LAW ENFORCEMENT AND JUDICIAL ACCESS TO PRESCRIPTION MONITORING DATABASE INFORMATION

SUMMARY

There are currently 44 states that have Prescription Monitoring Program (PMP) laws. Of those, 41 specifically allow access to information contained in the PMP by law enforcement and/or judicial authorities. Maine is the only state currently that does not have a specific provision in its PMP law for access by law enforcement or judicial authorities; however, pursuant to state officials, law enforcement can access the PMP database with a court order. Nine states require a showing of probable cause before information will be released: Alabama, Alaska, Arkansas, Iowa, Louisiana, Minnesota, Mississippi, Oregon and Tennessee. Fourteen states will allow access only upon a court order or subpoena in a criminal investigation or prosecution. They are: Alaska (must show probable cause), Colorado, Iowa (must show probable cause), Kansas, Louisiana, Michigan, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oregon (must show probable cause), South Dakota, and Tennessee (must show probable cause).

ALABAMA

- Local, state and federal law enforcement authorities "whose duty it is to enforce the laws of this state or of the United States relating to controlled substances"
    - Requires affidavit stating probable cause for the requested information
    - Must be pursuant to an active investigation

Code of Alabama (2011)

§ 20-2-91. Inspection of stocks of controlled substances and prescriptions, orders, etc., required by chapter; disclosure of information as to prescriptions, orders, etc., by enforcement personnel.

(a) Prescriptions, orders and records required by this chapter and stocks of controlled substances enumerated in Schedules I, II, III, IV and V shall be open for inspection only to federal, state, county and municipal officers, the investigators of the board of dental examiners, and the agents and officers of the department of public safety whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(b) No officer having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party.

Code of Alabama (2011)

§ 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.

(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.

Alabama Administrative Code (2010)

420-7-2-.13. Access To Database.

(1) Licensing boards shall have access to the Prescription Drug Database concerning their licensees according to procedures developed by ADPH Bureau of Information Services, Computer Systems Center.

(2) Law enforcement agencies shall pre-register with the Prescription Drug Monitoring Program to receive an ID and password to access a request form. Law enforcement agencies will request a report from the Prescription Drug Monitoring Program on an individual or health care licensee and will certify that requested information is pursuant to an active investigation.

(3) Licensed practitioners as specified in § 20-2-211(6); physicians, dentists, podiatrists, optometrists, veterinarians or pharmacists approved to prescribe, dispense, or administer controlled substances shall have access to the Prescription Drug Database concerning a current

or prospective patient according to procedures developed by ADPH Bureau of Information Services, Computer Systems Center.

ALASKA

- Local, state and federal law enforcement authorities
    - Requires search warrant, subpoena, or order establishing probable cause

Alaska Statutes (2011)

§ 17.30.200. Controlled substance prescription database

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

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

(1) the name of the prescribing practitioner and the practitioner's federal Drug Enforcement Administration registration number or other appropriate identifier;

(2) the date of the prescription;

(3) the date the prescription was filled and the method of payment; this paragraph does not authorize the board to include individual credit card or other account numbers in the database;

(4) the name, address, and date of birth of the person for whom the prescription was written;

(5) the name and national drug code of the controlled substance;

(6) the quantity and strength of the controlled substance dispensed;

(7) the name of the drug outlet dispensing the controlled substance; and

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

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

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

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

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

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

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

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

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

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

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

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

(6) an individual who is the recipient of a controlled substance prescription entered into the database may receive information contained in the database concerning the individual on

providing evidence satisfactory to the board that the individual requesting the information is in fact the person about whom the data entry was made and on payment of a fee set by the board under AS 37.10.050 that does not exceed $10.

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

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

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

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

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

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

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

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

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

(*l*) A person

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

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

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

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

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

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

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

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

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

(4) involve stakeholders in the planning process.

(n) In this section,

(1) “board” means the Board of Pharmacy;

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

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

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

ARIZONA

- Local, state and federal law enforcement
    - Requires written statement that the information is necessary for an open investigation or complaint
- The Board or its designee may provide the information to law enforcement or a criminal justice agency if it has reason to believe illegal conduct has occurred without a request from law enforcement to provide such information
- Pursuant to a lawful order of a court of competent jurisdiction
    - Requires copy of the court order

Arizona Revised Statutes (2011)

§ 36-2604. Use and release of confidential information

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

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

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

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

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

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

4. A local, state or federal law enforcement or criminal justice agency. Except as required pursuant to subsection B of this section, the board shall provide this information only if the

requesting agency states in writing that the information is necessary for an open investigation or complaint.

5. The Arizona health care cost containment system administration regarding persons who are receiving services pursuant to chapter 29 of this title. Except as required pursuant to subsection B of this section, the board shall provide this information only if the administration states in writing that the information is necessary for an open investigation or complaint.

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

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

Arizona Administrative Code (2009)

R4-23-503. Access to Controlled Substances Prescription Monitoring Program Data

A. Except as provided in A.R.S. § 36-2604(B) and (C) and this Section, prescription information submitted to the Board or its designee is confidential and is not subject to public inspection.

B. The Board or its designee shall review the prescription information collected under A.R.S. Title 36, Chapter 28 and R4-23-502. If the Board or its designee has reason to believe an act of unprofessional or illegal conduct has occurred, the Board or its designee shall notify the appropriate professional licensing board or law enforcement or criminal justice agency and provide the prescription information required for an investigation.

C. The Board or its designee is authorized to release data collected by the program to the following:

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

2. An individual who requests the individual's own controlled substance prescription information under A.R.S. § 12-2293;

3. A professional licensing board established under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 21, 25, or 26. Except as required under subsection (B), the Board or its designee shall provide this information only if the requesting board states in writing that the information is necessary for an open investigation or complaint;

4. A local, state, or federal law enforcement or criminal justice agency. Except as required under subsection (B), the Board or its designee shall provide this information only if the

requesting agency states in writing that the information is necessary for an open investigation or complaint;

5. The Arizona Health Care Cost Containment System Administration regarding individuals who are receiving services under A.R.S. Title 36, Chapter 29. Except as required under subsection (B), the Board or its designee shall provide this information only if the Administration states in writing that the information is necessary for an open investigation or complaint;

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

7. The Board staff for purposes of administration and enforcement of A.R.S. Title 36, Chapter 28 and this Article.

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

Arizona Administrative Code (2009)

R4-23-505. Reports

A. Before releasing prescription monitoring program data, the Board or its designee shall receive a written request for controlled substance prescription information.

B. A person authorized to access CSPMP data under R4-23-503(C)(1) through (6) shall submit a written request that:

1. Specifies the information requested for the report;

2. For a medical practitioner, provides a statement that the report's purpose is to provide medical or pharmaceutical care to a patient or to evaluate a patient;

3. For an individual obtaining the individual's own controlled substance prescription information, provides a form of non-expired government-issued identification;

4. For a professional licensing board, states that the information is necessary for an open investigation or complaint;

5. For a local, state, or federal law enforcement or criminal justice agency, states that the information is necessary for an open investigation or complaint;

6. For the AHCCCS Administration, states that the information is necessary for an open investigation or complaint; and

7. For a person serving a lawful order of a court of competent jurisdiction, provides a copy of the court order.

C. The Board or its designee may provide reports through U.S. mail, other common carrier, facsimile, or secured electronic media or may allow reports to be picked up in-person at the Board office.

ARKANSAS

- Certified law enforcement officer
    - Requires search warrant based on probable cause
- Local, state and federal law enforcement and prosecutorial officials engaged in the "administration, investigation, or enforcement of the laws governing controlled substances"

Arkansas Code (2011)

§ 20-7-606. Confidentiality.

(a) Prescription information submitted to the Department of Health under this subchapter is confidential and not subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

(b)(1) The controlled substances database created in this subchapter and all information contained in the controlled substances database and any records maintained by the department or by an entity contracting with the department that is submitted to, maintained, or stored as a part of the controlled substances database is privileged and confidential, is not a public record, and is not subject to subpoena or discovery in a civil proceeding.

(2) Information in the controlled substances database may be accessed by:

(A) A certified law enforcement officer pursuant to a criminal investigation but only after the law enforcement officer obtains a search warrant signed by a judge that demonstrates probable cause to believe that a violation of federal or state criminal law has occurred, that specified information contained in the database would assist in the investigation of the crime, and that the specified information should be released to the certified law enforcement officer;

(B) A regulatory body engaged in the supervision of activities of licensing or regulatory boards of practitioners authorized to prescribe or dispense controlled substances; or

(C) A person or entity investigating a case involving breaches of privacy involving the database or its records.

(c) This section does not apply to information, documents, or records created or maintained in the regular course of business of a pharmacy, medical, dental, optometic, or veterinary practitioner, or other entity covered by this subchapter, and all information, documents, or records otherwise available from original sources are not immune from discovery or use in a civil proceeding merely because the information contained in the records was reported to the controlled substances database under this subchapter.

(d) The department shall establish and enforce policies and procedures to ensure that the privacy and confidentiality of patients are maintained and that patient information collected, recorded, transmitted, and stored is protected and not disclosed to persons except as listed in § 20-7-607.

(e) The Prescription Drug Monitoring Program shall establish and maintain a process for verifying the credentials and authorizing the use of prescription information by individuals and agencies listed in § 20-7-607.

Arkansas Code (2011)

§ 20-7-607. Providing prescription monitoring information.

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

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

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

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

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

(3) A parent or legal guardian of a minor child who requests the minor child's prescription drug monitoring program information;

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

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

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

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

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

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

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

CALIFORNIA

- Appropriate local, state, and federal persons or agencies
    - For criminal purposes as determined by the Department of Justice

California Codes (2011)

Health and Safety Code § 11165. Controlled Substance Utilization Review and Evaluation System (CURES); electronic monitoring of Schedule II, Schedule III, and Schedule IV controlled substances; funding; confidentiality; reporting requirements for dispensing pharmacies or clinics

(a) To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ICD-9 (diagnosis code), if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(e) This section shall become operative on January 1, 2005.

COLORADO

- Law enforcement officials
    - Must be specific to an individual and part of a bona fide investigation
    - Requires official court order or subpoena

Colorado Revised Statutes (2011)

§ 12-22-705. Program operation--access

(1) The board shall operate and maintain the program. The committee shall advise and assist the board. The committee shall meet at least quarterly during the first two years of the program.

(2) The board shall adopt all rules necessary to implement the program. The committee shall advise the board regarding proposed rules.

(3) The program shall be 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;

(e) Law enforcement officials so long as the information released is specific to an individual and is part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena; and

(f) The individual who is the recipient of a controlled substance prescription so long as the information released is specific to such individual.

(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.

CONNECTICUT

- Investigative or law enforcement agencies
    - For "criminal purposes"
- Municipal, county, state or federal officers whose duty is to enforce the laws regarding controlled substances
- Commissioners of Public Health and Consumer Protection may exchange investigative information with state's attorneys and other agencies that enforce the law regarding controlled substances
    - Must be relative to a violation of the law regarding controlled substances
- Pharmacy may provide pharmacy records:
    - To any government agency with authority to review the information
    - To any individual, the state or federal government, or a court pursuant to a subpoena

Regulations of Connecticut State Agencies (2011)

Sec. 21a-254-6. Management of information

The department may provide prescription information obtained from pharmacies to:

(a) Other regulatory, investigative or law enforcement agencies for disciplinary, civil, or criminal purposes;

(b) Practitioners, for the purpose of education in lieu of disciplinary, civil or criminal action;

(c) Practitioners and pharmacists, for the purposes of patient care, drug therapy management and monitoring of controlled substances obtained by the patient; and

(d) Public or private entities, for statistical, research, or educational purposes, provided that the privacy of patients and confidentiality of patient information is not compromised.

Connecticut General Statutes (2011)

§ 21a-265. Inspection of prescriptions, orders, records and stocks restricted to government officers and third-party payors. Confidentiality

Prescriptions, orders and records required by sections 21a-243 to 21a-282, inclusive, and stocks of controlled substances shall be open for inspection only to federal, state, county and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances, and to third party payors having a formal agreement or contract to audit such prescriptions, orders and records in connection with

claims submitted to such payors. No such officer or third party payor having knowledge by virtue of his office of any such prescription, order or record shall divulge such knowledge, except in connection with a civil action or criminal prosecution in court or before a licensing or registration board or officer, to which action, prosecution or proceeding the person to whom such prescriptions, orders or records relate is a party.

Connecticut General Statutes (2011)

§ 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)

§ 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 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.

Connecticut General Statutes (2011)

§ 20-626. Confidentiality of pharmacy records

(a) No pharmacist or pharmacy shall reveal any records or information concerning the nature of pharmaceutical services rendered to a patient without the oral or written consent of the patient or the patient's agent. If a patient or a patient's agent gives oral consent to release records or information, the pharmacist shall promptly record, in writing or in electronic data base form, the oral consent by listing the patient's name, the name of the patient's agent, if applicable, the date and the nature of the records or information released.

(b) Notwithstanding subsection (a) of this section, a pharmacist or pharmacy may provide pharmacy records or information to the following: (1) The patient; (2) the prescribing practitioner or a pharmacist or another prescribing practitioner presently treating the patient when deemed medically appropriate; (3) a person registered or licensed pursuant to chapter 378 who is acting as an agent for a prescribing practitioner that is presently treating the patient or a person registered or licensed pursuant to chapter 378 providing care to the patient in a hospital; (4) third party payors who pay claims for pharmaceutical services rendered to a patient or who have a formal agreement or contract to audit any records or information in connection with such claims; (5) any governmental agency with statutory authority to review or obtain such information; (6) any individual, the state or federal government or any agency thereof or court pursuant to a subpoena; and (7) any individual, corporation, partnership or other legal entity which has a written agreement with a pharmacy to access the pharmacy's database provided the information accessed is limited to data which does not identify specific individuals.

DELAWARE

- The Office of Controlled Substances shall notify and provide prescription information to law enforcement if there is reasonable cause to believe illegal conduct has occurred without a request from law enforcement to provide such information
- Local, state and federal law enforcement and prosecutorial officials engaged in the "administration, investigation, or enforcement of the laws governing controlled substances"
    - Requires bona fide specific drug related investigation
    - Report of suspected criminal activity involving controlled substances by an identified suspect
    - Must be relevant and material to the investigation, limited in scope, and include identifying information only if non-identifying information could not be used
- Pursuant to grand jury subpoena

Delaware Code (2011)

Title 16, § 4798. The Delaware Prescription Monitoring Program

<Text of section effective upon the availability of appropriations, or of other adequate funding to implement and maintain the Prescription Monitoring Program. See Historical and Statutory Notes below.>

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

(b) Definitions. --

(1) "Administer" or "administration" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.

(2) "Controlled substance" means any substance or drug defined, enumerated or included in this chapter and Title 21, Code of Federal Regulations.

(3) "Dispense" or "dispensing" means the interpretation, evaluation, and implementation of a prescription drug or, including the preparation and delivery of a drug to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

(4) “Dispenser” means a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following: a licensed health care facility pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient care, emergency department care for the immediate use of a controlled substance or when dispensing up to a 72-hour supply of a controlled substance or a drug of concern monitored by the program at the time of discharge from such a facility.

(5) “Distribute” or “distribution” means the delivery of a drug other than by administering or dispensing.

(6) “Drug” means any of the following:

a. Any substance recognized as a drug in the official compendium, or supplement thereto, designated by the Office of Controlled Substances for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans.

b. Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or pain in humans.

c. Any substance other than food intended to affect the structure or any function of the body of humans.

