

NAMSDL



National Alliance for Model State Drug Laws

TYPES OF AUTHORIZED RECIPIENTS – CORONERS AND/OR MEDICAL EXAMINERS OR STATE TOXICOLOGISTS

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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 coroners, medical examiners, and/or state toxicologists. This does not mean that if a particular state is not listed in this memorandum or the accompanying map that coroners, medical examiners, and toxicologists 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. Additionally, some medical examiners are treated as law enforcement and may obtain access as a law enforcement official. The following states either specifically include coroners, medical examiners, and/or state toxicologists 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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Arkansas
§ 20-7-607
ADC 007.07.4-VII

West's Arkansas Code Annotated (2013)
Title 20. Public Health and Welfare
Subtitle 2. Health and Safety
Chapter 7. State Board of Health--Department of Health
Subchapter 6. Prescription Drug Monitoring Program Act

§ 20-7-607. Providing prescription monitoring information

(a)(1) The Department of Health may review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances.

(2) If information of misuse or abuse is identified, the department shall notify the practitioners and dispensers who prescribed or dispensed the prescriptions.

(b) The department shall provide information in the Prescription Drug Monitoring Program upon request and at no cost only to the following persons:

(1) A person authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for his or her patients or for reviewing information regarding prescriptions that are recorded as having been issued or dispensed by the requester;

(2) A patient who requests his or her own prescription monitoring information;

(3) A parent or legal guardian of a minor child who requests the minor child's Prescription Drug Monitoring Program information;

(4)(A) A designated representative of a professional licensing board of the professions of the healing arts representing health care disciplines whose licensees are prescribers pursuant to an investigation of a specific individual, entity, or business licensed or permitted by that board.

(B) Except as permitted by subsection (a)(2) of this section, the department shall provide information under subsection (b)(4)(A) of this section only if the requesting board states in writing that the information is necessary for an investigation;

(5) The State Medical Examiner as authorized by law to investigate causes of deaths for cases under investigation pursuant to his or her official duties and responsibilities;

(6) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances required to be submitted under this subchapter pursuant to the agency's official duties and responsibilities; and

(7) Personnel of the department for purposes of administration and enforcement of this subchapter.

(c) Information collected under this subchapter shall be maintained for three (3) years.

(d) The department may provide information to public or private entities for statistical, research, or educational purposes after encrypting or removing the patient's name, street name and number, patient identification number, month and day of birth, and prescriber information that could be used to identify individual patients or persons who received prescriptions from dispensers, or both.

West's Arkansas Administrative Code (2013)

Title 007. Department of Health

Division 07. Pharmacy Services

Rule 4. Regulations Pertaining to Prescription Drug Monitoring Program

007.07.4-VII. Providing Prescription Monitoring Information

(a)(1) The Department of Health may review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances.

(2) If information of misuse or abuse is identified, the department shall notify the practitioners and dispensers who prescribed or dispensed the prescriptions.

(b) The department shall provide information in the Prescription Drug Monitoring Program upon request and at no cost only to the following persons:

(1) A person authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for his or her patients or for reviewing information regarding prescriptions that are recorded as having been issued or dispensed by the requester;

(2) A patient who requests his or her own prescription monitoring information;

(3) A parent or legal guardian of a minor child who requests the minor child's Prescription Drug Monitoring Program information;

(4)(A) A designated representative of a professional licensing board of the professions of the healing arts representing health care disciplines whose licensees are prescribers pursuant to an investigation of a specific individual, entity, or business licensed or permitted by that board.

(B) Except as permitted by subsection (a)(2) of this section, the department shall provide information under subsection (b)(4)(A) of this section only if the requesting board states in writing that the information is necessary for an investigation;

(5) The State Medical Examiner as authorized by law to investigate causes of deaths for cases under investigation pursuant to his or her official duties and responsibilities;

(6) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances required to be submitted under Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations pursuant to the agency's official duties and responsibilities; and

(7) Personnel of the department for purposes of administration and enforcement of Arkansas Code Annotated § 20-7-607 and this section.

(c) Information collected under Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations shall be maintained for three (3) years.

(d) The department may provide information to public or private entities for statistical, research, or educational purposes after encrypting or removing the patient's name, street name and number, patient identification number, month and day of birth, and prescriber information that could be used to identify individual patients, persons who received prescriptions from dispensers, or both.

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Delaware

16 § 4798 (eff. March 1, 2014)

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 March 1, 2014>

(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.

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(h) The Chief Medical Examiner or licensed physician designee may obtain a patient utilization report from the Prescription Monitoring Program for the purpose of investigating the death of an individual.

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(l) 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 nonidentifying 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. A licensed chemical dependency professional or licensed professional counselor of mental health who requests information and certifies that the requested information is for a patient enrolled in a substance abuse treatment program receiving treatment from, or under the direction of, the chemical dependency professional or professional counselor of mental health;
- i. The Chief Medical Examiner or licensed physician designee who requests information and certifies the request is for the purpose of investigating the death of an individual;**
- j. 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.

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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 program. The civil

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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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Kansas
§ 65-1685

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

§ 65-1685. Same; database information privileged and confidential; persons authorized to receive data; advisory committee review of information

(a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(b) The board 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 provided in subsections (c) and (d).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense scheduled substances and drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the department of health and environment regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena, inquisition subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program;

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(9) persons authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse or diversion of scheduled substances or drugs of concern; and

(10) medical examiners, coroners or other persons authorized under law to investigate or determine causes of death.

(d) The prescription monitoring program advisory committee established pursuant to K.S.A. 65-1689, and amendments thereto, is authorized to review and analyze the data for purposes of identifying patterns and activity of concern.

(1) If a review of information appears to indicate a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances and drugs of concern, the advisory committee is authorized to notify the prescribers and dispensers who prescribed or dispensed the prescriptions. If the review identifies patterns or other evidence sufficient to create a reasonable suspicion of criminal activity, the advisory committee is authorized to notify the appropriate law enforcement agency.

(2) If a review of information appears to indicate that a violation of state or federal law relating to prescribing controlled substances and drugs of concern may have occurred, or that a prescriber or dispenser has knowingly prescribed, dispensed or obtained controlled substances and drugs of concern in a manner that is inconsistent with recognized standards of care for the profession, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in prescribing or dispensing of controlled substances and drugs of concern or to the appropriate law enforcement agency is warranted.

(A) For purposes of such determination the advisory committee may, in consultation with the appropriate regulatory agencies and professional organizations, establish criteria regarding appropriate standards and utilize volunteer peer review committees of professionals with expertise in the particular practice to create such standards and review individual cases.

(B) The peer review committee or committees appointed herein shall have authority to request and receive information in the prescription monitoring program database from the director of the prescription monitoring program.

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(C) If the determination is made that a referral to a regulatory or law enforcement agency is not warranted but educational or professional advising might be appropriate, the advisory committee may refer the prescribers or dispensers to other such resources.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

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Kentucky
§ 218A.202
902 KAR 55:110

Baldwin's Kentucky Revised Statutes Annotated (2013)
Title XVIII. Public Health
Chapter 218A. Controlled Substances

§ 218A.202 Electronic system for monitoring controlled substances; required registration and reporting; penalty for illegal use of system; pilot or continuing project; continuing education programs; reports of failure to comply with section; administrative regulations

...

