

NAMSDL



National Alliance for Model State Drug Laws

TYPES OF AUTHORIZED RECIPIENTS – PATIENTS, PARENT OR GUARDIAN OF MINOR CHILD, HEALTH CARE AGENT, ATTORNEY ON BEHALF OF PATIENT, OR THIRD PARTY WITH SIGNED CONSENT FORM

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Clicking on a link below will take you directly to that page.

Introduction	Louisiana	Ohio
Alaska	Maine	Oregon
Arizona	Maryland	Rhode Island
Arkansas	Massachusetts	South Carolina
Colorado	Minnesota	South Dakota
Delaware	Mississippi	Tennessee
Florida	Montana	Utah
Georgia	Nevada	Vermont
Idaho	New Hampshire	Virginia
Illinois	New Mexico	Washington
Iowa	New York	Wisconsin
Kansas	North Carolina	Wyoming
Kentucky	North Dakota	

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 patients, parent or guardian of a minor child, health care agent, attorney on behalf of patient, or a third party with a consent form signed by the patient. This does not mean that if a particular state is not listed in this memorandum or the accompanying map that these persons in that state are not allowed access to the information. The following states either specifically include patients, parent or guardian of a minor child, health care agent, attorney on behalf of patient, or a third party with a signed consent form 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.

[Back to Top ↑](#)

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Alaska
§ 17.30.200
12 AAC 52.875

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

§ 17.30.200. Controlled substance prescription database

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) A person

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

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

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

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

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

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

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

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

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

(4) involve stakeholders in the planning process.

(n) In this section,

(1) "board" means the Board of Pharmacy;

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

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

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

Alaska Administrative Code (2013)
Title 12. Professional and Vocational Regulations
Part 1. Boards and Commissions Subject to Centralized Licensing
Chapter 52. Board of Pharmacy
Article 9. Controlled Substance Prescription Database

12 AAC 52.875. Solicited requests for information from non-registered persons.

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(a) A patient authorized under AS 17.30.200(d)(6) to receive information from the controlled substance prescription database, the patient's authorized agent, or in the case of a unemancipated minor unable to give consent for medical services under AS 25.20.025(a), the minor's parent or legal guardian, may request profile information from the controlled substance prescription database concerning the patient if the person requesting the information

(1) submits the request on a form provided by the board;

(2) pays a \$10 fee; and

(3) does one of the following:

(A) if a patient, presents to the department, in person, government-issued photographic identification confirming the patient's identity as the same person on whom profile information is sought;

(B) if a patient, submits a signed and notarized request

(i) verifying that the patient is the same person on whom profile information is sought; and

(ii) providing the patient's full name, address, and date of birth;

(C) presents a valid power of attorney concerning the patient, or presents

(i) verification that the person requesting the information is the parent, legal guardian, or legal administrator of a minor, incapacitated person, or deceased person on whom profile information is sought; and

(ii) if the person is a parent or legal guardian of a patient who is a minor, verification that the patient is not an emancipated minor legally able to consent to medical treatment under AS 25.20.025.

(b) Profile information may be

(1) disseminated in person; or

(2) mailed certified mail, return receipt requested, no later than five days after the date that the department receives a request that meets the requirements of this section.

[Back to Top ↑](#)

Arizona
§ 36-2604

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

§ 36-2604. Use and release of confidential information

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

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

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

1. A person who is authorized to prescribe or dispense a controlled substance to assist that person to provide medical or pharmaceutical care to a patient or to evaluate a patient.

2. An individual who requests the individual's own prescription monitoring information pursuant to § 12-2293.

3. A professional licensing board established pursuant to title 32, chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25 or 29. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint.

4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the requesting agency states in writing that the information is necessary for an open investigation or complaint.

5. The Arizona health care cost containment system administration regarding persons who are receiving services pursuant to chapter 29 of this title. Except as required pursuant to subsection B

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

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

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

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

[Back to Top ↑](#)

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.

[Back to Top ↑](#)

Colorado
§ 12-42.5-404
ADC 719-1:23.00.00

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

§ 12-42.5-404. Program operation--access--rules

- (1) The board shall operate and maintain the program.
- (2) The board shall adopt all rules necessary to implement the program.
- (3) The program is available for query only to the following persons or groups of persons:**
 - (a) Board staff responsible for administering the program;
 - (b) Any practitioner with the statutory authority to prescribe controlled substances to the extent the query relates to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;
 - (c) Practitioners engaged in a legitimate program to monitor a patient's drug abuse;
 - (d) Pharmacists, to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or to whom the pharmacist is providing clinical patient care services;
 - (e) Law enforcement officials so long as the information released is specific to an individual patient or practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;
 - (f) The individual who is the recipient of a controlled substance prescription so long as the information released is specific to the individual;**
 - (g) State regulatory boards within the division and the director of the division so long as the information released is specific to an individual practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena; and

(h) A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician.

(4) The board shall not charge a practitioner or pharmacy who transmits data in compliance with the operation and maintenance of the program a fee for the transmission of the data.

(5) The board, pursuant to a written agreement that ensures compliance with this part 4, may provide data to qualified personnel of a public or private entity for the purpose of bona fide research or education so long as the data does not identify a recipient of a practitioner who prescribed, or a prescription drug outlet that dispensed, a prescription drug.

(6) The board shall provide a means of sharing information about individuals whose information is recorded in the program with out-of-state health care practitioners and law enforcement officials that meet the requirements of paragraph (b), (c), or (e) of subsection (3) of this section.

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

719-1:23.00.00. ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

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23.00.70 PDMP Access

The PDMP shall be available for query only to the following persons or groups of persons:

- a. Board staff responsible for administering the PDMP;
- b. Any licensed practitioner with the statutory authority to prescribe controlled substances to the extent the query relates to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing a controlled substance;
- c. Licensed pharmacists with statutory authority to dispense controlled substances to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or to whom the pharmacist is providing clinical patient care services;
- d. Practitioners engaged in a legitimate program to monitor a patient's controlled substance abuse;
- e. Law enforcement officials so long as the information released is specific to an individual patient or prescriber and part of a bona fide investigation and the request for information is

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accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form;

f. The individual who is the recipient of a controlled substance prescription so long as the information released is specific to such individual. The procedure for individuals to obtain such information is as follows:

1. The individual shall submit a written, signed request to the Board on the Board-provided form;

2. The individual shall provide valid photographic identification prior to obtaining the PDMP information;

3. An individual submitting a request on behalf of another individual who is the recipient of a controlled substance prescription may only obtain PDMP information if the following documents are provided:

A. The original document establishing medical durable power of attorney of the individual submitting the request as power of attorney for the individual who is the recipient of the controlled substance prescription, and

B. Valid photographic identification of the individual submitting the request.

g. State regulatory boards within the Colorado Division of Registrations and the Director of the Colorado Division or Registrations so long as the information released is specific to an individual prescriber and is part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form; and

h. A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician.

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[Back to Top ↑](#)

Delaware

16 § 4798 (eff. until March 1, 2014)

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 until 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.

...

(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. 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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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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(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

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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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[Back to Top ↑](#)

Florida
§ 893.0551
ADC 64K-1.003

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

§ 893.0551. Public records exemption for the prescription drug monitoring program

...

(3) The department shall disclose such confidential and exempt information to the following entities after using a verification process to ensure the legitimacy of that person's or entity's request for the information:

(a) The Attorney General and his or her designee when working on Medicaid fraud cases involving prescription drugs or when the Attorney General has initiated a review of specific identifiers of Medicaid fraud regarding prescription drugs. The Attorney General or his or her designee may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. The Attorney General's Medicaid fraud investigators may not have direct access to the department's database.

(b) The department's relevant health care regulatory boards responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a specific controlled substances investigation for prescription drugs involving a designated person. The health care regulatory boards may request information from the department but may not have direct access to its database. The health care regulatory boards may provide such information to a law enforcement agency pursuant to ss. 456.066 and 456.073.

(c) A law enforcement agency that has initiated an active investigation involving a specific violation of law regarding prescription drug abuse or diversion of prescribed controlled substances. The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. A law enforcement agency may request information from the department but may not have direct access to its database.

(d) A health care practitioner who certifies that the information is necessary to provide medical treatment to a current patient in accordance with ss. 893.05 and 893.055.

(e) A pharmacist who certifies that the requested information will be used to dispense controlled substances to a current patient in accordance with ss. 893.04 and 893.055.

(f) A patient or the legal guardian or designated health care surrogate for an incapacitated patient, if applicable, making a request as provided in s. 893.055(7)(c) 4.

(g) The patient's pharmacy, prescriber, or dispenser who certifies that the information is necessary to provide medical treatment to his or her current patient in accordance with s. 893.055.

(4) The department shall disclose such confidential and exempt information to the applicable law enforcement agency in accordance with s. 893.055(7)(f). The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s. 119.011 as part of an active investigation that is specific to a violation of s. 893.13(7)(a) 8., s. 893.13(8)(a), or s. 893.13(8)(b).

(5) Any agency or person who obtains such confidential and exempt information pursuant to this section must maintain the confidential and exempt status of that information.

(6) Any person who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2014, unless reviewed and saved from repeal through reenactment by the Legislature.

West's Florida Administrative Code (2013)
Title 64. Department of Health
Subtitle 64K. Prescription Drug Monitoring Program
Chapter 64K-1. Prescription Drug Monitoring Program

64K-1.003. Accessing Database.

(1) The following entities have direct access to the information contained in the Program database:

(a) A pharmacist, prescriber, or dispenser if the information relates to a patient of that pharmacy, prescriber, or dispenser for purposes of reviewing the patient's controlled substance prescription history. Those entities who are authorized to prescribe or dispense controlled substances, Schedules II-IV, and are licensed in the State of Florida may access the database through the secure web portal to request and receive information electronically, or may submit a written request to the Program manager if information must be received by an alternate means.

(b) The Program manager and designated Program support staff acting at the direction of or as authorized by the Program manager for purposes of management of the Program database.

(2) The following entities do not have direct access to the information in the database, but may request access from the Program manager or authorized staff:

(a) The Department or the health care regulatory boards in Section 893.005(7)(c)1., F.S., when involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

(b) The Attorney General or designee for Medicaid Fraud cases involving prescribed controlled substances.

(c) A law enforcement agency during an active investigation regarding potential criminal activity, fraud, or theft relating to prescribed controlled substances.

(d) A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in Section 893.0551, F.S., who, for the purpose of verifying the accuracy of the database information, contacts the Prescription Drug Monitoring Program at 4052 Bald Cypress Way, Bin C-16, Tallahassee, FL 32399-3254 or by telephone at (850) 245-4797 to request form DH 2143 “Patient Information Request,” effective December, 2010, which is incorporated by reference and located at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00721>. To receive the requested information, the patient or other authorized person must make an appointment, appear in person at the Program office, and produce a valid government issued identification, which includes a photograph.

(3) The Program manager or designated staff must ensure that the entity requesting access to information is permitted by law to receive access and must document steps taken to verify the request as authentic.

[Back to Top ↑](#)

Georgia
§ 16-13-60

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

§ 16-13-60. Confidentiality of information submitted

(a) Except as otherwise provided in subsections (c) and (d) of this Code section, prescription information submitted pursuant to Code Section 16-13-59 shall be confidential and shall not be subject to open records requirements, as contained in Article 4 of Chapter 18 of Title 50.

(b) The agency, in conjunction with the board, shall establish and maintain strict procedures to ensure that the privacy and confidentiality of patients, prescribers, and patient and prescriber information collected, recorded, transmitted, and maintained pursuant to this part are protected. Such information shall not be disclosed to any person or entity except as specifically provided in this part and only in a manner which in no way conflicts with the requirements of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, P.L. 104-191.

(c) The agency shall be authorized to provide requested prescription information collected pursuant to this part only as follows:

(1) To persons authorized to prescribe or dispense controlled substances for the sole purpose of providing medical or pharmaceutical care to a specific patient;

(2) Upon the request of a patient, prescriber, or dispenser about whom the prescription information requested concerns or upon the request on his or her behalf of his or her attorney;

(3) To local, state, or federal law enforcement or prosecutorial officials pursuant to the issuance of a search warrant pursuant to Article 2 of Chapter 5 of Title 17; and

(4) To the agency or the Georgia Composite Medical Board upon the issuance of an administrative subpoena issued by a Georgia state administrative law judge.

(d) The board may provide data to government entities for statistical, research, educational, or grant application purposes after removing information that could be used to identify prescribers or individual patients or persons who received prescriptions from dispensers.

(e) Any person or entity who receives electronic data base prescription information or related reports relating to this part from the agency shall not provide such information or reports to any other person or entity except by order of a court of competent jurisdiction pursuant to this part.

(f) Any permissible user identified in this part who directly accesses electronic data base prescription information shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are substantially equivalent to the security measures of the agency. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and shall assess the sufficiency of any safeguards in place to control the risks.

