

# NAMSDL



**National Alliance for Model State Drug Laws**

## **TYPES OF AUTHORIZED RECIPIENTS - WORKER'S COMPENSATION SPECIALISTS**

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## Introduction

Each state determines by statute or regulation the persons or entities entitled to access or receive information in the prescription monitoring program database in that particular state. This memorandum sets out those states that allow access to or receipt of database information by worker's compensation specialists. This does not mean that if a particular state is not listed in this memorandum or the accompanying map that worker's compensation specialists in that state are not allowed access to the information. If such persons fall within the definition of "practitioner" or "health care provider" in the state, he or she may qualify for access to the prescription monitoring program database. The following states either specifically include worker's compensation specialists in the list of persons or entities entitled to access or NAMSDDL was informed by the administrator of the state prescription monitoring program that such persons are allowed access.

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# Arizona

§ 36-2604

§ 23-1026

Arizona Revised Statutes Annotated (2013)

Title 36. Public Health and Safety

Chapter 28. Controlled Substances Prescription Monitoring Program

Article 1. General Provisions

§ 36-2604. Use and release of confidential information

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

B. The board or its designee shall review the prescription information collected pursuant to this article. If the board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.

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

1. A person who is authorized to prescribe or dispense a controlled substance to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient.
2. An individual who requests the individual's own prescription monitoring information pursuant to § 12-2293.
3. A professional licensing board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint.
4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint.
5. The Arizona health care cost containment system administration regarding persons who are receiving services pursuant to chapter 29 of this title. Except as required pursuant to subsection B

of this section, the board shall provide this information only if the administration states in writing that the information is necessary for an open investigation or complaint.

6. A person serving a lawful order of a court of competent jurisdiction.

**7. A person who is authorized to prescribe or dispense a controlled substance and who performs an evaluation on an individual pursuant to § 23-1026.**

D. The board may provide data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual patients or persons who received prescriptions from dispensers.

Arizona Revised Statutes Annotated (2013)

Title 23. Labor

Chapter 6. Workers' Compensation

Article 7. Right to Compensation

§ 23-1026. Periodical medical examination of employee; effect of refusal or obstruction of examination or treatment

A. An employee who may be entitled to compensation under this chapter shall submit himself for medical examination from time to time at a place reasonably convenient for the employee, if and when requested by the commission, his employer or the insurance carrier. A place is reasonably convenient even if it is not where the employee resides if it is the place where the employee was injured and the employer or the insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable.

B. The request for the medical examination shall fix a time and place having regard to the convenience of the employee, his physical condition and his ability to attend. The employee may have a physician present at the examination if procured and paid for by himself.

C. If the employee refuses to submit to the medical examination or obstructs the examination, his right to compensation shall be suspended until the examination has been made, and no compensation shall be payable during or for such period.

D. A physician who makes or is present at the medical examination provided by this section may be required to testify as to the result thereof.

E. Upon appropriate application and hearing, the commission may reduce or suspend the compensation of an employee who persists in unsanitary or injurious practices tending to imperil or retard his recovery, or who refuses to submit to medical or surgical treatment reasonably necessary to promote his recovery.

F. An employee shall be excused from attending a scheduled medical examination if the employee requests a protective order and the administrative law judge finds that the scheduled examination is unnecessary, would be cumulative or could reasonably be timely scheduled with an appropriate physician where the employee resides. If a protective order is requested the burden is on the employer or insurance carrier to establish that a medical examination should be scheduled at a place other than where the employee resides. If an employee has left this state and the employer or insurance carrier pays in advance the employee's reasonable travel expenses, including the cost of transportation, food, lodging and loss of pay, if applicable, the employer or insurance carrier is entitled to have the employee return to this state one time a year for examination or one time following the filing of a petition to reopen.

**G. If a physician performs an examination under this section and is provided data from the Arizona state board of pharmacy pursuant to title 36, chapter 28, the physician may disclose that data to the employee, employer, insurance carrier and the commission.**

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# Montana

§ 39-71-11\_\_ (uncodified at time of publication)

West's Montana Code Annotated (2013)

Title 39. Labor

Chapter 71. Workers' Compensation

Part 11. Managed Care and Preferred Provider Organizations

§ 39-71-11\_\_\_. Schedule II and III drugs – prescriber obligation.

