INTERSTATE SHARING OF PRESCRIPTION MONITORING DATABASE INFORMATION

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SUMMARY

Twenty-eight states currently provide a means for sharing of data from prescription monitoring programs. Twelve of those states – Illinois, Indiana, Kansas, Kentucky, Maine, Massachusetts, Mississippi, Nevada, New Jersey, New York, Ohio, and Virginia – require that the states have a written agreement or allow reciprocity before information will be released to another state PMP. Illinois, Maine, Mississippi and Nevada also require either that access to the data or use of the data be consistent with their state laws. Arkansas, Maryland, Montana, North Dakota, and Oregon also have that requirement, while Hawaii will release information to another state PMP without limitation.

Colorado, Louisiana, Indiana, Kentucky, and Ohio will release PMP information to law enforcement or prosecutorial officers who meet state requirements or pursuant to an active investigation. Louisiana will also release that information to a licensing agency pursuant to an investigation if the person requesting the information has completed an educational course. West Virginia and New York will release information to licensing agencies who meet state requirements or pursuant to an active investigation. Colorado and North Dakota will also release PMP data to practitioners who meet state requirements.

Connecticut, Indiana, and Texas will share information with persons or entities charged with the enforcement of drug laws, while New Mexico will only release information to licensing agencies if the subject of the request practices in or writes prescriptions which are dispensed in New Mexico.

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ALABAMA

- PMP of another state or territory
    - Must be recognized by the Alliance for Prescription Drug Monitoring Programs or the Integrated Justice Information Systems Institute

Code of Alabama (2011)
Title 20. Food, Drugs, and Cosmetics
Chapter 2. Controlled Substances
Article 10. . Controlled Substances Prescription Database

§ 20-2-214. Limited access to database permitted for certain persons or entities.

The following persons or entities shall be permitted access to the information in the controlled substances database, subject to the limitations indicated below:

(1) Authorized representatives of the certifying boards, provided, however, that access shall be limited to inquiries concerning the licensees of the certifying board.

(2) A licensed practitioner approved by the department who has authority to prescribe, dispense, or administer controlled substances, provided, however, that such access shall be limited to information concerning an assistant to physician with a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises physician supervision and a current or prospective patient of the practitioner. Practitioners shall have no requirement or obligation to access or check the information in the controlled substances database prior to prescribing, dispensing, or administering medications or as part of their professional practice.

(3) A licensed assistant to physician approved by the department who is authorized to prescribe, administer, or dispense pursuant to a Qualified Alabama Controlled Substances Registration Certificate; provided, however, that such access shall be limited to information concerning a current or prospective patient of the assistant to physician.

(4) A licensed pharmacist approved by the department, provided, however, that such access is limited to information related to the patient or prescribing practitioner designated on a controlled substance prescription that a pharmacist has been asked to fill. Pharmacists shall have no requirement or obligation to access or check the information in the controlled substances database prior to dispensing or administering medications or as part of their professional practices.

(5) State and local law enforcement authorities as authorized under Section 20-2-91, and federal law enforcement authorities authorized to access prescription information upon application to the department accompanied by an affidavit stating probable cause for the use of the requested information.

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(6) Employees of the department and consultants engaged by the department for operational and review purposes.

(7) The prescription drug monitoring program of any of the other states or territories of the United States, if recognized by the Alliance for Prescription Drug Monitoring Programs under procedures developed by the United States Department of Justice or the Integrated Justice Information Systems Institute or successor entity subject to or consistent with limitations for access prescribed by this chapter for the Alabama Prescription Drug Monitoring Program.

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ARKANSAS

- PMP of another state
    - Must be consistent with the laws of Arkansas

Arkansas Code (2011)
Title 20. Public Health and Welfare
Subtitle 2. Health and Safety (Chapters 6 to 44)
Chapter 7. State Board of Health--Department of Health
Subchapter 6. Prescription Drug Monitoring Program Act

§ 20-7-608. Information exchange with other prescription drug monitoring programs

(a) The Department of Health may provide prescription monitoring information to other states' prescription drug monitoring programs and the information may be used by those programs consistent with this subchapter.

(b) The department may request and receive prescription monitoring information from other states' prescription drug monitoring programs, and may use the information under this subchapter.

(c) The department may develop the capability to transmit information to other prescription drug monitoring programs and receive information from other prescription drug monitoring programs employing the standards of exchangeability.

(d) The department may enter into written agreements with other states' prescription drug monitoring programs for the purpose of describing the terms and conditions for sharing of prescription information under this subchapter.

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COLORADO

- Health care practitioners and law enforcement officials
    - Must meet the requirements for access by in-state practitioners and law enforcement

West's Colorado Revised Statutes (2011)
Title 12. Professions and Occupations
General
Article 22. Pharmaceuticals and Pharmacists
Part 7. Electronic Monitoring of Prescription Drugs

§ 12-22-705. 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 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 any controlled substance;

(c) Practitioners engaged in a legitimate program to monitor a patient's controlled substance abuse;

(d) 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;

(e) Law enforcement officials so long as the information released is specific to an individual patient or prescriber 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 such individual;

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(g) State regulatory boards within the division and the director of the division 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; 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) A licensed practitioner or licensed pharmacist who transmits data in compliance with the operation and maintenance of the program shall not be charged a fee for the transmission of such data.

(5) The state board of pharmacy may, pursuant to a written agreement that ensures compliance with this part 7, provide data to qualified personnel of a public or private entity for the purpose of bona fide research or education, so long as such information does not identify a recipient, prescriber, or dispenser of 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.

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CONNECTICUT

- Commissioners of Public Health and Consumer Protection can exchange information with state's attorneys and other agencies charged with enforcing controlled substance laws

Connecticut General Statutes (2011)
Title 21A. Consumer Protection
Chapter 420B. Dependency-Producing Drugs
Part I. General Provisions

§ 21a-274. Cooperation in enforcement of law

(a) The Commissioners of Public Health and Consumer Protection and their authorized agents, police officers within their respective jurisdictions and all state's attorneys and prosecuting attorneys shall cooperate with each other and with other agencies charged with the enforcement of the laws of the United States, of this state and all other jurisdictions relative to controlled substances.

(b) Notwithstanding the provisions of section 21a-265 and chapter 55 said commissioners and their authorized agents may, in carrying out their duties under subsection (a), (1) exchange information relating to the issuance, suspension or revocation of a license issued by their respective agencies, or (2) exchange investigative information relating to violations of this chapter with each other, with state's attorneys and with other agencies charged with the enforcement of the laws of the United States, and of this state and all other jurisdictions relative to controlled substances.

Connecticut General Statutes (2011)
Title 20. Professional and Occupational Licensing, Certification, Title Protection and Registration. Examining Boards
Chapter 400J. Pharmacy
Part I. Commission of Pharmacy. Powers and Duties

§ 20-578. Information not to be disclosed. Exception

(a) Information received by the department, the commission or the Department of Public Health, through filed reports or inspection or as otherwise authorized under chapters 418 and 420b and sections 20-570 to 20-630, inclusive, shall not be disclosed publicly in such a manner as to identify individuals or institutions, except: (1) In a proceeding involving the question of licensure or the right to practice, and (2) in a proceeding where the commission has voted in favor of formal disciplinary action against a pharmacist or pharmacy licensed pursuant to this chapter, when such disciplinary action is related to an error in the dispensing of medication. Nothing in

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this section shall be construed to prohibit the commissioner from disclosing information gained through the inspection of pharmacies and outlets holding permits for the sale of nonlegend drugs if the commissioner considers such disclosure to be in the interest of public health.

(b) Notwithstanding the provisions of subsection (a) of this section, section 21a-265 and chapter 55, the Commissioners of Consumer Protection and Public Health and the authorized agents of said commissioners, in carrying out their duties under subsection (a) of this section, may: (1) Exchange information relating to a license or registration issued by their respective agencies, or (2) exchange investigative information relating to violations of this chapter with each other, with the Chief State's Attorney and with agencies charged with the enforcement of pharmacy or drug laws of the United States, this state and all other jurisdictions.