(g) No provision in this part shall be construed to modify, limit, diminish, or impliedly repeal any authority existing on June 30, 2011, of a licensing or regulatory board or any other entity so authorized to obtain prescription information from sources other than the data base maintained pursuant to this part; provided, however, that the agency shall be authorized to release information from the data base only in accordance with the provisions of this part.

[Back to Top ↑](#)

Idaho

§ 37-2726

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

§ 37-2726. Filing prescriptions--Database

(1) All controlled substances dispensed for humans shall be filed with the board electronically in a format established by the board or by other method as required by board rule. The board may require the filing of other prescriptions by board rule. The board shall establish by rule the information to be submitted pursuant to the purposes of this section and the purposes set forth in section 37-2730A, Idaho Code.

(2) The board shall create, operate and maintain a controlled substances prescriptions database containing the information submitted pursuant to subsection (1) of this section, to be used for the purposes and subject to the terms, conditions and immunities described in section 37-2730A, Idaho Code. The database information must be made available only to the following:

- (a) Authorized individuals employed by Idaho's boards or other states' licensing entities charged with the licensing and discipline of practitioners;
- (b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;
- (c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;
- (d) A practitioner, licensed in Idaho or another state, having authority to prescribe controlled substances, to the extent the information relates specifically to a current patient of the practitioner, to whom the practitioner is prescribing or considering prescribing any controlled substance;
- (e) A pharmacist, licensed in Idaho or another state, having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist is dispensing or considering dispensing any controlled substance, or providing pharmaceutical care as defined in the Idaho pharmacy act;

(f) An individual who is the recipient of a controlled substance prescription entered into the database or that individual's attorney, upon providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made or the attorney for that person;

(g) Upon the lawful order of a court of competent jurisdiction; and

(h) Prosecuting attorneys, deputy prosecuting attorneys and special prosecutors of a county or city and special assistant attorneys general from the office of the attorney general engaged in enforcing law regulating controlled substances.

(3) The board must maintain records on the information disclosed from the database, including:

(a) The identification of each individual who requests or receives information from the database and who that individual represents;

(b) The information provided to each such individual; and

(c) The date and time the information is requested or provided.

(4) The board shall promulgate rules to ensure that only authorized individuals have access to the database.

(5) Any person who knowingly misrepresents to the board that he is a person entitled under subsection (2) of this section to receive information from the controlled substances prescriptions database under the conditions therein provided, and who receives information from the controlled substances prescriptions database resulting from that misrepresentation shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(6) Any person in possession, whether lawfully or unlawfully, of information from the controlled substances prescriptions database which identifies an individual patient and who knowingly discloses such information to a person not authorized to receive or use such information under any state or federal law, rule or regulation; the lawful order of a court of competent jurisdiction; or written authorization of the individual patient shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law. The provisions of this subsection shall not apply to disclosure of individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

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(7) Any person with access to the board's online prescription monitoring program pursuant to a board issued user account, login name and password who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in another person not authorized to receive or use such information under the provisions of any state or federal law, rule or regulation obtaining information from the controlled substances prescriptions database, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months or by a fine not to exceed two thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(8) The board may, at its discretion, block access to certain controlled substances prescriptions database data if the board has reason to believe that access to the data is or may be used illegally.

(9) All costs associated with recording and submitting data as required in this section are assumed by the dispensing practitioner recording and submitting the data.

[Back to Top ↑](#)

Illinois
720 § 570/318

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

§ 318. Confidentiality of information.

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

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

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

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

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

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

(A) an investigation;

(B) an adjudication; or

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

(3) A law enforcement officer who is:

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

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

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

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

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

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

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

(1) a governing body that licenses practitioners;

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

(3) any Illinois law enforcement officer who is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Back to Top ↑](#)

Iowa
§ 124.553
ADC 657-37.4(124)

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

§ 124.553. Information access

1. The board may provide information from the program to the following:

a. (1) A pharmacist or prescribing practitioner who requests the information and certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical care to a patient of the pharmacist or prescribing practitioner. A pharmacist or a prescribing practitioner may delegate program information access to another authorized individual or agent only if that individual or agent registers for program information access, pursuant to board rules, as an agent of the pharmacist or prescribing practitioner. Board rules shall identify the qualifications for a pharmacist's or prescribing practitioner's agent and shall limit the number of agents to whom each pharmacist or prescribing practitioner may delegate program information access.

(2) Notwithstanding subparagraph (1), a prescribing practitioner may delegate program information access to another licensed health care professional in emergency situations where the patient would be placed in greater jeopardy if the prescribing practitioner was required to access the information personally.

b. An individual who requests the individual's own program information in accordance with the procedure established in rules of the board and advisory council adopted under section 124.554.

c. Pursuant to an order, subpoena, or other means of legal compulsion for access to or release of program information that is issued based upon a determination of probable cause in the course of a specific investigation of a specific individual.

2. The board shall maintain a record of each person that requests information from the program. Pursuant to rules adopted by the board and advisory council under section 124.554, the board may use the records to document and report statistical information.

3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program, is privileged and strictly

confidential information. Such information is a confidential public record pursuant to section 22.7, and is not subject to discovery, subpoena, or other means of legal compulsion for release except as provided in this division. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this division.

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

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

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

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

Iowa Administrative Code (2013)
Agency 657 Pharmacy Board
Chapter 37 Iowa Prescription Monitoring Program

657-37.4(124) Access to database information.

Prescription information submitted to the board for inclusion in the PMP database shall be privileged and strictly confidential and not subject to public or open records laws. All information contained in the PMP database, including records of requests for PMP information, shall be privileged and strictly confidential and not subject to public or open records laws. The board, council, and PMP administrator shall maintain procedures to ensure the privacy and confidentiality of patients, prescribers, dispensers, practitioners, and patient information collected, recorded, transmitted, and maintained in the PMP database and to ensure that program information is not disclosed to persons except as provided in this rule.

37.4(1) Prescribers and pharmacists. A health care practitioner authorized to prescribe or dispense controlled substances may obtain PMP information regarding the practitioner's patient, or a patient seeking treatment from the practitioner, for the purpose of providing patient health care.

a. Prior to being granted access to PMP information, a practitioner shall submit a request for registration and program access. A practitioner with Internet access may register via a secure Web site established by the board for that purpose. A practitioner without Internet access shall submit a written registration request on a form provided by the PMP administrator. The PMP administrator shall take reasonable steps to verify the identity of a practitioner and to verify a practitioner's credentials prior to providing a practitioner with a secure login and initial password. Except in an emergency when the patient would be placed in greater jeopardy by restricting PMP information access to the practitioner, a registered practitioner shall not share the practitioner's secure login and password information and shall not delegate PMP information access to another health care practitioner or to the practitioner's agent.

b. A practitioner with Internet access may submit a request for PMP information via a secure Web site established by the board for that purpose. The requested information shall be provided to the requesting practitioner in a format established by the board and shall be delivered via the secure Web site.

c. A practitioner without Internet access may submit to the PMP administrator a written request for PMP information via mail or facsimile transmission. The written request shall be in a format established by the board and shall be signed by the requesting practitioner. Prior to processing a written request for PMP information, the PMP administrator shall take reasonable steps to verify the request, which may include but not be limited to a telephone call to the practitioner at a telephone number known to be the number for the practitioner's practice.

d. A practitioner who requests and receives PMP information consistent with the requirements and intent of these rules may provide that information to another practitioner who is involved in the care of the patient who is the subject of the information. Information from the PMP database remains privileged and strictly confidential. Such disclosures among practitioners shall be consistent with these rules and federal and state laws regarding the confidentiality of patient information. The information shall be used for medical or pharmaceutical care purposes.

37.4(2) Regulatory agencies and boards. Professional licensing boards and regulatory agencies that supervise or regulate a health care practitioner or that provide payment for health care services shall be able to access information from the PMP database only pursuant to an order, subpoena, or other means of legal compulsion relating to a specific investigation of a specific individual and supported by a determination of probable cause.

a. A director of a licensing board with jurisdiction over a practitioner, or the director's designee, who seeks access to PMP information for an investigation shall submit to the PMP administrator in a format established by the board a written request via mail, facsimile, or personal delivery. The request shall be signed by the director or the director's designee and shall be accompanied by

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an order, subpoena, or other form of legal compulsion establishing that the request is supported by a determination of probable cause.

b. A director of a regulatory agency with jurisdiction over a practitioner or with jurisdiction over a person receiving health care services pursuant to one or more programs provided by the agency, or the director's designee, who seeks access to PMP information for an investigation shall submit to the PMP administrator in a format established by the board a written request via mail, facsimile, or personal delivery. The request shall be signed by the director or the director's designee and shall be accompanied by an order, subpoena, or other form of legal compulsion establishing that the request is supported by a determination of probable cause.

37.4(3) Law enforcement agencies. Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of any state or federal law relating to controlled substances shall be able to access information from the PMP database by order, subpoena, or other means of legal compulsion relating to a specific investigation of a specific individual and supported by a determination of probable cause. A law enforcement officer shall submit to the PMP administrator in a format established by the board a written request via mail, facsimile, or personal delivery. The request shall be signed by the requesting officer or the officer's superior. The request shall be accompanied by an order, subpoena, or warrant issued by a court or legal authority that requires a determination of probable cause and shall be processed by the PMP administrator. A report identifying PMP information relating to the specific individual identified by the order, subpoena, or warrant may be delivered to the law enforcement officer via mail or alternate secure delivery.

37.4(4) Patients. A patient or the patient's agent may request and receive PMP information regarding prescriptions reported to have been dispensed to the patient.

a. A patient may submit a signed, written request for records of the patient's prescriptions dispensed during a specified period of time. The request shall identify the patient by name, including any aliases used by the patient, and shall include the patient's date of birth and gender. The request shall also include any address where the patient resided during the time period of the request and the patient's current address and daytime telephone number. A patient may personally deliver the request to the PMP administrator or authorized staff member at the offices of the board located at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. The patient will be required to present current government-issued photo identification at the time of delivery of the request. A copy of the patient's identification shall be maintained in the records of the PMP.

b. A patient who is unable to personally deliver the request to the board offices may submit a request via mail or commercial delivery service. The request shall comply with all provisions of paragraph "a" above, and the signature of the requesting patient shall be witnessed and the patient's identity shall be attested to by a currently registered notary public. In addition to the notary's signature and assurance of the patient's identity, the notary shall certify a copy of the patient's government-issued photo identification and that

certified copy shall be submitted with the written request. The request shall be submitted to the Iowa Board of Pharmacy at the address identified in paragraph “a.”

c. In the case of a patient whose health care decisions have been legally transferred to the patient's agent, the patient's agent may submit a request on behalf of the patient pursuant to the appropriate procedure in paragraph “a” or “b.” In addition to the patient's information, the patient's agent shall be identified by name, current address, and telephone number. In lieu of the patient's signature and identification, the patient's agent shall sign the request and the government-issued photo identification shall identify the patient's agent. The patient's agent shall include a certified copy of the legal document that transferred control over decisions regarding the patient's health care to the patient's agent.

37.4(5) Court orders and subpoenas. The PMP administrator shall provide PMP information in response to court orders and county attorney or other subpoenas issued by a court upon a determination of probable cause.

37.4(6) Statistical data. The PMP administrator, following review and approval by the patients rights committee, may provide summary, statistical, or aggregate data to public or private entities for statistical, research, or educational purposes. Prior to the release of any such data, the PMP administrator shall remove any information that could be used to identify an individual patient, prescriber, dispenser, practitioner, or other person who is the subject of the PMP information or data.

37.4(7) PMP administrator access. Other than technical, error, and administrative function reports needed by PMP support staff to determine that records are received and maintained in good order, any other reports concerning the information received from dispensers shall only be prepared at the direction of the board, the council, or the PMP administrator. The board and the council may compile statistical reports from PMP information for use in determining the advisability of continuing the PMP and for use in preparing required reports to the governor and the legislature. The reports shall not include information that would identify any patient, prescriber, dispenser, practitioner, or other person who is the subject of the PMP information or data.

[Back to Top ↑](#)

Kansas
§ 65-1685
ADC 68-21-5

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

(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.

(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 such other 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.

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

68-21-5 Access to information.

All requests for, uses of, and disclosures of prescription monitoring information by authorized persons shall meet the requirements of K.S.A. 65-1685, and amendments thereto, and this article.

(a) By patients or patient's personal representative.

(1) Any patient or that patient's personal representative may obtain a report listing all program information that pertains to the patient, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto.

(2) Each patient or the patient's personal representative seeking access to the information described in paragraph (a)(1) shall submit a written request for information in person to the board. The written request shall be in a format established by the board and shall include the following elements:

(A) The patient's name and, if applicable, the full name of the patient's personal representative;

(B) the patient's residential address and, if applicable, the complete residential address of the patient's personal representative;

(C) the patient's telephone number, if any, and, if applicable, the telephone number of the personal representative; and

(D) the time period for which information is being requested.