(6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program in conformity with subsection (7) of this section;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;

(e) A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who requests information and certifies that the requested information is for the purpose of:

1. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient; or
2. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;

(f) The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;

(g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

(h) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

(i) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is

documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; or

(j) A medical examiner engaged in a death investigation pursuant to KRS 72.026.

(7) The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:

(a) Appropriately managed by a single outpatient pharmacy or primary care physician; or

(b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.

(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

(a) A person specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with any other persons specified in subsection (6)(b) of this section authorized to receive data or a report if the persons specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section;

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;

(d) If a state licensing board as defined in Section 4 of this Act initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and

(e) A practitioner, pharmacist, or employee who obtains data under subsection (6)(e) of this section may share the report with the patient or person authorized to act on the patient's behalf and place the report in the patient's medical record, with that individual report then being deemed

a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.

(9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

(12) Intentional disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315. 121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

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Kentucky Administrative Regulations (2013)
Title 902. Cabinet for Health and Family Services Department for Public Health
Chapter 55. Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances

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Section 4. Request for Report. (1) A written or electronic request shall be filed with the cabinet prior to the release of a report, except for a subpoena issued by a grand jury or an appropriate court order issued by a court of competent jurisdiction.

(2) A request for a KASPER patient report shall be made electronically at www.chfs.ky.gov/KASPER.

(3) A request for a KASPER provider report made by a peace officer authorized to receive data under KRS 218A.202, or a designated representative of a board responsible for the licensure, regulation, or discipline of prescribing practitioners shall be made by written application on the "Request for KASPER Report (Law Enforcement and Licensure Boards)", Form DCB-15L.

(4) A medical examiner engaged in a death investigation pursuant to KRS 72.026 may query KASPER for a report on the decedent.

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Maine

22 § 7250

ADC 14-118, Ch. 11, § 7

Maine Revised Statutes Annotated (2013)

Title 22. Health and Welfare

Subtitle 4. Human Services

Part 3. Drug Abuse

Chapter 1603. Controlled Substances Prescription Monitoring

§ 7250. Access to prescription monitoring information and confidentiality

1. Confidentiality. Except as provided in this section, prescription monitoring information submitted to the department is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

2. Review of information. If the prescription monitoring information surpasses thresholds as established by the department, the department shall notify the prescriber, the dispenser and, if the department determines it to be necessary, the professional licensing entity and provide all relevant prescription monitoring information to those persons and entities through an established letter of notification.

3. Permissible disclosure of information. The department may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

4. Access to information. The following persons may access prescription monitoring information:

A. A prescriber, insofar as the information relates to a patient under the prescriber's care;

B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled;

C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause;

D. A patient to whom a prescription is written, insofar as the information relates to that patient;

E. Department personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system;

F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022;

G. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members, avoiding duplicate dispensing of controlled substances and providing treatment pattern data under subsection 6; and

H. Another state pursuant to subsection 4-A.

4-A. Information sharing with other states. The department may provide prescription monitoring information to and receive prescription monitoring information from another state that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the department. The department may enter into a prescription monitoring information sharing agreement with another state to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For purposes of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

5. Purge of information. The department shall purge from the program all information that is more than 6 years old.

6. Treatment pattern data. The department may provide to a prescriber who treats a member under the MaineCare program prescription monitoring information on the prescriber and other prescribers that is de-identified as to prescriber and patient and that indicates treatment patterns in comparison among peers. If the department has shared with a prescriber treatment pattern data under this subsection, the department shall allow the prescriber time to align the prescriber's prescribing patterns with the patterns of the peers of the prescriber. The department may take appropriate actions with regard to a prescriber who is unable to achieve treatment pattern alignment as provided in this subsection.

Code of Maine Rules (2013)

14. Department of Behavioral and Developmental Services

118. Office of Substance Abuse

Chapter 11. Rules Governing The Controlled Substances Prescription Monitoring Program

Sec. 7. Access to Prescription Monitoring Information

1. By patients

A. A patient, or a patients' authorized representative, may obtain a report listing all prescription monitoring information that pertains to the patient.

B. A patient or a patient's authorized representative seeking access to prescription monitoring information described above must submit a written request for information in person at the office of the Monitor, or at any other place specified by the Monitor or the Office. The written request shall be in a format established by the Office or the Monitor and shall contain at least, but not limited to, the following elements:

1) the patient's name and the full name of the patient's authorized representative, if applicable;

2) the patient's date of birth;

3) the patient's address, and the complete physical address of the patient's authorized representative, if applicable;

4) the patient's telephone number, if any, and the telephone number of the authorized representative, if applicable; and

5) the time period for which information is being requested.

C. The patient or the patient's authorized representative must produce valid photographic identification prior to obtaining access to the information described above. The patient or the patient's authorized representative must allow photocopying of the identification.

D. Prior to obtaining access to the information described above, authorized representatives must produce either an official attested copy of the judicial order granting them authority to gain access to the health care records of the patient; or in the case of parents of a minor child, a certified copy of the Birth Certificate of the minor child or other official documents establishing legal guardianship; or in the case of persons holding power of attorney, the original document establishing the power of attorney. The patient's authorized representative must allow photocopying of the documents described above. The Office or the Monitor may verify the patient authorization by any reasonable means prior to providing the information to the authorized representative.

2. By dispensers

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A. A dispenser, or a licensed pharmacy technician authorized by a supervising pharmacist, may obtain any prescription monitoring information insofar as the information relates to a customer of the dispenser seeking to have a prescription filled. The information shall be provided in a format established by the Office, which may include, but is not limited to, delivery by electronic means, facsimile transmission, or telephonic communication.

B. A dispenser who seeks access to the information described above must register as a data requester in a manner specified by the Monitor or the Office. The Office or Monitor shall issue credentials to authorized dispensers. Dispensers may use these credentials to access the online database and submit requests. If the credentials issued by the Office are lost, missing, or the security of the credentials is compromised, the dispenser shall cause the Office or Monitor to be notified by telephone and in writing as soon as reasonably possible. Information regarding more than one customer may be submitted in a single request. Requests shall be in a format established by the Office or the Monitor and shall contain at least, but not limited to, the following elements for each customer:

- 1) The name and date of birth of the customer; and
- 2) The time period for which information is being requested.

C. The Office or the Monitor shall take reasonable steps to verify each registration, such as, but not limited to, making a telephone call to the dispenser or to an agent of the dispenser at a telephone number known to belong to the dispenser's place of business.

3. By prescribers

A. A prescriber, or any staff member duly authorized by a prescriber and the Office, may obtain any prescription monitoring information insofar as the information relates to a patient under the prescriber's care. The information shall be provided in a format established by the Office, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

B. A prescriber, or any staff member duly authorized by a prescriber and the Office, who seeks access to the information described above must register as a data requester in a manner specified by the Monitor or the Office. The Office or Monitor shall issue credentials to authorized prescribers or their designees. Data requesters may use these credentials to access the online database and submit requests. If the credentials issued by the Office are lost, missing, or the security of the credentials is compromised, the data requester shall cause the Office or Monitor to be notified by telephone and in writing as soon as reasonably possible. Requests shall be in a format established by the Office or the Monitor and shall contain at least, but not limited to, the following elements for each patient:

- 1) The name and date of birth of the patient; and
- 2) The time period for which information is being requested.