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HAWAII

- State-authorized prescription monitoring programs

West's Hawai‘i Revised Statutes (2011)
Division 1. Government
Title 19. Health
Chapter 329. Uniform Controlled Substances Act
[Part VIII]. Electronic Prescription Accountability System

§ 329-104. Confidentiality of information; disclosure of information

(a) The information collected under this part shall not be available to the public or used for any commercial purpose. Ownership of all data collected shall reside with the State.

(b) Responsibility for limiting access to information in the system is vested in the administrator. Access to the information collected at the central repository pursuant to this part shall be confidential, and access to the information shall be limited to personnel of the designated state agency.

(c) This section shall not prevent the disclosure, at the discretion of the administrator, of investigative information to:

(1) Law enforcement officers, investigative agents of federal, state, or county law enforcement agencies, United States attorneys, county prosecuting attorneys, or the attorney general; provided that the administrator has reasonable grounds to believe that the disclosure of any information collected under this part is in furtherance of an ongoing criminal or regulatory investigation or prosecution;

(2) Registrants authorized under chapters 448, 453, and 463E who are registered to administer, prescribe, or dispense controlled substances; provided that the information disclosed relates only to the registrant's own patient;

(3) Pharmacists, employed by a pharmacy registered under section 329-32, who request prescription information about a customer relating to a violation or possible violation of this chapter; or

(4) Other state-authorized governmental prescription-monitoring programs.

Information disclosed to a registrant, pharmacist, or authorized government agency under this section shall be transmitted by a secure means determined by the designated agency.

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(d) No person shall knowingly disclose or attempt to disclose, or use or attempt to use, information in the system in violation of this section. Any person who violates this section is guilty of a class C felony.

(e) The designated state agency shall purge or cause to be purged from the central repository system, no later than five years after the date a patient's prescription data are made available to the designated state agency, the identification number of the patient, unless the information is part of an active investigation.

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ILLINOIS

- Prescription monitoring entities in other states
    - Must meet the requirements for access by in-state persons or agencies
    - Must have approval of a Memorandum of Understanding from the Illinois Department of Human Services
    - Must have approval of the Bureau of Pharmacy and Clinical Support Systems' manager
        - Request must be related to a probable cause investigation or
        - For a health care inquiry system for prescribers and dispensers
    - Must comply with Illinois law and allow reciprocity

Illinois Compiled Statutes (2011)
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 570. Illinois Controlled Substances Act
Article III. Registration and Control of Manufacture, Distribution and Dispensing
Chapter 720, § 570/318. Confidentiality of information

§ 318. Confidentiality of information.

[Text of section effective until January 1, 2012]

(a) Information received by the central repository under Section 316 and 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

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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 Department of 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 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

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(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 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 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 medical 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 6 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 stationary.

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(5) No data shall be stored in the database beyond 24 months.

(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.

Illinois Compiled Statutes (2011)
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 570. Illinois Controlled Substances Act
Article III. Registration and Control of Manufacture, Distribution and Dispensing
Chapter 720, § 570/318. Confidentiality of information

§ 318. Confidentiality of information.

[Text of section effective January 1, 2012 per H.B. 2917]

(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

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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

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(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 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.

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(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 stationary.

(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 person prescription history pursuant to the validation process as set forth by administrative rule.

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

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

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West's Illinois Administrative Code (2010)
Title 77: Public Health
Chapter XX: Department of Alcoholism and Substance Abuse
Subchapter E: Controlled Substances Activities
Part 2080: Electronic Prescription Monitoring Program

2080.211 Other State Prescription Monitoring Authority Access

a) Other states may request access to the PMP database:

1) After approval of a Memorandum of Understanding from the Illinois Department of Human Services; and

2) After approval from the Department's Bureau of Pharmacy and Clinical Support Systems' manager; the request must be:

A) related to a "probable cause" investigation; or

B) for a health care inquiry system for prescribers and dispensers.

b) Each state requesting access must comply with Illinois law and allow reciprocity.

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INDIANA

- Law enforcement officer who is an employee of an entity that regulates controlled substances or enforces controlled substances laws or rules
- Controlled substance monitoring program which has an interoperability agreement with Indiana
    - Interoperability means the sharing of electronically stored information with another state concerning the dispensing of a controlled substance to a recipient who resides in another state or which was prescribed by a practitioner whose principal place of business is located in another state

West's Annotated Indiana Code (2011)
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

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(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.

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(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

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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 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.

West's Annotated Indiana Code (2011)
Title 35. Criminal Law and Procedure
Article 48. Controlled Substances
Chapter 7. Central Repository for Controlled Substances Data

§ 35-48-7-5.4 "Interoperability" defined

Sec. 5.4. **As used in this chapter, "interoperability" refers to the INSPECT program electronically sharing reported information with another state concerning the dispensing of a controlled substance:**

(1) to a recipient who resides in the other state; or

(2) prescribed by a practitioner whose principal place of business is located in another state.

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KANSAS

- Prescription monitoring program of another state which has a data-sharing agreement with Kansas
    - Must be compatible with the Kansas program

Kansas Administrative Regulations (2011)
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:

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(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

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(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.

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(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

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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.

Kansas Administrative Regulations (2011)
Agency 68. Board of Pharmacy
Article 21. Prescription Monitoring Program

68-21-6. Reciprocal agreements with other states to share information.

(a) Reciprocal agreements with one or more states in the United States may be entered into by the board to share program information if the other state's prescription monitoring program is compatible with the program. If the board elects to evaluate the prescription monitoring program of another state, priority shall be given to a state that is contiguous to Kansas.

(b) In determining the compatibility of the other state's prescription monitoring program, the following may be considered by the board:

(1) The safeguards for privacy of patient records and the other state's success in protecting patient privacy;

(2) the persons authorized in the other state to view the data collected by the program;

(3) the schedules of controlled substances monitored in the other state;

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(4) the data required by the other state to be submitted on each prescription; and

(5) the costs and benefits to the board of mutually sharing information with the other state.

(c) Each reciprocal agreement shall be reviewed annually by the board to determine its continued compatibility with the program.

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KENTUCKY

- A certified or full-time peace officer of another state who is engaged in a bona fide specific investigation involving a designated person
- Another state's prescription monitoring program
    - Must be compatible with Kentucky's program
    - Priority given to those states that share a border with Kentucky

Baldwin's Kentucky Revised Statutes (2011)
Title XVIII. Public Health
Chapter 218A. Controlled Substances

§ 218A.202 Electronic system for monitoring controlled substances; penalty for illegal use of system; pilot project; continuing education programs

(1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.

(2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health and Family Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

(a) A drug administered directly to a patient; or

(b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

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(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(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) A Kentucky 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;

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

(e) 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 current patient;

(f) 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 practices;

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2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing 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 may be occurring in that area;
(g) 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 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 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 may be occurring in that area; or

(h) 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.

(7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.

(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 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 peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers 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 law enforcement agency engaged in the investigation; and

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(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; and

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

(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 A misdemeanor for the first offense and a Class D felony 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 D felony for the first offense and a Class C felony for each subsequent offense.

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

(a) 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

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

(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 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.

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(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 users of the electronic system for monitoring established in this section.

Baldwin's Kentucky Revised Statutes (2011)
Title XVIII. Public Health
Chapter 218A. Controlled Substances

§ 218A.245 Reciprocal agreements with other states to share prescription drug monitoring information

(1) The secretary of the Cabinet for Health and Family Services may enter into reciprocal agreements with any other state or states of the United States to share prescription drug monitoring information if the other state's prescription drug monitoring program is compatible with the program in Kentucky. If the secretary elects to evaluate the prescription drug monitoring program of another state as authorized by this section, priority shall be given to a state that is contiguous with the borders of the Commonwealth.

(2) In determining compatibility, the secretary shall consider:

(a) The essential purposes of the program and the success of the program in fulfilling those purposes;

(b) The safeguards for privacy of patient records and its success in protecting patient privacy;

(c) The persons authorized to view the data collected by the program;

(d) The schedules of controlled substances monitored;

(e) The data required to be submitted on each prescription;

(f) Any implementation criteria deemed essential for a thorough comparison; and

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(g) The costs and benefits to the Commonwealth in mutually sharing particular information available in the Commonwealth's database with the program under consideration.

