

NAMSDL



National Alliance for Model State Drug Laws

TYPES OF AUTHORIZED RECIPIENTS - MENTAL HEALTH/SUBSTANCE ABUSE PROFESSIONALS, PEER REVIEW COMMITTEES, OR QUALITY IMPROVEMENT COMMITTEE OF HOSPITAL

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Introduction

Each state determines by statute or regulation the persons or entities entitled to access or receive information in the prescription monitoring program database in that particular state. This memorandum sets out those states that allow access to or receipt of database information by mental health/substance abuse professionals, peer review committees, and/or quality improvement committees of a hospital. This does not mean that if a particular state is not listed in this memorandum or the accompanying map that these individuals or entities in that state are not allowed access to the information. If such persons fall within the definition of “practitioner” or “health care provider” in the state, he or she may qualify for access to the prescription monitoring program database. The following states either specifically include mental health/substance abuse professionals, peer review committees, and/or quality improvement committees of a hospital 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 or entities are allowed access.

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Delaware

16 § 4798 (eff. March 1, 2014)

West's Delaware Code Annotated (2013)

Title 16. Health and Safety

Part IV. Food and Drugs

Chapter 47. Uniform Controlled Substances Act

Subchapter VII. Miscellaneous

§ 4798. The Delaware Prescription Monitoring Program

<Text of section effective March 1, 2014>

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

(b) Definitions.-

...

(2) “Chemical dependency professional” means a person who uses addiction counseling methods to assist an individual or group to develop an understanding of alcohol and drug dependency problems, define goals, and plan action reflecting the individual’s or group’s interest, abilities and needs as affected by addiction problems.

...

(9) “Licensed professional counselor of mental health” means an individual licensed as a professional counselor of mental health who publicly offers to render to individuals, groups, organizations or the general public a service involving the application of clinical counseling principles, methods or procedures and the diagnosis and treatment of mental and emotional disorders to assist individuals in achieving more effective personal and social adjustment.

...

(g) A licensed chemical dependency professional or licensed professional counselor of mental health may obtain a patient utilization report from the Prescription Monitoring Program for patients enrolled in substance abuse treatment programs receiving treatment

from, or under the direction of, the chemical dependency professional or professional counselor of mental health.

...

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

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

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

a. A prescriber, or other person authorized by the prescriber, or a dispenser, or other person authorized by the dispenser, who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

b. An individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to regulations;

c. A designated representative of any Board or Commission pursuant to § 8735(a) of Title 29 responsible for the licensure, regulation, or discipline of prescribers, dispensers or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

d. A local, state, or federal law-enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing controlled substances and who is involved in a bona fide specific drug-related investigation in which a report of suspected criminal activity involving controlled substances by an identified suspect has been made, and provided that such information be relevant and material to such investigation, limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, and include identifying information only if nonidentifying information could not be used;

e. The Delaware Department of Health and Social Services regarding Medicaid program recipients;

f. A properly convened grand jury pursuant to a subpoena properly issued for the records;

g. Personnel of the Division of Professional Regulation for purposes of administration and enforcement of this section;

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h. A licensed chemical dependency professional or licensed professional counselor of mental health who requests information and certifies that the requested information is for a patient enrolled in a substance abuse treatment program receiving treatment from, or under the direction of, the chemical dependency professional or professional counselor of mental health;

i. The Chief Medical Examiner or licensed physician designee who requests information and certifies the request is for the purpose of investigating the death of an individual;

j. Qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber or dispenser must be deleted or redacted from such information prior to disclosure; and further provided that, release of the information may be made only pursuant to a written agreement between qualified personnel and the Office of Controlled Substances in order to ensure compliance with this subsection.

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Indiana

§ 35-48-7-11.1

West's Annotated Indiana Code (2013)

Title 35. Criminal Law and Procedure

Article 48. Controlled Substances

Chapter 7. Central Repository for Controlled Substances Data

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

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

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

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

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

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

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

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

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

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

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

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

that is certified to receive information from the INSPECT program.

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

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

(6) The state toxicologist.

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

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

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(e) Information provided to an individual under:

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

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

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

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

(A) providing medical or pharmaceutical treatment; or

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

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

(g) The board may release to:

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

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

(3) a law enforcement officer who is:

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

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

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

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

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

(2) the board's designee;

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

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

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

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

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

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

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

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

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

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

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

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Kansas
§ 65-1685

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

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

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

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c) and (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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

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

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

(a) In person and accompanied by:

(i) A completed form approved by the Department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. Technical Advisory Committee Review.