(3) The patient or the patient's personal representative shall produce two forms of valid photographic identification before obtaining access to the patient's information obtained by the program. The patient or the patient's personal representative shall allow photocopying of the identification.

(4) Before access to the patient's information obtained by the program is given, one of the following shall be produced if the requester is not the patient:

(A) For a personal representative, an official attested copy of the judicial order granting authority to gain access to the health care records of the patient;

(B) for a parent of a minor child, a certified copy of the birth certificate of the minor child or other official documents establishing legal guardianship; or

(C) for a person holding power of attorney, the original document establishing the power of attorney.

(5) The patient's personal representative shall allow the photocopying of the documents described in this subsection.

(6) The patient authorization may be verified by the board by any reasonable means before providing the information to the personal representative.

(b) By dispensers.

(1) Any dispenser may obtain any program information relating to a patient of the dispenser for the purpose of providing pharmaceutical care to that patient, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile transmission, or telephone.

(2) Each dispenser who seeks access to the information described in paragraph (b)(1) shall submit a written request to the board by mail, hand delivery, or electronic means in a manner established by the board, using authentication. If the authentication is lost or missing or the security of the authentication is compromised, the dispenser shall cause the board to be notified by telephone and in writing as soon as reasonably possible. Information regarding more than one patient may be submitted in a single request.

Each request shall be submitted in a format established by the board and shall include the following elements for each patient:

(A) The patient's name and birth date;

(B) if known to the dispenser, the patient's address and telephone number;

- (C) the time period for which information is being requested;
- (D) the dispenser's name;
- (E) if applicable, the name and address of the dispenser's pharmacy;
- (F) the dispenser identification number; and
- (G) the dispenser's signature.

(3) The authentication and identity of the dispenser shall be verified by the board before allowing access to any prescription monitoring information.

(c) By prescribers.

(1) Any prescriber or health care practitioner authorized by a prescriber may obtain any program information relating to a patient under the prescriber's care, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Each prescriber or health care practitioner authorized by a prescriber who seeks access to program information shall submit a written request to the board by mail, hand delivery, or electronic means in a manner established by the board, using authentication. If the authentication is lost or missing or the security of the authentication is compromised, the prescriber shall cause the board to be notified by telephone and in writing as soon as reasonably possible. Information regarding more than one patient may be submitted in a single request.

Each request shall be submitted in a format established by the board and shall include the following elements for each patient:

- (A) The patient's name and birth date;
- (B) if known to the prescriber, the patient's address and telephone number;
- (C) the time period for which information is being requested;
- (D) the prescriber's name;
- (E) the name and address of the prescriber's medical practice;
- (F) the prescriber identification number; and
- (G) the prescriber's signature.

(3) The authentication and identity of the dispenser shall be verified before allowing access to any program information.

(d) By director or board investigator of a health professional licensing, certification, or regulatory agency or entity.

(1) Any director or board investigator of a health professional licensing, certification, or regulatory agency or entity may obtain any program information needed in carrying out that individual's business, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Each director or board investigator of a licensing board with jurisdiction over a dispenser or prescriber who seeks access to program information shall submit a written request by mail, facsimile, or electronic means to a location specified by the board. The written request shall contain a statement of facts from which the board can make a determination of reasonable cause for the request.

(e) By local, state, and federal law enforcement or prosecutorial officials.

(1) Any local, state, or federal law enforcement officer or prosecutorial official may obtain any program information as required for an ongoing case, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Each local, state, or federal law enforcement officer or prosecutorial official who seeks access to program information shall register with the board. Once registration is approved, the requester may submit a written request by mail, facsimile, or electronic means to the board. All requests for, uses of, and disclosures of prescription monitoring information by authorized persons under this subsection shall meet the requirements of K.S.A. 65-1685 (c)(4), and amendments thereto.

(f) By the Kansas health policy authority for purposes of the Kansas medicaid and state children's health insurance program (SCHIP).

(1) An authorized representative of the Kansas health policy authority may obtain any program information regarding medicaid or SCHIP program recipients, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board.

(2) Each authorized representative of the Kansas health policy authority seeking program information regarding medicaid or SCHIP program recipients who seeks access to program information shall submit a request to the board.

(g) By any other state's prescription monitoring program.

(1) Any authorized representative from any other state's prescription monitoring program may obtain any program information for requests from within that state that do not violate the authentication and security provisions of the prescription monitoring program act, in accordance with this regulation and K.S.A. 65-1685 and amendments thereto. The information shall be provided in a format established by the board, which may include delivery by electronic means, facsimile, or telephone.

(2) Any authorized representative from another state's prescription monitoring program seeking access to program information shall first establish a data-sharing agreement with the board in which the states agree to share prescription monitoring information with one another. The agreement shall specify what information will be made available and to whom, how requests will be made, how quickly requests will be processed, and in which format the information will be provided.

(h) By public or private entities for statistical, research, or educational purposes.

(1) Any public or private entity may obtain program information, in accordance with this regulation and K.S.A. 65-1685(d) and amendments thereto. The information shall be provided in a format established by the board.

(2) Each public or private entity who seeks access to program information shall submit a written request by mail, facsimile, or electronic means to the board. The written request shall contain a statement of facts from which the board can make a determination of reasonable cause for the request.

[Back to Top ↑](#)

Kentucky
§ 218A.202

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

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(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.

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(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.

(13) (a) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, may submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot or continuing project to study, create, or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances.

(b) The pilot project shall:

1. Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

2. Study the use of an interactive system that includes a relational data base with query capability.

(c) Funding to create or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health and Family Services may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.

(17) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.

(18) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:

(a) An error resolution process allowing a patient to whom a report had been disclosed under subsection (8) of this section to request the correction of inaccurate information contained in the system relating to that patient; and

(b) Beginning July 1, 2013, a requirement that data be reported to the system under subsection (3) of this section within one (1) day of dispensing.

[Back to Top ↑](#)

Louisiana
40 § 1007
ADC Title 46, Part LIII, § 2921

West's Louisiana Statutes Annotated (2013)
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X-A. Prescription Monitoring Program

§ 1007. Access to prescription monitoring information

A. Except as provided in Subsections C, D, E, F, G, H, and I of this Section, prescription monitoring information submitted to the board shall be protected health information, not subject to public or open records law, including but not limited to R.S. 44:1 et seq., and not subject to disclosure. Prescription monitoring information shall not be available for civil subpoena nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Notwithstanding this provision, law enforcement and professional licensing, certification, or regulatory agencies may utilize prescription monitoring information in the course of any investigation and subsequent criminal and administrative proceedings, but only in accordance with federal and state law and the requirements of this Part.

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 or entities except as in Subsections C, D, E, F, G, H, and I of this Section.

C. The board shall review the prescription monitoring information. If there is reasonable suspicion to believe a breach of professional or occupational standards may have occurred, the board shall notify the appropriate professional licensing agency with jurisdiction over prescribers or dispensers and shall provide prescription monitoring information required for an investigation.

D. The board shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information that identifies or could be reasonably used to identify prescribers, dispensers, and individual patients or persons who received prescriptions from prescribers.

E. The following persons, after successful completion of the educational courses identified in R.S. 40:1008, may access prescription monitoring information at no cost and in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

(1) Persons authorized to prescribe or dispense controlled substances or drugs of concern, or their delegates as defined by rule, for the purpose of providing medical or pharmaceutical care for their patients, or for verifying their prescribing records.

(2) Designated representatives from the professional licensing, certification, or regulatory agencies of this state or another state charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern.

(3) Designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients.

(4) Designated representatives of the board and any vendor or contractor establishing or maintaining the prescription monitoring program.

F. The board may provide a report containing prescription monitoring information upon application of local, state, out-of-state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances or other drugs of concern in compliance with and as limited by the relevant requirements of any of the following:

(1) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer.

(2) A grand jury subpoena.

(3) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:

(a) The information sought is relevant and material to a legitimate law enforcement inquiry.

(b) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

(c) De-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

G. The board may provide prescription monitoring information in response to queries from prescription monitoring programs located in other states, through its participation in a secure interstate data exchange system. However, the board shall not provide prescription monitoring information to prescription monitoring programs located in other states unless the laws of the state receiving the information provide at a minimum both of the following:

(1) That the prescription monitoring information is protected health information, not subject to the Public Records Law, and not subject to disclosure.

(2) That the prescription monitoring information shall not be subject to civil subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.

H. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third party conduit that has been approved by the board.

I. The board may provide prescription monitoring information to an individual who requests his personal prescription monitoring information in accordance with procedures established by board regulation.

J. The board and the advisory council shall be immune from civil liability arising from inaccuracy of any of the information submitted to the board pursuant to this Part.

Louisiana Administrative Code (2013)
Title 46. Professional and Occupational Standards
Part LIII. Pharmacists
Chapter 29. Prescription Monitoring Program
Subchapter C. Access to Prescription Monitoring Information

§ 2921. Methods of Access to Prescription Monitoring Information

A. Prescribers and dispensers, once properly registered, may solicit prescription monitoring information from the program concerning their patients, or for verifying their prescription records. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

C. Designated representatives of the Louisiana Medicaid program, once properly registered, may solicit prescription monitoring information from the program concerning specific recipients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

D. Designated representatives of the board, or any vendor or contractor establishing or maintaining the program, once properly registered, may solicit prescription monitoring information from the program for the purpose of establishing or maintaining the program's database.

E. Upon receipt of one of the following methods of application by local, state, out-of-state, or federal law enforcement or prosecutorial officials, the program may provide prescription monitoring information:

1. a court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

2. a grand jury subpoena; or

3. an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:

a. the information sought is relevant and material to a legitimate law enforcement inquiry;

b. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought;

c. de-identified information, or limited information that does not identify or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

F. Individuals may solicit their own prescription monitoring information from the program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

G. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of responding to legitimate inquiries from authorized users or other individuals.

H. Prescription monitoring programs located in other states may access prescription monitoring information from the program through a secure interstate data exchange system or health information exchange system approved by the board.

[Back to Top ↑](#)

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

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

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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.

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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.

[Back to Top ↑](#)

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:

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- (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.

[Back to Top ↑](#)

Massachusetts
66A § 2
94C § 24A
105 CMR 700.012

Massachusetts General Laws Annotated (2013)
Part I. Administration of the Government (Ch. 1-182)
Title X. Public Records (Ch. 66-66A)
Chapter 66A. Fair Information Practices

§ 2. Holders maintaining personal data system; duties

Every holder maintaining personal data shall:-

(a) identify one individual immediately responsible for the personal data system who shall insure that the requirements of this chapter for preventing access to or dissemination of personal data are followed;

(b) inform each of its employees having any responsibility or function in the design, development, operation, or maintenance of the personal data system, or the use of any personal data contained therein, of each safeguard required by this chapter, of each rule and regulation promulgated pursuant to section three which pertains to the operation of the personal data system, and of the civil remedies described in section three B of chapter two hundred and fourteen available to individuals whose rights under chapter sixty-six A are allegedly violated;

(c) not allow any other agency or individual not employed by the holder to have access to personal data unless such access is authorized by statute or regulations which are consistent with the purposes of this chapter or is approved by the data subject whose personal data are sought if the data subject is entitled to access under clause (i). Medical or psychiatric data may be made available to a physician treating a data subject upon the request of said physician, if a medical or psychiatric emergency arises which precludes the data subject's giving approval for the release of such data, but the data subject shall be given notice of such access upon termination of the emergency. A holder shall provide lists of names and addresses of applicants for professional licenses and lists of professional licensees to associations or educational organizations recognized by the appropriate professional licensing or examination board. A holder shall comply with a data subject's request to disseminate his data to a third person if practicable and upon payment, if necessary, of a reasonable fee; provided, however, that nothing in this section shall be construed to prohibit disclosure to or access by the bureau of special investigations to the records or files of the department of transitional assistance for the purposes of fraud detection and control;

(d) take reasonable precautions to protect personal data from dangers of fire, identity theft, theft, flood, natural disaster, or other physical threat;

(e) comply with the notice requirements set forth in section sixty-three of chapter thirty;

(f) in the case of data held in automated personal data systems, and to the extent feasible with data held in manual personal data systems, maintain a complete and accurate record of every access to and every use of any personal data by persons or organizations outside of or other than the holder of the data, including the identity of all such persons and organizations which have gained access to the personal data and their intended use of such data and the holder need not record any such access of its employees acting within their official duties;

(g) to the extent that such material is maintained pursuant to this section, make available to a data subject upon his request in a form comprehensible to him, a list of the uses made of his personal data, including the identity of all persons and organizations which have gained access to the data;

(h) maintain personal data with such accuracy, completeness, timeliness, pertinence and relevance as is necessary to assure fair determination of a data subject's qualifications, character, rights, opportunities, or benefits when such determinations are based upon such data;

(i) inform in writing an individual, upon his request, whether he is a data subject, and if so, make such data fully available to him or his authorized representative, upon his request, in a form comprehensible to him, unless doing so is prohibited by this clause or any other statute. A holder may withhold from a data subject for the period hereinafter set forth, information which is currently the subject of an investigation and the disclosure of which would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest, but this sentence is not intended in any way to derogate from any right or power of access the data subject might have under administrative or judicial discovery procedures. Such information may be withheld for the time it takes for the holder to complete its investigation and commence an administrative or judicial proceeding on its basis, or one year from the commencement of the investigation or whichever occurs first. In making any disclosure of information to a data subject pursuant to this chapter the holder may remove personal identifiers relating to a third person, except where such third person is an officer or employee of government acting as such and the data subject is not. No holder shall rely on any exception contained in clause Twenty-sixth of section seven of chapter four to withhold from any data subject personal data otherwise accessible to him under this chapter;

(j) establish procedures that (1) allow each data subject or his duly authorized representative to contest the accuracy, completeness, pertinence, timeliness, relevance or dissemination of his personal data or the denial of access to such data maintained in the personal data system and (2) permit personal data to be corrected or amended when the data subject or his duly authorized representative so requests and there is no disagreement concerning the change to be made or, when there is disagreement with the data subject as to whether a change should be made, assure that the data subject's claim is noted and included as part of the data subject's personal data and included in any subsequent disclosure or dissemination of the disputed data;

(k) maintain procedures to ensure that no personal data are made available in response to a demand for data made by means of compulsory legal process, unless the data subject has been notified of such demand in reasonable time that he may seek to have the process quashed;

(l) not collect or maintain more personal data than are reasonably necessary for the performance of the holder's statutory functions.