(7) “Drugs of concern” means drugs other than controlled substances as defined by rule which demonstrate a potential for abuse or diversion.

(8) “Patient” means the person who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

(9) “Prescriber” means a licensed health care professional with the authority to write and issue prescriptions, except it shall not include:

a. A prescriber or other authorized person who administers such controlled substance or drug upon the lawful order of a prescriber.

b. A prescriber or other authorized person who, in providing emergency patient care in a healthcare facility, causes the administration of a controlled substance for immediate relief of symptoms arising from an acute condition.

c. A prescriber or other authorized person who prescribes up to a 72 hour supply of a controlled substance for on call services or emergency care.

d. A veterinarian who prescribes for the purpose of providing veterinary services.

(10) “Prescription monitoring information” means data submitted to and maintained by the prescription monitoring program established under this section.

(11) “Prescription Monitoring Program” or “PMP” means the electronic program established by this section.

(c) The Office of Controlled Substances shall establish and maintain a PMP program to monitor the prescribing and dispensing of all Schedule II, III, IV and V controlled substances by prescribers in this State, and to research the prescribing and dispensing of drugs of concern. The PMP shall not interfere with the legal use of a controlled substance or drug of concern. The PMP shall be:

(1) Used to provide information to prescribers, dispensers, and patients to help avoid the illegal use of controlled substances;

(2) Used to assist law enforcement to investigate illegal activity related to the prescribing, dispensing and consumption of controlled substances or drugs of concern; and

(3) Designed to minimize inconvenience to patients and prescribing medical practitioners while effectuating the collection and storage of prescription monitoring information.

(d) A dispenser shall submit the required information regarding each prescription dispensed for a controlled substance, in accordance with the transmission methods and frequency established by regulation issued by the Office of Controlled Substances. When needed for bona fide research purposes and in accordance with applicable regulation, the Office of Controlled Substances may require a dispenser to submit the required information regarding each prescription dispensed for a drug of concern, but in no event should dispensers be required to submit such information any more frequently than that required for controlled substances. The following information shall be submitted for each prescription:

(1) Pharmacy name;

(2) Dispenser DEA registration number;

(3) Date drug was dispensed;

(4) Prescription number;

(5) Whether prescription is new or a refill;

(6) NDC code for drug dispensed;

(7) Quantity dispensed;

(8) Approximate number of days supplied;

(9) Patient name and date of birth;

(10) Patient address;

(11) Prescriber DEA registration number and name;

(12) Date prescription issued by prescriber.

(e) A prescriber, or other person(s) authorized by the prescriber, shall obtain, before writing a prescription for a controlled substance listed in Schedule II, III, IV or V for a patient, a patient utilization report regarding the patient for the preceding 12 months from the computerized program established by the Office of Controlled Substances when the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition. The prescriber shall review the patient utilization report to assess whether the prescription for the controlled substance is necessary.

(f) The Office of Controlled Substances may issue a waiver to a prescriber who is unable to access prescription information by electronic means. A prescriber who is unable to access prescription information by electronic means shall obtain a waiver from the OCS on annual basis until such time they can access the prescription information by electronic means.

(g) Unless a court of competent jurisdiction makes a finding of gross negligence, malice or criminal intent, the Office of Controlled Substances, any other state agency, any prescriber or dispenser, or any person or entity in proper possession of information pursuant to this statute is not subject to civil liability, administrative action or other legal or equitable relief for any of the following acts or omissions:

(1) Furnishing information pursuant to this section.

(2) Receiving, using or relying on, or not using or relying on, information received pursuant to this section.

(3) Information that was not furnished to the Office of Controlled Substances.

(4) Information that was factually incorrect or that was released by the Office of Controlled Substance to the wrong person or entity.

(h) Prescription information submitted to the PMP is protected health information, not subject to public or open records law, and not subject to disclosure, except as otherwise provided in this section.

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

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

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

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

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

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

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

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

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

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

h. Qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber or dispenser must be

deleted or redacted from such information prior to disclosure; and further provided that, release of the information may be made only pursuant to a written agreement between qualified personnel and the Office of Controlled Substances in order to ensure compliance with this subsection.

(j) The Division of Professional Regulation may contract with another agency of this State or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. A contractor shall comply with the provisions regarding confidentiality of prescription information under this section is subject to the penalties specified in this section for any unlawful acts.

(k) The Office of Controlled Substances may promulgate regulations setting forth the procedures and methods for implementing this section.

(l) The Office of Controlled Substances shall design and implement an evaluation component to identify cost-benefits of the Prescription Monitoring Program, including its effect on diversion and abuse of controlled substances and drugs of concern, and other information relevant to policy, research and education involving controlled substances and drugs of concern monitored by the Prescription Monitoring Program.

(1) The Office of Controlled Substances shall report to the General Assembly the information obtained pursuant to this subsection on an annual basis.

(2) To the extent such information is made available to the Office of Controlled Substances, the report may include information and data, including surveys, polls, or other data from multi-disciplinary experts and stakeholders, relating to the negative or positive impact of the prescription monitoring program on appropriate prescribing practices of controlled substances and drugs of concern.

(m) A dispenser who fails to submit prescription monitoring information to the Office of Controlled Substances PMP as required by this section, or who knowingly submits incorrect prescription information, shall be subject to disciplinary sanction pursuant to Chapter 25 of Title 24.

(n) A person or persons authorized to have prescription monitoring information pursuant to this section who knowingly discloses this information in violation of this section is guilty of a class G felony and, upon conviction, shall be fined not more than $5,000 nor imprisoned more than 2 years, or both.

(o) A person or persons authorized to have prescription monitoring information pursuant to this section who intentionally uses this information in the furtherance of other crimes is guilty of a class E felony and, upon conviction, shall be fined not more than $10,000 nor imprisoned more than 5 years, or both.

(p) A person or persons not authorized to have prescription monitoring information pursuant to this section who obtain such information fraudulently is guilty of a class E felony and, upon conviction, shall be fined not more than $10,000 nor imprisoned more than 5 years, or both.

FLORIDA

- Law enforcement agency
    - Requires active investigation of potential criminal activity, fraud or theft of controlled substances
    - No direct access to the database
- The program manager may provide the information to law enforcement if it has reason to believe illegal conduct has occurred without a request from law enforcement to provide such information

Florida Statutes (2011)

§ 893.055. Prescription drug monitoring program

(1) As used in this section, the term:

(a) "Patient advisory report" or "advisory report" means information provided by the department in writing, or as determined by the department, to a prescriber, dispenser, pharmacy, or patient concerning the dispensing of controlled substances. All advisory reports are for informational purposes only and impose no obligations of any nature or any legal duty on a prescriber, dispenser, pharmacy, or patient. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The advisory reports issued by the department are not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of the report; and a person who participates in preparing, reviewing, issuing, or any other activity related to an advisory report may not be permitted or required to testify in any such civil action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with preparing, reviewing, or issuing such a report.

(b) "Controlled substance" means a controlled substance listed in Schedule II, Schedule III, or Schedule IV in s. 893.03.

(c) "Dispenser" means a pharmacy, dispensing pharmacist, or dispensing health care practitioner.

(d) "Health care practitioner" or "practitioner" means any practitioner who is subject to licensure or regulation by the department under chapter 458, chapter 459, chapter 461, chapter 462, chapter 464, chapter 465, or chapter 466.

(e) "Health care regulatory board" means any board for a practitioner or health care practitioner who is licensed or regulated by the department.

(f) “Pharmacy” means any pharmacy that is subject to licensure or regulation by the department under chapter 465 and that dispenses or delivers a controlled substance to an individual or address in this state.

(g) “Prescriber” means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner.

(h) “Active investigation” means an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

(i) “Law enforcement agency” means the Department of Law Enforcement, a Florida sheriff's department, a Florida police department, or a law enforcement agency of the Federal Government which enforces the laws of this state or the United States relating to controlled substances, and which its agents and officers are empowered by law to conduct criminal investigations and make arrests.

(j) “Program manager” means an employee of or a person contracted by the Department of Health who is designated to ensure the integrity of the prescription drug monitoring program in accordance with the requirements established in paragraphs (2)(a) and (b).

(2)(a) By December 1, 2010, the department shall design and establish a comprehensive electronic database system that has controlled substance prescriptions provided to it and that provides prescription information to a patient's health care practitioner and pharmacist who inform the department that they wish the patient advisory report provided to them. Otherwise, the patient advisory report will not be sent to the practitioner, pharmacy, or pharmacist. The system shall be designed to provide information regarding dispensed prescriptions of controlled substances and shall not infringe upon the legitimate prescribing or dispensing of a controlled substance by a prescriber or dispenser acting in good faith and in the course of professional practice. The system shall be consistent with standards of the American Society for Automation in Pharmacy (ASAP). The electronic system shall also comply with the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to protected health information (PHI), electronic protected health information (EPHI), and all other relevant state and federal privacy and security laws and regulations. The department shall establish policies and procedures as appropriate regarding the reporting, accessing the database, evaluation, management, development, implementation, operation, storage, and security of information within the system. The reporting of prescribed controlled substances shall include a dispensing transaction with a dispenser pursuant to chapter 465 or through a dispensing transaction to an individual or address in this state with a pharmacy that is not located in this state but that is otherwise subject to the jurisdiction of this state as to that dispensing transaction. The reporting of patient advisory reports refers only to reports to patients, pharmacies, and practitioners. Separate reports that contain patient prescription history information and that are not patient advisory reports are provided to persons and entities as authorized in paragraphs (7)(b) and (c) and s. 893.0551.

(b) The department, when the direct support organization receives at least $20,000 in nonstate moneys or the state receives at least $20,000 in federal grants for the prescription drug monitoring program, and in consultation with the Office of Drug Control, shall adopt rules as necessary concerning the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information within the system, including rules for when patient advisory reports are provided to pharmacies and prescribers. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The department shall work with the professional health care licensure boards, such as the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy; other appropriate organizations, such as the Florida Pharmacy Association, the Office of Drug Control, the Florida Medical Association, the Florida Retail Federation, and the Florida Osteopathic Medical Association, including those relating to pain management; and the Attorney General, the Department of Law Enforcement, and the Agency for Health Care Administration to develop rules appropriate for the prescription drug monitoring program.

(c) All dispensers and prescribers subject to these reporting requirements shall be notified by the department of the implementation date for such reporting requirements.

(d) The program manager shall work with professional health care licensure boards and the stakeholders listed in paragraph (b) to develop rules appropriate for identifying indicators of controlled substance abuse.

(3) The pharmacy dispensing the controlled substance and each prescriber who directly dispenses a controlled substance shall submit to the electronic system, by a procedure and in a format established by the department and consistent with an ASAP-approved format, the following information for inclusion in the database:

(a) The name of the prescribing practitioner, the practitioner's federal Drug Enforcement Administration registration number, the practitioner's National Provider Identification (NPI) or other appropriate identifier, and the date of the prescription.

(b) The date the prescription was filled and the method of payment, such as cash by an individual, insurance coverage through a third party, or Medicaid payment. This paragraph does not authorize the department to include individual credit card numbers or other account numbers in the database.

(c) The full name, address, and date of birth of the person for whom the prescription was written.

(d) The name, national drug code, quantity, and strength of the controlled substance dispensed.

(e) The full name, federal Drug Enforcement Administration registration number, and address of the pharmacy or other location from which the controlled substance was dispensed. If the

controlled substance was dispensed by a practitioner other than a pharmacist, the practitioner's full name, federal Drug Enforcement Administration registration number, and address.

(f) The name of the pharmacy or practitioner, other than a pharmacist, dispensing the controlled substance and the practitioner's National Provider Identification (NPI).
(g) Other appropriate identifying information as determined by department rule.

(4) Each time a controlled substance is dispensed to an individual, the controlled substance shall be reported to the department through the system as soon thereafter as possible, but not more than 15 days after the date the controlled substance is dispensed unless an extension is approved by the department for cause as determined by rule. A dispenser must meet the reporting requirements of this section by providing the required information concerning each controlled substance that it dispensed in a department-approved, secure methodology and format. Such approved formats may include, but are not limited to, submission via the Internet, on a disc, or by use of regular mail.

(5) When the following acts of dispensing or administering occur, the following are exempt from reporting under this section for that specific act of dispensing or administration:

(a) A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.

(b) A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state.

(c) A practitioner when administering or dispensing a controlled substance in the health care system of the Department of Corrections.

(d) A practitioner when administering a controlled substance in the emergency room of a licensed hospital.

(e) A health care practitioner when administering or dispensing a controlled substance to a person under the age of 16.

(f) A pharmacist or a dispensing practitioner when dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.

(6) The department may establish when to suspend and when to resume reporting information during a state-declared or nationally declared disaster.

(7)(a) A practitioner or pharmacist who dispenses a controlled substance must submit the information required by this section in an electronic or other method in an ASAP format approved by rule of the department unless otherwise provided in this section. The cost to the dispenser in submitting the information required by this section may not be material or extraordinary. Costs not considered to be material or extraordinary include, but are not limited to, regular postage, electronic media, regular electronic mail, and facsimile charges.
(b) A pharmacy, prescriber, or dispenser shall have access to information in the prescription drug monitoring program's database which relates to a patient of that pharmacy, prescriber, or dispenser in a manner established by the department as needed for the purpose of reviewing the patient's controlled substance prescription history. Other access to the program's database shall be limited to the program's manager and to the designated program and support staff, who may act only at the direction of the program manager or, in the absence of the program manager, as authorized. Access by the program manager or such designated staff is for prescription drug program management only or for management of the program's database and its system in support of the requirements of this section and in furtherance of the prescription drug monitoring program. Confidential and exempt information in the database shall be released only as provided in paragraph (c) and s. 893.0551.

(c) The following entities shall not be allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that is confidential and exempt under s. 893.0551. Prior to release, the request shall be verified as authentic and authorized with the requesting organization by the program manager, the program manager's program and support staff, or as determined in rules by the department as being authentic and as having been authorized by the requesting entity:

1. The department or its relevant health care regulatory boards responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances and who are involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

2. The Attorney General for Medicaid fraud cases involving prescribed controlled substances.

3. A law enforcement agency during active investigations regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances.

4. A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in s. 893.0551 who, for the purpose of verifying the accuracy of the database information, submits a written and notarized request that includes the patient's full name, address, and date of birth, and includes the same information if the legal guardian or health care surrogate submits the request. The request shall be validated by the department to verify the identity of the patient and the legal guardian or health care surrogate, if the patient's legal

guardian or health care surrogate is the requestor. Such verification is also required for any request to change a patient's prescription history or other information related to his or her information in the electronic database.

Information in the database for the electronic prescription drug monitoring system is not discoverable or admissible in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the appropriate regulatory board.

(d) The following entities shall not be allowed direct access to information in the prescription drug monitoring program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that contains no identifying information of any patient, physician, health care practitioner, prescriber, or dispenser and that is not confidential and exempt:

1. Department staff for the purpose of calculating performance measures pursuant to subsection (8).

2. The Program Implementation and Oversight Task Force for its reporting to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the prescription drug monitoring program. This subparagraph expires July 1, 2012.

(e) All transmissions of data required by this section must comply with relevant state and federal privacy and security laws and regulations. However, any authorized agency or person under s. 893.0551 receiving such information as allowed by s. 893.0551 may maintain the information received for up to 24 months before purging it from his or her records or maintain it for longer than 24 months if the information is pertinent to ongoing health care or an active law enforcement investigation or prosecution.