(3) The secretary shall review any agreement on an annual basis to determine its continued compatibility with the Kentucky prescription drug monitoring program.

(4) The secretary shall prepare an annual report to the Governor and the Legislative Research Commission that summarizes any agreement under this section and that analyzes the effectiveness of that agreement in monitoring the dispensing of controlled substances in the Commonwealth.

(5) Any agreement between the cabinet and another state shall prohibit the sharing of information about a Kentucky resident, practitioner, pharmacist, or other prescriber for any purpose not otherwise authorized by this section or KRS 218A.202.

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LOUISIANA

- Designated representatives from the professional licensing, certification or regulatory agencies of another state charged with administrative oversight of prescribers and dispensers of controlled substances or other drugs of concern
    - Must complete an educational course
- Out-of-state law enforcement or prosecutorial officials
    - Must meet the requirements for access by in-state law enforcement or prosecutorial officials

West's Louisiana Statutes (2011)
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X-A. Prescription Monitoring Program

§ 40:1007. Access to prescription monitoring information

A. Except as provided in Subsections C, D, E, F, and G 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, and G 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.

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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, 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.

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G. 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.

H. 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.

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MAINE

- Prescription monitoring program of another state which has provisions consistent with Maine and has entered into an information sharing agreement

Maine Revised Statutes Annotated (2011)
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 office 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 office, the office shall notify the prescriber, the dispenser and, if the office 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 office 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;

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E. Office 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; and

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 and avoiding duplicate dispensing of controlled substances; and

H. Another state pursuant to subsection 4-A.

4-A. Information sharing with other states. The office 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 office. The office 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 purpose 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 office shall purge from the program all information that is more than 6 years old.

CHAPTER 1604
INTERSTATE PRESCRIPTION MONITORING PROGRAM COMPACT

§ 7261. Purpose - Article 1

The purpose of the interstate prescription monitoring program compact, referred to in this chapter as "the compact," is to provide a mechanism for state prescription monitoring programs to securely share prescription data to improve public health and safety. The compact is intended to:

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1. Enhance state prescription monitoring programs. Enhance the ability of state prescription monitoring programs, in accordance with state laws, to provide an efficient and comprehensive tool for:

A. Practitioners to monitor patients and support treatment decisions;

B. Law enforcement officials to conduct diversion investigations when authorized by state law;

C. Regulatory agencies to conduct investigations or other appropriate reviews when authorized by state law; and

D. Other uses of prescription drug data authorized by state law for purposes of curtailing drug abuse and diversion; and

2. Provide technology infrastructure. Provide a technology infrastructure to facilitate secure data transmission.

§ 7262. Definitions - Article 2

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Authentication. "Authentication" means the process of verifying the identity and credentials of a person before authorizing access to prescription data.

2. Authorized. "Authorized" means the granting of access privileges to prescription data.

3. Bylaws. "Bylaws" means those bylaws established by the interstate commission pursuant to section 7268 for its governance or for directing or controlling its actions and conduct.

4. Commissioner. "Commissioner" means the voting representative appointed by each member state pursuant to section 7266.

5. Interstate commission or commission. "Interstate commission" or "commission" means the Interstate Prescription Monitoring Program Commission created pursuant to section 7266.

6. Member state. "Member state" means any state that has adopted a prescription monitoring program and has enacted the enabling compact legislation.

7. Practitioner. "Practitioner" means a person licensed, registered or otherwise permitted to prescribe or dispense a prescription drug.

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8. Prescription data. “Prescription data” means data transmitted by a prescription monitoring program that contains patient, prescriber, dispenser and prescription drug information.

9. Prescription drug. “Prescription drug” means any drug required to be reported to a state prescription monitoring program and includes but is not limited to substances listed in the federal Controlled Substances Act.

10. Prescription monitoring program. “Prescription monitoring program” means a program that collects, manages, analyzes and provides prescription data under the auspices of a state.

11. Requestor. “Requestor” means a person authorized by a member state who has initiated a request for prescription data.

12. Rule. “Rule” means a written statement by the interstate commission promulgated pursuant to section 7267 that is of general applicability; implements, interprets or prescribes a policy or provision of the compact; or is an organizational, procedural or practice requirement of the commission and has the force and effect of statutory law in a member state. “Rule” includes the amendment, repeal or suspension of an existing rule.

13. State. “State” means any state, commonwealth, district or territory of the United States.

14. Technology infrastructure. “Technology infrastructure” means the design, deployment and use of both individual technology based components and the systems of such components to facilitate the transmission of information and prescription data among member states.

15. Transmission. “Transmission” means the release, transfer, provision or disclosure of information or prescription data among member states.

§ 7263. Authorized uses and restrictions on prescription data - Article 3

1. Authority of member state. Under the compact a member state:

A. Retains its authority and autonomy over its prescription monitoring program and prescription data in accordance with its laws, rules and policies;

B. May provide, restrict or deny prescription data to a requestor of another state in accordance with the member state's laws, rules and policies;

C. May provide, restrict or deny prescription data received from another state to a requestor within that state; and

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D. Has the authority to determine which requestors are authorized.

2. Restrictions on prescription data. Prescription data obtained by a member state pursuant to this compact has the following restrictions.

A. It must be used solely for purposes of providing the prescription data to a requestor.

B. It may not be stored in the member state's prescription monitoring program database, except for stored images, nor in any other database.

3. Limit on categories of requestors. A member state may limit the categories of requestors of another member state that will receive prescription data.

4. Requestor authentication. The commission shall promulgate rules establishing standards for requestor authentication.

A. Every member state shall authenticate requestors according to the rules established by the commission.

B. A member state may authorize its requestors to request prescription data from another member state only after such requestor has been authenticated.

C. A member state that becomes aware of a requestor who violated the laws or rules governing the appropriate use of prescription data shall notify the state that transmitted the prescription data.

§ 7264. Technology and security - Article 4

1. Security requirements. The commission shall establish security requirements through rules for the trans-mission of prescription data.

2. Open standards for technology infrastructure. The commission shall foster the adoption of open standards for the technology infrastructure that are vendor-neutral and technology-neutral.

3. Acquisition and operation of technology infrastructure. The commission is responsible for acquisition and operation of the technology infrastructure.

§ 7265. Funding - Article 5

1. Interstate commission responsible for funding compact. The interstate commission, through its member states, is responsible for providing for the payment of the reasonable expenses for establishing, organizing and administering the operations and activities of the compact.

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2. Interstate commission may collect dues from member states. The interstate commission may levy on and collect annual dues from each member state to cover the cost of operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual dues amount must be allocated in an equitable manner and may consist of a fixed fee component as well as a variable fee component based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states. Such a formula must take into account factors including but not limited to the total number of practitioners or licensees within a member state. Fees established by the interstate commission may be recalculated and assessed on an annual basis.

3. Interstate commission may accept nonstate funding. Notwithstanding subsections 1 and 2 and any other provision of law, the interstate commission may accept nonstate funding, including grants, awards and contributions to offset, in whole or in part, the costs of the annual dues required under subsection 2.

4. Interstate commission may not incur obligations prior to securing funds. The interstate commission may not incur obligations of any kind prior to securing the funds adequate to meet the same. The interstate commission may not pledge the credit of any of the member states, except by and with the authority of the member states.

5. Interstate commission to keep accurate accounts. The interstate commission shall keep accurate accounts of all receipts and disbursements subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission must be audited annually by a certified or licensed public accountant, and the report of the audit must be included in and become part of the annual report of the interstate commission.

§ 7266. Interstate commission - Article 6

The member states hereby create the Interstate Prescription Monitoring Program Commission to govern the compact. The interstate commission is composed of the member states and not a 3rdparty group or federal agency. The activities of the commission are the formation of public policy and are a discretionary state function.

1. Body corporate. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers and duties set forth herein and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

2. Composition. The commission consists of one voting representative from each member state who is that member state's appointed commissioner and who is empowered to determine statewide policy related to matters governed by this compact. The commissioner

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must be a policy maker within the agency that houses the member state's prescription monitoring program.

3. Nonvoting advisor. In addition to the commissioner, a member state shall appoint a nonvoting advisor who is a representative of the member state's prescription monitoring program.