Massachusetts General Laws Annotated (2013)
Part I. Administration of the Government (Ch. 1-182)
Title XV. Regulation of Trade (Ch. 93-110H)
Chapter 94C. Controlled Substances Act

§ 24A. Electronic monitoring of the prescribing and dispensing of controlled substances and certain additional drugs

(a)(1) The department shall establish and maintain an electronic system to monitor the prescribing and dispensing of all schedule II to V, inclusive, controlled substances and certain additional drugs by all professionals licensed to prescribe or dispense such substances. For the purposes of this section, “additional drugs” shall mean substances determined by the department to carry a bona fide potential for abuse.

(2) The department shall enter into reciprocal agreements with other states that have compatible prescription drug monitoring programs to share prescription drug monitoring information among the states.

(b) The requirements of this section shall not apply to the dispensing of controlled substances to inpatients in a hospital.

(c) For the purposes of monitoring the prescribing and dispensing of all schedule II to V, inclusive, controlled substances and additional drugs, as authorized in subsection (a), the department shall promulgate regulations including, but not limited to, (1) a requirement that each pharmacy that delivers a schedule II to V, inclusive, controlled substance or a substance classified as an additional drug by the department to the ultimate user shall submit to the department, by electronic means, information regarding each prescription dispensed for a drug included under subsection (a); and (2) a requirement that each pharmacy collects and reports, for each prescription dispensed for a drug under subsection (a), a customer identification number and other information associated with the customer identification number, as specified by the department. Each pharmacy shall submit the information in accordance with transmission methods and frequency requirements promulgated by the department; provided, however, that the information shall be submitted at least once every 7 days. The department may issue a waiver to a pharmacy that is unable to submit prescription information by electronic means. The waiver shall permit the pharmacy to submit prescription information by other means promulgated by the department; provided, however, that all information required in this section is submitted in this alternative format.

The department, in consultation with all relevant licensing authorities, shall promulgate regulations that require participants to utilize the prescription monitoring program prior to seeing a new patient, including circumstances where participants would not be required to utilize the prescription monitoring program prior to seeing a new patient; a requirement that pharmacists be trained in the use of the prescription monitoring program as part of the continuing education requirements mandated for licensure by the board of registration in pharmacy, under section 24A of chapter 112 and a requirement that allows authorized support staff to use the prescription monitoring program on behalf of a registered participant.

(d) Prescription information submitted to the department under this section shall be confidential and exempt from disclosure under clause Twenty-sixth of section 7 of chapter 4 and chapter 66. The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided for in this chapter.

(e) The department shall review the prescription and dispensing monitoring information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity and provide prescription information required for an investigation.

(f) The department shall, upon request, provide data from the prescription monitoring program to the following:--

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

(2) individuals who request their own prescription monitoring information in accordance with procedures established under chapter 66A;

(3) persons authorized to act on behalf of state boards and regulatory agencies that supervise or regulate a profession that may prescribe controlled substances; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug-related investigation;

(4) local, state and federal law enforcement or prosecutorial officials working with the executive office of public safety engaged in the administration, investigation or enforcement of the laws governing prescription drugs; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug-related investigation;

(5) personnel of the executive office of health and human services regarding Medicaid program recipients; provided, however that the data request is in connection with a bona fide specific controlled substance or additional drug-related investigation; or

(6) personnel of the United States attorney, office of the attorney general or a district attorney; provided, however, that the data request is in connection with a bona fide specific controlled substance or additional drug related investigation.

(g) The department may, at its initiative, provide data from the prescription monitoring program to practitioners in accordance with section 24.

(h) The department may provide de-identified, aggregate information to a public or private entity for statistical research or educational purposes.

(i) The department may contract with another agency or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. A contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in this section.

(j) The department shall promulgate rules and regulations setting forth the procedures and methods for implementing this section.

(k) The department shall submit an annual report on the effectiveness of the prescription monitoring program with the clerks of the house and senate, the chairs of the joint committee on public health, the chairs of the joint committee on health care financing and the chairs of the joint committee on public safety and homeland security.

Code of Massachusetts Regulations (2013)
Title 105: Department of Public Health
Chapter 700.000: Implementation of M.g.l. C. 94C

700.012: Prescription Monitoring Program

...

(D) Privacy, Confidentiality and Disclosure.

(1) Except where otherwise provided by law or judicial order, the information collected pursuant to 105 CMR 700.012 shall not be disseminated by the Department to anyone other than:

(a) a licensed and registered practitioner or licensed pharmacy, or a duly authorized representative of the practitioner or pharmacy;

(b) a licensed health care professional, other than a practitioner, registered to prescribe or dispense controlled substances pursuant to 105 CMR 700.000 or a duly authorized representative of such licensed health care professional;

(c) a duly authorized representative of the board or agency responsible for registration, regulation or discipline of practitioners or other health care professionals authorized to prescribe or dispense controlled substances, acting in accordance with official duties in conducting a bona fide investigation;

(d) a duly authorized representative of a law enforcement agency acting in accordance with official duties in conducting a bona fide criminal investigation or prosecution of criminal violations. Requests for inspection of these records shall first be directed to the Office of the Attorney General of Massachusetts, or the Massachusetts State Police Diversion Investigative Unit, or the United States Drug Enforcement Administration for notification and approval prior to submission to the Department;

(e) a duly authorized representative of the Executive Office of Health and Human Services, acting in accordance with official duties, for the purpose of identifying suspected fraud or abuse of the MassHealth program;

(f) a duly authorized representative of a health department or other agency in another state, commonwealth, district, territory or country that maintains prescription information in a data system with privacy, security and other disclosure protections consistent with those established in the Commonwealth, in accordance with a written agreement or interstate compact establishing the terms and conditions for exchange of data;

(g) an individual who is the data subject, or the individual's parent or legal guardian, to the extent permitted by statute or regulation of the Commonwealth.

(2) All requests for information collected pursuant to 105 CMR 700.012 shall be in writing or in accordance with procedures established by the Department to ensure compliance with the requirements of 105 CMR 700.012(D)(1) and (E).

(3) The Commissioner or a designee may disclose data collected pursuant to 105 CMR 700.012 to an authorized practitioner, including a pharmacy or other health care professional registered to dispense controlled substances in any or all of the Schedules II through V pursuant to 105 CMR 700.000, or a duly authorized representative, as follows.

(a) The authorized practitioner, pharmacy or other health care professional registered to dispense controlled substances pursuant to 105 CMR 700.000 has dispensed or is evaluating the dispensing of such a controlled substance to a patient or research subject.

1. The Commissioner or a designee may initiate disclosure of such data upon a determination that the patient or research subject is receiving a controlled substance from more than one source and in quantities which he determines to be harmful to the health of the patient or research subject or that disclosure is otherwise necessary to prevent the unlawful diversion of a controlled substance.

2. The Commissioner or a designee may disclose such data in response to an inquiry by an authorized practitioner, pharmacy or other health care professional registered to dispense controlled substances pursuant to 105 CMR 700.000 for the purpose of preventing the dispensing of controlled substances to the same individual from multiple sources or the unlawful diversion of controlled substances.

(b) Such disclosure shall be for the purpose of assisting the practitioner, pharmacy or other registered health care professional in assessing the possibility of abuse or diversion, but shall not require or direct the practitioner, pharmacy or health care professional to take action that he or she believes to be contrary to the patient's or research subject's best interests.

(4) (a) The Commissioner or a designee may disclose data collected pursuant to 105 CMR 700.012 to the parties enumerated in 105 CMR 700.012(D)(1)(c) through (f) in response to an inquiry or at the initiation of the Commissioner or designee.

(b) Disclosure at the initiation of the Commissioner or designee shall be in conformance with any protocols established by the Department, in consultation with the Medical Review Group, concerning a patient, customer, practitioner or pharmacy potentially engaged in diversion or inappropriate dispensing. In providing such consultation concerning Department initiated disclosure, the Medical Review Group shall review the content and application of the protocols, make recommendations to the Department for effective use of such protocols and as needed review specific instances of Department initiated disclosure. In undertaking such review, the Medical Review Group shall be provided upon request with such pertinent information as needed.

[Back to Top ↑](#)

Minnesota
§ 152.126

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

§ 152.126. Controlled substances prescription electronic reporting system

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Subd. 5. Use of data by board. (a) The board shall develop and maintain a database of the data reported under subdivision 4. The board shall maintain data that could identify an individual prescriber or dispenser in encrypted form. The database may be used by permissible users identified under subdivision 6 for the identification of:

(1) individuals receiving prescriptions for controlled substances from prescribers who subsequently obtain controlled substances from dispensers in quantities or with a frequency inconsistent with generally recognized standards of use for those controlled substances, including standards accepted by national and international pain management associations; and

(2) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to dispensers.

(b) No permissible user identified under subdivision 6 may access the database for the sole purpose of identifying prescribers of controlled substances for unusual or excessive prescribing patterns without a valid search warrant or court order.

(c) No personnel of a state or federal occupational licensing board or agency may access the database for the purpose of obtaining information to be used to initiate or substantiate a disciplinary action against a prescriber.

(d) Data reported under subdivision 4 shall be retained by the board in the database for a 12-month period, and shall be removed from the database no later than 12 months from the last day of the month during which the data was received.

Subd. 6. Access to reporting system data. (a) Except as indicated in this subdivision, the data submitted to the board under subdivision 4 is private data on individuals as defined in section 13.02, subdivision 12, and not subject to public disclosure.

(b) Except as specified in subdivision 5, the following persons shall be considered permissible users and may access the data submitted under subdivision 4 in the same or

similar manner, and for the same or similar purposes, as those persons who are authorized to access similar private data on individuals under federal and state law:

(1) a prescriber or an agent or employee of the prescriber to whom the prescriber has delegated the task of accessing the data, to the extent the information relates specifically to a current patient, to whom the prescriber is prescribing or considering prescribing any controlled substance and with the provision that the prescriber remains responsible for the use or misuse of data accessed by a delegated agent or employee;

(2) a dispenser or an agent or employee of the dispenser to whom the dispenser has delegated the task of accessing the data, to the extent the information relates specifically to a current patient to whom that dispenser is dispensing or considering dispensing any controlled substance and with the provision that the dispenser remains responsible for the use or misuse of data accessed by a delegated agent or employee;

(3) an individual who is the recipient of a controlled substance prescription for which data was submitted under subdivision 4, or a guardian of the individual, parent or guardian of a minor, or health care agent of the individual acting under a health care directive under chapter 145C;

(4) personnel of the board specifically assigned to conduct a bona fide investigation of a specific licensee;

(5) personnel of the board engaged in the collection of controlled substance prescription information as part of the assigned duties and responsibilities under this section;

(6) authorized personnel of a vendor under contract with the board who are engaged in the design, implementation, operation, and maintenance of the electronic reporting system as part of the assigned duties and responsibilities of their employment, provided that access to data is limited to the minimum amount necessary to carry out such duties and responsibilities;

(7) federal, state, and local law enforcement authorities acting pursuant to a valid search warrant;

(8) personnel of the medical assistance program assigned to use the data collected under this section to identify recipients whose usage of controlled substances may warrant restriction to a single primary care physician, a single outpatient pharmacy, or a single hospital; and

(9) personnel of the Department of Human Services assigned to access the data pursuant to paragraph (h).

For purposes of clause (3), access by an individual includes persons in the definition of an individual under section 13.02.

