 53-11-402(a)(6) shall cause a report to be submitted regarding such activity within five (5) business days of obtaining such knowledge. The report should be submitted to the local law enforcement agency where the health care provider is located or, where one exists, to a judicial district or multi-judicial district drug task force. The controlled substance database advisory committee established by § 53-10-303 shall develop a form by no later than August 1, 2010, that health care providers may choose to use to make reports. The department of health shall make the form available on its web site.

(b) Any physician or advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant who has actual knowledge that a person has knowingly, willfully and with the intent to deceive, obtained or attempted to obtain controlled substances in the manner prohibited by § 53-11-402(a)(6) and who is providing treatment to a person with a mental illness as defined in § 33-1-101 may, but is not required to, report as provided for under subsection (a).

(c) If the health care provider's actual knowledge of conduct prohibited by § 53-11-402(a)(6) is a result of the health care provider accessing the information available in the controlled substance database established in § 53-10-304, then notwithstanding the confidentiality provisions in § 53-10-306, the local law enforcement agency or, where one exists, a judicial district or multi-judicial district drug task force may receive from the health care provider only the pertinent information from the database for the thirty (30) days prior to the date of treatment leading to the alleged offense which ostensibly demonstrates non-compliance with § 53-11-402(a)(6). A report with information from the database not exceeding thirty (30) days prior to the date of treatment made under this provision to local law enforcement or, where one exists, to a judicial district or multi-judicial district drug task force is sufficient grounds for the production of complete or more detailed controlled substance database information for purposes of a criminal investigation or pending prosecution pursuant to the procedures established by § 53-10-306(b).

(d) A health care provider, or any person under the direction of the health care provider or any entity that assumes the responsibility of reporting for the provider who furnishes any information in good faith is immune from liability if a complaint, report, information, or record is furnished to a law enforcement agency.

(e) This section shall not apply in the case of a person who, on the date of treatment by the health care provider, is enrolled in or covered by TennCare.

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Vermont
18 § 4285

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

§ 4285. Immunity

A dispenser or health care provider shall be immune from civil, criminal, or administrative liability as a result of any action made in good faith pursuant to and in accordance with this chapter, but nothing in this section shall be construed to establish immunity for the failure to follow standards of professional conduct or the failure to exercise due care in the provision of services.

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Virginia
§ 54.1-2425

West's Annotated Code of Virginia (2013)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2524. Immunity from liability

A. The Director and the employees of the Department of Health Professions shall not be liable for any civil damages resulting from the accuracy or inaccuracy of any information reported to and compiled and maintained by the Department pursuant to this chapter.

Further, the Director and the employees of the Department of Health Professions shall not be liable for any civil damages resulting from the disclosure of or failure to disclose any information in compliance with subsections B and C of § 54.1-2523 and the Department's regulations.

B. In the absence of gross negligence or willful misconduct, prescribers or dispensers complying in good faith with the reporting requirements of this chapter shall not be liable for any civil damages for any act or omission resulting from the submission of such required reports.

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West Virginia
§ 60A-9-5

West's Annotated Code of West Virginia (2013)
Chapter 60A. Uniform Controlled Substances Act
Article 9. Controlled Substances Monitoring

§ 60A-9-5. Confidentiality; limited access to records; period of retention; no civil liability for required reporting

(a)(1) The information required by this article to be kept by the State Board of Pharmacy is confidential and not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovery in civil matters absent a court order and is open to inspection only by inspectors and agents of the State Board of Pharmacy, members of the West Virginia State Police expressly authorized by the Superintendent of the West Virginia State Police to have access to the information, authorized agents of local law-enforcement agencies as members of a federally affiliated drug task force, authorized agents of the federal Drug Enforcement Administration, duly authorized agents of the Bureau for Medical Services, duly authorized agents of the Office of the Chief Medical Examiner for use in post-mortem examinations, duly authorized agents of licensing boards of practitioners in this state and other states authorized to prescribe Schedules II, III and IV controlled substances, prescribing practitioners and pharmacists and persons with an enforceable court order or regulatory agency administrative subpoena: Provided, That all law-enforcement personnel who have access to the Controlled Substances Monitoring Program database shall be granted access in accordance with applicable state laws and Board of Pharmacy legislative rules, shall be certified as a West Virginia law-enforcement officer and shall have successfully completed United States Drug Enforcement Administration Diversion Training and National Association of Drug Diversion Investigation Training. All information released by the State Board of Pharmacy must be related to a specific patient or a specific individual or entity under investigation by any of the above parties except that practitioners who prescribe or dispense controlled substances may request specific data related to their Drug Enforcement Administration controlled substance registration number or for the purpose of providing treatment to a patient: Provided, however, That the West Virginia Controlled Substances Monitoring Program Database Review Committee established in subsection (b) of this section is authorized to query the database to comply with said subsection.