(f) The program manager, upon determining a pattern consistent with the rules established under paragraph (2)(d) and having cause to believe a violation of s. 893.13(7)(a)8., (8)(a), or (8)(b) has occurred, may provide relevant information to the applicable law enforcement agency.

(8) To assist in fulfilling program responsibilities, performance measures shall be reported annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department each December 1, beginning in 2011. Data that does not contain patient, physician, health care practitioner, prescriber, or dispenser identifying information may be requested during the year by department employees so that the department may undertake public health care and safety initiatives that take advantage of observed trends. Performance measures may include, but are not limited to, efforts to achieve the following outcomes:

(a) Reduction of the rate of inappropriate use of prescription drugs through department education and safety efforts.

(b) Reduction of the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit.

(c) Increased coordination among partners participating in the prescription drug monitoring program.

(d) Involvement of stakeholders in achieving improved patient health care and safety and reduction of prescription drug abuse and prescription drug diversion.

(9) Any person who willfully and knowingly fails to report the dispensing of a controlled substance as required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) All costs incurred by the department in administering the prescription drug monitoring program shall be funded through federal grants or private funding applied for or received by the state. The department may not commit funds for the monitoring program without ensuring funding is available. The prescription drug monitoring program and the implementation thereof are contingent upon receipt of the nonstate funding. The department and state government shall cooperate with the direct-support organization established pursuant to subsection (11) in seeking federal grant funds, other nonstate grant funds, gifts, donations, or other private moneys for the department so long as the costs of doing so are not considered material. Nonmaterial costs for this purpose include, but are not limited to, the costs of mailing and personnel assigned to research or apply for a grant. Notwithstanding the exemptions to competitive-solicitation requirements under s. 287.057(3)(f), the department shall comply with the competitive-solicitation requirements under s. 287.057 for the procurement of any goods or services required by this section.

(11) The Office of Drug Control, in coordination with the department, may establish a direct-support organization that has a board consisting of at least five members to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(a) As used in this subsection, the term “direct-support organization” means an organization that is:

1. A Florida corporation not for profit incorporated under chapter 617, exempted from filing fees, and approved by the Department of State.

2. Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, and invest, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures or provide funding to or for the direct or indirect benefit of the department in the furtherance of the prescription drug monitoring program.

(b) The direct-support organization is not considered a lobbying firm within the meaning of s. 11.045.

(c) The director of the Office of Drug Control shall appoint a board of directors for the direct-support organization. The director may designate employees of the Office of Drug Control, state employees other than state employees from the department, and any other nonstate employees as appropriate, to serve on the board. Members of the board shall serve at the pleasure of the director of the Office of Drug Control. The director shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources. Inappropriate sources include, but are not limited to, donors, grantors, persons, or organizations that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.

(d) The direct-support organization shall operate under written contract with the Office of Drug Control. The contract must, at a minimum, provide for:

1. Approval of the articles of incorporation and bylaws of the direct-support organization by the Office of Drug Control.

2. Submission of an annual budget for the approval of the Office of Drug Control.

3. Certification by the Office of Drug Control in consultation with the department that the direct-support organization is complying with the terms of the contract in a manner consistent with and in furtherance of the goals and purposes of the prescription drug monitoring program and in the best interests of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

4. The reversion, without penalty, to the Office of Drug Control, or to the state if the Office of Drug Control ceases to exist, of all moneys and property held in trust by the direct-support organization for the benefit of the prescription drug monitoring program if the direct-support organization ceases to exist or if the contract is terminated.

5. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

6. The disclosure of the material provisions of the contract to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications, and an explanation to such donors of the distinction between the Office of Drug Control and the direct-support organization.

7. The direct-support organization's collecting, expending, and providing of funds to the department for the development, implementation, and operation of the prescription drug monitoring program as described in this section and s. 2, chapter 2009-198, Laws of Florida, as long as the task force is authorized. The direct-support organization may collect and expend

funds to be used for the functions of the direct-support organization's board of directors, as necessary and approved by the director of the Office of Drug Control. In addition, the direct-support organization may collect and provide funding to the department in furtherance of the prescription drug monitoring program by:

a. Establishing and administering the prescription drug monitoring program's electronic database, including hardware and software.

b. Conducting studies on the efficiency and effectiveness of the program to include feasibility studies as described in subsection (13).

c. Providing funds for future enhancements of the program within the intent of this section.

d. Providing user training of the prescription drug monitoring program, including distribution of materials to promote public awareness and education and conducting workshops or other meetings, for health care practitioners, pharmacists, and others as appropriate.

e. Providing funds for travel expenses.

f. Providing funds for administrative costs, including personnel, audits, facilities, and equipment.

g. Fulfilling all other requirements necessary to implement and operate the program as outlined in this section.

(e) The activities of the direct-support organization must be consistent with the goals and mission of the Office of Drug Control, as determined by the office in consultation with the department, and in the best interests of the state. The direct-support organization must obtain a written approval from the director of the Office of Drug Control for any activities in support of the prescription drug monitoring program before undertaking those activities.

(f) The Office of Drug Control, in consultation with the department, may permit, without charge, appropriate use of administrative services, property, and facilities of the Office of Drug Control and the department by the direct-support organization, subject to this section. The use must be directly in keeping with the approved purposes of the direct-support organization and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the Office of Drug Control and the department may be held by the Office of Drug Control or in a separate depository account in the name of the direct-support organization and subject to the provisions of the letter of agreement with the Office of Drug Control. The letter of agreement must provide that any funds held in the separate depository account in the name of the direct-support organization must revert to the Office of Drug Control if the direct-support organization is no longer approved by the Office of Drug Control to operate in the best interests of the state.

(g) The Office of Drug Control, in consultation with the department, may adopt rules under s. 120.54 to govern the use of administrative services, property, or facilities of the department or office by the direct-support organization.

(h) The Office of Drug Control may not permit the use of any administrative services, property, or facilities of the state by a direct-support organization if that organization does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

(i) The direct-support organization shall provide for an independent annual financial audit in accordance with s. 215.981. Copies of the audit shall be provided to the Office of Drug Control and the Office of Policy and Budget in the Executive Office of the Governor.

(j) The direct-support organization may not exercise any power under s. 617.0302(12) or (16).

(12) A prescriber or dispenser may have access to the information under this section which relates to a patient of that prescriber or dispenser as needed for the purpose of reviewing the patient's controlled drug prescription history. A prescriber or dispenser acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for receiving or using information from the prescription drug monitoring program. This subsection does not create a private cause of action, and a person may not recover damages against a prescriber or dispenser authorized to access information under this subsection for accessing or failing to access such information.

(13) To the extent that funding is provided for such purpose through federal or private grants or gifts and other types of available moneys, the department, in collaboration with the Office of Drug Control, shall study the feasibility of enhancing the prescription drug monitoring program for the purposes of public health initiatives and statistical reporting that respects the privacy of the patient, the prescriber, and the dispenser. Such a study shall be conducted in order to further improve the quality of health care services and safety by improving the prescribing and dispensing practices for prescription drugs, taking advantage of advances in technology, reducing duplicative prescriptions and the overprescribing of prescription drugs, and reducing drug abuse. The requirements of the National All Schedules Prescription Electronic Reporting (NASPER) Act are authorized in order to apply for federal NASPER funding. In addition, the direct-support organization shall provide funding for the department, in collaboration with the Office of Drug Control, to conduct training for health care practitioners and other appropriate persons in using the monitoring program to support the program enhancements.

(14) A pharmacist, pharmacy, or dispensing health care practitioner or his or her agent, before releasing a controlled substance to any person not known to such dispenser, shall require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity to the dispenser. If the person does not have proper identification, the dispenser may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent.

Verification of health plan eligibility through a real-time inquiry or adjudication system will be considered to be proper identification. This subsection does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted. As used in this subsection, the term "proper identification" means an identification that is issued by a state or the Federal Government containing the person's photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

(15) The Agency for Health Care Administration shall continue the promotion of electronic prescribing by health care practitioners, health care facilities, and pharmacies under s. 408.0611.

(16) By October 1, 2010, the department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer the provisions of this section, which shall include as necessary the reporting, accessing, evaluation, management, development, implementation, operation, and storage of information within the monitoring program's system.

Florida Statutes (2011)

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

(1) For purposes of this section, the term:

(a) "Active investigation" has the same meaning as provided in s. 893.055.

(b) "Dispenser" has the same meaning as provided in s. 893.055.

(c) "Health care practitioner" or "practitioner" has the same meaning as provided in s. 893.055.

(d) "Health care regulatory board" has the same meaning as provided in s. 893.055.

(e) "Law enforcement agency'' has the same meaning as provided in s. 893.055.

(f) "Pharmacist" means any person licensed under chapter 465 to practice the profession of pharmacy.

(g) "Pharmacy" has the same meaning as provided in s. 893.055.

(h) "Prescriber" has the same meaning as provided in s. 893.055.

(2) The following information of a patient or patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy that is contained in records held by the department

under s. 893.055 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Name.

(b) Address.

(c) Telephone number.

(d) Insurance plan number.

(e) Government-issued identification number.

(f) Provider number.

(g) Drug Enforcement Administration number.

(h) Any other unique identifying information or number.

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

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

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

(c) A law enforcement agency that has initiated an active investigation involving a specific violation of law regarding prescription drug abuse or diversion of prescribed controlled substances. The law enforcement agency may disclose the confidential and exempt information received from the department to a criminal justice agency as defined in s.

119.011 as part of an active investigation that is specific to a violation of prescription drug abuse or prescription drug diversion law as it relates to controlled substances. A law enforcement agency may request information from the department but may not have direct access to its database.

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

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

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

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

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

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

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

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

HAWAII

- County, state, or federal law enforcement officers or investigative agents, U.S. Attorneys, county prosecuting attorneys, or the attorney general
    - Requires that the Administrator must have "reasonable grounds" to believe that the disclosure would be in furtherance of an ongoing criminal investigation or prosecution

Hawai‘i Revised Statutes (2010)

§ 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.

(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.

Hawaii Administrative Code (2010)

§ 23-200-22. Confidentiality and access to records.

(a) All controlled substance information and records maintained by the narcotics enforcement division, department of public safety, shall be kept confidential except when information is disclosed for law enforcement purposes concerning the use and abuse of controlled substances, educational and statistical reporting purposes, or for the protection of the health and safety of the public.

(b) Any person denied access to controlled substance information and records may seek administrative relief pursuant to the administrative relief procedures provided by the department.

IDAHO

- Local, state and federal law enforcement
    - Requires that it be a specified duty of their employment to enforce the law regulating controlled substances
- Prosecuting attorneys, deputy prosecutors, and special prosecutors of a county or city, and special assistant attorneys general
    - Requires that they be engaged in enforcing the law regulating controlled substances
- Pursuant to a court order
- The board shall identify possible violations of controlled substances laws and report the information to the appropriate law enforcement agency for further investigation or enforcement purposes

West's Idaho Code (2011)

§ 37-2726. Filing prescriptions--Database

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

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

(a) Authorized individuals employed by the boards responsible for conducting investigations related to the licensing and discipline of practitioners;

(b) Peace officers employed by federal, state and local law enforcement agencies engaged as a specified duty of their employment in enforcing law regulating controlled substances;

(c) Authorized individuals under the direction of the department of health and welfare for the purpose of monitoring and enforcing that department's responsibilities under the public health, medicare and medicaid laws;

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

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

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

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

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

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

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

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

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

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

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

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

this subsection shall not apply to disclosure of individual patient information by the patient himself. The provisions of this subsection shall not apply to disclosure of information by a prosecuting attorney, deputy prosecuting attorney or special prosecutor of a county or city or by a special assistant attorney general from the office of the attorney general in the course of a criminal proceeding, whether preconviction or postconviction.

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

(8) The definitions set forth in section 37-2701, Idaho Code, shall apply to this section.

Idaho Code Annotated (2011)

§ 37-2730A. Prescription tracking program

(1) The board shall maintain a program to track the prescriptions for controlled substances that are filed with the board under section 37-2726, Idaho Code, for the purpose of assisting in identifying illegal activity related to the dispensing of controlled substances and for the purpose of assisting the board in providing information to patients, practitioners and pharmacists to assist in avoiding inappropriate use of controlled substances. The tracking program and any data created thereby shall be administered by the board.

(2) The board shall use the information obtained through the tracking program in identifying activity it reasonably suspects may be in violation of this chapter or medical assistance law. The board shall report this information to the individuals and persons set forth in section 37-2726(2), Idaho Code. The board may provide the appropriate law enforcement agency, medicaid or medicare agency or licensing board with the relevant information in the board's possession, including information obtained from the tracking program, for further investigation, or other appropriate law enforcement or administrative enforcement use.

(3) Information, which does not identify individual patients, practitioners or dispensing pharmacists or pharmacies, may be released by the board for educational, research or public information purposes.

(4) Unless there is shown malice or criminal intent or gross negligence or reckless, willful and wanton conduct as defined in section 6-904C, Idaho Code, the state of Idaho, the board, any other state agency, or any person, or entity in proper possession of information as herein provided shall not be subject to any liability or action for money damages or other legal or equitable relief by reason of any of the following:

(a) The furnishing of information under the conditions herein provided;

(b) The receiving and use of, or reliance on, such information;

(c) The fact that any such information was not furnished; or

(d) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

(5) The board 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.

ILLINOIS

- Law enforcement officer
    - Must be authorized to receive the information
    - Must be approved by the Department to receive the information
    - Requires that the officer be engaged in the investigation or prosecution of a criminal violation involving a controlled substance
- Prosecuting attorney, Attorney General, deputy Attorney General, or investigators working for the Attorney General
    - Requires an investigation, adjudication or prosecution of a controlled substance law violation
- Release of confidential information requires a written request from all requestors stating the following:
    - Believes a violation of state or federal law involving controlled substances has occurred
    - The information is reasonably related to the investigation, adjudication or prosecution of the violation
- Receipt of prescription information only:
    - To prosecuting attorneys, Attorney General, deputy Attorney General, or investigators from the Attorney General's office
    - To Illinois law enforcement officers
        - Must be authorized and approved to receive the information
    - Information must be reviewed by Department employee to ensure further investigation is warranted before it is released

Illinois Compiled Statutes (2011)

Chapter 720, § 570/318. Confidentiality of information

§ 318. Confidentiality of information.

(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 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

(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.

(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.

INDIANA

- Local, state or federal law enforcement officer
    - Requires that the information concern an individual or proceeding involving the diversion or misuse of controlled substances
    - Requires that the information assist in an investigation or proceeding
- Prosecuting attorney, attorney general, deputy attorney general, or investigator with the attorney general's office
    - Must be engaged in an investigation, adjudication or prosecution of a controlled substance law violation
- Law enforcement officer who is authorized and approved to receive information regarding practitioners
    - Requires that the information be reviewed by a member of the board who is licensed in the same profession or the board's designee
        - The member or designee must certify that further investigation is warranted
- The Board may provide the information to law enforcement if it has reason to believe illegal conduct has occurred without a request from law enforcement to provide such information

Indiana Code (2011)

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

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

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

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

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

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

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

(A) an investigation;
(B) an adjudication; or

(C) a prosecution;

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

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

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

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

that is certified to receive information from the INSPECT program.

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

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

(6) The state toxicologist.