(c) Any permissible user identified in paragraph (b), who directly accesses the data electronically, shall implement and maintain a comprehensive information security program that

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contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

(d) The board shall not release data submitted under this section unless it is provided with evidence, satisfactory to the board, that the person requesting the information is entitled to receive the data.

(e) The board shall not release the name of a prescriber without the written consent of the prescriber or a valid search warrant or court order. The board shall provide a mechanism for a prescriber to submit to the board a signed consent authorizing the release of the prescriber's name when data containing the prescriber's name is requested.

(f) The board shall maintain a log of all persons who access the data and shall ensure that any permissible user complies with paragraph (c) prior to attaining direct access to the data.

(g) Section 13.05, subdivision 6, shall apply to any contract the board enters into pursuant to subdivision 2. A vendor shall not use data collected under this section for any purpose not specified in this section.

(h) With available appropriations, the commission of human services shall establish and implement a system through which the Department of Human Services shall routinely access the data for the purpose of determining whether any client enrolled in an opioid treatment program licensed according to chapter 245A has been prescribed or dispensed a controlled substance in addition to that administered or dispensed by the opioid treatment program. When the commissioner determines there have been multiple prescribers or multiple prescriptions, the commissioner shall:

(1) inform the medical director of the opioid treatment program only that the commissioner determined the existence of multiple prescribers or multiple prescriptions of controlled substances; and

(2) direct the medical director of the opioid treatment program to access the data directly, review the effect of the multiple prescribers or multiple prescriptions, and document the review.

If determined necessary, the commission of human services shall seek a federal waiver of, or exception to, any applicable provision of Code of Federal Regulations, title 42, part 2.34, item (c), prior to implementing this paragraph.

...

[Back to Top ↑](#)

Mississippi
§ 73-21-127

West's Annotated Mississippi Code (2012)
Title 73. Professions and Vocations
Chapter 21. Pharmacists
Mississippi Pharmacy Practice Act

§ 73-21-127. Computer program to track prescriptions for controlled substances and report illegal activity

The Board of Pharmacy shall develop and implement a computerized program to track prescriptions for controlled substances and to report suspected abuse and misuse of controlled substances in compliance with the federal regulations promulgated under authority of the National All Schedules Prescription Electronic Reporting Act of 2005 and in compliance with the federal HIPAA law, under the following conditions:

- (a) Reporting of dispensing information shall be mandatory and required by the State Board of Pharmacy for any entity dispensing controlled substances in or into the State of Mississippi.
- (b) The prescriptions tracked shall be prescriptions for controlled substances listed in Drug Enforcement Agency Schedule II, III, IV or V and specified noncontrolled substances authorized by the State Board of Pharmacy that are dispensed to residents in the State of Mississippi by licensed pharmacies, nonresident pharmacies, institutions, dispensing practitioners and the dispenser of veterinary controlled substance drugs, regardless of dispenser location.
- (c) The Board of Pharmacy shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide them with the relevant information obtained for further investigation.
- (d) The program shall provide information regarding the potential inappropriate use of controlled substances and the specified noncontrolled substances to practitioners, pharmacists-in-charge and appropriate state agencies in order to prevent the inappropriate or illegal use of these controlled substances. The specific purposes of the program shall be to: be proactive in safeguarding public health and safety; support the legitimate use of controlled substances; facilitate and encourage the identification, intervention with and treatment of individuals addicted to controlled substances and specified noncontrolled drugs; identify and prevent drug diversion; provide assistance to those state and federal law enforcement and regulatory agencies investigating cases of drug diversion or other misuse; and inform the public and health care professionals of the use and abuse trends related to controlled substance and specified noncontrolled drugs.

(e)(i) Access to collected data shall be confidential and not subject to the provisions of the federal Freedom of Information Act or the Mississippi Open Records Act. Upon request,

the State Board of Pharmacy shall provide collected information to: pharmacists or practitioners who are properly registered with the State Board of Pharmacy and are authorized to prescribe or dispense controlled substances for the purpose of providing medical and pharmaceutical care for their patients; local, state and federal law enforcement officials engaged in the administration, investigation or enforcement of the laws governing illicit drug use; regulatory and licensing boards in this state; Division of Medicaid regarding Medicaid and Medicare Program recipients; judicial authorities under grand jury subpoena or court order; **an individual who requests the individual's own prescription monitoring information;** and prescription monitoring programs in other states through mutual agreement adhering to State Board of Pharmacy policies.

(ii) The Director of the Mississippi Bureau of Narcotics, or his designee, shall have access to the prescription monitoring program (PMP) database for the purpose of investigating the potential illegal acquisition, distribution, dispensing, prescribing or administering of the controlled and noncontrolled substances monitored by the program, subject to all legal restrictions on further dissemination of the information obtained.

(iii) The State Board of Pharmacy may also provide generic, nonidentifying statistical data for research or educational purposes.

(f) A dispenser pharmacist or practitioner licensed to dispense controlled substances and specified noncontrolled substance drugs who knowingly fails to submit drug monitoring information or knowingly submits incorrect dispensing information shall be subject to actions against the pharmacist's or practitioner's license, registrations or permit and/or an administrative penalty as provided in Sections 73-21-97 and 73-21-103.

(g) "Practitioner," as used in this section, shall include any person licensed, registered or otherwise permitted to distribute, dispense, prescribe or administer a controlled substance, as defined under Section 41-29-105(y).

(h) In addition to any funds appropriated by the Legislature, the State Board of Pharmacy may apply for any available grants and accept any gifts, grants or donations to assist in future development or in maintaining the program.

(i) This section shall stand repealed on July 1, 2014.

[Back to Top ↑](#)

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.

[Back to Top ↑](#)

Nevada
§ 453.1545

West's Nevada Revised Statutes Annotated (2013)
Title 40. Public Health and Safety
Chapter 453. Controlled Substances
Uniform Controlled Substances Act
General Provisions

§ 453.1545. Board and Division required to develop computerized program to track prescriptions for controlled substances and course of training for persons who access program; Board required to provide certain practitioners Internet access to database of program; reporting of illegal activity; confidentiality of information obtained from program; gifts, grants and donations

1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

(d) Include the contact information of each person who elects to access the database of the program pursuant to subsection 2, including, without limitation:

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

(4) If the person maintains an electronic mail address, the electronic mail address of the person.

2. The Board shall provide Internet access to the database of the program established pursuant to subsection 1 to each practitioner who is authorized to write prescriptions for and each person who is authorized to dispense controlled substances listed in schedule II, III or IV who:

(a) Elects to access the database of the program; and

(b) Completes the course of instruction described in subsection 6.

3. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.

4. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.

5. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section and NRS 239.0115, must not be disclosed to any person. That information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on behalf of that person by his or her attorney; or

(b) Upon the lawful order of a court of competent jurisdiction.

6. The Board and the Division shall cooperatively develop a course of training for persons who elect to access the database of the program pursuant to subsection 2 and require each such person to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.

7. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

[Back to Top ↑](#)

New Hampshire
§ 318-B:35

Revised Statutes Annotated of the State of New Hampshire (2013)
Title XXX. Occupations and Professions (Ch. 309 to 332-J)
Chapter 318-B. Controlled Drug Act

§ 318-B:35 Providing Controlled Drug Prescription Health and Safety Information.

I. The program may provide information in the prescription health and safety program upon request only to the following persons:

(a) By electronic or written request to prescriber and dispensers within the state who are registered with the program:

- (1) For the purpose of providing medical or pharmaceutical care to a specific patient; or
- (2) For reviewing information regarding prescriptions issued or dispensed by the requester.

(b) By written request, to:

(1) A patient who requests his or her own prescription monitoring information.

(2) The board of dentistry, the board of medicine, the board of nursing, the board of registration in optometry, the board of podiatry, the board of veterinary medicine, and the pharmacy board; provided, however, that the request is pursuant to the boards' official duties and responsibilities and the disclosures to each board relate only to its licensees and only with respect to those licensees whose prescribing or dispensing activities indicate possible fraudulent conduct.

(3) Authorized law enforcement officials on a case-by-case basis for the purpose of investigation and prosecution of a criminal offense when presented with a court order based on probable cause. No law enforcement agency or official shall have direct access to the program.

(4) A controlled drug prescription health and safety program from another state on a case-by-case basis, if an agreement is in place with the other state to ensure that the information is used and disseminated pursuant to the requirements of this state.

II. The program shall notify the appropriate regulatory board listed in subparagraph I(b)(2) and the prescriber or dispenser at such regular intervals as may be established by the board if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred. The program shall provide prescription information required or necessary for an investigation.

III. The program shall review the information to identify information that appears to indicate whether a person may be obtaining prescriptions in a manner that may represent misuse or abuse of schedule II-IV controlled substances. When such information is identified, the program shall notify the practitioner who prescribed the prescription.

[Back to Top ↑](#)

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New Mexico
ADC 16.19.29

Code of New Mexico Rules (2013)
Title 16. Occupational and Professional Licensing
Chapter 19. Pharmacists
Part 29. Controlled Substance Prescription Monitoring Program

16.19.29. CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM

16.19.29.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy.

[16.19.29.1 NMAC - N, 07-15-04]

16.19.29.2 SCOPE: All persons or entities that dispense controlled substances pursuant to prescriptions from practitioners.

[16.19.29.2 NMAC - N, 07-15-04]

16.19.29.3 STATUTORY AUTHORITY: Section 30-31-16 of the Controlled Substance Act.30-31-1 through 30-31-42 NMSA 1978, authorizes the board of pharmacy to promulgate regulations and charge reasonable fees regarding controlled substances. 30-31-16 authorizes the board to collect information regarding controlled substances.

[16.19.29.3 NMAC - N, 07-15-04]

16.19.29.4 DURATION: Permanent.

[16.19.29.4 NMAC - N, 07-15-04]

16.19.29.5 EFFECTIVE DATE: 07-15-04, unless a later date is cited at the end of a section.

[16.19.29.5 NMAC - N, 07-15-04]

16.19.29.6 OBJECTIVE: The objective of Part 29 of Chapter 19 is to promote the public health and welfare by detecting and preventing substance abuse and encouraging appropriate treatment of pain and other conditions for which controlled substances are prescribed. The purpose of the system is to improve access to controlled substances for legitimate medical needs by allowing a practitioner or a pharmacist to obtain a patient's pharmaceutical history related to controlled substances. The program's objectives will include education of the public and health care professionals regarding the nature and extent of the problem of drug abuse, appropriate prescribing and use of controlled substances, and the medical treatment options for abusers of controlled substances and pain management.

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16.19.29.9 ACCESS TO PRESCRIPTION INFORMATION: Practitioners registered with the program may designate one delegate per practice site to register with the program for the purpose of requesting and receiving reports for the practitioner.

A. Prescription information submitted to the board shall be confidential and not subject to public or open records laws, except as provided in Subsections C, D and E of 16.19.29.9 NMAC.

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 in Subsection C, D, and E of this 16.19.29.9 NMAC.

C. After receiving a complaint, the board inspectors shall review the relevant prescription information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the board shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity, and provide prescription information required for an investigation.

D. The board will establish written protocols for reviewing the prescription data reported. These protocols will be reviewed and approved by the board as needed but at least once every calendar year. These protocols will define information to be screened, frequency and thresholds for screening and the parameters for using the data. Data will be used to notify providers, patients and pharmacies to educate, provide for patient management and treatment options.

E. The board shall be authorized to provide data in the prescription monitoring program to the following persons:

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

(2) an individual who request's their own prescription monitoring information in accordance with procedures established under 61-11-2.D NMSA, 1978 and Subsection G of 16.19.6.23 NMAC;

(3) New Mexico medical board, New Mexico board of nursing, New Mexico board of veterinary medicine, New Mexico board of dental health care, board of examiners in optometry, osteopathic examiners board, acupuncture & oriental medicine board, and podiatry board for their licensees;

(4) professional licensing authorities of other states if their licensees practice in the state or prescriptions provided by their licensees are dispensed in the state;

(5) local, state and federal law enforcement or prosecutorial officials engaged in an ongoing investigation of an individual in the enforcement of the laws governing licit drugs;

(6) human services department regarding medicaid program recipients;

(7) metropolitan, district, state or federal court(s) under grand jury subpoena or criminal court order;

(8) personnel of the board for purposes of administration and enforcement of this regulation, or 16.19.20 NMAC or;

(9) the controlled substance monitoring program of another state or group of states with whom the state has established an interoperability agreement;

(10) a parent to have access to the prescription records about his or her minor child, as his or her minor child's personal representative when such access is not inconsistent with state or other laws.

(11) the board shall use de-identified data obtained from the prescription drug monitoring database to identify and report to state and local public health authorities the geographic areas of the state where anomalous prescribing, dispensing, or use of controlled substances is occurring.

(12) the board shall share prescription drug monitoring database data with the department of health for the purpose of tracking inappropriate prescribing and misuse of controlled substances, including drug overdose.