C. The Office or the Monitor shall take reasonable steps to verify each registration, such as, but not limited to, making a telephone call to the prescriber and licensed health care practitioners duly authorized by prescribers, or to an agent of the prescriber at a telephone number known to belong to the prescriber's place of business.

4. By executive director, board investigator, or person authorized to discharge equivalent functions of a licensing board.

A. An executive director, board investigator, or person authorized to discharge equivalent functions of a licensing board with jurisdiction over a dispenser or prescriber may obtain any prescription monitoring information as required for an investigation, with reasonable cause. The information shall be provided in a format established by the Office, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

B. An executive director, board investigator, or person authorized to discharge equivalent functions of a licensing board with jurisdiction over a dispenser or prescriber who seeks access to prescription monitoring information described above must submit a request via mail, facsimile, or secure electronic transmission, to a location specified by the Monitor or the Office. The request shall contain identifying information regarding the licensee or patient and the time period for which the information is being requested. The data requester shall certify that each request is related to an investigation involving misuse of a Schedule II, III, or IV drug and provide a case number or other assurance that the request is related to the board representative's official duties.

5. By personnel of any vendor or contractor engaged by the Office

A. Personnel of any vendor or contractor engaged by the Office may obtain any prescription monitoring information insofar as the information is necessary for establishing and maintaining the program's electronic system.

B. The Office, the monitor, and program vendors or contractors engaged by the Office, shall purge all prescription monitoring information more than six years old.

6. By the units within the Department of Health and Human Services that administer the MaineCare program.

A. Subject to the requirements of 22 M.R.S.A. §7250(4)(F), the authorized representative of those units of the Department of Health and Human Services which oversee, administer, or otherwise supervise MaineCare programs which determine eligibility for and use of prescription drugs, and the appropriate utilization of prescription drugs, for the purposes of managing the care of MaineCare members, monitoring the purchase of controlled substances by MaineCare members, and avoiding duplicate dispensing of controlled substances to MaineCare members.

B. The person or persons authorized pursuant to Section 7(6)(A) must submit a request via mail, facsimile, or secure electronic transmission, to a location specified by the Monitor or the Office. The request shall contain surname, first name, and date of birth of the member and the time period for which the information is being requested. An intervention approach shall be undertaken with MaineCare members who are determined to be accessing controlled substances in a quantity or with a frequency beyond the norm for persons with similar medical conditions or diagnoses and the intervention approach shall not include terminating the member from MaineCare services.

7. By the Office of the Chief Medical Examiner

A. The Chief Medical Examiner or a designee may obtain any prescription monitoring information as required for an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case. The information shall be provided in a format established by the Office of Substance Abuse, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

B. The Chief Medical Examiner or a designee must submit a request via mail, facsimile, or secure electronic transmission, to a location specified by the Monitor or the Office. The request shall contain the surname, first name, and date of birth of the decedent and the time period for which the information is being requested.

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Maryland

Health-General § 21-2A-06 (eff. until Oct. 1, 2013)

Health-General § 21-2A-06 (eff. Oct. 1, 2013)

ADC 10.47.07.04

West's Annotated Code of Maryland (2013)

Health--General

Title 21. Food, Drugs, and Cosmetics

Subtitle 2A. Prescription Drug Monitoring Program

§ 21-2A-06. Confidentiality of prescription monitoring data

<Text of section effective until October 1, 2013>

Data not subject to discovery or subpoena

(a) Prescription monitoring data:

(1) Are confidential and privileged, and not subject to discovery, subpoena, or other means of legal compulsion in civil litigation;

(2) Are not public records; and

(3) Except as provided in subsections (b) and (d) of this section or as otherwise provided by law, may not be disclosed to any person.

Allowable disclosure of prescription monitoring data

(b) The Program shall disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

(1) A prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;

(2) A dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;

(3) A federal law enforcement agency or a State or local law enforcement agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide individual investigation;

(4) A licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for the purposes of furthering an existing bona fide individual investigation;

(5) A rehabilitation program under a health occupations board, on issuance of an administrative subpoena;

(6) A patient with respect to prescription monitoring data about the patient;

(7) Subject to subsection (g) of this section, the authorized administrator of another state's prescription drug monitoring program;

(8) The following units of the Department, on approval of the Secretary, for the purpose of furthering an existing bona fide individual investigation:

(i) The Office of the Chief Medical Examiner;

(ii) The Maryland Medical Assistance Program;

(iii) The Office of the Inspector General; and

(iv) The Office of Health Care Quality; or

(9) The technical advisory committee established under § 21-2A-07 of this subtitle for the purposes set forth in subsection (c) of this section.

Review of requests for information

(c) Before the Program discloses information under subsection (b)(3), (4), (5), (7), or (8) of this section, the technical advisory committee to the Program shall:

(1) Review the requests for information;

(2) Provide clinical guidance and interpretation of the information requested to the Secretary to assist in the Secretary's decision on how to respond to a judicial subpoena, administrative subpoena, or other request; and

(3) Provide clinical guidance and interpretation of the information requested to the authorized recipient of the information.

Persons who receive prescription monitoring data prohibited from disclosure

(d) Except as provided by regulations adopted by the Secretary, a person who receives prescription monitoring data from the Program may not disclose the data.

Disclosure of data for research, analysis, public reporting, and education

(e)(1) In addition to the disclosures required under subsection (b) of this section, the Program may disclose prescription monitoring data for research, analysis, public reporting, and education:

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(i) After redaction of all information that could identify a patient, prescriber, dispenser, or any other individual; and

(ii) In accordance with regulations adopted by the Secretary.

(2) The Secretary may require submission of an abstract explaining the scope and purpose of the research, analysis, public reporting, or education before disclosing prescription monitoring data under this subsection.

Injunctive relief

(f) The Office of the Attorney General may seek appropriate injunctive or other relief to maintain the confidentiality of prescription monitoring data as required under this section.

Prescription monitoring data shared with other states

(g) The Program may provide prescription monitoring data to another state's prescription drug monitoring program only if the other state's prescription drug monitoring program agrees to use the prescription monitoring data in a manner consistent with the provisions of this subtitle.

Request and receipt of prescription monitoring data from other states

(h) The Program may:

(1) Request and receive prescription monitoring data from another state's prescription drug monitoring program and use the prescription monitoring data in a manner consistent with the provisions of this subtitle; and

(2) Develop the capability to transmit prescription monitoring data to and receive prescription monitoring data from other prescription drug monitoring programs employing the standards of interoperability.

Written agreements with other states

(i) The Program may enter into written agreements with other states' prescription drug monitoring programs for the purpose of establishing the terms and conditions for sharing prescription monitoring data under this section.

Clinical practice standards

(j) Prescription monitoring data may not be used as the basis for imposing clinical practice standards.

West's Annotated Code of Maryland (2013)
Health--General
Title 21. Food, Drugs, and Cosmetics
Subtitle 2A. Prescription Drug Monitoring Program

§ 21-2A-06. Confidentiality of prescription monitoring data

<Text of section effective October 1, 2013>

Data not subject to discovery or subpoena

(a) Prescription monitoring data:

- (1) Are confidential and privileged, and not subject to discovery, subpoena, or other means of legal compulsion in civil litigation;
- (2) Are not public records; and
- (3) Except as provided in subsections (b) and (d) of this section or as otherwise provided by law, may not be disclosed to any person.