(1) In order to ensure high-quality health care for an individual with a compensable occupational injury or disease, prescriptions for Schedule II or Schedule III drugs identified in Title 50, chapter 32, part 2, may be carefully monitored for potential abuse, dependence, interaction, and diversion. Ongoing prescriptions for Schedule II and Schedule III drugs may be prescribed only by a treating physician.

**(2)(a) A treating physician authorized to prescribe prescription drugs may query the prescription drug registry provided for in Title 37, chapter 7, part 15, prior to the initial prescribing or refilling of a Schedule II or Schedule III drug for treatment of a workers' compensation injury or occupational disease. After consulting the prescription drug registry, a treating physician may decline to prescribe or refill a Schedule II or Schedule III drug if, in the treating physician's judgment, the drug should not be prescribed or refilled.**

(b) Prior to the initial prescribing of a Schedule II or Schedule III drug, a treating physician may discuss the risks and benefits of the use of the controlled substance, including risk of tolerance and drug dependence, with the patient or the patient's legal guardian.

(c) A treating physician shall note in the patient's medical file each query conducted.

(3) This section does not apply to a health care provider administering a Schedule II or Schedule III drug under the following circumstances:

(a) immediately prior to or after surgery;

(b) at the scene of an emergency;

(c) in a licensed ambulance; or

(d) in the emergency department or intensive care unit of a licensed hospital.

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# North Dakota

## § 19-03.5-03

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

### § 19-03.5-03. Access to prescription information

1. Information submitted to the central repository is confidential and may not be disclosed except as provided in this section.

2. The board shall maintain procedures to ensure that the privacy, confidentiality, and security of patient information collected, recorded, transmitted, and maintained is not disclosed except as provided in this section.

### **3. Unless disclosure is prohibited by law, the board may provide data in the central repository to:**

a. A prescriber for the purpose of providing medical care to a patient, a dispenser for the purpose of filling a prescription or providing pharmaceutical care for a patient, a prescriber or dispenser inquiring about the prescriber's or dispenser's own prescribing activity, or a prescriber or dispenser in order to further the purposes of the program;

b. An individual who requests the prescription information of the individual or the individual's minor child;

c. State boards and regulatory agencies that are responsible for the licensing of individuals authorized to prescribe or dispense controlled substances if the board or regulatory agency is seeking information from the central repository that is relevant to an investigation of an individual who holds a license issued by that board or regulatory agency;

d. Local, state, and federal law enforcement or prosecutorial officials engaged in the enforcement of laws relating to controlled substances who seek information for the purpose of an investigation or prosecution of the drug-related activity or probation compliance of an individual;

e. The department of human services for purposes regarding the utilization of controlled substances by a medicaid recipient or establishment and enforcement of child support and medical support;

### **f. Workforce safety and insurance for purposes regarding the utilization of controlled substances by a claimant;**



g. Judicial authorities under grand jury subpoena or court order or equivalent judicial process for investigation of criminal violations of controlled substances laws;

h. Public or private entities for statistical, research, or educational purposes after the information is de-identified with respect to any prescriber, dispenser, or patient who received a prescription for a controlled substance;

i. A peer review committee which means any committee of a health care organization, composed of health care providers, employees, administrators, consultants, agents, or members of the health care organization's governing body, which conducts professional peer review as defined in chapter 23-34; or

j. A licensed addiction counselor for the purpose of providing services for a licensed treatment program in this state.

4. The board shall maintain a record of each person who requests information from the central repository. The board may use the records to document and report statistics and outcomes. The board may provide records of the requests for information to:

a. A board or regulatory agency responsible for the licensing of individuals authorized to prescribe or dispense controlled substances that is engaged in an investigation of the individual who submitted the request for information from the central repository; and

b. Local, state, and federal law enforcement or prosecutorial officials engaged in the enforcement of laws relating to controlled substances for the purpose of an active investigation of an individual who requested information from the central repository.

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# Ohio

§ 4729.80

ADC 4123-6-21.4

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 agent registered with the board, the board may provide to the prescriber information from the database relating to a current patient of the prescriber, 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.

(6) On receipt of a request from a pharmacist, 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 5111.1710 of the Revised Code, the board may provide to the medical director information from the database relating to a medicaid recipient enrolled in the managed care organization.