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

(a) Review the request for disclosure; and

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

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

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

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

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

(b) Respond to the original request for disclosure.

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

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

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North Dakota

§ 19-03.5-03

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

§ 19-03.5-03. Access to prescription information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Oklahoma

63 § 2-309D (eff. Nov. 1, 2013)

Oklahoma Statutes Annotated (2013)

Title 63. Public Health and Safety

Chapter 2. Uniform Controlled Dangerous Substances Act

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

Anti-Drug Diversion Act

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

<Text of section effective November 1, 2013>

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

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

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

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

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. State Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners,

g. Oklahoma Health Care Authority,

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

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i. State Board of Health;

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

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

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

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

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

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

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

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

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South Dakota

§ 34-20E-7

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.

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Tennessee

§ 53-10-306 (eff. until Jan. 1, 2016)

§ 53-10-306 (eff. Jan. 1, 2016)

West's Tennessee Code Annotated (2013)

Title 53. Food, Drugs and Cosmetics

Chapter 10. Legend Drugs

Part 3. Tennessee Prescription Safety Act of 2012

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

<Text of section effective until July 1, 2016>

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

- (1) Personnel of the committee specifically assigned to conduct analysis or research;
- (2) Authorized committee, board, or department of health personnel or any designee appointed by the committee engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;
- (3) A prescriber conducting medication history reviews who is actively involved in the care of the patient; a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber; or a prescriber having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;
- (4) A dispenser or pharmacist not authorized to dispense controlled substances conducting drug utilization or medication history reviews who is actively involved in the care of the patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or a bona fide prospective patient to whom that dispenser has dispensed, is dispensing, or considering dispensing any controlled substance. Each authorized individual referenced under this subdivision shall have a separate identifiable authentication for access;
- (5) A county medical examiner appointed pursuant to § 38-7-104 when acting in an official capacity as established in § 38-7-109; provided, any access to information from the database

shall be subject to the confidentiality provisions of this part except where information obtained from the database is appropriately included in any official report of the county medical examiners, toxicological reports or autopsy reports issued by the county medical examiner under § 38-7-110(c);

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

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

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

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

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

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

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

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

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

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

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

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

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

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

...

(l)(1) The following personnel of the department of mental health and substance abuse services actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities shall have access to the database for controlled substances prescription information for specific patients:

(A) The chief pharmacist;

(B) The state opioid treatment authority (SOTA) or SOTA designee; and

(C) The medical director.

(2) Aggregate controlled substances prescribing information from the database may be provided upon request by the following personnel of the department of mental health and substance abuse services, who are actively engaged in analysis of controlled substances prescription information as provided in this subsection (l), and may be shared with other

personnel of the department of mental health and substance abuse services as needed to fulfill assigned duties and responsibilities:

(A) The chief pharmacist;

(B) The SOTA; or

(C) The medical director.

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

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

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

<Text of section effective July 1, 2016>

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

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

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

(3) A licensed health care practitioner having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the practitioner, to whom the practitioner has prescribed or dispensed or is prescribing or dispensing or considering prescribing or dispensing any controlled substance;

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

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

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

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

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

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

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

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

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

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

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

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

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

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

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

...

(l)(1) The following personnel of the department of mental health and substance abuse services actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities shall have access to the database for controlled substances prescription information for specific patients:

(A) The chief pharmacist;

(B) The state opioid treatment authority (SOTA) or SOTA designee; and

(C) The medical director.

(2) Aggregate controlled substances prescribing information from the database may be provided upon request by the following personnel of the department of mental health and substance abuse services, who are actively engaged in analysis of controlled substances prescription information as provided in this subsection (l), and may be shared with other personnel of the department of mental health and substance abuse services as needed to fulfill assigned duties and responsibilities:

(A) The chief pharmacist;

(B) The SOTA; or

(C) The medical director.

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

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Utah

§ 58-37f-301

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

§ 58-37f-301. Access to database

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

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

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

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

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

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

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

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

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

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

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

(iii) the division:

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

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

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

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

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

(iii) the division:

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

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

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

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

(ii) determining whether a person:

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

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

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

(i) regulating controlled substances;

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

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

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

(k) a mental health therapist, if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) is employed in the emergency room;

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

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

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

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

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

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

(iii) the division:

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

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

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

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

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

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Virginia
§ 54.1-2523

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.

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