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

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

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(e) Information provided to an individual under:

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

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

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

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

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

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

(g) The board may release to:

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

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

(3) a law enforcement officer who is:

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

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

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

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

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

(2) the board's designee;

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

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

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

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

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

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

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

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

IOWA

- Pursuant to an order, subpoena or other legal means of compulsion based upon a determination of probable cause
    - Must be in the course of a specific investigation of a specific individual
    - Not limited to law enforcement
- Local, state and federal law enforcement or prosecutorial officials
    - Requires order, subpoena or other legal means of compulsion based upon a determination of probable cause
        - Must be in the course of a specific investigation of a specific individual
    - Requires written request signed by the requesting officer or that officer's superior
        - Must be accompanied by an order, subpoena or warrant requiring a determination of probable cause

Iowa Code (2011)

§ 124.553. Information access

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

a. (1) A pharmacist or prescribing practitioner who requests the information and certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical care to a patient of the pharmacist or prescribing practitioner. Neither a pharmacist nor a prescribing practitioner may delegate program information access to another individual.

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

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

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

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

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

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

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

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

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

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

Iowa Administrative Code (2011)

657-37.4(124) Access to database information.

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

37.4(1) Prescribers and pharmacists. A health care practitioner authorized to prescribe or dispense controlled substances may obtain PMP information regarding the practitioner's patient,

or a patient seeking treatment from the practitioner, for the purpose of providing patient health care.

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

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

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

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

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

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

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

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

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

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

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

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

patient's government-issued photo identification and that certified copy shall be submitted with the written request. The request shall be submitted to the Iowa Board of Pharmacy at the address identified in paragraph *"a."*

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

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

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

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

KANSAS

- Local, state and federal law enforcement and prosecutorial officials
    - Must be engaged in the administration, investigation or enforcement of controlled substances laws
- Persons authorized by grand jury subpoena, inquisition subpoena or court order in a criminal action

Kansas Statutes (2010)

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

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

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

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

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

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

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

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances

and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the Kansas health policy authority regarding authorized medicaid program recipients;

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

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

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

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

KENTUCKY

- Kentucky or federal peace officer whose duty it is to enforce the law relating to drugs
    - Must be engaged in a bona fide specific investigation involving a specific person
- Grand jury subpoena
- Judge, probation or parole officer
    - Must be administering a diversion or probation of a criminal defendant who violated a criminal substance law or who is a documented substance abuser who is eligible to participate in the drug diversion or probation program

Baldwin's Kentucky Revised Statutes (2011)

§ 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;

(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;

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

(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.

(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.

LOUISIANA

- Local, state or federal law enforcement or prosecutorial officials
    - Must be engaged in the administration, investigation or enforcement of controlled substances laws
    - Requires one of the following:
        - court order, warrant, subpoena or summons
        - grand jury subpoena
        - administrative request, including administrative subpoena or summons, a civil or authorized investigative demand or similar legal process
    - Must be relevant and material to a law enforcement inquiry
    - Request must be limited in scope and specific
    - Limited information or information that does not identify a specific patient could not reasonably be used

Louisiana Statutes (2011)

§ 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.

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.

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.

Louisiana Administrative Code (2010)

46 Part LIII § 2921. Methods of Access to Prescription Monitoring Information

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

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

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

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

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

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

2. a grand jury subpoena; or

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

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

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

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

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

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

MASSACHUSETTS

- Local, state and federal law enforcement or prosecutorial officials working with the executive office of public safety
    - Must be engaged in the administration, investigation or enforcement of prescription drug laws
    - Must be in connection with a bona fide specific controlled substance or additional drug-related investigation
- Personnel of the United States attorney, office of the attorney general, or a district attorney
    - Must be in connection with a bona fide specific controlled substance or additional drug-related investigation
- Duly authorized representative of a law enforcement agency
    - Must be acting in accordance with official duties in conducting a bona fide criminal investigation or prosecution
    - Requests for records shall go through the Attorney General's Office, or the Massachusetts State Police Diversion Investigative Unit, or the United States DEA for notification and approval prior to being submitted to the Department
- The department shall provide prescription information to law enforcement if it has reason to believe a violation of law has occurred without a request from law enforcement to provide such information

Massachusetts General Laws (2011)

Ch. 94C § 24A. Electronic monitoring of the prescribing and dispensing of controlled substances and certain additional drugs

<[Text of section added by 2010, 283, Sec. 3 effective January 1, 2011. See 2010, 283, Sec. 15.]>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Code of Massachusetts Regulations (2011)

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;

(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 U.S. Drug Enforcement Administration (DEA) 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

(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 and any other related regulations. 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;

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

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

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

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

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

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

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

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

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

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

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

(b) Such disclosure shall be for the purpose of assisting the practitioner, pharmacy or other registered health care professional in assessing the possibility of abuse or diversion, but shall not require or direct the practitioner, pharmacy or health care professional to take action that s/he 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, pharmacy's or other registered health care professional's Controlled Substance Registration may be suspended or terminated in accordance with 105 CMR 700.004(L)(1) for the following:

(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.

MICHIGAN

- Municipal, state or federal employee or agent whose duty is to enforce drug laws
- Municipal, state or federal employee or agent who is the holder of a search warrant or subpoena
- Must be for bona fide drug-related criminal investigatory or evidentiary purposes

Michigan Compiled Laws (2011)

§ 333.7333a. Electronic prescription monitoring system; reporting requirements; data disclosure; forgery-resistant prescription form

Sec. 7333a. (1) The department shall establish, by rule, an electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances dispensed in this state by veterinarians, and by pharmacists and dispensing prescribers licensed under part 177 or dispensed to an address in this state by a pharmacy licensed in this state. The rules shall provide an appropriate electronic format for the reporting of data including, but not limited to, patient identifiers, the name of the controlled substance dispensed, date of dispensing, quantity dispensed, prescriber, and dispenser. The department shall require a veterinarian, pharmacist, or dispensing prescriber to utilize the electronic data transmittal process developed by the department or the department's contractor. A veterinarian, pharmacist, or dispensing prescriber shall not be required to pay a new fee dedicated to the operation of the electronic monitoring system and shall not incur any additional costs solely related to the transmission of data to the department. The rules promulgated under this subsection shall exempt both of the following circumstances from the reporting requirements:

(a) The administration of a controlled substance directly to a patient.

(b) The dispensing from a health facility or agency licensed under article 17 of a controlled substance by a dispensing prescriber in a quantity adequate to treat a patient for not more than 48 hours.

(2) Notwithstanding any practitioner-patient privilege, the director of the department may provide data obtained under this section to all of the following:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances.

(b) An employee or agent of the department.

(c) A state, federal, or municipal employee or agent whose duty is to enforce the laws of this state or the United States relating to drugs.

(d) A state-operated medicaid program.

(e) A state, federal, or municipal employee who is the holder of a search warrant or subpoena properly issued for the records.

(f) 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.

(g) An individual with whom the department has contracted under subsection (9).

(3) Except as otherwise provided in this part, information submitted under this section shall be used only for bona fide drug-related criminal investigatory or evidentiary purposes or for the investigatory or evidentiary purposes in connection with the functions of a disciplinary subcommittee or 1 or more of the licensing or registration boards created in article 15.

(4) A person who receives data or any report under subsection (2) containing any patient identifiers of the system from the department shall not provide it to any other person or entity except by order of a court of competent jurisdiction.

(5) Except as otherwise provided in this subsection, reporting under subsection (1) is mandatory for a veterinarian, pharmacist, and dispensing prescriber. However, the department may issue a written waiver of the electronic reporting requirement to a veterinarian, pharmacist, or dispensing prescriber who establishes grounds that he or she is unable to use the electronic monitoring system. The department shall require the applicant for the waiver to report the required information in a manner approved by the department.

(6) In addition to the information required to be reported annually under section 7112(3), the controlled substances advisory commission shall include in the report information on the implementation and effectiveness of the electronic monitoring system.

(7) The department, in consultation with the controlled substances advisory commission, the Michigan board of pharmacy, the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, the Michigan state police, and appropriate medical professional associations, shall examine the need for and may promulgate rules for the production of a prescription form on paper that minimizes the potential for forgery. The rules shall not include any requirement that sequential numbers, bar codes, or symbols be affixed, printed, or written on a prescription form or that the prescription form be a state produced prescription form. In examining the need for rules for the production of a prescription form on paper that minimizes the potential for forgery, the department shall consider and identify the following:

(a) Cost, benefits, and barriers.

(b) Overall cost-benefit analysis.

(c) Compatibility with the electronic monitoring system required under this section.

(8) The department shall report its findings under subsection (7) to the members of the house and senate standing committees having jurisdiction over health policy issues not later than October 1, 2002, and before the electronic monitoring system required under this section becomes operational.

(9) The department may enter into 1 or more contractual agreements for the administration of this section.

(10) The department, all law enforcement officers, 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.

(11) The data and any report containing any patient identifiers obtained therefrom is not a public record, and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) As used in this section, “department” means the department of consumer and industry services.

MINNESOTA

- Local, state and federal law enforcement
    - Must have search warrant

Minnesota Statutes (2011)

§ 152.126. Controlled substances prescription electronic reporting system

Subdivision 1. Definitions. For purposes of this section, the terms defined in this subdivision have the meanings given.

(a) "Board" means the Minnesota State Board of Pharmacy established under chapter 151.

(b) "Controlled substances" means those substances listed in section 152.02, subdivisions 3 to 5, and those substances defined by the board pursuant to section 152.02, subdivisions 7, 8, and 12.

(c) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

(d) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription. For the purposes of this section, a dispenser does not include a licensed hospital pharmacy that distributes controlled substances for inpatient hospital care or a veterinarian who is dispensing prescriptions under section 156.18.

(e) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1.

(f) "Prescription" has the meaning given in section 151. 01, subdivision 16.

Subd. 1a. Treatment of intractable pain. This section is not intended to limit or interfere with the legitimate prescribing of controlled substances for pain. No prescriber shall be subject to disciplinary action by a health-related licensing board for prescribing a controlled substance according to the provisions of section 152.125.

Subd. 2. Prescription electronic reporting system. (a) The board shall establish by January 1, 2010, an electronic system for reporting the information required under subdivision 4 for all controlled substances dispensed within the state.

(b) The board may contract with a vendor for the purpose of obtaining technical assistance in the design, implementation, operation, and maintenance of the electronic reporting system.

Subd. 3. Prescription Electronic Reporting Advisory Committee. (a) The board shall convene an advisory committee. The committee must include at least one representative of:

(1) the Department of Health;

(2) the Department of Human Services;

(3) each health-related licensing board that licenses prescribers;

(4) a professional medical association, which may include an association of pain management and chemical dependency specialists;

(5) a professional pharmacy association;

(6) a professional nursing association;

(7) a professional dental association;

(8) a consumer privacy or security advocate; and

(9) a consumer or patient rights organization.

(b) The advisory committee shall advise the board on the development and operation of the electronic reporting system, including, but not limited to:

(1) technical standards for electronic prescription drug reporting;

(2) proper analysis and interpretation of prescription monitoring data; and

(3) an evaluation process for the program.

Subd. 4. Reporting requirements; notice. (a) Each dispenser must submit the following data to the board or its designated vendor, subject to the notice required under paragraph (d):

(1) name of the prescriber;

(2) national provider identifier of the prescriber;

(3) name of the dispenser;

(4) national provider identifier of the dispenser;

(5) prescription number;

(6) name of the patient for whom the prescription was written;

(7) address of the patient for whom the prescription was written;

(8) date of birth of the patient for whom the prescription was written;

(9) date the prescription was written;

(10) date the prescription was filled;

(11) name and strength of the controlled substance;

(12) quantity of controlled substance prescribed;

(13) quantity of controlled substance dispensed; and

(14) number of days supply.

(b) The dispenser must submit the required information by a procedure and in a format established by the board. The board may allow dispensers to omit data listed in this subdivision or may require the submission of data not listed in this subdivision provided the omission or submission is necessary for the purpose of complying with the electronic reporting or data transmission standards of the American Society for Automation in Pharmacy, the National Council on Prescription Drug Programs, or other relevant national standard-setting body.

(c) A dispenser is not required to submit this data for those controlled substance prescriptions dispensed for:

(1) individuals residing in licensed skilled nursing or intermediate care facilities;

(2) individuals receiving assisted living services under chapter 144G or through a medical assistance home and community-based waiver;

(3) individuals receiving medication intravenously;

(4) individuals receiving hospice and other palliative or end-of-life care; and

(5) individuals receiving services from a home care provider regulated under chapter 144A.

(d) A dispenser must not submit data under this subdivision unless a conspicuous notice of the reporting requirements of this section is given to the patient for whom the prescription was written.

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

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

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

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

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

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

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

(b) Except as specified in subdivision 5, the following persons shall be considered permissible users and may access the data submitted under subdivision 4 in the same or similar manner, and for the same or similar purposes, as those persons who are authorized to access similar private data on individuals under federal and state law:

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

(2) a dispenser or an agent or employee of the dispenser to whom the dispenser has delegated the task of accessing the data, to the extent the information relates specifically to a current patient to whom that dispenser is dispensing or considering dispensing any controlled substance and with

the provision that the dispenser remains responsible for the use or misuse of data accessed by a delegated agent or employee;

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

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

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

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

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

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

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

(c) Any permissible user identified in paragraph (b), who directly accesses the data electronically, shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

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

(e) The board shall not release the name of a prescriber without the written consent of the prescriber or a valid search warrant or court order. The board shall provide a mechanism

for a prescriber to submit to the board a signed consent authorizing the release of the prescriber's name when data containing the prescriber's name is requested.

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

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

Subd. 7. Disciplinary action. (a) A dispenser who knowingly fails to submit data to the board as required under this section is subject to disciplinary action by the appropriate health-related licensing board.

(b) A prescriber or dispenser authorized to access the data who knowingly discloses the data in violation of state or federal laws relating to the privacy of health care data shall be subject to disciplinary action by the appropriate health-related licensing board, and appropriate civil penalties.

Subd. 8. Evaluation and reporting. (a) The board shall evaluate the prescription electronic reporting system to determine if the system is negatively impacting appropriate prescribing practices of controlled substances. The board may contract with a vendor to design and conduct the evaluation.

(b) The board shall submit the evaluation of the system to the legislature by July 15, 2011.

Subd. 9. Immunity from liability; no requirement to obtain information. (a) A pharmacist, prescriber, or other dispenser making a report to the program in good faith under this section is immune from any civil, criminal, or administrative liability, which might otherwise be incurred or imposed as a result of the report, or on the basis that the pharmacist or prescriber did or did not seek or obtain or use information from the program.

(b) Nothing in this section shall require a pharmacist, prescriber, or other dispenser to obtain information about a patient from the program, and the pharmacist, prescriber, or other dispenser, if acting in good faith, is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

Subd. 10. Funding. (a) The board may seek grants and private funds from nonprofit charitable foundations, the federal government, and other sources to fund the enhancement and ongoing operations of the prescription electronic reporting system established under this section. Any funds received shall be appropriated to the board for this purpose. The board may not expend funds to enhance the program in a way that conflicts with this section without seeking approval from the legislature.

(b) The administrative services unit for the health-related licensing boards shall apportion between the Board of Medical Practice, the Board of Nursing, the Board of Dentistry, the Board of Podiatric Medicine, the Board of Optometry, and the Board of Pharmacy an amount to be paid through fees by each respective board. The amount apportioned to each board shall equal each board's share of the annual appropriation to the Board of Pharmacy from the state government special revenue fund for operating the prescription electronic reporting system under this section. Each board's apportioned share shall be based on the number of prescribers or dispensers that each board identified in this paragraph licenses as a percentage of the total number of prescribers and dispensers licensed collectively by these boards. Each respective board may adjust the fees that the boards are required to collect to compensate for the amount apportioned to each board by the administrative services unit.