(9) On receipt of a request from the director of job and family services, the board may provide to the director information from the database relating to a recipient of a program administered by the department of job and family services.

**(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;

(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.

Baldwin's Ohio Administrative Code Annotated (2013)  
4123 Workers' Compensation Bureau  
Chapter 4123-6. Health Partnership Program (HPP)

4123-6-21.4 Coordinated services program

The bureau, or a self-insuring employer with a point-of-service adjudication system, may establish a coordinated services program (CSP) that requires an injured worker to obtain prescription medications reimbursed by the bureau or self-insuring employer from a single designated pharmacy and/or prescriber.

(A) Placement in a CSP.

(1) The bureau or self-insuring employer with a point-of-service adjudication system may review an injured worker for possible placement in a CSP if a review of his or her claim indicates the injured worker meets one or more of the following criteria:

(a) Use of three or more different prescribers to obtain prescriptions of the same or comparable medications per three month time frame;

(b) Receipt of prescription drugs from more than two different pharmacies per three month time frame;

(c) Monthly receipt of three or more prescriptions including refills for drugs identified by therapeutic drug class as a narcotic analgesic per three month time frame;

(d) Monthly receipt of more than two concurrent narcotic analgesics in the same therapeutic drug class per three month time frame;

(e) Monthly receipt of more than two narcotic analgesics in the same therapeutic drug class, more than one benzodiazepine, and more than one sedative-hypnotics per three month time frame.

**(2) Upon identification of an injured worker meeting one or more of the criteria identified in paragraphs (A)(1)(a) to (A)(1)(e) of this rule, the bureau or self-insuring employer with a**

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**point-of-service adjudication system shall obtain a physician review of the injured worker's most recent twelve months history of prescription medications reimbursed by the bureau or self-insuring employer.**

(3) If, based on this physician review, the bureau or self-insuring employer with a point-of-service adjudication system determines that the injured worker's utilization of prescription medications during this period was at a frequency or in an amount that was not medically necessary or appropriate under the criteria set forth in paragraphs (B)(1) to (B)(3) of rule 4123-6-16.2 of the Administrative Code, or was potentially unsafe, the bureau or self-insuring employer may place the injured worker in a CSP.

(4) Notwithstanding paragraphs (A)(1) to (A)(3) of this rule, if the bureau or self-insuring employer with a point-of-service adjudication system determines that an injured worker has been convicted of or pled guilty to an offense under Chapter 2925. of the Revised Code or any other criminal offense related to the misuse of drugs, the bureau or self-insuring employer may place the injured worker in a CSP.

(5) Placement in a CSP shall be for an initial period of eighteen months. The bureau or self-insuring employer with a point-of-service adjudication system may place the injured worker in the CSP for additional eighteen month periods in accordance with paragraph (A)(6) of this rule.

(6) The bureau or self-insuring employer with a point-of-service adjudication system may evaluate an injured worker's medication utilization at the conclusion of each eighteen month period in the CSP. If the bureau or self-insuring employer determines that the injured worker's medication utilization continues to meet the criteria set forth in paragraphs (A)(1) to (A)(4) of this rule, the bureau or self-insuring employer may place the injured worker in the CSP for an additional eighteen month period.

(7) If an injured worker placed in the CSP enters a nursing home, residential care/assisted living facility, or hospice program, the injured worker shall be released from the CSP. If the injured worker is subsequently discharged from the nursing home, residential care/assisted living facility, or hospice program during the CSP period, the bureau or self-insuring employer with a point-of-service adjudication system may place the injured worker back into the CSP.

(B) Selection of designated pharmacy and/or prescriber.

(1) An injured worker placed into a CSP pursuant to paragraph (A)(3) or (A)(4) of this rule shall be given the opportunity to select a designated pharmacy from a list of participating pharmacies maintained by the bureau or self-insuring employer. If an injured worker fails to select a designated pharmacy, or selects a designated pharmacy that is unable or unwilling to accept the injured worker, the bureau or self-insuring employer may select a designated pharmacy for the injured worker.

(2) An injured worker placed in a CSP pursuant to paragraph (A)(3) or (A)(4) of this rule may only change from one designated pharmacy to another in the following circumstances:

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(a) The designated pharmacy becomes inaccessible to the injured worker due to relocation or incapacity of the injured worker or closing of the designated pharmacy,

(b) The designated pharmacy chooses to no longer participate in the CSP or to provide services to the injured worker in accordance with paragraph (D)(4) of this rule.