Allowable disclosure of prescription monitoring data

(b) The Program shall disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

- (1) A prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;
- (2) A dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;
- (3) A federal law enforcement agency or a State or local law enforcement agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide individual investigation;
- (4) A licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for the purposes of furthering an existing bona fide individual investigation;
- (5) A rehabilitation program under a health occupations board, on issuance of an administrative subpoena;
- (6) A patient with respect to prescription monitoring data about the patient;

(7) Subject to subsection (g) of this section, the authorized administrator of another state's prescription drug monitoring program;

(8) The following units of the Department, on approval of the Secretary, for the purpose of furthering an existing bona fide individual investigation:

(i) The Office of the Chief Medical Examiner;

(ii) The Maryland Medical Assistance Program;

(iii) The Office of the Inspector General;

(iv) The Office of Health Care Quality; and

(v) The Division of Drug Control; or

(9) The technical advisory committee established under § 21-2A-07 of this subtitle for the purposes set forth in subsection (c) of this section.

Review of requests for information

(c) Before the Program discloses information under subsection (b)(3), (4), (5), (7), or (8) of this section, the technical advisory committee to the Program shall:

(1) Review the requests for information;

(2) Provide clinical guidance and interpretation of the information requested to the Secretary to assist in the Secretary's decision on how to respond to a judicial subpoena, administrative subpoena, or other request; and

(3) Provide clinical guidance and interpretation of the information requested to the authorized recipient of the information.

Persons who receive prescription monitoring data prohibited from disclosure

(d) Except as provided by regulations adopted by the Secretary, a person who receives prescription monitoring data from the Program may not disclose the data.

Disclosure of data for research, analysis, public reporting, and education

(e)(1) In addition to the disclosures required under subsection (b) of this section, the Program may disclose prescription monitoring data for research, analysis, public reporting, and education:

(i) After redaction of all information that could identify a patient, prescriber, dispenser, or any other individual; and

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(ii) In accordance with regulations adopted by the Secretary.

(2) The Secretary may require submission of an abstract explaining the scope and purpose of the research, analysis, public reporting, or education before disclosing prescription monitoring data under this subsection.

Injunctive relief

(f) The Office of the Attorney General may seek appropriate injunctive or other relief to maintain the confidentiality of prescription monitoring data as required under this section.

Prescription monitoring data shared with other states

(g) The Program may provide prescription monitoring data to another state's prescription drug monitoring program only if the other state's prescription drug monitoring program agrees to use the prescription monitoring data in a manner consistent with the provisions of this subtitle.

Request and receipt of prescription monitoring data from other states

(h) The Program may:

(1) Request and receive prescription monitoring data from another state's prescription drug monitoring program and use the prescription monitoring data in a manner consistent with the provisions of this subtitle; and

(2) Develop the capability to transmit prescription monitoring data to and receive prescription monitoring data from other prescription drug monitoring programs employing the standards of interoperability.

Written agreements with other states

(i) The Program may enter into written agreements with other states' prescription drug monitoring programs for the purpose of establishing the terms and conditions for sharing prescription monitoring data under this section.

Clinical practice standards

(j) Prescription monitoring data may not be used as the basis for imposing clinical practice standards.

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

.04 Disclosure of Prescription Monitoring Data.

A. Registration of a Prescriber, a Dispenser, or an Authorized Licensed Health Care Practitioner to Request Prescription Monitoring Data.

(1) A prescriber, a dispenser, or an authorized licensed health care practitioner shall register with the Department or its agent, in a manner specified by the Department, in order to request disclosure of or otherwise access prescription monitoring data.

(2) The Department or its agent shall:

(a) Establish procedures to authenticate a prescriber, a dispenser, or an authorized licensed health care practitioner in accordance with Health-General Article, §21-2A-06(b)(1)-(2), Annotated Code of Maryland; and

(b) Issue credentials to a prescriber, a dispenser, or an authorized licensed health care practitioner that can be used to request disclosure of or otherwise access prescription monitoring data electronically.

(3) If the credentials issued to a registrant are lost, stolen, or otherwise compromised, the registrant shall notify the Department or its agent, by a method approved by the Department, as soon as reasonably possible.

(4) A prescriber or dispenser who authorizes the registration of a licensed health care practitioner to request disclosure of or otherwise access prescription monitoring data shall:

(a) Make every reasonable effort, including regularly reviewing and auditing any available logs of system access and use, to ensure the authorized licensed health care practitioner is requesting disclosure of, redisclosing, or otherwise accessing prescription monitoring data in clear compliance with Health-General Article, Title 21, Subtitle 2A, Annotated Code of Maryland, and all other State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records;

(b) Immediately notify the Department or its agent, by a method approved by the Department, as well as the licensing entity responsible for licensing, certifying, or registering the authorized licensed health care practitioner, if the prescriber or dispenser believes that the confidentiality of prescription monitoring data or the security of the Program has been compromised by an authorized licensed health care practitioner; and

(c) Immediately notify the Department or its agent, by a method approved by the Department, of any requested change in the registration status of an authorized licensed health care practitioner, including if that authorized licensed health care practitioner is no longer employed by or practicing under the authority of the prescriber or dispenser.

B. Disclosure of Prescription Monitoring Data to a Prescriber, a Dispenser, or an Authorized Licensed Health Care Practitioner.

(1) Upon request from a prescriber or a licensed health care practitioner authorized by a prescriber, the Program shall disclose patient-specific prescription monitoring data provided that the request is made solely for the purpose of the medical care or treatment of the patient about whom prescription monitoring data is being requested.

(2) Upon request from a prescriber, the Program may provide a report containing prescription monitoring data on all monitored prescription drugs dispensed pursuant to the prescriber's prescriptions, provided that the request is submitted on a form or in a manner approved by the Department.

(3) Upon request from a dispenser or a licensed health care practitioner authorized by a dispenser, the Program shall disclose patient-specific prescription monitoring data provided that the request is made pursuant to a dispenser's responsibility to perform due diligence and exercise professional judgment when presented with a prescription to dispense a monitored prescription drug for use by the patient about whom prescription monitoring data is being requested.

(4) The Department or its agent shall make available the electronic means by which a prescriber, a dispenser, or an authorized licensed health care practitioner may request disclosure of or otherwise access patient-specific prescription monitoring data.

C. Disclosure of Prescription Monitoring Data to a Federal, State, or Local Law Enforcement Agency. The Program shall disclose prescription monitoring data to a federal, State, or local law enforcement agency, for the purpose of furthering an existing bona fide individual investigation, on receipt of a subpoena that:

(1) Includes information sufficient to identify the unique prescriber, dispenser, or patient about whom prescription monitoring data is requested;

(2) Specifies the time frame for which prescription monitoring data is requested, including the day, month, and year the report is to begin and end;

(3) Includes an agency case number or other identifier sufficient to identify an existing bona fide individual investigation; and

(4) Bears the name, title, and original signature of the official under whose authority the subpoena is issued.