MISSISSIPPI

- Local, state and federal law enforcement
    - Must be engaged in the administration, investigation or enforcement of drug laws
- Judicial authorities under grand jury subpoena or court order
- Attorneys for the Mississippi Bureau of Narcotics may subpoena records from any person, firm or corporation relevant to any felony involving controlled substances laws
    - Subpoena will only be issued upon a showing of probable cause that the records are relevant to the investigation
- The Board shall provide the information to law enforcement if it reasonably suspects illegal conduct has occurred without a request from law enforcement to provide such information

West's Annotated Mississippi Code (2010)

§ 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 to practitioners, pharmacists-in-charge and appropriate state agencies in order to prevent the inappropriate or illegal use of such controlled substances. This program would be proactive in safeguarding public health and safety, support the legitimate use of controlled substances, to facilitate and encourage the identification, intervention with and treatment of individuals addicted to controlled substances and specified noncontrolled drugs, to identify and

prevent drug diversion, to provide assistance to those state and federal law enforcement and regulatory agencies investigating cases of drug diversion or other misuse, and to inform the public and health care professionals of the use and abuse trends related to controlled substance and specified noncontrolled drugs.

(e) 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. The State Board of Pharmacy shall be authorized to provide collected information to pharmacists or practitioners that 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 their own prescription monitoring information and prescription monitoring programs in other states through mutual agreement adhering to State Board of Pharmacy policies. The State Board of Pharmacy may also provide generic statistical data for research or educational purposes.

(f) A dispenser pharmacist or practitioner licensed to dispense controlled substance and specified noncontrolled substance drugs who knowingly fails to submit drug monitoring information or knowingly submits incorrect dispensing information would be subject to actions against their 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 or administer a controlled substance, as defined under Section 41-29-105(y).

(h) The 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.

Mississippi Code (2011)

§ 41-29-187. Production of records and documents

(1) Attorneys for the Mississippi Bureau of Narcotics, by and through the Director of the Mississippi Bureau of Narcotics, are authorized to seek judicial subpoenas to require any person, firm or corporation in the State of Mississippi to produce for inspection and copying business records and other documents which are relevant to the investigation of any felony violation of the Uniform Controlled Substances Law of the State of Mississippi. The production of the designated documents shall be at the location of the named person's, firm's or corporation's principal place of business, residence or other place at which the person, firm or

corporation agrees to produce the documents. The cost of reproducing the documents shall be borne by the bureau at prevailing rates. At the conclusion of the investigation and any related judicial proceedings, the person, firm or corporation from whom the records or documents were subpoenaed shall, upon written request, be entitled to the return or destruction of all copies remaining in the possession of the bureau.

(2) The bureau is authorized to make an ex parte and in camera application to the county or circuit court of the county in which such person, firm or corporation resides or has his principal place of business, or if the person, firm or corporation is absent or a nonresident of the State of Mississippi, to the county or circuit court of Hinds County. On application of the county or circuit court, a subpoena duces tecum shall be issued only upon a showing of probable cause that the documents sought are relevant to the investigation of a felony violation of the Uniform Controlled Substances Law or may reasonably lead to the discovery of such relevant evidence. Nothing contained in this section shall affect the right of a person to assert a claim that the information sought is privileged by law. Such application to the court shall be in writing and accompanied by a sworn affidavit from an agent of the Bureau of Narcotics which sets forth facts which the court shall consider in determining that probable cause exists.

(3) Any person, firm or corporation complying in good faith with a judicial subpoena issued pursuant to this section shall not be liable to any other person, firm or corporation for damages caused in whole or in part by such compliance.

(4) Documents in the possession of the Mississippi Bureau of Narcotics gathered pursuant to the provisions of this section and subpoenas issued by the court shall be maintained in confidential files with access limited to prosecutorial and other law enforcement investigative personnel on a "need to know" basis and shall be exempt from the provisions of the Mississippi Public Records Act of 1983, except that upon the filing of an indictment or information, or upon the filing of an action for forfeiture or recovery of property, funds or fines, such documents shall be subject to such disclosure as may be required pursuant to the applicable statutes or court rules governing the trial of any such judicial proceeding.

(5) The circuit or county judge shall seal each application and affidavit filed and each subpoena issued after service of said subpoena. The application, affidavit and subpoena may not be disclosed except in the course of a judicial proceeding. Any unauthorized disclosure of a sealed subpoena, application or affidavit shall be punishable as contempt of court.

(6) No person, including the Director of the Mississippi Bureau of Narcotics, an agent or member of his staff, prosecuting attorney, law enforcement officer, witness, court reporter, attorney or other person, shall disclose to an unauthorized person documents gathered by the bureau pursuant to the provisions of this section, nor investigative demands and subpoenas issued and served, except that upon the filing of an indictment or information, or upon the filing of an action for forfeiture or recovery of property, funds or fines, or in other legal proceedings, the documents shall be subject to such disclosure as may be required pursuant to applicable

statutes and court rules governing the trial of any such judicial proceeding. In the event of an unauthorized disclosure of any such documents gathered by the Mississippi Bureau of Narcotics pursuant to the provisions of this section, the person making any such unauthorized disclosure shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or imprisonment of not more than six (6) months, or by both such fine and imprisonment.

(7) No person, agent or employee upon whom a subpoena is served pursuant to this section shall disclose the existence of said subpoena or the existence of the investigation to any person unless such disclosure is necessary for compliance with the subpoena. Any person who willfully violates this subsection shall be guilty of a misdemeanor and may be confined in the county jail, for a period not to exceed one (1) year, or fined not more than Ten Thousand Dollars ($10,000.00), or both.

NEVADA

- Pursuant to a court order
- The Board and Division may exchange information with governmental officials concerning the use and abuse of controlled substances
- The Board and Division will compile and make drug information available for law enforcement purposes
    - Data will not contain identifying information
- The Board or Division shall report relevant information to law enforcement if it reasonably suspects illegal conduct has occurred without a request from law enforcement to provide such information

Nevada Revised Statutes (2011)

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

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

(a) Be designed to provide information regarding:

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

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

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

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

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

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

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

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

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

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

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

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

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

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

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

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

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

Nevada Revised Statutes (2011)

§ 453.151. Cooperative arrangements; confidentiality of information

1. The Board and the Division shall cooperate with federal and other state agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, the Board and Division may:

(a) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(b) Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels;

(c) Cooperate with the Drug Enforcement Administration by establishing a centralized unit to accept, catalog, file and collect statistics, including records of drug-dependent persons and other controlled substance law offenders within the State, and make the information available for federal, state and local law enforcement purposes. The Board and the Division shall not furnish the name or identity of a patient or research subject whose identity could not be obtained pursuant to NRS 453.157; and

(d) Conduct programs of eradication aimed at destroying the wild growth or illicit propagation of plant species from which controlled substances may be extracted.

2. Results, information and evidence received from the Drug Enforcement Administration relating to the regulatory functions of the provisions of NRS 453.011 to 453.552, inclusive, including results of inspections conducted by it, may be relied and acted upon by the Board in the exercise of its regulatory functions pursuant to NRS 453.011 to 453.552, inclusive.

NEW JERSEY

- Municipal, state or federal law enforcement
    - Pursuant to a court order
    - Must certify that the officer is engaged in a bona fide specific investigation of a designated practitioner or patient
- Grand jury subpoena
- The division shall provide the information to law enforcement if it determines that illegal conduct may have occurred without a request from law enforcement to provide such information

New Jersey Statutes (2011)

§ 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;

(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.

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

NEW MEXICO

- Local, state and federal law enforcement or prosecutorial officials
    - Must be engaged in an ongoing investigation of an individual regarding drugs
- Metropolitan, district, state or federal courts under grand jury subpoena or criminal court order
- The board inspectors shall provide the information to law enforcement if it has reasonable cause to believe a violation of law has occurred without a request from law enforcement to provide such information
    - Board must have received a complaint before inspecting the prescription records

Code of New Mexico Rules (2010)

16.19.29. CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM

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

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

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

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

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

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

16.19.29.4 DURATION: Permanent.

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

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

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

16.19.29.6 OBJECTIVE: The objective of Part 29 of Chapter 19 is to promote the public health and welfare by detecting and preventing substance abuse and encouraging appropriate treatment of pain and other conditions for which controlled substances are prescribed. The purpose of the system is to improve access to controlled substances for legitimate medical needs by allowing a

practitioner or a pharmacist to obtain a patient's pharmaceutical history related to controlled substances. The program's objectives will include education of the public and health care professionals regarding the nature and extent of the problem of drug abuse, appropriate prescribing and use of controlled substances, and the medical treatment options for abusers of controlled substances and pain management.

[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:
(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.

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.

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.

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.

NEW YORK

- Court order or subpoena in a criminal investigation or proceeding

Mckinney's Consolidated Laws of New York (2011)

Public Health Law § 3371. Confidentiality of certain records, reports, and information

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

(a) to another person employed by the department, for purposes of executing provisions of this article;

(b) pursuant to judicial subpoena or court order in a criminal investigation or proceeding;

(c) to an agency, department of government, or official board authorized to regulate, license or otherwise supervise a person who is authorized by this article to deal in controlled substances, or in the course of any investigation or proceeding by or before such agency, department or board;

(d) to a central registry established pursuant to this article; and

(e) to a practitioner to inform him or her that a patient may be under treatment with a controlled substance by another practitioner.

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

Compilation of Codes, Rules and Regulations of the State of New York (2011)

10 ADC Section 80.107. Confidentiality

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

(a) to another person who by virtue of his office as an employee of the department is entitled to obtain such information;

(b) pursuant to judicial subpoena or court order in a criminal investigation or proceedings;

(c) to an agency, department of government, or official board authorized to regulate, license or otherwise supervise a person who is authorized by article 33 of the Public Health Law to deal in controlled substances, or in the course of any investigation or proceeding by or before such agency, department or board;

(d) to a central registry established pursuant to article 33 of the Public Health Law; or

(e) to a practitioner to inform him or her that a person under his or her treatment with a controlled substance also may be under treatment with a controlled substance by another practitioner.

NORTH CAROLINA

- Special agents of the North Carolina Bureau of Investigation assigned to the Diversion & Environmental Crimes Unit whose primary duties involve the investigation of diversion and illegal use of prescription drugs
    - Must be engaged in a bona fide specific investigation related to drugs
    - Must notify the Office of the Attorney General of each request to inspect the records
- To a court pursuant to a lawful court order in a criminal action
- If the Department finds a pattern of behavior regarding prescribing controlled substances, it shall report that information to the Attorney General for a determination of whether it should be reported to the SBI for investigation into violations of state or federal law

West's North Carolina General Statutes (2010)

§ 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 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.

NORTH DAKOTA

- Local, state and federal law enforcement or prosecutorial officials
    - Must be engaged in the enforcement of controlled substance laws
    - Must be for the purpose of investigation or prosecution of drug-related activity or probation compliance of an individual
- Judicial authorities under grand jury subpoena, court order or equivalent judicial process for criminal investigation of controlled substance law violations

North Dakota Century Code (2011)

§ 19-03.5-03. Access to prescription information

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

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

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

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

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

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

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

e. The department of human services for purposes regarding the utilization of controlled substances by a medicaid recipient;

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

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

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

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

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

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

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

OHIO

- Local, state or federal officer whose duties including enforcing drug laws
    - Must be pursuant to active investigation related to specific person
    - Must complete request form including active case number and approval by agency or department supervisor
- Grand jury subpoena
- The Board shall review the information and, if a violation of law may have occurred, notify the appropriate law enforcement agency for an investigation

Baldwin's Ohio Revised Code (2011)

§ 4729.79 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 may 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 licensed health care professionals authorized to prescribe 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 may provide to the officer information from the database relating to the person who is the subject of an active investigation being conducted by the officer's employing government entity.

(3) Pursuant to a subpoena issued by a grand jury, the board may 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) On receipt of a request from a pharmacist or prescriber, the board may provide to the requestor information from the database relating to a current patient of the requestor, if the requestor certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical treatment to the patient who is the subject of the request.

(5) 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 4729.83 of the Revised Code, the board may provide to the individual the individual's own database information.

(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 4729.83 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 licensed health care professionals authorized to prescribe 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) Nothing in this section requires a pharmacist or prescriber to obtain information about a patient from the database. A pharmacist or prescriber shall not be held liable in damages to any person in any civil action for injury, death, or loss to person or property on the basis that the pharmacist or prescriber did or did not seek or obtain information from the database.

Baldwin's Ohio Revised Code (2011)

§ 4729.80 Review of database information; investigation

If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, the board shall review the information in the drug database. If the board determines from the review that a violation of law may have occurred, it shall notify the appropriate law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health care professionals authorized to prescribe drugs and supply information required by the agency or entity for an investigation of the violation of law that may have occurred.

Baldwin's Ohio Administrative Code (2010)

4729-37-08 Procedures for obtaining drug database information

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

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

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

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

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

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

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

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

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

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

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

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

OKLAHOMA

- Investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, United States DEA Diversion Group Supervisor
- Grand jury
- At the discretion of the Director of the OK Bureau of Narcotics and Dangerous Drugs Control, the information may be disclosed to municipal, county, state or federal agents, district attorneys and the Attorney General in furtherance of criminal investigations or prosecutions

Oklahoma Statutes (2011)

Title 63, § 2-309D. Central repository information--Confidentiality--Access-- Disclosure--Penalties--Liability

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

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

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

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

a. Board of Podiatric Medical Examiners,

b. Board of Dentistry,

c. State Board of Pharmacy,

d. State Board of Medical Licensure and Supervision,

e. State Board of Osteopathic Examiners,

f. State Board of Veterinary Medical Examiners, and

g. Oklahoma Health Care Authority;

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

4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act, Sections 350 through 363 of Title 22 of the Oklahoma Statutes.

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

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

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

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

OREGON

- Local, state or federal law enforcement
    - Pursuant to a court order based on probable cause
    - Must be engaged in an authorized drug-related investigation of a specific person

Oregon Revised Statutes (2011)

§ 431.966. Prescription monitoring information disclosure; limitations

(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 Department of Human Services 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 department or any vendor or contractor with whom the department has contracted to establish or maintain the electronic system of the prescription monitoring program.

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

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

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

(b) The department 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 department who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 432.060 and rules adopted under ORS 431.110.

(c) The department 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 department receives a request from the patient for the information.

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

(B) If the department 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 department receives the request, the patient may appeal the denial or failure to grant the request. Upon receipt of an appeal under this subparagraph, the department shall conduct a contested case hearing as provided in ORS chapter 183. Notwithstanding ORS 183.450, in the contested case hearing, the department 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 providers involved with the patient's care, in order to provide safe and appropriate care coordination.

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

(6)(a) If the department or a person or entity required to report or authorized to receive or release controlled substance prescription information under this section violates ORS 431.964, 431.966 or 431.968, a person injured by the violation may bring a civil action against the department, 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 department 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 ORS 431.964, 431.966 or 431.968 unless the department, 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.

PENNSYLVANIA

- Any court or governmental agency with its principal function being the administration of criminal justice
- Secretary may exchange information with government officials concerning the use and abuse of controlled substances

Purdon's Pennsylvania Statutes and Consolidated Statutes (2011)

Title 18, § 9102. Definitions

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Administration of criminal justice." The activities directly concerned with the prevention, control or reduction of crime, the apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders; criminal identification activities; or the collection, storage dissemination or usage of criminal history record information.