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

[16.19.29.9 NMAC - N, 07-15-04; A, 06-11-11]

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[Back to Top ↑](#)

New York

Public Health Law § 3343-a (eff. Aug. 27, 2013)

Public Health Law § 3371 (eff. Aug. 27, 2013)

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

Public Health Law

Chapter 45. Of the Consolidated Laws

Article 33. Controlled Substances

Title IV. Dispensing to Ultimate Users

<Text of section effective August 27, 2013, except that pharmacists and designees may access the registry prior to that time to the extent practicable>

§ 3343-a. Prescription Monitoring Program Registry

...

6. Individual access to controlled substance histories. The commissioner shall establish procedures by which an individual may:

(A) Request and obtain his or her own controlled substances history consisting of patient-specific information or, in appropriate circumstances, that of a patient who lacks capacity to make health care decisions and for whom the individual has legal authority to make such decisions and would have legal access to the patient's health care records; or

(B) Seek review of any part of his or her controlled substances history or, in appropriate circumstances, that of a patient who lacks capacity to make health care decisions and for whom the individual has legal authority to make such decisions and would have legal access to the patient's health care records, that such individual disputes.

Such procedures shall require the department to promptly revise any information accessible through the registry that the department determines to be inaccurate. Such procedures shall be described on the department's website and included with the controlled substances history provided to an individual pursuant to a request made under this subdivision or under subparagraph (IV) of paragraph (A) of subdivision two of section thirty-three hundred seventy-one of this article.

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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

<Text of section effective August 27, 2013, except that pharmacists and designees may access the registry prior to that time to the extent practicable>

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

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.

[Back to Top ↑](#)

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.

[Back to Top ↑](#)

North Dakota
§ 19-03.5-03

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

§ 19-03.5-03. Access to prescription information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Back to Top ↑](#)

Ohio
§ 4729.80
ADC 4729-37-08

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

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

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

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

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

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

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

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

(a) A current patient of the prescriber;

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

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

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

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

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

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

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

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

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

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

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

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

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

Baldwin's Ohio Administrative Code (2013)
4729 Pharmacy Board
Chapter 4729-37. Dangerous Drug Database

4729-37-08 Procedures for obtaining drug database information

Persons that are permitted pursuant to divisions (A)(1) to (A)(5) of section 4729.79 of the Revised Code to obtain information from the drug database must comply with the following procedures:

(A) A designated representative of a government entity, a prescriber, or a pharmacist must:

(1) Complete a request form giving such information as required by the board of pharmacy;

(2) Submit the completed form to the board of pharmacy in person, by mail, or by other board approved means.

(B) A federal, state, or local officer must:

(1) Complete a request form giving such information as required by the board of pharmacy that will include an active case number assigned by the investigating agency or department and an approval by a supervisor of that agency or department;

(2) Submit the completed form to the board of pharmacy in person, by mail, or by other board approved means.

(C) An individual seeking the individual's own database information must:

(1) Complete a notarized request form giving such information as required by the board of pharmacy;

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(2) Submit the completed form in person or by mail;

(3) Receive the information in person at the board of pharmacy office during normal business hours and show proof of identity with a current government issued form of identification that contains a picture such as a current state issued identification card, a current state issued drivers license, or a valid passport;

(4) Pay the cost of printing the document as determined by the board of pharmacy's current per page rate.

[Back to Top ↑](#)

Oregon

§ 431.966 (eff. until Jan. 1, 2014)

§ 431.966 (eff. Jan. 1, 2014)

ADC 410-121-4020

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 until January 1, 2014>

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

(A) Is protected health information under ORS 192.553 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)(D) of this section, prescription monitoring information submitted under ORS 431.964 to the prescription monitoring program may not be used to evaluate a practitioner's professional practice.

(2)(a) If a disclosure of prescription monitoring information complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581, the Oregon Health Authority shall disclose the information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 431.966. Prescription monitoring information disclosure; limitations

<Text of section effective January 1, 2014>

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

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

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

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

(2)(a) To the extent that the law or regulation is applicable to the prescription monitoring program, if a disclosure of prescription monitoring information, other than the sex of a patient for whom a drug was prescribed, complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581, the Oregon Health Authority shall disclose the information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

410-121-4020. Information Access

(1) System Access. Only the following individuals or entities may access the system:

- (a) Practitioners and pharmacists authorized to prescribe or dispense controlled substances; and
- (b) Designated representatives of the Authority and any vendor contracted to establish or maintain the system.

(2) All entities or individuals who request access from the Authority for the creation of user accounts shall agree to terms and conditions of use of the system.

(3) The Authority shall monitor the system for unusual and potentially unauthorized use. When such use is detected, the user account shall be immediately deactivated.

(4) The vendor, a practitioner, a pharmacist or a pharmacy shall report to the Authority within 24 hours any suspected breach of the system or unauthorized access.

(5) When the Authority is informed of any suspected breach of the system or unauthorized access, the Authority shall notify the Authority's Information Security Office and investigate.

(6) If patient data is determined to have been breached or accessed without proper authorization, the Authority shall notify all affected patients, the Attorney General, and the applicable health professional regulatory board as soon as possible but no later than 30 days from the date of the final determination that a breach or unauthorized access occurred. Notice shall be made by first class mail to a patient or a patient's next of kin if the patient is deceased. The notice shall include:

- (a) The date the breach or unauthorized access was discovered and the date the Authority believes the breach or unauthorized access occurred;
- (b) The data that was breached or accessed without proper authorization;
- (c) Steps the individual can take to protect him or herself from identity or medical identity theft;
- (d) Mitigation steps taken by the Authority; and

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(e) Steps the Authority will take to reasonably ensure such a breach does not occur in the future.

(7) Practitioner and Pharmacist Access. A practitioner or pharmacist who chooses to request access to the system shall apply for a user account as follows:

(a) Complete and submit an application provided by the Authority that includes identifying information and credentials;

(b) Agree to terms and conditions of use of the system that defines the limits of access, allowable use of patient information, and penalties for misuse of the system; and

(c) Mail to the Authority a notarized application.

(8) The Authority shall review each application to authenticate before granting approval of a new account.

(9) If the Authority learns that a practitioner or pharmacist has provided inaccurate or false information on an application, the Authority shall deny access to the system or terminate access to the system if access has already been established. The Authority may send written notification to the appropriate health professional regulatory board.

(10) A practitioner or pharmacist who is an authorized system user shall notify the Authority when his or her license or DEA registration has been limited or revoked. A practitioner or pharmacist who changes or terminates employment shall notify the Authority of that change.

(11) When the Authority learns that a practitioner or pharmacist's license has been limited or revoked, the Authority shall deny further access to the system.

(12) Each time a practitioner or pharmacist makes a patient query he or she shall certify that requests are in connection with the treatment of a patient in his or her care and agree to terms and conditions of use of the system.

(13) When the Authority learns of any potential unauthorized use of the system or system data, the Authority shall revoke the practitioner or pharmacist's access to the system, notify the Authority's Information Security Office, and investigate.

(a) If the Authority determines unauthorized use occurred, the Authority shall send written notification to the appropriate health professional regulatory board, the Attorney General and all affected individuals.

(b) If the Authority determines unauthorized use did not occur, the Authority shall reinstate access to the system.

(14) The Authority shall send written notification to a user or a potential user when an account has been deactivated or access has been denied.

(15) Patient Access. A patient may request a report of the patient's own controlled substance record. The patient shall mail to the Authority a request that contains the following documents:

(a) A signed and dated patient request form provided by the Authority; and

(b) A copy of the patient's current valid U.S. driver's license or other valid government issued photo identification.

(16) The Authority shall review the personal information submitted and verify that the patient's identification and request match before taking further action.

(17) If the Authority cannot verify the information, the Authority shall send written notification to the patient explaining why the request cannot be processed.

(18) After the Authority has verified the request, the Authority shall query the system based upon the patient information provided in the request and securely send the report to the patient at no cost to the patient.

(19) If no data is found that matches the patient identified in the request, the Authority shall send written notification to the patient explaining possible reasons why no patient data was identified.

(20) A patient may send written notification to the Authority if he or she believes unauthorized access to his or her information has occurred. The notification shall include the patient's name, who is suspected to have gained unauthorized access to the patient's information, what information is suspected to have been accessed by unauthorized use, when the suspected unauthorized access occurred, and why the patient suspects the access was unauthorized. The Authority shall treat such patient notifications as potential unauthorized use of the system.

(21) A patient may request that the Authority correct information in a patient record report as follows:

(a) The patient shall specify in writing to the Authority what information in the report the patient considers incorrect.

(b) When the Authority receives a request to correct a patient's information in the system, the Authority shall make a note in the system that the information is contested and verify the accuracy of the system data with the vendor. The vendor shall verify that the data obtained from the query is the same data received from the pharmacy.

(c) If the data is verified incorrect, the Authority shall correct the errors in consultation with the vendor and document the correction. The Authority shall send to the patient the corrected report.

(d) If the vendor verifies the data is correct, the Authority shall send written notification informing the patient that the request for correction is denied. The notice shall inform the patient of his or her rights as are applicable to the prescription drug monitoring program, the process for filing an appeal, and if there are no appeal rights, how to otherwise address or resolve the issue.

(22) The Authority shall respond to all patient requests within 10 business days after the Authority receives a request. Each response shall include information that informs the patient of his or her rights as are applicable to the prescription drug monitoring program.

(23) If the Authority denies a patient's request to correct information, or fails to grant a patient's request within 10 business days after the Authority receives the request, a patient may appeal the denial or failure by requesting a contested case hearing. The appeal shall be filed within 30 days after the request to correct information is denied. The appeal process is conducted pursuant to ORS chapter 183 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 through 137-003-0700.

(24) Law Enforcement Access. A federal, state, or local law enforcement agency engaged in an authorized drug-related investigation of an individual may request from the Authority controlled substance information pertaining to the individual to whom the information pertains. The request shall be pursuant to a valid court order based on probable cause.

(25) A law enforcement agency shall submit to the Authority a request that contains the following:

- (a) A form provided by the Authority specifying the information requested; and
- (b) A copy of the court order documents.

(26) The Authority shall review the law enforcement request.

(a) If the form is complete and the court order is valid, the Authority shall query the system for the requested information and securely provide a report to the law enforcement agency.

(b) If the request or court order is not valid, the Authority shall respond to the law enforcement agency providing an explanation for the denial.

(27) Health Professional Regulatory Board Access. A health professional regulatory board investigating an individual regulated by the board may request from the Authority controlled substance information pertaining to the member.

(a) A health professional regulatory board shall submit to the Authority a form provided by the Authority specifying the information requested. The board's executive director shall certify that the requested information is necessary for an investigation related to licensure, renewal, or

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disciplinary action involving the applicant, licensee, or registrant to whom the requested information pertains.

(b) The Authority shall review the regulatory board request.

(A) If a request is valid, the Authority shall query the system for the requested information and securely provide a report to the health professional regulatory board.

(B) If a request is not valid, the Authority shall respond to the health professional regulatory board providing an explanation for the denial.

(28) Researcher Access. The Authority may provide de-identified data for research purposes to a researcher. A researcher shall submit a research data request form provided by the Authority.

(a) The request shall include but is not limited to a thorough description of the study aims, data use, data storage, data destruction, and publishing guidelines.

(b) The Authority shall approve or deny research data requests based on application merit.

(c) If a request is approved, the requestor shall sign a data use agreement provided by the Authority.

(d) The Authority shall provide the minimum data set necessary that does not identify individuals.

(e) The Authority may charge researchers a reasonable fee for services involved in data access.

[Back to Top ↑](#)

Rhode Island
§ 21-28-3.32

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

§ 21-28-3.32. Electronic prescription database.

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

- (1) To a practitioner who certifies that the requested information is for the purpose of evaluating the need for or providing medical treatment for a current patient to whom the practitioner is prescribing or considering prescribing a controlled substance;
- (2) To a pharmacist who certifies that the requested information is for a current client to whom the pharmacist is dispensing or considering dispensing a controlled substance;
- (3) Pursuant to a valid search warrant based on probable cause to believe a violation of federal or state criminal law has occurred and that specified information contained in the database would assist in the investigation of the crime;
- (4) To a patient who requests his or her own prescription information, or the parent or legal guardian of a minor child who requests the minor child's prescription information;**
- (5) To a health professional regulatory board that documents, in writing, that the requested information is necessary for an investigation related to licensure, renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains;
- (6) To any vendor or contractor with whom the department has contracted to establish or maintain the electronic system of the prescription drug monitoring database; or
- (7) To public or private entities for statistical, research or educational purposes, after removing the patient and prescriber information that could be used to identify individual patients. This shall not include entities receiving a waiver from the institutional review board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Back to Top ↑](#)

South Carolina
§ 44-53-1650

Code of Laws of South Carolina 1976 Annotated (2013)
Title 44. Health
Chapter 53. Poisons, Drugs and Other Controlled Substances
Article 15. Prescription Monitoring Program

§ 44-53-1650. Confidentiality; persons to whom data may be released.