4. Members of interested organizations. In addition to the voting representatives and nonvoting advisor of each member state, the commission may include persons who are not voting representatives, but who are members of interested organizations as determined by the commission.

5. Each member state entitled to one vote. Each member state represented at a meeting of the commission is entitled to one vote. A majority of the member states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws. A representative may not delegate a vote to another member state. In the event a commissioner is unable to attend a meeting of the commission, the appropriate appointing authority may delegate voting authority to another person from that member state for a specified meeting. The bylaws may provide for meetings of the commission to be conducted by electronic communication.

6. Meetings. The commission shall meet at least once each calendar year. The chair of the commission may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

7. Executive committee. The commission shall establish an executive committee, which must include officers, members and others as determined by the bylaws. The executive committee has the power to act on behalf of the commission, with the exception of rulemaking. During periods when the commission is not in session the executive committee shall oversee the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as determined necessary.

8. Committee structure. The commission shall maintain a committee structure for governance in areas including but not limited to policy, compliance, education and technology and shall include specific opportunities for stakeholder input.

9. Records available to public. The commission's bylaws and rules must establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records that would adversely affect personal privacy rights or proprietary interests.

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10. Public notice of meetings; meetings open to public. The commission shall provide public notice of all meetings and all meetings must be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission may close a meeting, or portion of a meeting, when it determines by a 2/3 vote of the members present that discussions at the open meeting would be likely to:

A. Relate solely to the commission's internal personnel practices and procedures;

B. Concern matters specifically exempted from disclosure by federal and state statute;

C. Concern trade secrets or commercial or financial information that is privileged or confidential;

D. Involve accusing a person of a crime or formally censuring a person;

E. Concern information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

F. Concern investigative records compiled for law enforcement purposes; or

G. Specifically relate to the commission's participation in a civil action or other legal proceeding.

11. Requirements for meeting closed to public. For a meeting or portion of a meeting closed pursuant to sub-section 10, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptive provision. The commission shall keep minutes that must fully and clearly describe all matters discussed in a meeting and must provide a full and accurate summary of actions taken and the reasons for those actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in these minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.

§ 7267. Powers and duties of the interstate commission - Article 7

The commission has the following powers and duties:

1. Oversee and maintain technology infrastructure. To oversee and maintain the administration of the technology infrastructure;

2. Promulgate rules; take all necessary actions to effect goals. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact, as long as no member state is required to create an advisory committee. The rules

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have the force and effect of statutory law and are binding in the member states to the extent and in the manner provided in this compact;

3. Establish process for notification of changes to state law or policies. To establish a process for a member state to notify the commission of changes to that member state's prescription monitoring program statutes, regulations or policies. This subsection applies only to changes that affect the administration of the compact;

4. Issue advisory opinions. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the compact and the commission's bylaws, rules and actions;

5. Enforce compliance with compact provisions. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

6. Establish and maintain offices. To establish and maintain one or more offices;

7. Purchase and maintain insurance and bonds. To purchase and maintain insurance and bonds;

8. Provide for personnel or services. To borrow, accept, hire or contract for personnel or services;

9. Establish and appoint committees. To establish and appoint committees including but not limited to an executive committee as required by section 7266, subsection 7;

10. Appoint officers, employees and agents. To elect or appoint officers, attorneys, employees, agents or consultants and to fix their compensation, define their duties and determine their qualifications and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;

11. Seek and accept donations. To seek and accept donations and grants of money, equipment, supplies, materials and services and to use or dispose of them;

12. Own or lease property. To lease, purchase, accept contributions or donations of or otherwise to own, hold, improve or use any real, personal or mixed property;

13. Sell or exchange property. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any real, personal or mixed property;

14. Establish budget. To establish a budget and make expenditures;

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15. Adopt seal and bylaws. To adopt a seal and bylaws governing the management and operation of the inter-state commission;

16. Report. To report annually to the legislatures, governors and attorneys general of the member states concerning the activities of the interstate commission during the preceding year. These reports must also include any recommendations that may have been adopted by the interstate commission and must be made publicly available;

17. Coordinate education. To coordinate education, training and public awareness regarding the compact and its implementation and operation;

18. Maintain books and records. To maintain books and records in accordance with the bylaws;

19. Perform necessary or appropriate functions. To perform such functions as may be necessary or appropriate to achieve the purposes of the compact; and

20. Provide for dispute resolution. To provide for dispute resolution among member states.

§ 7268. Organization and operation of the interstate commission - Article 8

1. Bylaws. The interstate commission shall, by a majority of the members present and voting, within 12 months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

A. Establishing the fiscal year of the interstate commission;

B. Establishing an executive committee and such other committees as may be necessary for governing any general or specific delegation of authority or function of the interstate commission;

C. Providing procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;

D. Establishing the titles and responsibilities of the officers and staff of the interstate commission; and

E. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

2. Officers. The interstate commission shall, by a majority vote of the members present, elect annually from among its members a chair, a vice-chair and a treasurer, each of whom

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has such authority and duties as may be specified in the bylaws. The chair or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the interstate commission. The officers elected serve without compensation or remuneration from the interstate commission, except that, subject to the availability of budgeted funds, the officers must be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

3. Executive committee and staff. The following provisions govern the executive committee and staff.

A. The executive committee has such authority and duties as may be set forth in the bylaws, including but not limited to: (1) Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

(2) Overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the administration of the compact; and

(3) Planning, implementing and coordinating communications and activities with other state, federal and local government organizations in order to advance the purpose of the interstate commission.

B. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period upon terms and conditions and for compensation as the interstate commission may consider appropriate. The executive director serves as secretary to the interstate commission, but is not a member of the interstate commission. The executive director shall hire and supervise other persons as may be authorized by the interstate commission.

4. Liability. The interstate commission's executive director and the commission's employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error or omission that occurred or that such person had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, except that such person is not protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

A. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of that person's employment or duties for acts, errors or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection may not

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be construed to protect the person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

B. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend the interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

C. To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, as long as the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§ 7269. Rulemaking functions of the interstate commission - Article 9

1. Rulemaking authority. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding this subsection, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact or the powers granted under this compact, such an action by the interstate commission is invalid and has no force or effect. Any rules promulgated by the commission do not override the State's authority to govern prescription drugs or each member state's prescription monitoring program.

2. Rulemaking procedure. Rules must be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

3. Judicial review. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule as long as the filing of such a petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and may not find the

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rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

§ 7270. Oversight, enforcement and dispute resolution - Article 10

1. Oversight. The following provisions govern the oversight of the compact.

A. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under this compact have standing as statutory law but do not override the State's authority to govern prescription drugs or the State's prescription monitoring program.

B. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities or actions of the interstate commission.

C. The interstate commission is entitled to receive all service of process in any proceeding under paragraph B and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or order void as to the interstate commission, this compact or promulgated rules.

2. Default, technical assistance, suspension and termination. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the bylaws or promulgated rules, the interstate commission shall provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default. The interstate commission shall provide remedial training and specific technical assistance regarding the default.

A. If the defaulting state fails to cure the default, the defaulting state must be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the defaulting state of obligations or liabilities incurred during the period of the default.

B. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the interstate commission to the governor of the defaulting state, the majority and minority leaders of the defaulting state's legislature and each of the member states.

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C. A defaulting state that has been suspended or terminated is responsible for all dues, obligations and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination.

D. The interstate commission may not bear costs relating to any state that has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

E. The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.

3. Dispute resolution. The following provisions govern dispute resolution.

A. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states.

B. The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

4. Enforcement. The following provisions govern enforcement of the compact.

A. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

B. The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact and its promulgated rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party must be awarded all costs of such litigation including reasonable attorney's fees.

C. The remedies in this subsection are not the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

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§ 7271. Member states, effective date and amendment - Article 11

1. Eligibility for membership in compact. Any state that has enacted prescription monitoring program legislation through statute or regulation is eligible to become a member state of this compact.