"Audit." The process of reviewing compliance with applicable Federal and State laws and regulations related to the privacy and security of criminal history record information.

"Automated systems." A computer or other internally programmed device capable of automatically accepting and processing data, including computer programs, data communication links, input and output data and data storage devices.

"Central repository." The central location for the collection, compilation, maintenance and dissemination of criminal history record information by the Pennsylvania State Police.

"Criminal history record information." Information collected by criminal justice agencies concerning individuals, and arising from the initiation of a criminal proceeding, consisting of identifiable descriptions, dates and notations of arrests, indictments, informations or other formal criminal charges and any dispositions arising therefrom. The term does not include intelligence information, investigative information or treatment information, including medical and psychological information, or information and records specified in section 9104 (relating to scope).

"Criminal justice agency." Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to:

organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards, the facilities and administrative offices of the Department of Public Welfare that provide care, guidance and control to adjudicated delinquents, and such agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions or both.

"Disposition." Information indicating that criminal proceedings have been concluded, including information disclosing that police have elected not to refer a matter for prosecution, that a prosecuting authority has elected not to commence criminal proceedings or that a grand jury has failed to indict and disclosing the nature of the termination of the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions of criminal proceedings in the Commonwealth shall include, but not be limited to, acquittal, acquittal by reason of insanity, pretrial probation or diversion, charge dismissed, guilty plea, nolle prosequi, no information filed, nolo contendere plea, convicted, abatement, discharge under rules of the Pennsylvania Rules of Criminal Procedure, demurrer sustained, pardoned, sentence commuted, mistrial-defendant discharged, discharge from probation or parole or correctional supervision.

"Dissemination." The oral or written transmission or disclosure of criminal history record information to individuals or agencies other than the criminal justice agency which maintains the information.

"Expunge."
(1) To remove information so that there is no trace or indication that such information existed;
(2) to eliminate all identifiers which may be used to trace the identity of an individual, allowing remaining data to be used for statistical purposes; or
(3) maintenance of certain information required or authorized under the provisions of section 9122(c) (relating to expungement), when an individual has successfully completed the conditions of any pretrial or posttrial diversion or probation program.
"Intelligence information." Information concerning the habits, practices, characteristics, possessions, associations or financial status of any individual compiled in an effort to anticipate, prevent, monitor, investigate or prosecute criminal activity. Notwithstanding the definition of "treatment information" contained in this section, intelligence information may include information on prescribing, dispensing, selling, obtaining or using a controlled substance as defined in the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

"Investigative information." Information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information.

"Police blotter." A chronological listing of arrests, usually documented contemporaneous with

the incident, which may include, but is not limited to, the name and address of the individual charged and the alleged offenses.

“Repository.” Any location in which criminal history record information is collected, compiled, maintained and disseminated by a criminal justice agency.

“Treatment information.” Information concerning medical, psychiatric, psychological or other rehabilitative treatment provided, suggested or prescribed for any individual charged with or convicted of a crime.

Purdon's Pennsylvania Statutes and Consolidated Statutes (2011)

Title 35, § 780-137. Cooperative agreements and confidentiality

(a) The secretary shall cooperate with Federal and other State agencies in discharging his responsibilities concerning traffic in controlled substances, other drugs, devices and cosmetics and in suppressing the abuse of such substances and articles. To this end, he may:

(1) Arrange for the exchange of information among governmental officials concerning the use and abuse of such substances and articles;

(2) Coordinate and cooperate in training programs concerning law enforcement at local and State levels;

(3) Request the Federal Bureau of Narcotics and Dangerous Drugs to establish a centralized unit to collect, accept, catalogue and file nonconfidential statistics and make the information available for Federal, State and local law enforcement purposes; and

(4) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which drugs may be extracted.

(b) Results, information, and evidence received from the bureau relating to the regulatory functions of this act, including results of inspections conducted by it may be relied and acted upon by the secretary in the exercise of his regulatory functions under this act.

(c) A practitioner engaged in medical practice or clinical research is not required nor may he be compelled to furnish the name or identity of a patient or research subject to the secretary, nor may he be compelled in any State or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of such an individual.

(d) This section shall not exempt the practitioner from regulations of the secretary pertaining to the prescription of controlled substances to a patient over an extended period or in an increasingly large dosage.

RHODE ISLAND

- Law enforcement or investigative agencies
    - For criminal purposes

West's Rhode Island Administrative Code (2010)

31-2-1:3.0. Data Collection

3.1 The electronic system shall provide for the method of data collection; transmission from all dispensers to the Department; maintenance and use of data; and shall be as set forth in the latest edition of the *ASAP Telecommunications Format for Controlled Substance*s of reference 1 herein.

3.2 Required data shall be transmitted by direct computer link, double sided/high density micro floppy disk, or microcassette. All computerized pharmacies shall submit the required data no later than 1 July 1997.

3.3 The Department shall:

3.3.1 be authorized to provide data in the electronic prescription system to other regulatory, investigative or law enforcement agencies for disciplinary, civil, or criminal purposes, and for the purposes of educating practitioners in lieu of disciplinary, civil or criminal action.

3.3.2 be authorized to provide data to appropriate public or private entities for statistical, research, or educational purposes provided that the privacy and confidentiality of patients and patient information is not compromised.

3.3.3 in using the information for investigative or prosecutorial purposes, consider the nature of the prescriber's or dispenser's practice and the condition(s) for which the patient is being treated.

3.3.4 ensure the privacy and confidentiality of patients and shall ensure that patient information collected, recorded, transmitted, and stored in the prescription system is maintained in accordance with applicable state and federal laws, rules and regulations.

3.3.5 ensure that the EDT program does not infringe on the legal use of any schedule II or III controlled substance.

SOUTH CAROLINA

- Drug control may release the information to law enforcement or other agencies if there is reasonable cause to believe there has been a violation of law
- Local, state or federal law enforcement or prosecutorial officials
    - Must be engaged in the administration, investigation or enforcement of drug laws
    - Must be involved in a bona fide specific drug-related investigation of a designated person
- Grand jury subpoena

Code of Laws of South Carolina 1976 (2010)

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

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

(B) Drug control shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (C) and (D).

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

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

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

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

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

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

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

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

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

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

SOUTH DAKOTA

- Local, state and federal law enforcement or prosecutorial officials
    - Must be engaged in the enforcement of controlled substance laws
    - Must be for the purpose of investigation or prosecution of drug-related activity or probation compliance of an individual
- Judicial authority pursuant to a grand jury subpoena, court order or equivalent judicial process for investigation of criminal violation of controlled substances laws
- The board may notify law enforcement if it has reason to believe illegal conduct has occurred without a request from law enforcement to provide such information

South Dakota Codified Laws (2011)

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

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

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

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

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

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

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

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

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

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

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

South Dakota Codified Laws (2011)

§ 34-20E-12. Board to review data and refer patients, prescribers, or dispensers engaged in improper activities to law enforcement or regulatory authorities

The board shall review the information received by the central repository to determine if there is reason to believe:

(1) A prescriber or dispenser may have engaged in an activity that may be a basis for disciplinary action by the board or regulatory agency responsible for the licensing of the prescriber or dispenser; or

(2) A patient may have misused, abused, or diverted a controlled substance.

If the board determines that there is reason to believe that any of the acts described in this section may have occurred, the board may notify the appropriate law enforcement agency or the board or regulatory agency responsible for the licensing of the prescriber or dispenser. The advisory council established in § 34-20E-15 shall recommend guidelines to the board for reviewing data and making determinations with respect to the referral of patients, prescribers, or dispensers to law enforcement or appropriate regulatory authorities.

TENNESSEE

- District attorney general
    - Pursuant to an order of a circuit or criminal court for purposes of criminal investigation or pending prosecution
        - Application for order must include an affidavit stating the specific information sought relative to a specific individual and the nature of the offense
            - Affidavit can be by the district attorney general or other law enforcement officer, but only the district attorney general may request the order
        - Order must be issued on probable cause that a violation of criminal law has occurred and that the information will be of material assistance

West's Tennessee Code Annotated (2011)

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

(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons, and in accordance with the limitations stated and rules promulgated pursuant to this part, except that the information shall be subject to production pursuant to an order of a circuit or criminal court in a criminal investigation or pending prosecution subject to subsection (b):

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

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

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

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

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

(A) The office of inspector general;

(B) The medicaid fraud control unit;

(C) The Tennessee bureau of investigation; and

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

(b) The district attorney general may apply for an order of a circuit or criminal court directed to the committee to disclose specific information to the district attorney general for purposes of a criminal investigation or pending prosecution. The application for the order shall be accompanied by an affidavit reciting the specific information sought relative to a specific individual and the nature of the offense under investigation. The affidavit shall be by the district attorney general or other law enforcement officer, but only the district attorney general shall have the authority to request the order. The judge may issue an order if the affidavit recites probable cause to believe that a violation of the criminal law has occurred and that the information in the database will be of material assistance in the investigation or prosecution. A copy of the application, affidavit and order shall be retained by the judge issuing the order. A return shall be made promptly to the judge executing the order as to the information acquired by that order. The application, affidavit, order and information may remain under seal and may only be disclosed by the judge issuing the order or by the judge having jurisdiction over the prosecution. A violation of this subsection (b) shall result in the suppression of the information or collateral use of such information in any civil or criminal proceeding. Information obtained through this court order shall remain confidential except to the extent it is used in court for prosecution purposes. Unauthorized use or disclosure of this information shall be subject to the penalties set forth in this section.

(c) Any information disseminated pursuant to subdivisions (a)(1)-(5) shall be released to the individual or entity requesting the information by the database manager or by password protected internet access.

(d) Any licensed practitioner or pharmacist receiving patient-specific information pursuant to subdivision (a)(1), (a)(2), (a)(3) or (a)(4) shall not disclose the information to any person other than:

(1) The patient to whom the information relates and then only for the purpose of adjusting the patient's treatment plans or counseling the patient to seek substance abuse treatment; and

(2) Other dispensers identified by the information and then only for the purposes of verifying the accuracy of the information.

(e) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a Class A misdemeanor.

(f) Any person who knowingly uses, releases, publishes, or otherwise makes available to any other person or entity any information submitted to, contained in, or obtained from the database for any purpose other than those specified in this part is guilty of a Class A misdemeanor.

Tennessee Rules and Regulations (2011)

1140-11-.02. ACCESS TO DATABASE.

(1) The following persons shall have access to the controlled substance database with regard to a patient:

(a) the prescriber who is currently issuing the patient a controlled substance or controlled substances or who anticipates issuing the patient a controlled substance or controlled substances;

(b) the dispenser who is currently dispensing a controlled substance or controlled substances to the patient or who anticipates issuing the patient a controlled substance or controlled substances;

(c) a person who has the patient's written permission to have access to the patient's records in the database;

(d) the manager of any investigations or prosecution unit of a health-related board, committee or other governing body that licenses practitioners who has access to the database with the committee's permission pursuant to Tenn. Code Ann. §53-10-308, may release the database information that that such manager receives to the state of Tennessee health-related boards, health-related committees, the department, the department of health and representatives of health-related professional recovery programs; or

(e) a district attorney who obtains an order from circuit or criminal court ordering the release of the information contained in the database, in compliance with Tenn. Code Ann. §53-10-306.

(2) The persons listed in paragraph (1) of this rule shall have access to the information contained in the database by submitting a request for information in writing or by electronic means to the Committee on a form developed by the Committee and in compliance with the procedures developed by the Committee. The Committee shall not disseminate any information from the database without the submission of this written request, unless the dissemination of the information is directed by Court Order.

TEXAS

- Law enforcement or prosecutorial official engaged in the administration, investigation or enforcement of controlled substances laws
    - Must periodically submit a "proper need and return of information" report to the director showing that the need for the information is ongoing
        - Must also document the use of the information and provide the status of the investigation or prosecution

Vernon's Texas Statutes and Codes (2011)

Health and Safety Code § 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, 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.

(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.

(i) Information submitted to the director under Section 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

(j) Repealed by Acts 1999, 76th Leg., ch. 145, § 5(3), eff. Sept. 1, 1999.

Texas Administrative Code (2011)

Title 37, § 13.84. Release of Non-statistical Information

(a) To whom. The director may release Texas Prescription Program information obtained under the Act, § 481.075 only to an individual listed in the Act, § 481.076(a).

(b) Purpose. An individual described by subsection (a) of this section may only request information for a purpose listed in the Act, § 481.076.

(c) Written request. The director may require an individual seeking information under this section to submit a written request to the director before the director releases to the individual the information contained on or derived from the prescription.

(d) Proper need and Return of Information report. The director will require a person requesting information under the Act, § 481.076(a)(3), to show a proper need for the information. The showing of proper need is ongoing. The director will require the person to periodically submit to the director a Return of Information report documenting use of the information and the status of the investigation or prosecution.

Texas Administrative Code (2011)

Title 37, § 13.97. Release of Non-statistical Information

(a) To whom. The director may release Texas Prescription Program information obtained under the Act, § 481.074(q) only to an individual listed in the Act, § 481.076(a).

(b) Purpose. An individual described by subsection (a) of this section may only request information for a purpose listed in the Act, § 481.076.

(c) Written request. The director may require an individual seeking information under this section to submit a written request to the director before the director releases to the individual the information contained on or derived from the prescription.

(d) Proper need and Return of Information report. The director will require a person requesting information under the Act, § 481.076(a)(3), to show a proper need for the

information. The showing of proper need is ongoing. The director will require the person to periodically submit to the director a Return of Information report documenting use of the information and the status of the investigation or prosecution.

UTAH

- Division personnel assigned to conduct investigations related to controlled substances laws
- Local, state and federal law enforcement, state and local prosecutors
    - Must be engaged in enforcing laws regulating controlled substances
    - Must be related to a current investigation involving controlled substances
- Database manager may release the information at his discretion when the information may reasonably constitute a basis for investigation relative to a violation of state or federal law

West's Utah Code (2010)

§ 58-37f-301. Access to database

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

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

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

(2) The division shall make information in the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

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

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

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

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

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

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

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

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

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

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

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

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

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

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

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

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

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

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

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

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

(iii) the division:

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

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

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

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

(ii) determining whether a person:

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

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

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

(i) regulating controlled substances; or

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

(h) a mental health therapist, if:

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

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

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

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

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

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

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

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

(3)(a) A practitioner described in Subsection (2)(d) may designate up to three employees to access information from the database under Subsection (2)(e).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish background check procedures to determine whether an employee designated under Subsection (2)(e)(i) should be granted access to the database.

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

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

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

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

Utah Administrative Code (2011)

R156-37. Utah Controlled Substances Act Rule.

R156-37-101. Title.

This rule is known as the "Utah Controlled Substances Act Rule."

R156-37-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 37, as used in Title 58, Chapters 1 and 37, or this rule:

(1) "DEA" means the Drug Enforcement Administration of the United States Department of Justice.

(2) "NABP" means the National Association of Boards of Pharmacy.

(3) "Principle place of business or professional practice", as used in Subsection 58-37-6(2)(e), means any location where controlled substances are received or stored.

(4) "Schedule II controlled stimulant" means any material, compound, mixture or preparation listed in Subsection 58-37-4(2)(b)(iii).

(5) "Unprofessional conduct", as defined in Title 58 is further defined in accordance with Subsections 58-1-203(1)(e) and 58-37-6(1)(a), in Section R156-37-502.