(A) Prescription information submitted to drug control is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (C) and (D).

(B) Drug control 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 subsections (C) and (D).

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

(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, 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;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

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

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) 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. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this Subsection.

[Back to Top ↑](#)

South Dakota
§ 34-20E-7
ADC 20:51:32:06

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

§ 34-20E-7. Disclosure of data in central repository to certain persons and entities

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

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

(2) Any individual who requests the prescription information of the individual or the individual's minor child;

(3) Any state board or regulatory agency that is responsible for the licensing of individuals authorized to prescribe or dispense controlled substances if the board or regulatory agency is seeking information from the central repository that is relevant to an investigation of an individual who holds a license issued by that board or regulatory agency;

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

(5) The Department of Social Services for purposes regarding the utilization of controlled substances by a medicaid recipient;

(6) Any insurer for purposes regarding the utilization of controlled substances by a claimant;

(7) Any judicial authority under grand jury subpoena or court order or equivalent judicial process for investigation of criminal violations of controlled substances laws;

(8) Any public or private entity for statistical, research, or educational purposes after the information is de-identified with respect to any prescriber, dispenser, or patient who received a prescription for a controlled substance; or

(9) Any peer review committee, which means any committee of a health care organization, composed of health care providers, employees, administrators, consultants, agents, or members of the health care organization's governing body, which conducts professional peer review.

Administrative Rules of South Dakota (2013)
Department of Health (Articles 20:45 to 20:52)
Article 20:51 Pharmacists
Chapter 20:51:32 Prescription Drug Monitoring Program

20:51:32:06. Disclosure of data -- Individual.

An individual or the individual's agent, authorized in writing, may request prescription information of the individual or the individual's minor child.

The individual requesting the prescription information or an authorized agent of the individual shall submit a signed, written request on a form provided by the board for records of the individual's prescriptions reported to the program.

The individual or agent will be required to present a current government-issued photo identification at the time of delivery of the request.

An individual who is unable to personally deliver the request to the board office may submit a request by mail or a commercial delivery service. The request shall comply with the provisions above, a copy of the current government issued photo identification shall be enclosed, and the signature of the requesting individual shall be notarized.

[Back to Top ↑](#)

Tennessee
ADC 1140-11-.02

Tennessee Rules and Regulations (2013)
1140. Board of Pharmacy
Chapter 1140-11. Controlled Substance Monitoring Database

1140-11-.02 ACCESS TO DATABASE.

(1) All prescribers with DEA numbers who prescribe controlled substances, and all dispensers in practice who provide direct care to patients in Tennessee for more than fifteen (15) calendar days per year, shall be registered in the database. New licensees shall have up to thirty (30) calendar days after notification of licensure to register in the database. Licensed veterinarians who never prescribe a controlled substance in an amount intended to treat a non-human patient for more than forty-eight (48) hours shall not be required to register in the database.

(2) Information sent to, contained in, and reported from the database in any format shall be made available only as provided for in T.C.A. § 53-10-306 and to the following persons in accordance with this chapter:

(a) A prescriber conducting medication history reviews who is actively involved in the care of a patient or a bona fide prospective 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 under this paragraph shall have a separate identifiable authentication for access;

(b) 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 a patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or bona fide prospective patient to whom that dispenser has dispensed, is dispensing, or considering dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access;

(c) A county medical examiner appointed pursuant to T.C.A. § 38-7-104 when acting in an official capacity as established in T.C.A. § 38-7-109;

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

1. The Office of the Inspector General;
2. The Medicaid Fraud Control Unit; and
3. The Bureau of TennCare's Chief Medical Officer, Associate Chief Medical Directors, Director of Quality Oversight, and Associate Director of Pharmacy.

(e) A quality improvement committee, as defined in T.C.A. § 68-11-272, of a hospital licensed under T.C.A. title 68 or title 33, as part of the committee's confidential and privileged activities under T.C.A. § 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;

(f) A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, or considering prescribing or dispensing any controlled substance. Each authorized individual under this paragraph shall have a separate identifiable authentication for access, and the prescriber or dispenser shall cancel the healthcare practitioner extender's access to the database upon the end of the agency relationship;

(g) A manager of any investigation or prosecution unit of a health related board, committee or other governing body that licenses practitioners, who has access to the database with the committee's permission pursuant to T.C.A. § 53-10-308. Such manager may release the database information to the state of Tennessee health related boards, health related committees, the department, and representatives of health-related professional recovery programs;

(h) The following personnel of the Department of Mental Health and Substance Abuse Services, who are actively engaged in analysis of controlled substance prescription information, as part of their assigned duties and responsibilities. These personnel shall have access to prescription information for specific patients. Additionally, aggregate controlled substances prescribing information may be provided to these personnel and may be shared with other personnel of the Department of Mental Health and Substances Abuse Services as needed to fulfill the assigned duties and responsibilities:

1. The Chief Pharmacist;
2. The State Opioid Treatment Authority (SOTA) or SOTA designees; and
3. The Medical Director; or

(i) A person who has the patient's written permission to have access to the patient's records in the database.

(3) Law enforcement personnel engaged in an official investigation and enforcement of state or federal laws involving controlled substances or violations of T.C.A., Title 53, Chapter 10, part 3 may access information contained in the database pursuant to this chapter.

(4) Law enforcement agencies and personnel seeking or receiving information from the database pursuant to this section shall comply with the following requirements:

(a) Any law enforcement agency or judicial district drug task force that requires one (1) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff, or the judicial district drug task force district attorney general in the judicial district in which the agency or task force has jurisdiction. By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year.

(b) If the Tennessee Bureau of Investigation (TBI) requires one (1) or more of its agents to have the authorization to request information from the database, each such agent shall first be pre-approved by the agent's immediate supervisor and division head. Approved applicants shall be sent to the board of pharmacy by the TBI director. By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year.

(c) An application submitted by law enforcement personnel shall include at least the following:

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

2. Signatures of the applicant, the applicant's approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving TBI division head and the TBI director.

(d) When requesting information from the database, law enforcement personnel must provide a case number corresponding with an official investigation involving controlled substances.

(e) Law enforcement personnel, including judicial district drug task force agents and TBI agents, who are authorized to request information from the database, shall resubmit their identifying application information that was submitted pursuant to subparagraph (4)(c) to the appropriate district attorney general or to the TBI director, by November 20 of each year. Such resubmitted applications shall be sent by the appropriate district attorney general or the TBI director to the board of pharmacy by December 1 each year. If during the calendar year, a name is added to the list, removed from the list, or information about a person on the list changes, the appropriate district attorney general or TBI director shall immediately notify the board of pharmacy of any

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changes to the list submitted or in the information submitted for each officer or agent on the list application.

(5) Information obtained from the database may be shared with other law enforcement personnel or prosecutorial officials, only upon the direction of the officer or agent who originally requested the information, and may only be shared with law enforcement personnel from other law enforcement agencies who are directly participating in an official joint investigation.

(6) Any information obtained from the database that is sent to a law enforcement official or judicial district drug task force agent shall also be sent to the district attorney general of the judicial district in which such officer or agent has jurisdiction. Likewise, any database information sent to a TBI agent shall also be sent to the TBI director.

(7) Information obtained from the database by law enforcement personnel shall be retained by the law enforcement personnel's respective department or agency. The information obtained from the database shall not be made a public record, notwithstanding the use of the information in court for prosecution purposes. Information obtained from the database shall be maintained as evidence in accordance with each law enforcement agency's respective procedures relating to the maintenance of evidence.

(8) If a law enforcement officer, judicial district drug task force agent, or TBI agent has probable cause to believe, based upon information received from a database request, that a prescriber or pharmacist may be acting or may have acted in violation of the law, the officer or agent shall consult with the board of pharmacy inspector's office if a pharmacist is believed to have acted or is acting unlawfully or to the health related boards' investigations unit if a prescriber is believed to have acted or is acting unlawfully.

(9) At least every six (6) months, the board of pharmacy shall send a list to each district attorney general containing all requests made for database information during the previous six (6) months. The list shall include the name of the requesting officer or agent, the officer or agent's agency, the date of the request, and the nature of the request, including the case number, for each officer or agent making a request in such district attorney's judicial district. Likewise, a list shall be sent to the TBI director for all TBI agents making requests during the previous six (6) months.

(a) Each district attorney general and the TBI director shall use the list to verify database requests made during the preceding six (6) month period, and conduct an audit in accordance with T.C.A. § 53-10-306(j)(2). Verification of all database requests on the list received by each district attorney general and the TBI director must be sent back to the board of pharmacy within sixty (60) days of receipt. Where database information requests do not correspond to an investigation in the applicable jurisdiction or if the information requested was not relevant or pertinent to such an investigation, the district attorney general or TBI director shall so note on the verified list and shall investigate and make a report to the board of pharmacy within sixty (60) days.

(b) The results of the audit shall be discoverable by a prescriber, dispenser, or healthcare practitioner extender charged with violating any state or federal law involving controlled substances or under a notice of charges proffered by an appropriate licensing board for a violation of any law involving controlled substances, but only the results pertaining to that prescriber, dispenser, or healthcare practitioner extender are discoverable. If, however, there is an active criminal investigation involving a prescriber, dispenser, or healthcare practitioner extender, or the prescriber, dispenser, or healthcare practitioner extender is under investigation by any investigations or prosecution unit of the appropriate licensing board, the results of the audit shall not be discoverable by the prescriber, dispenser, or healthcare practitioner extender during either such period.

[Back to Top ↑](#)

Utah
§ 58-37f-301
ADC R156-37f

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

§ 58-37f-301. Access to database

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

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

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

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

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

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

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

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

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

(d) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

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

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

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

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

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

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

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

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

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

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

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

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

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

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

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

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

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

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

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

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

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

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

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

(iii) the division:

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

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

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

- (i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;
- (ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and
- (iii) the division:
 - (A) grants the employee access to the database; and
 - (B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(3)(b) with respect to the employee;
- (h) a licensed pharmacist having authority to dispense a controlled substance to the extent the information is provided or sought for the purpose of:
 - (i) dispensing or considering dispensing any controlled substance; or
 - (ii) determining whether a person:
 - (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or
 - (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacist;
- (i) federal, state, and local law enforcement authorities, and state and local prosecutors, engaged as a specified duty of their employment in enforcing laws:
 - (i) regulating controlled substances;
 - (ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud; or
 - (iii) providing information about a criminal defendant to defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case;
- (j) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;
- (k) a mental health therapist, if:
 - (i) the information relates to a patient who is:
 - (A) enrolled in a licensed substance abuse treatment program; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) is employed in the emergency room;

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

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

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

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

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

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

(iii) the division:

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

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

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

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

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

Utah Administrative Code (2013)

Commerce

R156. Occupational and Professional Licensing.

R156-37f. Controlled Substance Database Act Rule.

R156-37f-101. Title.

This rule shall be known as the “Controlled Substance Database Act Rule”.

...

R156-37f-301. Access to Database Information.

In accordance with Subsections 58-37f-301(1)(a) and (b):

(1) The Division Director shall designate in writing those individuals employed by the Division who shall have access to the information in the Database (Database staff).

(2)(a) A request for information from the Database may be made:

(i) directly to the Database by electronic submission, if the requester is registered to use the Database; or

(ii) by oral or written submission to the Database staff, if the requester is not registered to use the Database.

(b) An oral request may be submitted by telephone or in person.

(c) A written request may be submitted by facsimile, email, regular mail, or in person except as otherwise provided herein.

(d) The Division may in its discretion require a requestor to verify the requestor's identity.

(3) The following Database information may be disseminated to a verified requestor who is permitted to obtain the information:

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(a) dispensing/reporting pharmacy ID number/name;

(b) subject's birth date;

(c) date prescription was filled;

(d) prescription (Rx) number;

(e) metric quantity;

(f) days supply;

(g) NDC code/drug name;

(h) prescriber ID/name;

(i) date prescription was written;

(j) subject's last name;

(k) subject's first name; and

(l) subject's street address;

(4) Federal, state and local law enforcement authorities and state and local prosecutors requesting information from the Database under Subsection 58-37f-301(2)(d) must provide a valid case number of the investigation or prosecution.

(5) An individual whose records are contained within the Database may not receive an accounting of persons or entities that have requested or received Database information about the individual.

(6) An individual whose records are contained within the Database may obtain his or her own information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity; or

(b) submitting a signed and notarized request that includes the requester's:

(i) full name;

(ii) complete home address;

(iii) date of birth; and

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(iv) driver license or state identification card number.

(7) A requester holding power of attorney for an individual whose records are contained within the Database may obtain the individual's information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity; and

(b) providing:

(i) an original, properly executed power of attorney designation; and

(ii) a signed and notarized request, executed by the individual whose information is contained within the Database, and including the individual's:

(A) full name;

(B) complete home address;

(C) date of birth; and

(D) driver license or state identification card number verifying the individual's identity.