(c) The injured worker requests to be assigned to another designated pharmacy due to personal preference. Not more than one change due to personal preference shall be approved in a rolling twelve-month period.

(3) An injured worker placed in the CSP pursuant to paragraph (A)(4) of this rule shall be given the opportunity to select a designated prescriber from among those bureau certified providers who meet the definition of physician under paragraph (D) of rule 4123-6-01 of the Administrative Code. If an injured worker fails to select a designated prescriber, or selects a designated prescriber that is unable or unwilling to accept the injured worker, the bureau or self-insuring employer may select a designated prescriber for the injured worker.

(4) An injured worker placed in a CSP pursuant to paragraph (A)(4) of this rule may only change from one designated prescriber to another in the following circumstances:

(a) The designated prescriber becomes inaccessible to the injured worker due to relocation or incapacity of the injured worker or closing of the designated prescriber's practice,

(b) The designated prescriber chooses to no longer provide services to the injured worker,

(c) The injured worker requests to be assigned to another designated prescriber due to personal preference. Not more than one change due to personal preference shall be approved in a rolling twelve-month period.

(5) All requests for change of designated pharmacy or designated prescriber must be submitted in writing to the bureau or self-insuring employer.

(C) Operation of the CSP.

(1) An injured worker placed in a CSP pursuant to paragraph (A)(3) or (A)(4) of this rule must obtain covered prescription medications from the injured worker's designated pharmacy. During the period the injured worker is placed in the CSP, the bureau or self-insuring employer shall deny reimbursement for prescription medications obtained from a pharmacy other than the injured worker's designated pharmacy, except in cases of emergency as set forth in paragraph (C)(2) of this rule.

(2) Emergency prescription fills shall be allowed in the following situations:

(a) The injured worker is unable to get to his or her designated pharmacy,

(b) The injured worker's designated pharmacy does not have the prescribed medication in stock.

(3) Emergency prescription fills shall be limited to a four-day supply. Records of dispensing for emergency prescription fills are subject to review by the bureau.

(4) An injured worker placed in a CSP pursuant to paragraph (A)(4) of this rule must obtain all prescriptions for covered medications from the injured worker's designated prescriber. During the period the injured worker is placed in the CSP, the bureau or self-insuring employer shall deny reimbursement for prescriptions written by providers other than the injured worker's designated prescriber, except:

(a) In cases of emergency as defined in paragraph (O) of rule 4123-6-01 of the Administrative Code;

(b) With prior authorization, prescriptions written by a specialist in cases where the injured worker has been referred to a specialist for care.

(D) Pharmacies participating in the bureau's CSP.

(1) The bureau shall maintain a list of pharmacies participating in the bureau's CSP that are eligible for selection by an injured worker as a designated pharmacy. To participate in the bureau's CSP, a pharmacy must meet the following criteria:

(a) The pharmacy must be enrolled with the bureau and have a signed agreement with the bureau's pharmacy benefits manager.

(b) The pharmacy must enter into a CSP agreement with the bureau.

**(2) Pharmacies participating in the bureau's CSP agree to perform the following monitoring activities:**

**(a) For each injured worker in the bureau's CSP for whom the pharmacy is the designated pharmacy, the pharmacy shall conduct a bimonthly review of the injured worker's OARRS report from the Ohio board of pharmacy (or a similar automated prescription monitoring report from the injured worker's state of residence).**

**(b) The pharmacy shall notify the injured worker's prescribing physician of any critical findings discovered in the report. Critical findings are indications of any prescription related activity that could cause harm to the patient, including but not limited to:**

**(i) Duplication of therapy,**

**(ii) Excessive doses of concurrent medications,**

**(iii) Potential drug interactions or potentiation of side effects.**

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**(c) The pharmacy shall notify BWC in writing whenever reports are made under paragraph (D)(2)(b) of this rule.**

**(d) BWC may request quarterly documentation of the pharmacy's monitoring activities under paragraphs (D)(2)(a) to (D)(2)(d) of this rule.**

(3) Pharmacies participating in the CSP may receive compensation from the bureau under the CSP agreement for services provided as part of the CSP.