(2) Subject to the provisions of subdivision (1) of this subsection, the board shall also review the West Virginia Controlled Substance Monitoring Program database and issue reports that identify abnormal or unusual practices of patients who exceed parameters as determined by the advisory committee established in this section. The board shall communicate with prescribers and dispensers to more effectively manage the medications of their patients in the manner recommended by the advisory committee. All other reports produced by the board shall be kept confidential. The board shall maintain the information required by this article for a period of not less than five years. Notwithstanding any other provisions of this code to the contrary, data

obtained under the provisions of this article may be used for compilation of educational, scholarly or statistical purposes, and may be shared with the West Virginia Department of Health and Human Resources for those purposes, as long as the identities of persons or entities and any personally identifiable information, including protected health information, contained therein shall be redacted, scrubbed or otherwise irreversibly destroyed in a manner that will preserve the confidential nature of the information. No individual or entity required to report under section four of this article may be subject to a claim for civil damages or other civil relief for the reporting of information to the Board of Pharmacy as required under and in accordance with the provisions of this article.

(3) The board shall establish an advisory committee to develop, implement and recommend parameters to be used in identifying abnormal or unusual usage patterns of patients in this state. This advisory committee shall:

(A) Consist of the following members: A physician licensed by the West Virginia Board of Medicine, a dentist licensed by the West Virginia Board of Dental Examiners, a physician licensed by the West Virginia Board of Osteopathy, a licensed physician certified by the American Board of Pain Medicine, a licensed physician board certified in medical oncology recommended by the West Virginia State Medical Association, a licensed physician board certified in palliative care recommended by the West Virginia Center on End of Life Care, a pharmacist licensed by the West Virginia Board of Pharmacy, a licensed physician member of the West Virginia Academy of Family Physicians, an expert in drug diversion and such other members as determined by the board.

(B) Recommend parameters to identify abnormal or unusual usage patterns of controlled substances for patients in order to prepare reports as requested in accordance with subsection (a), subdivision (2) of this section.

(C) Make recommendations for training, research and other areas that are determined by the committee to have the potential to reduce inappropriate use of prescription drugs in this state, including, but not limited to, studying issues related to diversion of controlled substances used for the management of opioid addiction.

(D) Monitor the ability of medical services providers, health care facilities, pharmacists and pharmacies to meet the twenty-four hour reporting requirement for the Controlled Substances Monitoring Program set forth in section three of this article, and report on the feasibility of requiring real-time reporting.

(E) Establish outreach programs with local law enforcement to provide education to local law enforcement on the requirements and use of the Controlled Substances Monitoring Program database established in this article.

(b) The Board of Pharmacy shall create a West Virginia Controlled Substances Monitoring Program Database Review Committee of individuals consisting of two prosecuting attorneys from West Virginia counties, two physicians with specialties which require extensive use of

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controlled substances and a pharmacist who is trained in the use and abuse of controlled substances. The review committee may determine that an additional physician who is an expert in the field under investigation be added to the team when the facts of a case indicate that the additional expertise is required. The review committee, working independently, may query the database based on parameters established by the advisory committee. The review committee may make determinations on a case-by-case basis on specific unusual prescribing or dispensing patterns indicated by outliers in the system or abnormal or unusual usage patterns of controlled substances by patients which the review committee has reasonable cause to believe necessitates further action by law enforcement or the licensing board having jurisdiction over the prescribers or dispensers under consideration. The review committee shall also review notices provided by the chief medical examiner pursuant to subsection (h), section ten, article twelve, chapter sixty-one of this code and determine on a case-by-case basis whether a practitioner who prescribed or dispensed a controlled substance resulting in or contributing to the drug overdose may have breached professional or occupational standards or committed a criminal act when prescribing the controlled substance at issue to the decedent. Only in those cases in which there is reasonable cause to believe a breach of professional or occupational standards or a criminal act may have occurred, the review committee shall notify the appropriate professional licensing agency having jurisdiction over the applicable prescriber or dispenser and appropriate law-enforcement agencies and provide pertinent information from the database for their consideration. The number of cases identified shall be determined by the review committee based on a number that can be adequately reviewed by the review committee. The information obtained and developed may not be shared except as provided in this article and is not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovering in civil matters absent a court order.