R156-37-103. Purpose--Authority.

This rule is adopted by the Division under the authority of Subsections 58-1-106(1)(a) and 58-37-6(1)(a) to enable the Division to administer Title 58, Chapter 37.

R156-37-104. Organization--Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-37-301. License Classifications--Restrictions.

(1) Consistent with the provisions of law, the Division may issue a controlled substance license to manufacture, produce, distribute, dispense, prescribe, obtain, administer, analyze, or conduct research with controlled substances in Schedules I, II, III, IV, or V to qualified persons. Licenses shall be issued to qualified persons in the following categories:

(a) pharmacist;

(b) optometrist;

(c) podiatric physician;

(d) dentist;

(e) osteopathic physician and surgeon;

(f) physician and surgeon;

(g) physician assistant;

(h) veterinarian;

(i) advanced practice registered nurse or advanced practice registered nurse-certified registered nurse anesthetist;

(j) certified nurse midwife;

(k) naturopathic physician;

(l) Class A pharmacy-retail operations located in Utah;

(m) Class B pharmacy located in Utah providing services to a target population unique to the needs of the healthcare services required by the patient, including:

(i) closed door;

(ii) hospital clinic pharmacy;

(iii) methadone clinics;

(iv) nuclear;

(v) branch;

(vi) hospice facility pharmacy;

(vii) veterinarian pharmaceutical facility;

(viii) pharmaceutical administration facility; and

(ix) sterile product preparation facility.

(n) Class C pharmacy located in Utah engaged in:

(i) manufacturing;

(ii) producing;

(iii) wholesaling; and

(iv) distributing.

(o) Class D Out-of-state mail order pharmacies.

(p) Class E pharmacy including:

(i) medical gases providers; and

(ii) analytical laboratories.

(q) Utah Department of Corrections for the conduct of execution by the administration of lethal injection under its statutory authority and in accordance with its policies and procedures.

(2) A license may be restricted to the extent determined by the Division, in collaboration with appropriate licensing boards, that a restriction is necessary to protect the public health, safety or welfare, or the welfare of the licensee. A person receiving a restricted license shall manufacture, produce, obtain, distribute, dispense, prescribe, administer, analyze, or conduct research with controlled substances only to the extent of the terms and conditions under which the restricted license is issued by the Division.

R156-37-302. Qualifications for Licensure--Application Requirements.

(1) An applicant for a controlled substance license shall:

(a) submit an application in a form as prescribed by the Division; and

(b) shall pay the required fee as established by the Division under the provisions of Section 63J-1-504.

(2) Any person seeking a controlled substance license shall:

(a) be currently licensed by the state in the appropriate professional license classification as listed in R156-37-301 and shall maintain that license classification as current at all times while holding a controlled substance license; or

(b) be engaged in the following activities which require the administration of a controlled substance but do not require licensure under Subsection (a):

(i) animal capture for transport or relocation as an employee or under contract with a state or federal government agency; or

(ii) other activity approved by the Division in collaboration with the appropriate board.

(3) The Division and the reviewing board may request from the applicant information which is reasonable and necessary to permit an evaluation of the applicant's:

(a) qualifications to engage in practice with controlled substances; and

(b) the public interest in the issuance of a controlled substance license to the applicant.

(4) To determine if an applicant is qualified for licensure, the Division may assign the application to a qualified and appropriate licensing board for review and recommendation to the Division with respect to issuance of a license.

R156-37-303. Qualifications for Licensure--Site Inspections--Investigations.

The Division shall have the right to conduct site inspections, review research protocol, conduct interviews with persons knowledgeable about the applicant, and conduct any other investigation which is reasonable and necessary to determine the applicant is of good moral character and qualified to receive a controlled substance license.

R156-37-304. Qualifications for Licensure--Examinations.

Each applicant for a controlled substance license shall be required to pass an examination administered at the direction of the Division on the subject of controlled substance laws.

R156-37-305. Exemption from Licensure--Animal Euthanasia and Law Enforcement Personnel.

In accordance with Subsection 58-37-6(2)(d), the following persons are exempt from licensure under Title 58, Chapter 37:

(1) Individuals employed by an agency of the State or any of its political subdivisions, who are specifically authorized in writing by the state agency or the political subdivision to possess specified controlled substances in specified reasonable and necessary quantities for the purpose of euthanasia upon animals, shall be exempt from having a controlled substance license if the agency or jurisdiction employing that individual has obtained a controlled substance license, a DEA registration number, and uses the controlled substances according to a written protocol in performing animal euthanasia.

(2) Law enforcement agencies and their sworn personnel are exempt from the licensing requirements of the Controlled Substance Act to the extent their official duties require them to possess controlled substances; they act within the scope of their enforcement responsibilities; they maintain accurate records of controlled substances which come into their possession; and they maintain an effective audit trail. Nothing herein shall authorize law enforcement personnel to purchase or possess controlled substances for administration to animals unless the purchase or possession is in accordance with a duly issued controlled substance license.

R156-37-401. Grounds for Denial of License--Disciplinary Proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

R156-37-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) a licensee with authority to prescribe or administer controlled substances:

(a) prescribing or administering to himself any Schedule II or III controlled substance which is not lawfully prescribed by another licensed practitioner having authority to prescribe the drug;

(b) prescribing or administering a controlled substance for a condition he is not licensed or competent to treat;

(2) violating any federal or state law relating to controlled substances;

(3) failing to deliver to the Division all controlled substance license certificates issued by the Division to the Division upon an action which revokes, suspends or limits the license;

(4) failing to maintain controls over controlled substances which would be considered by a prudent practitioner to be effective against diversion, theft, or shortage of controlled substances;

(5) being unable to account for shortages of controlled substances any controlled substance inventory for which the licensee has responsibility;

(6) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to prescribe, sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-2(s), except for legitimate medical purposes as permitted by law;

(7) refusing to make available for inspection controlled substance stock, inventory, and records as required under this rule or other law regulating controlled substances and controlled substance records;

(8) failing to submit controlled substance prescription information to the database manager after being notified in writing to do so.

R156-37-601. Access to Records, Facilities, and Inventory.

Applicants for licensure and all licensees shall make available for inspection to any person authorized to conduct an administrative inspection pursuant to Title 58, Chapter 37, this rule or federal law, to the extent they exist, during regular business hours and at other reasonable times in the event of an emergency, their controlled substance stock or inventory, records required under the Utah Controlled Substances Act and this rule or under the federal controlled substance laws, and facilities related to activities involving controlled substances.

R156-37-602. Records.

(1) Records of purchase, distribution, dispensing, prescribing, and administration of controlled substances shall be kept according to state and federal law. Prescribing practitioners shall keep accurate records reflecting the examination, evaluation and treatment of all patients. Patient medical records shall accurately reflect the prescription or administration of controlled substances in the treatment of the patient, the purpose for which the controlled substance is utilized and information upon which the diagnosis is based. Practitioners shall keep records apart from patient records of each controlled substance purchased, and with respect to each controlled substance, its disposition, whether by administration or any other means, date of disposition, to whom given and the quantity given.

(2) Any licensee who experiences any shortage or theft of controlled substances shall immediately file the appropriate forms with the Drug Enforcement Administration, with a copy to the Division directed to the attention of the Investigation Bureau. He shall also report the incident to the local law enforcement agency.

(3) All records required by federal and state laws or rules must be maintained by the licensee for a period of five years. If a licensee should sell or transfer ownership of his files in any way, those files shall be maintained separately from other records of the new owner.

(4) Prescription records may be maintained electronically so long as:

(a) the original of each prescription, including telephone prescriptions, is maintained in a physical file and contains all of the information required by federal and state law; and

(b) an automated data processing system is used for the storage and immediate retrieval of refill information for prescription orders for controlled substances in Schedule III and IV, in accordance with federal guidelines.

(5) All records relating to Schedule II controlled substances received, purchased, administered or dispensed by the practitioner shall be maintained separately from all other records of the pharmacy or practice.

(6) All records relating to Schedules III, IV and V controlled substances received, purchased, administered or dispensed by the practitioner shall be maintained separately from all other records of the pharmacy or practice.

R156-37-603. Restrictions Upon the Prescription, Dispensing and Administration of Controlled Substances.

(1) A practitioner may prescribe or administer the Schedule II controlled substance cocaine hydrochloride only as a topical anesthetic for mucous membranes in surgical situations in which it is properly indicated and as local anesthetic for the repair of facial and pediatric lacerations when the controlled substance is mixed and dispensed by a registered pharmacist in the proper formulation and dosage.

(2) A practitioner shall not prescribe or administer a controlled substance without taking into account the drug's potential for abuse, the possibility the drug may lead to dependence, the possibility the patient will obtain the drug for a nontherapeutic use or to distribute to others, and the possibility of an illicit market for the drug.

(3) When writing a prescription for a controlled substance, each prescription shall contain only one controlled substance per prescription form and no other legend drug or prescription item shall be included on that form.

(4) In accordance with Subsection 58-37-6(7)(f)(v)(D), unless the prescriber determines there is a valid medical reason to allow an earlier dispensing date, the dispensing date of a second or third prescription shall be no less than 30 days from the dispensing date of the previous prescription, to allow for receipt of the subsequent prescription before the previous prescription runs out.

(5) If a practitioner fails to document his intentions relative to refills of controlled substances in Schedules III through V on a prescription form, it shall mean no refills are authorized. No refill is permitted on a prescription for a Schedule II controlled substance.

(6) Refills of controlled substance prescriptions shall be permitted for the period from the original date of the prescription as follows:

(a) Schedules III and IV for six months from the original date of the prescription; and

(b) Schedule V for one year from the original date of the prescription.

(7) No refill may be dispensed until such time has passed since the date of the last dispensing that 80% of the medication in the previous dispensing should have been consumed if taken according to the prescriber's instruction.

(8) No prescription for a controlled substance shall be issued or dispensed without specific instructions from the prescriber on how and when the drug is to be used.

(9) Refills after expiration of the original prescription term requires the issuance of a new prescription by the prescribing practitioner.

(10) Each prescription for a controlled substance and the number of refills authorized shall be documented in the patient records by the prescribing practitioner.

(11) A practitioner shall not prescribe or administer a Schedule II controlled stimulant for any purpose except:

(a) the treatment of narcolepsy as confirmed by neurological evaluation;

(b) the treatment of abnormal behavioral syndrome, attention deficit disorder, hyperkinetic syndrome, or related disorders;

(c) the treatment of drug-induced brain dysfunction;

(d) the differential diagnostic psychiatric evaluation of depression;

(e) the treatment of depression shown to be refractory to other therapeutic modalities, including pharmacologic approaches, such as tricyclic antidepressants or MAO inhibitors;

(f) in the terminal stages of disease, as adjunctive therapy in the treatment of chronic severe pain or chronic severe pain accompanied by depression;

(g) the clinical investigation of the effects of the drugs, in which case the practitioner shall submit to the Division a written investigative protocol for its review and approval before the investigation has begun. The investigation shall be conducted in strict compliance with the investigative protocol, and the practitioner shall, within 60 days following the conclusion of the investigation, submit to the Division a written report detailing the findings and conclusions of the investigation; or

(h) in treatment of depression associated with medical illness after due consideration of other therapeutic modalities.

(12) A practitioner may prescribe, dispense or administer a Schedule II controlled stimulant when properly indicated for any purpose listed in Subsection (11), provided that all of the following conditions are met:

(a) before initiating treatment utilizing a Schedule II controlled stimulant, the practitioner obtains an appropriate history and physical examination, and rules out the existence of any recognized contraindications to the use of the controlled substance to be utilized;

(b) the practitioner shall not prescribe, dispense or administer any Schedule II controlled stimulant when he knows or has reason to believe that a recognized contraindication to its use exists;

(c) the practitioner shall not prescribe, dispense or administer any Schedule II controlled stimulant in the treatment of a patient who he knows or should know is pregnant; and

(d) the practitioner shall not initiate or shall discontinue prescribing, dispensing or administering all Schedule II controlled stimulants immediately upon ascertaining or having reason to believe that the patient has consumed or disposed of any controlled stimulant other than in compliance with the treating practitioner's directions.

R156-37-604. Prescribing of Controlled Substances for Weight Reduction or Control.

(1) A practitioner shall not prescribe, dispense or administer a Schedule II or Schedule III controlled substance for purposes of weight reduction or control.

(2) A prescribing practitioner may prescribe or administer a Schedule IV controlled substance in treating excessive weight leading to increased health risks only when all the following conditions are met:

(a) medication is used only as an adjunct to a comprehensive weight loss program based on supplemental weight loss activities including, but not limited to, changing lifestyle counseling, nutritional education, and a regular, individualized exercise regimen;

(b) prior to initiating treatment the prescribing practitioner shall:

(i) determine through thorough review of past medical records that the patient has made a substantial good-faith effort to lose weight in a comprehensive weight loss program without the use of controlled substances, and the previous regimen has not been effective;

(ii) obtain a complete history, perform a complete physical examination of the patient, and rule out the existence of any recognized contraindications to the use of the medication(s);

(iii) determine and document this assessment in the patient's medical record, that the health benefit to the patient greatly outweighs the possible risks of the medications prescribed; and

(iv) discuss with the patient the possible risks associated with the medication and have on record an informed consent which clearly documents that the long term effects of using controlled substances for weight loss or weight control are not known;

(c) throughout the prescribing period, the prescribing practitioner shall:

(i) supervise, oversee, and regularly monitor the patient, including his participation in supplemental weight loss activities, efficacy of the medication, and advisability of continuing to prescribe the weight loss or weight control medication; and

(ii) maintain a central medical record, containing at least, the goal of treatment or target weight, the ongoing progress toward that goal or maintenance of the weight loss, the patient's supplemental weight loss activities with documentation of compliance with the comprehensive weight loss program; and

(d) the prescribing practitioner shall immediately discontinue the weight loss medication in any of the following situations:

(i) the practitioner knows or should know that the patient is pregnant;

(ii) the patient has consumed or disposed of any controlled substance other than in compliance with the prescribing practitioner's directions;

(iii) the patient is abusing the controlled substance being prescribed for weight loss;

(iv) the patient develops a contraindication during the course of therapy; or

(v) the medication is not effective or that the patient is not abiding with and following through with the agreed upon comprehensive weight loss program.

R156-37-605. Emergency Verbal Prescription of Schedule II Controlled Substances.

(1) Prescribing practitioners may give a verbal prescription for a Schedule II controlled substance if:

(a) the quantity dispensed is only sufficient to cover the patient for the emergency period, not to exceed 72 hours;

(b) the prescribing practitioner has examined the patient within the past 30 days, the patient is under the continuing care of the prescribing practitioner for a chronic disease or ailment, or the prescribing practitioner is covering for another practitioner and has knowledge of the patient's condition; and

(c) a written prescription is delivered to the pharmacist within seven working days of the verbal order.

(2) A pharmacist may fill an emergency verbal or telephonic prescription from a prescribing practitioner for a Schedule II controlled substance if:

(a) the amount does not exceed a 72 hour supply; and

(b) the filling pharmacist reasonably believes that the prescribing practitioner is licensed to prescribe the controlled substances or makes a reasonable effort to determine that he is licensed.

R156-37-606. Disposal of Controlled Substances.

(1) Any disposal of controlled substances by licensees shall:

(a) be consistent with the provisions of 1307.21 of the Code of Federal Regulations; or

(b) require the authorization of the Division after submission to the Division to the attention of Chief Investigator of a detailed listing of the controlled substances and the quantity of each. Disposal shall be conducted in the presence of one of its investigators or a Division authorized agent as is specifically instructed by the Division in its written authorization.