2. Effective upon enactment by at least 6 states. The compact becomes effective and binding upon legislative enactment of the compact into law by no fewer than 6 states. Thereafter it becomes effective and binding on a state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

3. Amendments. The interstate commission may propose amendments to the compact for enactment by the member states. An amendment may not become effective and binding upon the interstate commission and the member states until it is enacted into law by unanimous consent of the member states.

§ 7272. Withdrawal and dissolution - Article 12

1. Withdrawal. The following provisions govern withdrawal from the compact.

A. Once effective, the compact continues in force and remains binding upon each member state except that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.

B. Withdrawal from this compact must be by the enactment of a statute repealing the compact, but may not take effect until one year after the effective date of that statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

C. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice.

D. The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

E. Reinstatement following withdrawal of a member state occurs upon the withdrawing state's reenacting the compact or upon such later date as determined by the interstate commission.

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2. Dissolution of the compact. The following provisions govern dissolution of the compact.

A. This compact dissolves effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

B. Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

§ 7273. Severability and construction - Article 13

1. Severable. The provisions of this compact are severable, and if any phrase, clause, sentence or provision is determined unenforceable, the remaining provisions of the compact are enforceable.

2. Liberally construed. The provisions of this compact must be liberally construed to effectuate its purposes.

3. Concurrent applicability. Nothing in this compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.

§ 7274. Binding effect of compact and other laws - Article 14

1. Other laws. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

2. Binding effect of compact. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

A. All agreements between the interstate commission and the member states are binding in accordance with their terms.

B. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

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MARYLAND

- Authorized administrator of another state's prescription monitoring program
    - Other state must agree to use the data in a manner consistent with this provision
    - The technical advisory committee must review the request for information prior to disclosure and provide clinical guidance and interpretation of the information requested

Maryland Code Annotated (2011)
Health--General
Title 21. Food, Drugs, and Cosmetics
Subtitle 2A. Prescription Drug Monitoring Program

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

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;

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(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.

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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

(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.

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Clinical practice standards

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

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MASSACHUSETTS

- Compatible prescription drug monitoring programs once a reciprocal agreement has been entered into
- Authorized representative of a health department or other agency in another state, commonwealth, district, territory or country that maintains a prescription information data system
    - Must have written agreement or interstate compact

Massachusetts General Laws (2011)
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

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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.

(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.

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(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 (2011)
Title 105: Department of Public Health
Chapter 700.000: Implementation of M.g.l. C. 94C

105 C.M.R. 700.012: Prescription Monitoring Program

(A) Pharmacy Reporting Requirements.

(1) The reporting requirement of 105 CMR 700.012 shall apply to every pharmacy in a health facility registered with the Commissioner that dispenses a controlled substance pursuant to a prescription in Schedules II through V, or any other controlled substance specified by order of the Commissioner, and to any pharmacy in another state, commonwealth, district or territory that delivers such a controlled substance to a person in Massachusetts. Such a pharmacy shall, in accordance with standards established by the Department, transmit to the Department or its agent the following information for each such prescription:

(a) pharmacy identifier;

(b) prescription number;

(c) customer identifier, as defined in 105 CMR 700.001;

(d) relationship of customer to patient;

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(e) patient name;

(f) patient address;

(g) patient date of birth;

(h) patient gender;

(i) source of payment for prescription;

(j) date prescription written by prescriber;

(k) date the controlled substance is dispensed;

(l) identifier of controlled substance dispensed;

(m) metric quantity of controlled substance dispensed;

(n) estimated days supply of controlled substance dispensed;

(o) refill information; and

(p) prescriber's Drug Enforcement Administration registration number.

(2) 105 CMR 700.012 shall not apply to medication orders in hospitals.

(3) A pharmacy that dispenses a controlled substance subject to the requirements in 105 CMR 700.012 must report the customer identifier required by 105 CMR 701.004. A pharmacy may dispense a controlled substance without a customer identifier, provided it meets the requirements of 105 CMR 701.004(B) and provides to the Department those informational fields required by the Department.

(4) The Commissioner may waive or modify the requirement in 105 CMR 700.012(A)(1)(c) and/or (d), for a pharmacy to report a customer identifier and/or the relationship of the customer to the patient, for prescription refills, prescription deliveries and/or other activities/situations specified by the Commissioner.

(5) The information required by 105 CMR 700.012 shall be transmitted to the Department or its agent in accordance with any procedures established by the Department no less frequently than weekly and no later than ten days after dispensing, or as otherwise specified in guidelines of the Department, by use of:

(a) encrypted electronic device or transmission method in a format approved by the Department; or

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(b) a form approved by the Department.

(B) Prescription Monitoring Program Advisory Council.

(1) The Commissioner of the Department of Public Health shall establish a Prescription Monitoring Program Advisory Council to advise the Department on the implementation of 105 CMR 700.012. The membership of this Advisory Council shall include representatives of the Department of Public Health; Executive Office of Public Safety; disciplinary authorities, including the Boards of Registration in Medicine, Pharmacy, Dentistry, Podiatry, Veterinary Medicine, Nursing and Physician Assistants; representatives of associations or societies representing professions authorized to issue or dispense prescriptions, patient interests, and privacy interests; and a person with expertise in the design or operation of a secure automated data system.

(2) The Prescription Monitoring Program Advisory Council shall assist the Department and Boards of Registration, as appropriate, in designing education programs for the appropriate prescribing of controlled substances.

(C) Prescription Monitoring Program Medical Review Group.

(1) The Commissioner shall establish the Prescription Monitoring Program Medical Review Group to advise the Department on accepted medical practice standards related to the disclosure of information pursuant to subsection 105 CMR 700.012(D)(4)(b). The Medical Review Group shall advise the Department in the evaluation of prescription information and clinical aspects of the implementation of 105 CMR 700.012.

(2) Members of the Medical Review Group shall be licensed health care practitioners and pharmacists and, to the extent feasible, at least one member shall be licensed in the same discipline as the practitioner whose records are under review. Licensed practitioners and pharmacists shall be appointed by the Commissioner in consultation with the appropriate Boards of Registration and statewide professional societies in the discipline under which records will be reviewed. Practitioners serving on the Medical Review Group must have a valid Controlled Substances Registration for Schedules II through V pursuant to M.G.L. c. 94C, § 7.

(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;

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(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

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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.

(E) Security Protections.

(1) Any disclosure or transmission of personally identifying information collected pursuant to 105 CMR 700.012 shall be in accordance with Department requirements for such disclosure and transmission, including requirements for technical non-repudiation, confidentiality, and authentication, as those terms are defined in 105 CMR 721.000. Such protections shall include the establishment of an audit trail for each request and transmission.

(2) A person authorized to receive information pursuant to 105 CMR 700.012(E)(2) shall promptly notify the Department of any potential violation of confidentiality or use of the data in a manner contrary to these regulations or applicable professional standards.

(3) A practitioner's, or pharmacy's Controlled Substance Registration may be suspended or terminated in accordance with 105 CMR 700.004(L)(1) for the following:

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(a) a request for data pursuant to 105 CMR 700.012(D)(1)(a) or (b) or use or disclosure of data that involves a willful failure to comply with the standards in 105 CMR 700.012 for request, transmission or disclosure of data;

(b) a failure to reasonably protect data in accordance with the requirements of 105 CMR 700.012 or other applicable state or federal law; or

(c) an attempt to obtain data through fraud or deceit.

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MISSISSIPPI

- Prescription monitoring programs through mutual agreement
    - Must abide by MS policies

Mississippi Code (2011)
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 purpose 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.

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(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.

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MONTANA

- Prescription drug registry of another state subject to the limitations of Montana law

West's Montana Code Annotated (2011)
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 [section 5], 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 [sections 3 through 14].

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(2) The board shall maintain a record of each individual or entity that requests information from the registry and whether the request was granted pursuant to this section.

(3) The board may release information in summary, statistical, or aggregate form for educational, research, or public information purposes. The information may not identify a person or entity.

(4) Information collected by or obtained from the registry may not be used:

(a) for commercial purposes; or

(b) as evidence in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the agency responsible for licensing, regulating, or disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense prescription drugs.

(5) Information obtained from the registry in accordance with the requirements of this section may be used in the course of a criminal investigation and subsequent criminal proceedings.