(c) The Board of Pharmacy is responsible for establishing and providing administrative support for the advisory committee and the West Virginia Controlled Substances Monitoring Program Database Review Committee. The advisory committee and the review committee shall elect a chair by majority vote. Members of the advisory committee and the review committee may not be compensated in their capacity as members but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) The board shall promulgate rules with advice and consent of the advisory committee, in accordance with the provisions of article three, chapter twenty-nine-a of this code on or before June 1, 2013. The legislative rules must include, but shall not be limited to, the following matters: (1) Identifying parameters used in identifying abnormal or unusual prescribing or dispensing patterns; (2) processing parameters and developing reports of abnormal or unusual prescribing or dispensing patterns for patients, practitioners and dispensers; (3) establishing the information to be contained in reports and the process by which the reports will be generated and disseminated; and (4) setting up processes and procedures to ensure that the privacy, confidentiality, and security of information collected, recorded, transmitted and maintained by the review committee is not disclosed except as provided in this section.

(e) All practitioners, as that term is defined in section one hundred-one, article two of this chapter who prescribe or dispense schedule II, III or IV controlled substances shall, on or before

July 1, 2011, have online or other form of electronic access to the West Virginia Controlled Substances Monitoring Program database;

(f) Persons or entities with access to the West Virginia Controlled Substances Monitoring Program database pursuant to this section may, pursuant to rules promulgated by the Board of Pharmacy, delegate appropriate personnel to have access to said database;

(g) Good faith reliance by a practitioner on information contained in the West Virginia Controlled Substances Monitoring Program database in prescribing or dispensing or refusing or declining to prescribe or dispense a schedule II, III or IV controlled substance shall constitute an absolute defense in any civil or criminal action brought due to prescribing or dispensing or refusing or declining to prescribe or dispense; and

(h) A prescribing or dispensing practitioner may notify law enforcement of a patient who, in the prescribing or dispensing practitioner's judgment, may be in violation of section four hundred ten, article four of this chapter, based on information obtained and reviewed from the controlled substances monitoring database. A prescribing or dispensing practitioner who makes a notification pursuant to this subsection is immune from any civil, administrative or criminal liability that otherwise might be incurred or imposed because of the notification if the notification is made in good faith.

(i) Nothing in the article may be construed to require a practitioner to access the West Virginia Controlled Substances Monitoring Program database except as provided in section five-a of this article.

(j) The Board of Pharmacy shall provide an annual report on the West Virginia Controlled Substance Monitoring Program to the Legislative Oversight Commission on Health and Human Resources Accountability with recommendations for needed legislation no later than January 1 of each year.

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Wyoming
§ 35-7-1060

West's Wyoming Statutes Annotated (2013)
Title 35. Public Health and Safety
Chapter 7. Food and Drugs
Article 10. Controlled Substances
Article X

§ 35-7-1060. Controlled substances prescription tracking program

(a) In addition to other duties and responsibilities as provided by this act, the board shall maintain a computerized program to track prescriptions for controlled substances for the purposes of assisting patients, practitioners and pharmacists to avoid inappropriate use of controlled substances and of assisting with the identification of illegal activity related to the dispensing of controlled substances. The tracking program and any data created thereby shall be administered by the board, and the board may charge reasonable fees to help defray the costs of operating the program. Any fee shall be included with and in addition to other registration fees established by the board as authorized in W.S. 35-7-1023.

(b) All prescriptions for schedule II, III and IV controlled substances dispensed by any retail pharmacy licensed by the board shall be filed with the board electronically or by other means required by the board no more than seven (7) days after dispensed. The board may require the filing of other prescriptions and may specify the manner in which the prescriptions are filed.

(c) The tracking program shall not be used to infringe on the legal use of a controlled substance. Information obtained through the controlled substance prescription tracking program is confidential and may not be released and is not admissible in any judicial or administrative proceeding, except as follows:

(i) The board may release information to practitioners and pharmacists when the release of the information may be of assistance in preventing or avoiding inappropriate use of controlled substances;

(ii) The board shall report any information that it reasonably suspects may relate to fraudulent or illegal activity to the appropriate law enforcement agency and the relevant occupational licensing board;

(iii) The board may release information to the patient to whom the information pertains or his agent or, if the patient is a minor, to his parents or guardian;

(iv) The board may release information to a third party if the patient has signed a consent specifically for the release of his controlled substance prescription information to the specific third party;

(v) The board may release information that does not identify individual patients, practitioners, pharmacists or pharmacies, for educational, research or public information purposes; and

(vi) Subject to the rules of evidence, information obtained from the program is admissible in a criminal proceeding or an administrative proceeding involving professional licensing.

(d) Unless there is shown malice, gross negligence, recklessness or willful and wanton conduct in disclosing information collected under this act, the board, any other state agency and any other person or entity in proper possession of information as provided by this section shall not be subject to any civil or criminal liability or action for legal or equitable relief.

(e) The board may apply for and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

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