D. Disclosure of Prescription Monitoring Data to a Licensing Entity. The Program shall disclose prescription monitoring data to a licensing entity upon receipt of an administrative subpoena that:

- (1) Includes information sufficient to identify the unique prescriber or dispenser about whom prescription monitoring data is requested;
- (2) Specifies the time frame for which prescription monitoring data is requested, including the day, month, and year the report is to begin and end;
- (3) Includes a case number or other identifier sufficient to identify an existing bona fide individual investigation;
- (4) Includes an attestation that the subpoena was approved by a quorum of the board of the licensing entity; and
- (5) Bears the name, title, and original signature of the official under whose authority the subpoena is issued.

E. Disclosure of Prescription Monitoring Data to a Rehabilitation Program under a Health Occupations Board. The Program shall disclose prescription monitoring data to a rehabilitation program under a health occupations board upon receipt of an administrative subpoena that:

- (1) Includes information sufficient to identify the unique licensed health care practitioner about whom prescription monitoring data is requested;
- (2) Specifies the time frame for which prescription monitoring data is requested, including the day, month, and year the report is to begin and end; and
- (3) Bears the name, title and original signature of the official under whose authority the subpoena is issued.

F. Disclosure of Prescription Monitoring Data to a Patient or a Patient's Authorized Representative.

(1) Upon request, the Program shall disclose to a patient 18 years old or older prescription monitoring data about that patient provided that the request is submitted to the Program:

- (a) In person and is accompanied by:
 - (i) A completed form approved by the Department; and
 - (ii) Valid photo identification issued by a government agency of any jurisdiction of the United States verifying that the patient is 18 years old or older; or

(b) In any other manner approved by the Department.

(2) Upon request, the Program shall disclose patient-specific prescription monitoring data to a patient's authorized representative who is 18 years old or older, including the parent or legal guardian of a minor, an individual with power of attorney, the personal representative of a decedent's estate, or any other person duly authorized by State law to request or otherwise access medical records on behalf of a patient, provided that the request shall be submitted to the Program:

(a) In person and accompanied by:

(i) A completed form approved by the Department;

(ii) Valid photo identification issued by a government agency of any jurisdiction of the United States verifying that the patient's authorized representative is 18 years old or older; and

(iii) An original copy of any form or documentation required by State law or regulation to verify the authority of the representative to request or otherwise access the medical records of a patient on their behalf; or

(b) In any other manner approved by the Department.

(3) If a patient, a patient's authorized representative, or a patient's prescriber believes that prescription monitoring data relating to the patient's prescription history is incorrect, the patient, authorized representative, or prescriber may request that the Program correct the data provided that the request:

(a) Is submitted to the Program in writing and on a form or in a manner approved by the Department; and

(b) Includes documentation, which may include but not be limited to, a copy of the original prescription and a signed, notarized statement from the prescriber or dispenser that demonstrates which of the specific data elements reported to the Program under Regulation .03A of this chapter are incorrect.

(4) Upon determination by the Secretary that prescription monitoring data specific to a patient's prescription history is incorrect, the Program shall issue a corrected prescription history report to the patient or the patient's authorized representative.

G. Disclosure of Prescription Monitoring Data to Another State's Prescription Drug Monitoring Program.

(1) Upon request, the Program may disclose prescription monitoring data to another state's prescription drug monitoring program provided that the request:

- (a) Is submitted on a form or in a manner approved by the Department;
- (b) Is under the authority of the authorized administrator of that state's program; and
- (c) Includes an attestation that prescription monitoring data will only be used or redisclosed in a manner consistent with the provisions of Health-General Article, §21-2A-06, Annotated Code of Maryland, and Regulation .08D of this chapter.

(2) The Program may develop and implement interoperability with another state's prescription drug monitoring program to facilitate the automated exchange of prescription monitoring data provided that a written agreement has been established with the other state's program specifying that the information technology employed will:

- (a) Only disclose prescription monitoring data to registered users of the other state's program in a manner consistent with the provisions of Health-General Article, §21-2A-06, Annotated Code of Maryland, and this regulation; and
- (b) Operate in accordance with all other State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records.

H. Upon request, the Program may disclose prescription monitoring data to the Office of the Chief Medical Examiner, the Maryland Medical Assistance Program, the Office of the Inspector General of the Department, and the Office of Health Care Quality provided that the request:

- (1) Includes information sufficient to identify the unique prescriber, dispenser, licensed health care practitioner, or patient about whom prescription monitoring data is requested;**
- (2) Specifies the time frame for which prescription monitoring data is requested, including the day, month and year the report is to begin and end;**
- (3) Includes a case number or other identifier sufficient to identify an existing bona fide individual investigation; and**
- (4) Includes an attestation that the request was approved by the Secretary.**

I. Disclosure of Prescription Monitoring Data for Research, Analysis, Education, and Public Reporting.

- (1) The Program may disclose prescription monitoring data for research, analysis, education, and public reporting:
 - (a) In response to requests determined by the Department to be consistent with institutional review board protocols and human subjects research protections;

(b) Upon approval by the Department of a written proposal or abstract explaining the purpose and scope of the research, analysis, education, and public reporting; and

(c) After redaction of all information that could identify a patient, prescriber, dispenser, or any other individual.

(2) The Secretary may waive the requirement of §I(1)(b) of this section for requests from units of the Department.

J. Technical Advisory Committee Review.

(1) Before the Program discloses prescription monitoring data under COMAR 10.47.07.04C-E, G and H, the Technical Advisory Committee shall:

(a) Review the request for disclosure; and

(b) Within 10 business days of submission of the request to the Technical Advisory Committee for review, submit to the Program, in written form, clinical guidance and interpretation of the prescription monitoring data requested to:

(i) Assist the Secretary's decision on how to respond to a judicial subpoena, administrative subpoena, or other request; and

(ii) Be made available for use by the recipient of prescription monitoring data should the request for disclosure be authorized.

(2) If the Technical Advisory Committee has not provided clinical guidance and interpretation within 10 business days of submission of the request, the Department may:

(a) Proceed as if the Technical Advisory Committee does not have clinical guidance or interpretation to provide regarding the request at issue; and

(b) Respond to the original request for disclosure.

(3) The Department shall establish procedures, which may include but not be limited to secure electronic messaging, for the timely disclosure of prescription monitoring data to the Technical Advisory Committee and the receipt of responses from the Technical Advisory Committee to ensure that the review process is conducted with all possible expediency.

(4) For all purposes, including but not limited to confidentiality, security, redisclosure, and admissibility as evidence, the reports of the Technical Advisory Committee shall be considered as one and the same with the prescription monitoring data upon which the Committee's reports are based.

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Minnesota

Per the state PDMP representative, Minnesota is doing a pilot program to allow access to county coroners and medical examiners.

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Mississippi

Per the state PMP representative, Mississippi allows access by county coroners and/or medical examiners.

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Montana
§ 37-7-1506

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

§ 37-7-1506. Providing prescription drug registry information

(1) Registry information is health care information as defined in 50-16-504 and is confidential. Except as provided in 37-7-1504, the board is authorized to provide data from the registry, upon request, only to the following:

(a) a person authorized to prescribe or dispense prescription drugs if the person certifies that the information is needed to provide medical or pharmaceutical treatment to a patient who is the subject of the request and who is under the person's care or has been referred to the person for care;

(b) a prescriber who requests information relating to the prescriber's own prescribing information if the prescriber certifies that the requested information is for a purpose in accordance with board rule;

(c) an individual requesting the individual's registry information if the individual provides evidence satisfactory to the board that the individual requesting the information is the person about whom the data entry was made;

(d) a designated representative of a government agency responsible for licensing, regulating, or disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense drugs, in order to conduct investigations related to a health care professional who is the subject of an active investigation for drug misuse or diversion;

(e) a county coroner or a peace officer employed by a federal, state, tribal, or local law enforcement agency if the county coroner or peace officer has obtained an investigative subpoena;

(f) an authorized individual under the direction of the department of public health and human services for the purpose of reviewing and enforcing that department's responsibilities under the public health, medicare, or medicaid laws; or

(g) a prescription drug registry in another state if the data is subject to limitations and restrictions similar to those provided in 37-7-1502 through 37-7-1513.