(8) A requestor who is the legal guardian of a minor or incapacitated individual whose records are contained within the Database may obtain the individual information and records by:

(a) personally appearing before the Database staff with government-issued picture identification confirming the requester's identity;

(b) submitting the minor or incapacitated individual's:

(i) full name;

(ii) complete home address;

(iii) date of birth; and

(iv) if applicable, state identification card number verifying the individual's identity; and

(c) submitting legal proof that the requestor is the guardian of the individual who is the subject of the request for information from the Database.

(9) A requestor who has a release-of-records from an individual whose records are contained within the Database may obtain the individual's information and records by:

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(a) submitting a request in writing;

(b) submitting an original, signed and notarized release-of-records in a format acceptable to the Database staff, identifying the purpose of the release; and

(c) submitting the individual's:

(i) full name;

(ii) complete home address;

(iii) telephone number;

(iv) date of birth; and

(v) driver license or state identification card number verifying the identity of the person who is the subject of the request.

(10) An employee of a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(d)if, prior to making the request:

(a) the licensed practitioner has provided to the Division a written designation that includes the designating practitioner's DEA number and the designated employee's:

(i) full name;

(ii) complete home address;

(iii) e-mail address;

(iv) date of birth; and

(v) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account. (11) An employee of a business that employs a licensed practitioner who is authorized to prescribe controlled substances may obtain Database

information to the extent permissible under Subsection 58-37f-301(2)(d) if, prior to making the request:

(a) the licensed practitioner and employing business have provided to the Division a written designation that includes:

(i) the designating practitioner's DEA number;

(ii) the name of the employing business; and

(iii) the designated employee's:

(A) full name;

(B) complete home address;

(C) e-mail address;

(D) date of birth; and

(E) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

(12) An individual who is employed in the emergency room of a hospital that employs a licensed practitioner who is authorized to prescribe controlled substances may obtain Database information to the extent permissible under Subsection 58-37f-301(2)(d) if, prior to making the request:

(a) the practitioner and the hospital operating the emergency room have provided to the Division a written designation that includes:

(i) the designating practitioner's DEA number;

(ii) the name of the hospital;

(iii) the names of all emergency room practitioners employed at the hospital; and

(iv) the designated employee's:

(A) full name;

(B) complete home address;

(C) e-mail address;

(C) date of birth; and

(D) driver license number or state identification card number;

(b) the designated employee has registered for an account for access to the Database and provided a unique user identification and password;

(c) the designated employee has passed a Database background check of available criminal court and Database records; and

(d) the Database has issued the designated employee a user personal identification number (PIN) and activated the employee's Database account.

(13) The Utah Department of Health may access Database information for purposes of scientific study regarding public health. To access information, the scientific investigator shall:

(a) demonstrate to the satisfaction of the Division that the research is part of an approved project of the Utah Department of Health;

(b) provide a description of the research to be conducted, including:

(i) a research protocol for the project; and

(ii) a description of the data needed from the Database to conduct that research;

(c) provide assurances and a plan that demonstrates all Database information will be maintained securely, with access being strictly restricted to the requesting scientific investigator;

(d) provide for electronic data to be stored on a secure database computer system with access being strictly restricted to the requesting scientific investigator; and

(e) pay all relevant expenses for data transfer and manipulation.

(14) Database information that may be disseminated under Section 58-37f-301 may be disseminated by the Database staff either:

(a) verbally;

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(b) by facsimile;

(c) by email;

(d) by U.S. mail; or

(e) where adequate technology is in place to ensure that a record will not be compromised, intercepted, or misdirected, by electronic access.

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[Back to Top ↑](#)

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Vermont
18 § 4284
ADC 12-5-21:3

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.

(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.

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

12-5-21:3. ACCESS TO VPMS DATA

Information from the VPMS database may be disclosed only as provided in this section. Disclosures authorized by this rule shall be limited to the minimum information necessary for the purposes of 18 V.S.A. Chapter 84A.

The prescriber's DEA number shall not be disclosed to a patient or to another prescriber and shall be disclosed only to the prescriber him or herself or the prescriber's professional licensure board or the Commissioner of Public Safety consistent with the requirement that disclosures shall be limited to the minimum information necessary for the purposes of 18 V.S.A. Chapter 84A.

Section 3.1 Patient.

A patient for whom a prescription for a controlled substance is written may request information from the VPMS database relating to himself or herself. The request shall be submitted to the Department in writing on a form approved by the Department and shall include:

- 1. The patient's name;**
- 2. The patient's date of birth;**
- 3. The time period for which the information is requested;**
- 4. The patient's telephone number, mail and street address; and**
- 5. The patient's original signature.**

The original signed form shall be delivered by mail or in person to the Department, Division of Alcohol and Drug Abuse Programs office. To receive the requested information, the patient shall appear personally and produce a valid government issued photographic proof of identity at the Department, Division of Alcohol and Drug Abuse Programs office, or at one of the Department's District Offices.

The patient may choose to share, or choose not to share, the information received from the VPMS database pursuant to this section without restriction.

Section 3.2 Health Care Provider or Dispenser Registration.

1. A health care provider or dispenser shall register with the Department to be eligible to request information relating to a bona fide current patient from the VPMS database. The registration application shall be in a format approved by the Department. The Department will issue a VPMS registration number to an eligible applicant who demonstrates he or she holds a current Vermont license issued by the applicable board of licensure.

2. A health care provider or dispenser with a current Vermont license registered with the Department may request information from the VPMS database relating to a bona fide current patient. The request shall be submitted in a format approved by the Department and shall include:

1. The patient's full name;
2. The patient's date of birth;
3. The patient's complete address;
4. Time period for which information is requested;
5. The requester's name;
6. The requester's VPMS registration number;
7. A statement certifying that the request is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;
8. A statement certifying that the requester currently holds a Vermont license issued by the applicable board of licensure; and
9. The requester's telephone number, mail and street address.

A registered health care provider or dispenser may access the VPMS database through the secure web portal to request and receive the information electronically, or may submit a written request to the Department and receive the information by secure mail or fax.

Section 3.3 Professional Licensure Boards.

A representative of a professional board that is responsible for the licensure, regulation or discipline of health care providers or dispensers, may request information from the VPMS database relating to a licensee pursuant to a bona fide specific investigation of that licensee. The request shall be submitted in writing and in a format approved by the Department, and shall include:

1. The name of the licensee;

2. The licensee's DEA number, if applicable;
3. The timeframe under investigation;
4. The requester's name;
5. The requester's telephone number, mail and street address;
6. A statement certifying that the request is pursuant to a bona fide specific investigation of the licensee; and
7. A statement certifying that the requester is duly designated by the board of licensure to make the request.

The original, signed form shall be delivered by secure mail, fax, or in person to the Department, Division of Alcohol and Drug Abuse Programs office. The Department will transmit the information by secure mail or fax.

Section 3.4 Disclosures from the VPMS Database.

Disclosures from the VPMS database pursuant to the provisions in this rule 3.4 will be in accordance with a protocol approved by the Commissioner to identify when disclosures should be made pursuant to this subsection. The protocol will be developed, and periodically reviewed and updated, in consultation with the Advisory Committee and with health care providers designated by the Commissioner with particular expertise in relevant clinical specialties including the use of controlled substances for the treatment of acute and chronic pain, palliative care, end-of-life care and the treatment for and prevention of abuse of controlled substances and will be consistent with current standards of care and practice in those clinical specialties. Disclosures from the VPMS database pursuant to subsections 1, 2 or 3 below shall occur only in accordance with the protocol and as otherwise permitted by this rule.

1. The Department may provide data to a patient and/or that person's health care provider when the VPMS database reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.
2. When the Commissioner of Health reasonably suspects that there is fraudulent or illegal activity by a health care provider or dispenser, the Department may provide data on such an instance to the appropriate licensing or certification authority. That authority may report the data that are evidence of suspected fraudulent or illegal activity to a trained law enforcement officer. The trained law enforcement officer shall not have access to the VPMS data except for information provided to the officer by the licensing or certification authority.
3. The Commissioner of Health may personally disclose data from the VPMS database to the Commissioner of Public Safety personally when the Commissioner of Health has consulted with at least one of the patient's health care providers and believes such disclosure is necessary to avert a serious and imminent threat to a person or the public.

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Section 3.5 Department of Health Use of Data.

1. The Department may use the data contained in the VPMS database for health promotion purposes including the publication of aggregate, de-identified data about the extent of reportable prescription drug use in Vermont or the change in the consumption of certain controlled substances.
2. The Department may use aggregated, de-identified data in the VPMS database to evaluate the effectiveness of its drug prevention and treatment programs, and the benefits received from educational programs directed at providers and pharmacists on the use and abuse of controlled substances.

[Back to Top ↑](#)

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.

[Back to Top ↑](#)

Washington
§ 70.225.040
ADC 246-470-040

West's Revised Code of Washington (2013)
Title 70. Public Health and Safety
Chapter 70.225. Prescription Monitoring Program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

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

246-470-040. Patient access to information from the program.

A patient, or a patient's personal representative authorized under Title 11 RCW (Probate and trust law) and Title 7 RCW (Special proceedings and actions), may obtain a report listing all prescription monitoring information that pertains to the patient.

(1) Procedure for obtaining information. A patient or a patient's personal representative requesting information pursuant to this section shall submit a written request in person at the department, or at any other place specified by the department. The written request must be in a format established by the department.

(2) Identification required. The patient or the patient's personal representative must provide valid photographic identification prior to obtaining access to the information requested in this section.

(3) Proof of personal representation. Before obtaining access to the information pursuant to this section, a personal representative shall provide either:

(a) An official attested copy of the judicial order granting them authority to gain access to the health care records of the patient;

(b) In the case of parents of a minor child, a certified copy of the birth certificate of the minor child or other certified legal documents establishing parentage or guardianship; or

(c) In the case of persons holding power of attorney, the original document establishing the power of attorney.

The department may verify the patient authorization by any reasonable means prior to providing the information to the patient's personal representative.

[Back to Top ↑](#)

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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,

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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.

[Back to Top ↑](#)

Wyoming
§ 35-7-1060
ADC AI PDSC Ch. 8, § 3

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

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

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

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

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

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

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

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

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

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

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

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

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

Wyoming Rules and Regulations (2013)
Department of Administration and Information
Board of Pharmacy - Commissioner of Drugs and Substances Control
Chapter 8. Prescription Drug Monitoring Program
Section 3. Solicited Patient Profiles.

(a) Occupational licensing boards may request licensee profiles from the board provided the following are met:

(i) All requests must be on a form provided by the board and include the name and license number of the licensee;

(ii) The purpose of the request, the date range requested, and the specific reasons for this request;

(iii) The signature of the authorized agent and mailing address for the occupational licensing board;

(iv) The request shall be mailed or faxed to the board's office; and

(v) No licensee profile will be generated by the board until the request is received, and no licensee profile will be sent to an occupational licensing board unless those requirements identified in W.S. § 35-7-1060 (c)(ii) have been met. All profiles generated by the board will be mailed to the occupational licensing board, and marked "confidential, to be opened by addressee only".

(vi) A lengthy profile may be converted to a spreadsheet and provided electronically to a regulatory board.

(b) Pharmacists and practitioners are under no obligation to, but may request patient profiles from the board provided the following conditions are met:

(i) All requests must be submitted on a form provided by the board and must be mailed, faxed, or by using the online process to the board's office;

(ii) All requests must be signed with a manual or electronic signature by the pharmacist or practitioner requesting the information and include the business name/address of the pharmacist or practitioner;

(iii) All requests shall include the patient's name, date of birth, purpose of the request, and the date range for the profile;

(iv) A statement indicating a pharmacist/patient or practitioner/patient relationship exists; and

(v) All profiles generated by the board shall be faxed or mailed to the pharmacist or practitioner at their business address, and if mailed marked "confidential, to be opened by addressee only"; or the profile shall be generated using the online process to be reviewed or printed by the requestor.

(c) Patients, their authorized agent, or in the case of a minor, the minor's parent or guardian may request a copy of the patient's profile from the board's office provided the following are met:

(i) All requests shall be made in person at the board's office. The patient requesting the profile or an authorized agent of the patient or parent's or guardians of minors requesting a profile must have proof of identification acceptable to the board;

(ii) Any person making a request for a profile shall complete a form provided by the board. Any profile generated by the board will be available at the board's office, the same day of the request.

(d) Other entities as authorized in W.S. § 35-7-1059 may request a copy of the patient's profile from the board's office provided the following are met:

(i) All requests must be submitted on a form provided by the board and must be mailed or faxed to the board's office:

(ii) All requests must be signed by the requestor and include the business name and address of the requestor.

(iii) The purpose of the request, the date range requested, and the specific reasons for this request including investigation number, if applicable, must be included.

(iv) The requirements identified in W.S. § 35-7-1060 (c)(ii) must be met before the patient's profile is provided to the requestor or a copy of the patient's signed consent specifically stating permission for the requestor to access and review the profile must be provided by the requestor.

[Back to Top ↑](#)