(4) Pharmacies participating in the bureau's CSP may terminate their CSP agreement with the bureau and discontinue their participation in the bureau's CSP at any time upon not less than thirty days written notice to the bureau. Pharmacies participating in the bureau's CSP may discontinue providing services to an individual injured worker at any time upon not less than thirty days written notice to the bureau, the injured worker, and the injured worker's authorized representative.

(5) The bureau may terminate the CSP agreement of a pharmacy participating in the bureau's CSP in accordance with the terms of the CSP agreement.

(E) Pharmacies participating in a self-insuring employer's CSP.

(1) A self-insuring employer with a point-of-service adjudication system who establishes a CSP shall maintain a list of pharmacies participating in the self-insuring employer's CSP that are eligible for selection by an injured worker as a designated pharmacy. The list of participating pharmacies shall cover a geographic area sufficient to provide the self-insuring employer's injured workers with reasonable access to pharmacy providers.

(2) Pharmacies participating in a self-insuring employer's CSP shall provide not less than thirty days written notice to an injured worker and the injured worker's authorized representative prior to discontinuing services to the injured worker.

(F) Disputes.

(1) Decisions by the bureau regarding an injured worker's placement in the bureau's CSP, assignment of a designated pharmacy or designated prescriber, or denial of an injured worker's request for change of designated pharmacy or designated prescriber may be appealed to the industrial commission in accordance with section 4123.511 of the Revised Code.

(2) Decisions by a self-insuring employer regarding an injured worker's placement in the self-insuring employer's CSP, assignment of a designated pharmacy or designated prescriber, or denial of an injured worker's request for change of designated pharmacy or designated prescriber shall indicate that the injured worker has the right to request a hearing before the industrial commission.

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# Utah

§ 58-37f-301

West's Utah Code Annotated (2013)  
Title 58. Occupations and Professions  
Chapter 37F. Controlled Substance Database Act  
Part 3. Access

§ 58-37f-301. Access to database

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

(b) establish standards and procedures to ensure accurate identification of individuals requesting information or receiving information without request from the database.

**(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:**

(a) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division;

(b) authorized division personnel engaged in analysis of controlled substance prescription information as a part of the assigned duties and responsibilities of their employment;

(c) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies; or

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance;

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health,

whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services; and

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(e) a licensed practitioner having authority to prescribe controlled substances, to the extent the information:

(i)(A) relates specifically to a current or prospective patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

(III) providing medical treatment or medical advice to the current or prospective patient; or

(IV) determining whether the current or prospective patient:

(Aa) is attempting to fraudulently obtain a controlled substance from the practitioner; or

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

(ii)(A) relates specifically to a former patient of the practitioner; and

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(f); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(f) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(e), for a purpose described in Subsection (2)(e)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner provides written notice to the division of the identity of the employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(g) an employee of the same business that employs a licensed practitioner under Subsection (2)(e) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;

(h) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance; or

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;

(i) federal, state, and local law enforcement authorities, and state and local prosecutors, engaged as a specified duty of their employment in enforcing laws:

(i) regulating controlled substances;

(ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud; or

(iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;

(j) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(k) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(k)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(k)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(k)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(k), from the database;

(l) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(m) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers; and

**(n) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:**

**(i) a member of the medical panel described in Section 34A-2-601; or**

**(ii) a physician offering a second opinion regarding treatment.**

(3)(a) A practitioner described in Subsection (2)(e) may designate up to three employees to access information from the database under Subsection (2)(f), (2)(g), or (4)(c).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(f), (2)(g), or (4)(c) should be granted access to the database; and

(ii) establish the information to be provided by an emergency room employee under Subsection (4).

(c) The division shall grant an employee designated under Subsection (2)(f), (2)(g), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4)(a) An individual who is employed in the emergency room of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed in the emergency room;

(ii) is treating an emergency room patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency room and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency room employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency room under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the hospital operating the emergency room provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(f), (2)(g), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5)(a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

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# Washington

§ 70.225.040

West's Revised Code of Washington Annotated (2013)

Title 70. Public Health and Safety

Chapter 70.225. Prescription Monitoring Program

§ 70.225.040. Confidentiality of prescription information--Procedures--Immunity when acting in good faith

(1) Prescription information submitted to the department shall be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

**(3) The department may provide data in the prescription monitoring program to the following persons:**

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

**(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;**

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; and



(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner 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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