- (2) The board shall maintain a record of each individual or entity that requests information from the registry and whether the request was granted pursuant to this section.
- (3) The board may release information in summary, statistical, or aggregate form for educational, research, or public information purposes. The information may not identify a person or entity.
- (4) Information collected by or obtained from the registry may not be used:
 - (a) for commercial purposes; or
 - (b) as evidence in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the agency responsible for licensing, regulating, or disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense prescription drugs.
- (5) Information obtained from the registry in accordance with the requirements of this section may be used in the course of a criminal investigation and subsequent criminal proceedings.
- (6) The board shall adopt rules to ensure that only authorized individuals have access to the registry and only to appropriate information from the registry. The rules must be consistent with:
 - (a) the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.;
 - (b) administrative rules adopted in connection with that act;
 - (c) Article II, section 10, of the Montana constitution; and
 - (d) the privacy provisions of Title 50, chapter 16.
- (7) The procedures established by the board under this section may not impede patient access to prescription drugs for legitimate medical purposes.

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New Mexico

Per the state PMP administrator, the New Mexico PMP releases information to medical examiners.

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New York

Public Health Law § 3371

Mckinney's Consolidated Laws of New York Annotated (2013)

Public Health Law

Chapter 45. Of the Consolidated Laws

Article 33. Controlled Substances

Title VI. Records and Reports

§ 3371. Confidentiality of certain records, reports, and information

<Text of Section Effective August 27, 2013>

1. No person, who has knowledge by virtue of his or her office of the identity of a particular patient or research subject, a manufacturing process, a trade secret or a formula shall disclose such knowledge, or any report or record thereof, except:

- (a) to another person employed by the department, for purposes of executing provisions of this article;
- (b) pursuant to judicial subpoena or court order in a criminal investigation or proceeding;
- (c) to an agency, department of government, or official board authorized to regulate, license or otherwise supervise a person who is authorized by this article to deal in controlled substances, or in the course of any investigation or proceeding by or before such agency, department or board;
- (d) to the prescription monitoring program registry and to authorized users of such registry as set forth in subdivision two of his section;
- (e) to a practitioner to inform him or her that a patient may be under treatment with a controlled substance by another practitioner for the purposes of subdivision two of this section, and to facilitate the department's review of individual challenges to the accuracy of controlled substances histories pursuant to subdivision six of section thirty-three hundred forty-three-a of this article;
- (f) to a pharmacist to provide information regarding prescriptions for controlled substances presented to the pharmacist for the purposes of subdivision two of this section and to facilitate the department's review of individual challenges to the accuracy of controlled substances histories pursuant to subdivision six of section thirty-three hundred forty-three-a of this article;
- (g) to the deputy attorney general for Medicaid fraud control, or his or her designee, in furtherance of an investigation of fraud, waste, or abuse of the Medicaid program, pursuant to an agreement with the department;

(h) to a local health department for the purpose of conducting public health research or education:

(I) pursuant to an agreement with the commissioner;

(II) when the release of such information is deemed appropriate by the commissioner;

(III) for use in accordance with measures required by the commissioner to ensure that the security and confidentiality of the data is protected; and

(IV) provided that disclosure is restricted to individuals within the local health department who are engaged in the research or education;

(i) to a medical examiner or coroner who is an officer of or employed by a state or local government, pursuant to his or her official duties; and

(j) to an individual for the purpose of providing such individual with his or her own controlled substance history or, in appropriate circumstances, in the case of a patient who lacks capacity to make health care decisions, a person who has legal authority to make such decisions for the patient and who would have legal access to the patient's health care records, if requested from the department pursuant to subdivision six of section thirty-three hundred forty-three-a of this article or from a treating practitioner pursuant to subparagraph (IV) of paragraph (A) of subdivision two of this section.

2. The prescription monitoring program registry may be accessed, under such terms and conditions as are established by the department for purposes of maintaining the security and confidentiality of the information contained in the registry, by:

(a) a practitioner, or a designee authorized by such practitioner pursuant to subparagraph (B) of subdivision two of section thirty-three hundred forty-three-a of this article, for the purposes of:

(I) informing the practitioner that a patient may be under treatment with a controlled substance by another practitioner;

(II) providing the practitioner with notifications of controlled substance activity as deemed relevant by the department, including but not limited to a notification made available on a monthly or other periodic basis through the registry of controlled substances activity pertaining to his or her patient;

(III) allowing the practitioner, through consultation of the prescription monitoring program registry, to review his or her patient's controlled substances history as required by section thirty-three hundred forty-three-a of this article; and

(IV) providing to his or her patient, or person authorized pursuant to subparagraph (j) of subdivision one of this section, upon request, a copy of such patient's controlled substance history as is available to the practitioner through the prescription monitoring program registry; or

(b) a pharmacist, pharmacy intern or other designee authorized by the pharmacist pursuant to paragraph (B) of subdivision three of section thirty-three hundred forty-three-a of this article, for the purposes of:

(I) consulting the prescription monitoring program registry to review the controlled substances history of an individual for whom one or more prescriptions for controlled substances is presented to the pharmacist, pursuant to section thirty-three hundred forty-three-a of this article; and

(II) receiving from the department such notifications of controlled substance activity as are made available by the department.

3. Where it has reason to believe that a crime related to the diversion of controlled substances has been committed, the department may notify appropriate law enforcement agencies and provide relevant information about the suspected criminal activity, including controlled substances prescribed or dispensed, as reasonably appears to be necessary. The department shall keep a record of the information provided and the agency to which such information was provided, including the name and title of the person to whom such information was provided and an attestation from such person that he or she has authority to receive such information.

4. In the course of any proceeding where such information is disclosed, except when necessary to effectuate the rights of a party to the proceeding, the court or presiding officer shall take such action as is necessary to insure that such information, or record or report of such information is not made public.

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North Carolina

§ 90-113.74

West's North Carolina General Statutes Annotated (2013)

Chapter 90. Medicine and Allied Occupations

Article 5E. North Carolina Controlled Substances Reporting System Act

§ 90-113.74. Confidentiality

(a) Prescription information submitted to the Department is privileged and confidential, is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any other use in civil proceedings, and except as otherwise provided below may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. Except as otherwise provided by this section, prescription information shall not be disclosed or disseminated to any person or entity by any person or entity authorized to review prescription information.

(b) The Department may use prescription information data in the controlled substances reporting system only for purposes of implementing this Article in accordance with its provisions.

(b1) The Department may review the prescription information data in the controlled substances reporting system and upon review may:

(1) Notify practitioners that a patient may have obtained prescriptions for controlled substances in a manner that may represent abuse, diversion of controlled substances, or an increased risk of harm to the patient.