(6) The board shall adopt rules to ensure that only authorized individuals have access to the registry and only to appropriate information from the registry. The rules must be consistent with:

(a) the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.;

(b) administrative rules adopted in connection with that act;

(c) Article II, section 10, of the Montana constitution; and

(d) the privacy provisions of Title 50, chapter 16.

(7) The procedures established by the board under this section may not impede patient access to prescription drugs for legitimate medical purposes.

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NEVADA

- Prescription monitoring program of another state with a written agreement
    - Must be substantially similar to the Nevada PMP

West's Nevada Revised Statutes (2011)
Title 40. Public Health and Safety (Chapters 439-461A)
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;

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(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 7.

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. The Board and the Division may cooperatively enter into a written agreement with an agency of any other state to provide, receive or exchange information obtained by the program with a program established in that state which is substantially similar to the program established pursuant to subsection 1, including, without limitation, providing such state access to the database of the program or transmitting information to and receiving information from such state. Any information provided, received or exchanged as part of an agreement made pursuant to this section may only be used in accordance with the provisions of this chapter.

6. 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.

7. 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

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to complete the course of training before the person is provided with Internet access to the database pursuant to subsection 2.

8. A practitioner who is authorized to write prescriptions for each person who is authorized to dispense controlled substances listed in schedule II, III or IV who acts with reasonable care when transmitting to the Board or the Division a report or information required by this section or a regulation adopted pursuant thereto is immune from civil and criminal liability relating to such action.

9. 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.

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NEW JERSEY

- Prescription monitoring program with interoperability agreement

New Jersey Statutes (2011)
Title 45. Professions and Occupations
Subtitle 1. Professions and Occupations Regulated by State Boards of Registration and Examination
Chapter 1. General Provisions
Article 4. Health Care Professional Responsibility and Reporting Act

§ 45:1-46. Access to prescription information

a. The division shall maintain procedures to ensure privacy and confidentiality of patients and that patient information collected, recorded, transmitted and maintained is not disclosed, except as permitted in this section, including, but not limited to, the use of a password-protected system for maintaining this information and permitting access thereto as authorized under sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50), and a requirement that a person as listed in subsection d. of this section provide on-line affirmation of the person's intent to comply with the provisions of sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50) as a condition of accessing the information.

b. The prescription monitoring information submitted to the division shall be confidential and not be subject to public disclosure under P.L.1963, c. 73 (C.47:1A-1 et seq.), or P.L.2001, c. 404 (C.47:1A-5 et al.).

c. The division shall review the prescription monitoring information provided by a pharmacy permit holder pursuant to sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50). If the division determines that a violation of law or regulations, or a breach of the applicable standards of practice, may have occurred, the division shall notify the appropriate law enforcement agency or professional licensing board, and provide the prescription monitoring information required for an investigation.

d. The division may provide prescription monitoring information to the following persons:

(1) a practitioner authorized to prescribe, dispense or administer controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient of the practitioner. Nothing in sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a practitioner to access or check the prescription monitoring information prior to prescribing, dispensing or administering medications beyond that which may be required as part of the practitioner's professional practice;

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(2) a pharmacist authorized to dispense controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient. Nothing in sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a pharmacist to access or check the prescription monitoring information prior to dispensing medications beyond that which may be required as part of the pharmacist's professional practice;

(3) a designated representative of the State Board of Medical Examiners, New Jersey State Board of Dentistry, New Jersey Board of Nursing, New Jersey State Board of Optometrists, New Jersey State Board of Pharmacy, State Board of Veterinary Medical Examiners, or any other board in this State or another state that regulates the practice of persons who are authorized to prescribe or dispense controlled dangerous substances, as applicable, who certifies that he is engaged in a bona fide specific investigation of a designated practitioner whose professional practice was or is regulated by that board;

(4) a State, federal or municipal law enforcement officer who is acting pursuant to a court order and certifies that the officer is engaged in a bona fide specific investigation of a designated practitioner or patient;

(5) a designated representative of a state Medicaid or other program who certifies that he is engaged in a bona fide investigation of a designated practitioner or patient;

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

(7) authorized personnel of the division or vendor or contractor responsible for establishing and maintaining the program; and

(8) the controlled dangerous substance monitoring program in another state with which the division has established an interoperability agreement.

e. A person listed in subsection d. of this section, as a condition of obtaining prescription monitoring information pursuant thereto, shall certify, by means of entering an on-line statement in a form and manner prescribed by regulation of the director, the reasons for seeking to obtain that information.

f. The division shall offer an on-line tutorial for those persons listed in subsection d. of this section, which shall, at a minimum, include: how to access prescription monitoring information; the rights and responsibilities of persons who are the subject of or access this information and the other provisions of sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50) and the regulations adopted pursuant thereto, regarding the permitted uses of that information and penalties for violations thereof; and a summary of the requirements of the federal health privacy rule set forth at 45 CFR Parts 160 and 164 and a hypertext link to the federal Department of Health and Human Services website for further information about the specific provisions of the privacy rule.

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g. The director may provide nonidentifying prescription drug monitoring information to public or private entities for statistical, research or educational purposes.

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NEW MEXICO

- Professional licensing authorities
    - Licensee must practice in NM or write prescriptions that are dispensed in NM

Code of New Mexico Rules (2011)
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

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prescribing and use of controlled substances, and the medical treatment options for abusers of controlled substances and pain management.

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

16.19.29.7 DEFINITIONS:

A. ‘Controlled substance‘ has the meaning given such term in 30-31-2 NMSA.

B. ‘Board of pharmacy‘ means the state agency responsible for the functions listed in 16.19.29.8 NMAC.

C. ‘Patient‘ means the person or animal who is the ultimate user of a drug for whom a prescription is issued and for whom a drug is dispensed.

D. ‘Dispenser‘ means the person who delivers a schedule II - V controlled substance as defined in subsection E to the ultimate user, but does not include the following:

(1) a licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner, or other authorized person who administers such a substance; or

(3) a wholesale distributor of a schedule II - V controlled substance.

E. ‘Schedule II, III, IV and V controlled substance‘ means substances that are listed in schedules II, III, IV, and V of the schedules provided under 30-31-5 to 30-31-10 of NMSA or the federal controlled substances regulation (21 U.S.C. 812).

F. ‘Report‘ means a compilation of data concerning a patient, a dispenser, a practitioner, or a controlled substance.

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

16.19.29.8 REQUIREMENTS FOR THE PRESCRIPTION MONITORING PROGRAM:

A. The board shall monitor the dispensing of all schedule II, III, and IV controlled substances by all pharmacies licensed to dispense such substances to patients in this state.

B. Each dispenser shall submit to the board by electronic means information regarding each prescription dispensed for a drug included under Subsection A of this section. Information to be reported shall conform to the standards developed by the American society for automation in pharmacy (ASAP) and published in the ‘ASAP telecommunications format for controlled substances‘, 1995 edition. Information submitted for each prescription shall include:

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(1) dispenser DEA number;

(2) date prescription filled;

(3) prescription number;

(4) whether the prescription is new or a refill;

(5) NDC code for drug dispensed;

(6) quantity dispensed;

(7) patient name;

(8) patient address;

(9) patient date of birth;

(10) prescriber DEA number;

(11) date prescription issued by prescriber;

(12) and if available, the diagnosis code using the current version of the international classification of diseases.

C. Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board; but shall report at least every thirty days, between the 1st and 15th of the month following the month the prescription was dispensed. A record of each controlled substance prescription dispensed must be transmitted to the boards' agent by computer modem, computer disk, cassette tape or other acceptable electronic format monthly.

D. The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required in subsection B of this section is submitted in this alternative format.

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

16.19.29.9 ACCESS TO PRESCRIPTION INFORMATION:

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.

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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.

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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]

16.19.29.10 REPORTS: A written request will be filed with the board prior to release of a report.

A. Persons listed in Paragraphs (1) through (5) of Subsection D of 16.19.29.9 NMAC must submit a written request listing the information for the report. Practitioners, agencies and/or boards or commissions should prepare the request on letterhead.

B. Written reports will be prepared and delivered to the requesting person via U.S. mail.

C. Reports may be provided by secured electronic means after verification of electronic request.

D. The board will develop a system that provides timely access to prescription information to the healthcare providers using current technologies.