(2) Report information regarding the prescribing practices of a practitioner to the agency responsible for licensing, registering, or certifying the practitioner pursuant to rules adopted by the agency as set forth below in subsection (b2) of this section.

(b2) In order to receive a report pursuant to subdivision (2) of subsection (b1) of this section, an agency responsible for licensing, registering, or certifying a practitioner with prescriptive or dispensing authority shall adopt rules setting the criteria by which the Department may report the information to the agency. The criteria for reporting established by rule shall not establish the standard of care for prescribing or dispensing, and it shall not be a basis for disciplinary action by an agency that the Department reported a practitioner to an agency based on the criteria.

(c) The Department shall release data in the controlled substances reporting system to the following persons only:

(1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients. A person authorized to receive data

pursuant to this paragraph may delegate the authority to receive the data to other persons working under his or her direction and supervision, provided the Department approves the delegation.

(2) An individual who requests the individual's own controlled substances reporting system information.

(3) Special agents of the North Carolina State Bureau of Investigation who are assigned to the Diversion & Environmental Crimes Unit and whose primary duties involve the investigation of diversion and illegal use of prescription medication. SBI agents assigned to the Diversion & Environmental Crimes Unit may then provide this information to other SBI agents who are engaged in a bona fide specific investigation related to enforcement of laws governing licit drugs. The SBI shall notify the Office of the Attorney General of North Carolina of each request for inspection of records maintained by the Department.

(4) Primary monitoring authorities for other states pursuant to a specific ongoing investigation involving a designated person, if information concerns the dispensing of a Schedule II through V controlled substance to an ultimate user who resides in the other state or the dispensing of a Schedule II through V controlled substance prescribed by a licensed health care practitioner whose principal place of business is located in the other state.

(5) To a sheriff or designated deputy sheriff or a police chief or a designated police investigator who is assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified in Article 5 of this Chapter of the General Statutes as Schedule II through V controlled substances and who is engaged in a bona fide specific investigation related to the enforcement of laws governing licit drugs pursuant to a lawful court order specifically issued for that purpose.

(6) The Division of Medical Assistance for purposes of administering the State Medical Assistance Plan.

(7) Licensing boards with jurisdiction over health care disciplines pursuant to an ongoing investigation by the licensing board of a specific individual licensed by the board.

(8) Any county medical examiner appointed by the Chief Medical Examiner pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose of investigating the death of an individual.

(d) The Department may provide data to public or private entities for statistical, research, or educational purposes only after removing information that could be used to identify individual patients who received prescription medications from dispensers.

(e) In the event that the Department finds patterns of prescribing medications that are unusual, the Department shall inform the Attorney General's Office of its findings. The Office of the Attorney General shall review the Department's findings to determine if the findings should be

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reported to the SBI and the appropriate sheriff for investigation of possible violations of State or federal law relating to controlled substances.

(f) The Department shall purge from the controlled substances reporting system database all information more than six years old.

(g) Nothing in this Article shall prohibit a person authorized to prescribe or dispense controlled substances pursuant to Article 1 of Chapter 90 of the General Statutes from disclosing or disseminating data regarding a particular patient obtained under subsection (c) of this section to another person (i) authorized to prescribe or dispense controlled substances pursuant to Article 1 of Chapter 90 of the General Statutes and (ii) authorized to receive the same data from the Department under subsection (c) of this section.

(h) Nothing in this Article shall prevent persons licensed or approved to practice medicine or perform medical acts, tasks, and functions pursuant to Article 1 of Chapter 90 of the General Statutes from retaining data received pursuant to subsection (c) of this section in a patient's confidential health care record.

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North Dakota

Per the state PMP representative, North Dakota allows access by medical examiners who are licensed prescribers.

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Oregon

§ 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 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.

(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

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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.

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Tennessee

§ 53-10-306 (eff. until July 1, 2016)

§ 53-10-306 (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):

...

(m) Where an investigation is conducted under § 38-7-109, and information within the database is obtained pursuant to the requirements of this part, there exists a rebuttable presumption that the county medical examiner is acting in good faith.

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):

...

(m) Where an investigation is conducted under § 38-7-109, and information within the database is obtained pursuant to the requirements of this part, there exists a rebuttable presumption that the county medical examiner is acting in good faith.

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Vermont
18 § 4284

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

§ 4284. Protection and disclosure of information

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to the Public Records Act. The Department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

(b)(1) The Department shall provide only the following persons with access to query the VPMS:

(A) A health care provider, dispenser, or delegate who is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.

(C) The Medical Director of the Department of Vermont Health Access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(D) A medical examiner or delegate from the Office of the Chief Medical Examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.

(C) A patient for whom a prescription is written, insofar as the information relates to that patient.

(D) The relevant occupational licensing or certification authority if the Commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a drug diversion investigator.

(E)(i) The Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, if the Commissioner of Health, personally, or a Deputy Commissioner of Health, personally, makes the disclosure and has consulted with at least one of the patient's health care providers, when the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, when he or she requests data from the Commissioner of Health, and the Commissioner of Health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The Commissioner or Deputy Commissioner of Public Safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

<Text of subsection (F) effective October 1, 2013>

(F) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont Department of Health as described in section 4288 of this title.

(c) A person who receives data or a report from VPMS or from the Department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) The Commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

(e) A drug diversion investigator who may receive information pursuant to this section shall not have access to VPMS except for information provided to the officer by the licensing or certification authority.

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(f) The Department is authorized to use information from VPMS for research, trend analysis, and other public health promotion purposes provided that data are aggregated or otherwise de-identified. The Department shall post the results of trend analyses on its website for use by health care providers, dispensers, and the general public. When appropriate, the Department shall send alerts relating to identified trends to health care providers and dispensers by electronic mail.

(g) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

(i) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(j) All information and correspondence relating to the disclosure of information by the Commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from public inspection and copying under the Public Records Act, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(k) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the case number of the investigation.

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Virginia
§ 54.1-2523
18 VAC 76-20-60

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

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 15 of § 2.2-3705.5. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.
2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).
3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription in accordance with § 54.1-3303 when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

Virginia Administrative Code (2013)

Title 18. Professional and Occupational Licensing

Vac Agency No. 76. Department of Health Professions

Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-60. Criteria for discretionary disclosure of information by the director.

A. In accordance with § 54.1-2523 C of the Code of Virginia, the director may disclose information in the program to certain persons provided the request is made in a format designated by the department.

B. The director may disclose information to:

1. The recipient of the dispensed drugs, provided the request is accompanied by a copy of a valid photo identification issued by a government agency of any jurisdiction in the United States verifying that the recipient is over the age of 18 and includes a notarized signature of the requesting party. The report shall be mailed to the address on the license or delivered to the recipient at the department.

2. The prescriber for the purpose of establishing a treatment history for a patient or prospective patient, provided the request is accompanied by the prescriber's registration number with the United States Drug Enforcement Administration (DEA) and attestation that the prescriber is in compliance with patient notice requirements of 18 VAC 76-20-70. The prescriber may delegate the submission of a request for information, provided the delegation is in compliance with § 54.1-2523.2 of the Code of Virginia. The health care professionals to whom the prescriber has authorized access to information shall be registered with the program. Requests for information

made by a delegated health care professional shall be made in his own name, using his own unique identifiers assigned by the program.