E. The board shall receive a quarterly program outcomes report from staff or contractors. A statistical analysis of the data that does not include protected information should be reported on the web site or in the newsletter.

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

16.19.29.11 AUTHORITY TO CONTRACT: The board is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contract shall be bound to comply with the provisions regarding confidentiality of prescription information in 16.19.29.9 NMAC of this regulation and shall be subject to the penalties specified in 16.19.29.12 NMAC of this regulation for unlawful regulations.

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

16.19.29.12 PENALTIES:

A. A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this regulation or knowingly submits incorrect prescription information shall be subject to disciplinary proceedings as defined in 61-11-20 NMSA.

B. A person authorized to have prescription monitoring information pursuant to this regulation who knowingly discloses such information in violation of this regulation shall be subject to criminal proceedings as described in 26-1-16.D and 26-1-26 NMSA.

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C. A person authorized to have prescription monitoring information pursuant to this regulation who uses such information in a manner or for a purpose in violation of this regulation shall be subject to criminal proceedings as described in 26-1-16.D and 26-1-26 NMSA.

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

16.19.29.13 SEVERABILITY: If any provisions of this regulation or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the regulation which can be given effect without the invalid provisions or applications, and to this end the provisions of this regulation are severable.

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NEW YORK

- Any agency, department or board authorized to regulate, license, register or otherwise supervise a person who deals in controlled substances
    - Must have interoperability agreement
    - Requires that it be in the course of an investigation or proceeding before the agency, department or board
- Prescription monitoring program or other authorized agency
    - Must have interoperability agreement
        - To inform out-of-state practitioner that a patient may be receiving controlled substances from another practitioner in NY
        - To inform out-of-state pharmacy that a person has obtained controlled substances in NY and circumstances indicate abuse, diversion, potential harm to the person or similar grounds

Mckinney's Consolidated Laws of New York (2011)
Public Health Law
Chapter 45. Of the Consolidated Laws
Article 33. Controlled Substances
Title VI. Records and Reports

Public Health Law § 3371-a. Disclosure of certain records, reports, and information to another state

1. The commissioner is authorized to disclose records, reports and information filed pursuant to sections thirty-three hundred thirty-one and thirty-three hundred thirty-three of this article: (a) to another state's controlled substance monitoring program or other authorized agency with which the department has established an interoperability agreement, pursuant to judicial subpoena or court order in a criminal investigation or proceeding in that state;

(b) to another state's agency, department, or board with which the department has established an interoperability agreement and which is authorized to regulate, license, register or otherwise supervise a person who is authorized by law to deal in controlled substances, in the course of any investigation or proceeding by or before such agency, department or board;

(c) to another state's controlled substance monitoring program or other authorized agency with which the department has established an interoperability agreement to inform a practitioner in another state that a patient may be under treatment with a controlled substance by another practitioner; or

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(d) to another state's controlled substance monitoring program or other authorized agency with which the department has established an interoperability agreement to inform a pharmacy in another state that a person who presents or has presented a prescription for one or more controlled substances at the pharmacy may have also obtained controlled substances at another pharmacy where the circumstances indicate a possibility of drug abuse or diversion, potential harm to the person, or similar grounds under regulations of the commissioner.

2. Records, reports, and information disclosed under the provisions of this section shall be in accordance with regulations promulgated by the commissioner and shall include, but not be limited to:

(a) the authentication of the person requesting such information;

(b) an attestation from the person requesting the information that he or she has authority to request and receive such information, and that such information will only be used consistent with the purpose of the request for such information;

(c) a statement of the purpose of the request for such information; and

(d) ensuring that such information is, or will be, transmitted in a secure manner.

3. Every agreement under subdivision one of this section shall:

(a) require reciprocity with the department on the part of every other party to the agreement;

(b) guarantee protection for the confidentiality of information disclosed at least as strong as the protections that would apply to the information when in the possession of the department, including remedies for breaches of confidentiality; and

(c) be subject to renewal not less frequently than every two years.

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NORTH CAROLINA

- Prescription monitoring authorities
    - Must be pursuant to a specific ongoing investigation involving a designated person

West's North Carolina General Statutes (2010)
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.

(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.

(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 and 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

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licensed health care practitioner whose principal place of business is located in the other state.

(5) To a court pursuant to a lawful court order in a criminal action.

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

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

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

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

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NORTH DAKOTA

- Practitioner or prescription monitoring system if authorized to receive such information

West's North Dakota Century Code (2011)
Title 19. Foods, Drugs, Oils, and Compounds
Chapter 19-03.5. Prescription Drug Monitoring Program

§ 19-03.5-08. Extraterritorial application

The board may provide data in the central repository to a practitioner or controlled substances monitoring system in another state, if the disclosure to a practitioner or the prescription drug monitoring program located in this state is authorized by this chapter.

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OHIO

- Other state or local officer whose duties include enforcing drug laws
    - Must be pursuant to an active investigation
- Designated representative of a government entity responsible for licensure, regulation, or discipline of health care professionals; state or local officers; prescriber or prescriber's agent; or pharmacist who is from or participating with another state's prescription monitoring program
    - Must be pursuant to a written agreement providing that the information will be used pursuant to Ohio law

Baldwin's Ohio Revised Code (2011)
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.

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(5) On receipt of a request from a prescriber or the prescriber's agent registered with the board, the board may provide to the prescriber information from the database relating to a current patient of the prescriber, if the prescriber certifies in a form specified by the board that it is for the purpose of providing medical treatment to the patient who is the subject of the request.

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

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

(8) On receipt of a request from the medical director of a managed care organization that has entered into a data security agreement with the board required by section 5111.1710 of the Revised Code, the board may provide to the medical director information from the database relating to a medicaid recipient enrolled in the managed care organization.

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

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

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

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

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

(1) A designated representative of a government entity that is responsible for the licensure, regulation, or discipline of health care professionals with authority to prescribe, administer, or

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dispense drugs who is involved in an active investigation being conducted by the government entity of the individual who submitted the requests for database information;

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

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

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

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OREGON

- Prescription monitoring program
    - Must have equivalent confidentiality, security and privacy standards

West's Oregon Revised Statutes (2011)
Title 36. Public Health and Safety
Chapter 431. State and Local Administration and Enforcement of Health Laws
Prescription Monitoring Program
(Program)

§ 431.966. Prescription monitoring information disclosure; limitations

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

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

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

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

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

(2)(a) If a disclosure of prescription monitoring information complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.518 to 192.529, the Oregon Health Authority shall disclose the information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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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.

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SOUTH DAKOTA

- Board shall adopt a procedure to allow information sharing with officials in other states

South Dakota Codified Laws (2011)
Title 34. Public Health and Safety
Chapter 34-20E. Prescription Drug Monitoring Program

§ 34-20E-14. Cooperation with other states

The board shall adopt a procedure to allow information contained in the central repository to be shared with officials in other states acting for the purpose of controlled substance monitoring and for requesting and receiving similar controlled substance monitoring information from other states.

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TEXAS

- Authorized officer or member of the department engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state

Vernon's Texas Statutes and Codes (2011)
Health and Safety Code
Title 6. Food, Drugs, Alcohol, and Hazardous Substances
Subtitle C. Substance Abuse Regulation and Crimes
Chapter 481. Texas Controlled Substances Act
Subchapter C. Regulation of Manufacture, Distribution, and Dispensation of Controlled Substances, Chemical Precursors, and Chemical Laboratory Apparatus

§ 481.076. Official Prescription Information

(a) The director may not permit any person to have access to information submitted to the director under Section 481.074(q) or 481.075 except:

(1) an investigator for the Texas Medical Board, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas State Board of Pharmacy;

(2) an authorized officer or member of the department engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, podiatrist, or advanced practice nurse or physician assistant described by Section 481.002(39)(D) and is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity.

(b) This section does not prohibit the director from creating, using, or disclosing statistical data about information received by the director under this section if the director removes any information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information.