3. Another regulatory authority conducting an investigation or disciplinary proceeding or making a decision on the granting of a license or certificate, provided the request is related to an allegation of a possible controlled substance violation and that it is accompanied by the signature of the chief executive officer who is authorized to certify orders or to grant or deny licenses.

4. Governmental entities charged with the investigation and prosecution of a dispenser, prescriber or recipient participating in the Virginia Medicaid program, provided the request is accompanied by the signature of the official within the Office of the Attorney General responsible for the investigation.

5. A dispenser for the purpose of establishing a prescription history for a specific person to assist in determining the validity of a prescription, provided the request is accompanied by the dispenser's license number issued by the relevant licensing authority and an attestation that the dispenser is in compliance with patient notice requirements of 18 VAC 76-20-70.

C. In each case, the request must be complete and provide sufficient information to ensure the correct identity of the prescriber, recipient and/or dispenser.

D. Except as provided in subdivision B 1 of this section, the request form shall include an attestation that the prescription data will not be further disclosed and only used for the purposes stated in the request and in accordance with the law.

E. In order to request disclosure of information contained in the program, a designated employee of the Department of Medical Assistance Services or of the Office of the Chief Medical Examiner shall register with the director as an authorized agent entitled to receive reports under § 54.1-2523 C of the Code of Virginia.

1. Such request for registration shall include an attestation from the applicant's employer of the eligibility and identity of such person.

2. Registration as an agent authorized to receive reports shall expire on June 30 of each even-numbered year or at any such time as the agent leaves or alters his current employment or otherwise becomes ineligible to receive information from the program.

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Washington
ADC 246-470-060

Washington Administrative Code (2013)
Title 246. Health, Department of
Chapter 246-470. Prescription Monitoring Program

246-470-060. Law enforcement, prosecutorial officials, coroners, and medical examiners' access to information from the program.

Local, state, or federal law enforcement officers and prosecutorial officials may obtain prescription monitoring information for a bona fide specific investigation involving a designated person. **A local, state, or federal coroner or medical examiner may obtain prescription monitoring information for a bona fide specific investigation to determine cause of death.**

(1) Registration for access. Local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners shall register with the department in order to receive an authentication to access information from the program. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may access information from the program electronically using the authentication issued by the department.

(4) Local, state, or federal law enforcement officers and prosecutorial officials shall electronically attest that the requested information is required for a bona fide specific investigation involving a designated person prior to accessing prescription monitoring information.

(5) Local, state, or federal coroner or medical examiners shall electronically attest that the requested information is required for a bona fide specific investigation to determine cause of death prior to accessing prescription monitoring information.

(6) Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may alternately submit a written request via mail or facsimile transmission in a format established by the department. The written request must contain an attestation that the requested information is required for a bona fide specific

investigation involving a designated person or for a bona fide specific investigation to determine cause of death.

(7) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the local, state, and federal law enforcement officers, prosecutorial officials, coroners or medical examiners shall notify the department by telephone and in writing as soon as reasonably possible.

(8) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

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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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Wisconsin

ADC Phar. 18.11

Wisconsin Administrative Code (2013)
Pharmacy Examining Board
Chapter Phar 18. Prescription Drug Monitoring Program

Phar 18.11 Methods of obtaining PDMP information.

(1) The board shall disclose PDMP information about a patient to the patient if he or she does all of the following:

(a) Appears in person at the department with two forms of valid proof of identity, one of which is valid government--issued photographic identification.

(b) Makes a request for the PDMP information on a form provided by the board.

(2) The board shall disclose PDMP information about a patient to a person authorized by the patient if the person authorized by the patient does all of the following:

(a) Appears in person at the department with two forms of valid proof of identity, one of which is valid government--issued photographic identification.

(b) Provides proof sufficient to the board of the authorization or delegation from the patient.

(c) Makes a request for the PDMP information on a form provided by the board.

(3) The board shall disclose the minimum amount of PDMP information necessary to designated staff of a relevant agency in another state in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the designated staff does all of the following:

(a) Creates an account with the board on a form provided by the board.

(b) Provides proof sufficient to the board that the relevant agency in another state is entitled to the information under ss. 146.82 and 450.19 (2) (c), Stats.

(c) Makes a request for the PDMP information through its account with the board.

(4) The board shall disclose the minimum amount of PDMP information necessary to a health care facility staff committee, or accreditation or health care services review organization in the

same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the designated staff does all of the following:

(a) Creates an account with the board on a form provided by the board.

(b) Provides proof sufficient to the board that the health care facility staff committee, or accreditation or health care services review organization is entitled to the information under s. 146.82 (2) (a) 1., Stats.

(c) Makes a request for the PDMP information through its account with the board.

(5) The board shall disclose the minimum amount of PDMP information necessary to designated staff of a federal or state governmental agency in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the designated staff does all of the following:

(a) Creates an account with the board on a form provided by the board.

(b) Provides proof sufficient to the board that the federal or state governmental agency is entitled to the information under s. 146.82 (2) (a) 5., Stats.

(c) Makes a request for the PDMP information through its account with the board.

(6) The board shall disclose the minimum amount of PDMP information necessary to designated staff of the department who is charged with investigating dispensers, dispenser delegates, practitioners, and practitioner delegates in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the designated staff does all of the following:

(a) Creates an account with the board on a form provided by the board.

(b) Provides proof sufficient to the board that the department is entitled to the information under s. 146.82 (2) (a) 5., Stats.

(c) Makes a request for the PDMP information through its account with the board.

(7) The board shall disclose the minimum amount of PDMP information necessary to a prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a

person designated by a jailer to maintain prisoner medical records or designated staff of the department of corrections in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the person does all of the following:

- (a) Creates an account with the board on a form provided by the board.
- (b) Provides proof sufficient to the board that the person is entitled to the information under s. 146.82 (2) (a) 21., Stats.
- (c) Makes a request for the PDMP information through its account with the board.

(8) The board shall disclose the minimum amount of PDMP information necessary to a coroner, deputy coroner, medical examiner, or medical examiner's assistant following the death of a patient in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the person does all of the following:

- (a) Creates an account with the board on a form provided by the board.**
- (b) Provides proof sufficient to the board that the person is entitled to the information under s. 146.82 (2) (a) 18., Stats.**
- (c) Makes a request for the PDMP information through its account with the board.**

(9) The board shall disclose the minimum amount of PDMP information necessary to a researcher in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the person does all of the following:

- (a) Creates an account with the board on a form provided by the board.
- (b) Provides proof sufficient to the board that the person is entitled to the information under s. 146.82 (2) (a) 6. or 20., Stats.
- (c) Makes a request for the PDMP information through its account with the board.

(10) The board shall disclose the minimum amount of PDMP information to designated staff of a law enforcement authority in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss.

146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the designated staff does all of the following:

- (a) Creates an account with the board on a form provided by the board.
- (b) Provides a lawful order of a court of record under s. 146.82 (2) (a) 4., Stats., or provides evidence satisfactory to the board that the law enforcement agency is entitled to the information under s. 146.82 (2) (a) 11., Stats.
- (c) Makes a request for PDMP information through its account with the board.

Note: The application to create an account and form to request PDMP information may be completed online at www.dsps.wi.gov or obtained at no charge from the Department of Safety and Professional Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

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