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(c) The director by rule shall design and implement a system for submission of information to the director by electronic or other means and for retrieval of information submitted to the director under this section and Sections 481.074 and 481.075. The director shall use automated information security techniques and devices to preclude improper access to the information. The director shall submit the system design to the Texas State Board of Pharmacy and the Texas Medical Board for review and approval or comment a reasonable time before implementation of the system and shall comply with the comments of those agencies unless it is unreasonable to do so.

(d) Information submitted to the director under this section may be used only for:

(1) the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(2) investigatory or evidentiary purposes in connection with the functions of an agency listed in Subsection (a)(1); or

(3) dissemination by the director to the public in the form of a statistical tabulation or report if all information reasonably likely to reveal the identity of each patient, practitioner, or other person who is a subject of the information has been removed.

(e) The director shall remove from the information retrieval system, destroy, and make irretrievable the record of the identity of a patient submitted under this section to the director not later than the end of the 12th calendar month after the month in which the identity is entered into the system. However, the director may retain a patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this section until the 30th day after the end of the month in which the necessity for retention of the identity ends.

(f) If the director permits access to information under Subsection (a)(2) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify and cooperate with that agency regarding the disposition of the matter before taking action against the person, unless the director determines that notification is reasonably likely to interfere with an administrative or criminal investigation or prosecution.

(g) If the director permits access to information under Subsection (a)(3)(A) relating to a person licensed or regulated by an agency listed in Subsection (a)(1), the director shall notify that agency of the disclosure of the information not later than the 10th working day after the date the information is disclosed.

(h) If the director withholds notification to an agency under Subsection (f), the director shall notify the agency of the disclosure of the information and the reason for withholding notification when the director determines that notification is no longer likely to interfere with an administrative or criminal investigation or prosecution.

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(i) Information submitted to the director under Section 481.074(q) or481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

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VIRGINIA

- Director may enter into agreements with prescription monitoring programs in other states for mutual exchange of information

West's Annotated Code of Virginia (2011)
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 designated by the superintendent of the Department of State Police 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.) of this title.

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.

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4. Information relevant to a specific investigation of a specific dispenser or specific prescriber to an agent of the United States Drug Enforcement Administration 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.

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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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WEST VIRGINIA

- Authorized agents of practitioner licensing boards
    - Must be related to an investigation, adjudication or prosecution of the practitioner for violation of any controlled substance law

Code of West Virginia (2011)
Chapter 60A. Uniform Controlled Substances Act
Article 9. Controlled Substances Monitoring

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

(a) The information required by this article to be kept by the State Board of Pharmacy is confidential and is open to inspection only by inspectors and agents of the State Board of Pharmacy, members of the West Virginia State Police expressly authorized by the Superintendent of the West Virginia State Police to have access to the information, authorized agents of local law-enforcement agencies as a member of a drug task force, authorized agents of the federal Drug Enforcement Administration, duly authorized agents of the Bureau for Medical Services and the Workers' Compensation Commission, duly authorized agents of the Office of the Chief Medical Examiner for use in post-mortem examinations, **duly authorized agents of licensing boards of practitioners in this state and other states authorized to prescribe Schedules II, III and IV controlled substances, prescribing practitioners and pharmacists and persons with an enforceable court order or regulatory agency administrative subpoena: *Provided,* That all information released by the State Board of Pharmacy must be related to a specific patient or a specific individual or entity under investigation by any of the above parties except that practitioners who prescribe controlled substances may request specific data related to their Drug Enforcement Administration controlled substance registration number or for the purpose of providing treatment to a patient. The Board shall maintain the information required by this article for a period of not less than five years. Notwithstanding any other provisions of this code to the contrary, data obtained under the provisions of this article may be used for compilation of educational, scholarly or statistical purposes as long as the identities of persons or entities remain confidential. No individual or entity required to report under section four of this article may be subject to a claim for civil damages or other civil relief for the reporting of information to the Board of Pharmacy as required under and in accordance with the provisions of this article;**

(b) All practitioners, as that term is defined in section one hundred-one, article two of this chapter who prescribe or dispense schedule II, III or IV controlled substances shall, on or before July 1, 2011 have online or other form of electronic access to the West Virginia Controlled Substances Monitoring Program database;

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

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

(e) The Board of Pharmacy is hereby authorized to promulgate an emergency rule under chapter twenty-nine-A to effectuate the amendments to this section enacted during the 2010 Regular Session of the Legislature.

(f) Nothing in the article shall be construed to require a practitioner to access the West Virginia Controlled Substances Monitoring Program database.

West Virginia Code of State Rules (2010)
Title 15. West Virginia Board of Pharmacy
Legislative Rule (Ser. 8)
Series 8. Controlled Substances Monitoring

§ 15-8-7. Confidentiality.

7.1. The Board shall carry out a program to protect the confidentiality of the information received by the central repository.

7.2. The Board may disclose confidential information received by the central repository to any person who is engaged in receiving, processing, or storing the information.

7.3. The Board may release confidential information received by the central repository to the following persons:

(a) A duly authorized agent of a board in this state or another state that licenses practitioners authorized to prescribe controlled substances 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;

(b) members of the West Virginia state police expressly authorized by the superintendent of the West Virginia state police to have access to the information;

(c) A person with an enforceable court order or regulatory agency administrative subpoena;

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(d) authorized agents of the federal drug enforcement agency;

(e) inspectors and agents of the board; and

(f) prescribing practitioners and pharmacists.

7.4. All information released by the board must be related to a specific patient or a specific individual or entity under investigation by any of the persons set forth in subsection 7.3 of this section except that practitioners who prescribe controlled substances may request specific data related to their drug enforcement administration controlled substance registration number or for the purpose of providing treatment to a patient.

7.5. All access to the data collected by the central repository shall be limited to regular business hours of the Board office unless an individual authorized to receive the information proves that an immediate danger to the public exists and immediate access is necessary to prevent further harm.

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WISCONSIN

- The Board shall ensure, to the extent possible, that records generated by the program are easily shared with other states

West's Wisconsin Statutes (2011)
Regulation and Licensing (Ch. 440 to 480)
Chapter 450. Pharmacy Examining Board

§ 450.19. Prescription drug monitoring program

(1) In this section, "prescription drug" means a substance identified in s. 961.16 or 961.18 or a drug identified by the board by rule as having a substantial potential for abuse.

<Text of subsec. (2) eff. on the first day after the department of regulation and licensing receives federal funding under subsec. (5).>

(2) The board shall establish by rule a program for monitoring the dispensing of prescription drugs. The program shall do all of the following:

(a) Require a pharmacist or practitioner to generate a record documenting each dispensing of a prescription drug and to deliver the record to the board, except that the program may not require the generation of a record when a drug is administered directly to a patient.

(b) Identify specific data elements to be contained in a record documenting the dispensing of a prescription drug. In identifying specific data elements, the board shall consider data elements identified by similar programs in other states and shall ensure, to the extent possible, that records generated by the program are easily shared with other states.

(c) Specify the persons to whom a record may be disclosed and the circumstances under which the disclosure may occur. The rule promulgated under this paragraph shall permit the board to share a record generated by the program with relevant agencies of other states.

(d) Specify a secure electronic format for delivery of a record generated under the program and authorize the board to grant a pharmacist or practitioner a waiver of the specified format.

(e) Specify a deadline for the delivery of a record to the board.

(f) Specify a penalty for failure to comply with rules promulgated under this subsection.

(g) Maximize the potential for funding the operation of the program with available federal funding sources.

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(h) Ensure that the program complies with s. 146.82 and 45 CFR part 164, subpart E.

(3)(a) A pharmacist or practitioner is immune from civil or criminal liability or professional discipline arising from the pharmacist's or practitioner's compliance in good faith with this section or with rules promulgated under this section.

(b) Nothing in this section may be construed to require a pharmacist or practitioner to obtain, before prescribing or dispensing a prescription to a patient, information about the patient that has been collected pursuant to the program described under sub. (2).

(4) Records generated under the program under this section are not subject to inspection or copying under s. 19.35.

(5) The department shall submit a timely application for a federal grant under 42 USC 280g-3 and under the Harold Rogers Prescription Drug Monitoring Program to fund the establishment and operation of the program under this section. If the department fails to obtain federal funding before January 1, 2015, this section is void.

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