(2) Records of disposal of controlled substances shall be maintained and made available on request to the Division or its agents for inspection for a period of five years.

R156-37-607. Surrender of Suspended or Revoked License.

(1) Licenses which have been restricted, suspended or revoked shall be surrendered to the Division within 30 days of the effective date of the order of restriction, suspension or revocation. Compliance with this section will be a consideration in evaluating applications for relicensing.

R156-37-608. Herbal Products.

The Division shall not apply the provisions of the Controlled Substance Act or this rule in restricting citizens or practitioners, regardless of their license status, from the sale or use of food or herbal products that are not scheduled as controlled substances by State or Federal law.

R156-37-609. Controlled Substance Database--Procedure and Format for Submission to the Database.

(1) In accordance with Subsection 58-37f-203(1)(c), the format in which the information required under Section 58-37f-203 shall be submitted to the administrator of the database is:

(a) electronic data via telephone modem;

(b) electronic data stored on floppy disk or compact disc (CD);

(c) electronic data sent via electronic mail (e-mail) if encrypted and approved by the database manager;

(d) electronic data sent via a secured internet transfer method, including but not limited to, FTP site transfer and HyperSend; or

(e) any other electronic method preapproved by the database manager.

(2) The required information may be submitted on paper, if the pharmacy or pharmacy group submits a written request to the Division and receives prior approval.

(3) The Division will consider the following in granting the request:

(a) the pharmacy or pharmacy group has no computerized record keeping system upon which the data can be electronically recorded; or

(b) the pharmacy or pharmacy group is unable to conform its submissions to the format required by the database administrator without incurring undue financial hardship.

(4) As of October 1, 2008, each pharmacy or pharmacy group shall submit all data collected during the preceding seven days at least once per week. If the data is submitted by a single pharmacy entity, the data shall be submitted in chronological order according to the date each prescription was filled. If the data is submitted by a pharmacy group, the data is required to be sorted by individual pharmacy within the group, and the data of each individual pharmacy within the group is required to be submitted in chronological order according to the date each prescription was filled.

(5) The format for submission to the database shall be in accordance with uniform formatting developed by the American Society for Automation in Pharmacy system (ASAP). The Division may approve alternative formats or adjustments to be consistent with database collection instruments and contain all necessary data elements.

(6) The pharmacist-in-charge of each reporting pharmacy shall submit a report on a form approved by the Division including:

(a) the pharmacy name;

(b) NABP number;

(c) the period of time covered by each submission of data;

(d) the number of prescriptions in the submission;

(e) the submitting pharmacist's signature attesting to the accuracy of the report; and

(f) the date the submission was prepared.

R156-37-609a. Controlled Substance Database--Reporting Procedure and Format for Submission to the Database for Pharmacies and Pharmacy Groups Selected by the Division for the Real Time Pilot Program.

(1) In accordance with Subsection 58-37f-801(8), the information required under Section 58-37f-203 shall be submitted to the Division's database manager by licensees designated by the Division to participate in the real time reporting pilot program in the following formats:

(a) electronic data via telephone modem;

(b) electronic data stored on floppy disk or compact discs (CD);

(c) electronic data sent via electronic mail (e-mail) if encrypted and approved by the database manager;

(d) electronic data sent via a secured internet transfer methods, including, but not limited to, FTP site transfer and HyperSend; or

(e) any other electronic method preapproved by the database manager.

(2) Each pharmacy or pharmacy group shall enter and submit data required under Section 58-37f-203 on a daily basis each day that the pharmacy or pharmacy group is open for business or the data reporting entity of the pharmacy or pharmacy group is open for business.

(3) The format for submission to the database shall be in accordance with the uniform formatting developed by the American Society for Automation in Pharmacy System (ASAP). The Division may approve alternative formats.

(4) The pharmacist-in-charge of each reporting pharmacy or pharmacy group shall be responsible for compliance with this rule.

(5) In accordance with Subsection 58-37f-801(1)(a), the pilot area is designated as the entire state of Utah. Any pharmacy or pharmacy group that submits information to the database based upon information available at the time of dispensing to the ultimate user is eligible and may participate in the Real Time Pilot Program.

R156-37-609b. Controlled Substance Database--Limitations on Access to Real Time Database Information--Individuals Allowed to Access--Standards and Procedures for Access to Real Time Pilot Program.

(1) In accordance with Subsection 58-37f-801(8), access to information contained in the controlled substance database is limited to individuals who are designated by the Division to participate in the real time pilot program, as follows:

(a) personnel employed by federal, state and local law enforcement agencies;

(b) pharmacists licensed to dispense controlled substances in Utah;

(c) practitioners licensed to prescribe controlled substances in Utah; and

(d) employees of the Department of Health who have previously been approved by the Division to access controlled substance database information in furtherance of the Pain Medication Management and Education Program.

(2) All individuals who are granted access to information in the controlled substance database via the real time pilot program shall provide any documentation requested by the Division's database manager to confirm the individual's identity. The individual will then be provided a username, password, and PIN number by which the individual will access the information contained in the database. Pursuant to Subsections 58-37f-601(1), (2) and (3), it is unlawful for an authorized user to allow another individual to use the authorized user's assigned username, password and PIN number.

(3) Personnel employed by federal, state, and local law enforcement agencies may access only information related to a current investigation involving controlled substances being conducted by that agency.

(4) Pharmacists licensed to dispense controlled substances in Utah may access only information related specifically to a current patient to whom that pharmacist is dispensing or is considering dispensing any controlled substance.

(5) Practitioners licensed to prescribe controlled substances in Utah may access only information related specifically to a current patient of the practitioner, to whom the practitioner is prescribing or is considering prescribing any controlled substance.

(6) Employees of the Department of Health who have been previously approved by the Division to access controlled substance database information in furtherance of the Pain Medication Management and Education Program may access only information in order to conduct scientific studies to evaluate opioid use and opioid-related morbidity and ways to reduce deaths and other harm from improper or risky prescribing and dispensing practices as codified in Section 26-1-36.

R156-37-610. Controlled Substance Database--Limitations on Access to Database Information--Standards and Procedures for Identifying Individuals Requesting Information.

(1) In accordance with Subsections 58-37f-301(1)(a) and (b), the Division director shall designate in writing those individuals within the Division who shall have access to the information in the database.

(2) Personnel from federal, state or local law enforcement agencies may obtain information from the database if the information relates to a current investigation being conducted by such agency. The manager of the database may also provide information from the database to such agencies on his own volition when the information may reasonably constitute a basis for investigation relative to violation of state or federal law.

(3) In accordance with Subsections 58-37f-201(6)(c), 58-37f-203(3)(b), 58-37f-301(1)(b), and 58-37f-301(2)(d) and (e), the database manager may provide information from the database to licensed practitioners having authority to prescribe controlled substances and to licensed pharmacists having authority to dispense controlled substances. The database manager may provide the information on his own volition to accomplish the stated purposes set forth in Subsection 58-37f-201(6).

(4) Any individual may request information in the database relating to that individual's controlled substances receipt history. An individuals may not request or receive an accounting of persons or entities that have requested or received information about the individual. Upon request for database information on an individual who is the recipient of a controlled substance prescription entered in the database, the manager of the database shall make available database information exclusively relating to that particular individual's controlled substance receipt history under the following limitations and conditions:

(a) The requestor seeking database information personally appears before the manager of the database, or a designee, with picture identification confirming his identity as the same person on whom database information is sought.

(b) The requestor seeking database information submits a signed and notarized request executed under the penalty of perjury verifying his identity as the same person on whom database information is sought, and providing their full name, home and business address, date of birth, and social security number.

(c) The requestor seeking database information presents a power of attorney over the person on whom database information is sought and further complies with the following:

(i) submits a signed and notarized request executed by the requestor under the penalty of perjury verifying that the grantor of the power of attorney is the same person on whom database information is sought, including the grantor's full name, address, date of birth, and social security number; and

(ii) personally appears before the manager of the database with picture identification to verify personal identity, or otherwise submits a signed and notarized statement executed by the

requestor under the penalty of perjury verifying his identity as that of the person holding the power of attorney.

(d) The requestor seeking database information presents verification that he is the legal guardian of an incapacitated person on whom database information is sought and further complies with the following:

(i) submits a signed and notarized request executed by the requestor under the penalty of perjury verifying that the incapacitated ward of the guardian is the same person on whom database information is sought, including the ward's full name, address, date of birth, and social security number; and

(ii) personally appears before the manager of the database with picture identification to verify personal identity, or otherwise submits a signed and notarized statement executed by the requestor under the penalty of perjury verifying his identity as that of the legal guardian of the incapacitated person.

(e) The requestor seeking database information shall present a release-of-records statement from the person on whom database information is sought and further complies with the following:

(i) submits a verification from the person on whom database information is sought consistent with the requirements set forth in paragraph (4)(b);

(ii) submits a signed and notarized release of records statement executed by the person on whom database information is sought authorizing the manager of the database to release the relevant database information to the requestor; and

(iii) personally appears before the manager of the database with picture identification to verify personal identity, or otherwise submits a signed and notarized statement executed by the requestor under the penalty of perjury verifying his identity as that of the requestor identified in the release of records;

(5) Before data is released upon oral request, a written request may be required and received.

(6) Database information may be disseminated either orally, by facsimile or by U.S. mail.

(7) The Utah Department of Health may access Database information for purposes of scientific study regarding public health. To access information, the scientific investigator must:

(a) show the research is an approved project of the Utah Department of Health;

(b) provide a description of the research to be conducted including a research protocol for the project and a description of the data needed from the Database to conduct that research;

(c) provide assurances and a plan that demonstrates all Database information will be maintained securely, with access only permitted by the scientific investigator;

(d) provide for electronic data to be stored on a secure database computer system with access only allowed by the scientific investigator; and

(e) pay all relevant expenses for data transfer and manipulation.

VERMONT

- The Commissioner of Health may release information to a trained law enforcement officer at his discretion if he reasonably suspects there is fraudulent or illegal activity by a provider or dispenser

Vermont Statutes (2010)

Title 18, § 4282. Definitions

As used in this chapter:

(1) "Dispenser" shall mean any person who "dispenses" or engages in "dispensing" as those terms are defined in subdivision 2022(5) of Title 26.

(2) "Health care provider" shall mean an individual licensed, certified, or authorized by law to provide professional health care service in this state to an individual during that individual's medical or dental care, treatment, or confinement.

(3) "Trained law enforcement officer" shall include any officer designated by the department of public safety who has completed a training program established by rule by the department of health, which is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from VPMS.

(4) "VPMS" shall mean the Vermont prescription monitoring system established under this chapter.

Vermont Statutes (2010)

Title 18, § 4284. Protection and disclosure of information

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

(b) The department shall be authorized to provide data to only the following persons:

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

(2) A health care provider or dispenser 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.

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

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

(5) The relevant occupational licensing or certification authority if the commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a trained law enforcement officer.

(6) The commissioner of public safety, personally, if the commissioner of health personally makes the disclosure, has consulted with at least one of the patient's health care providers, and believes that the disclosure is necessary to avert a serious and imminent threat to a person or the public.

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

(c) A person who receives data or a report from VPMS or from the department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section. Nothing shall restrict the right of a patient to share his or her own data.

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

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

(f) The department is authorized to use information from VPMS for research and public health promotion purposes provided that data are aggregated or otherwise de-identified.

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

Vermont Administrative Code (2011)

12-5-21:3. ACCESS TO VPMS DATA

Information from the VPMS database may be disclosed only as provided in this section. Disclosures authorized by this rule shall be limited to the minimum information necessary for the purposes of 18 V.S.A. Chapter 84A.

The prescriber's DEA number shall not be disclosed to a patient or to another prescriber and shall be disclosed only to the prescriber him or herself or the prescriber's professional licensure board or the Commissioner of Public Safety consistent with the requirement that disclosures shall be limited to the minimum information necessary for the purposes of 18 V.S.A. Chapter 84A.

Section 3.1 Patient.

A patient for whom a prescription for a controlled substance is written may request information from the VPMS database relating to himself or herself. The request shall be submitted to the Department in writing on a form approved by the Department and shall include:

1. The patient's name;

2. The patient's date of birth;

3. The time period for which the information is requested;

4. The patient's telephone number, mail and street address; and

5. The patient's original signature.

The original signed form shall be delivered by mail or in person to the Department, Division of Alcohol and Drug Abuse Programs office. To receive the requested information, the patient shall appear personally and produce a valid government issued photographic proof of identity at the Department, Division of Alcohol and Drug Abuse Programs office, or at one of the Department's District Offices.

The patient may choose to share, or choose not to share, the information received from the VPMS database pursuant to this section without restriction.

Section 3.2 Health Care Provider or Dispenser Registration.

1. A health care provider or dispenser shall register with the Department to be eligible to request information relating to a bona fide current patient from the VPMS database. The registration application shall be in a format approved by the Department. The Department will issue a VPMS

registration number to an eligible applicant who demonstrates he or she holds a current Vermont license issued by the applicable board of licensure.

2. A health care provider or dispenser with a current Vermont license registered with the Department may request information from the VPMS database relating to a bona fide current patient. The request shall be submitted in a format approved by the Department and shall include:

1. The patient's full name;

2. The patient's date of birth;

3. The patient's complete address;

4. Time period for which information is requested;

5. The requester's name;

6. The requester's VPMS registration number;

7. A statement certifying that the request is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;

8. A statement certifying that the requester currently holds a Vermont license issued by the applicable board of licensure; and

9. The requester's telephone number, mail and street address.

A registered health care provider or dispenser may access the VPMS database through the secure web portal to request and receive the information electronically, or may submit a written request to the Department and receive the information by secure mail or fax.

Section 3.3 Professional Licensure Boards.

A representative of a professional board that is responsible for the licensure, regulation or discipline of health care providers or dispensers, may request information from the VPMS database relating to a licensee pursuant to a bona fide specific investigation of that licensee. The request shall be submitted in writing and in a format approved by the Department, and shall include:

1. The name of the licensee;

2. The licensee's DEA number, if applicable;

3. The timeframe under investigation;

4. The requester's name;

5. The requester's telephone number, mail and street address;

6. A statement certifying that the request is pursuant to a bona fide specific investigation of the licensee; and

7. A statement certifying that the requester is duly designated by the board of licensure to make the request.

The original, signed form shall be delivered by secure mail, fax, or in person to the Department, Division of Alcohol and Drug Abuse Programs office. The Department will transmit the information by secure mail or fax.

Section 3.4 Disclosures from the VPMS Database.

Disclosures from the VPMS database pursuant to the provisions in this rule 3.4 will be in accordance with a protocol approved by the Commissioner to identify when disclosures should be made pursuant to this subsection. The protocol will be developed, and periodically reviewed and updated, in consultation with the Advisory Committee and with health care providers designated by the Commissioner with particular expertise in relevant clinical specialties including the use of controlled substances for the treatment of acute and chronic pain, palliative care, end-of-life care and the treatment for and prevention of abuse of controlled substances and will be consistent with current standards of care and practice in those clinical specialties. Disclosures from the VPMS database pursuant to subsections 1, 2 or 3 below shall occur only in accordance with the protocol and as otherwise permitted by this rule.

1. The Department may provide data to a patient and/or that person's health care provider when the VPMS database reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

2. When the Commissioner of Health reasonably suspects that there is fraudulent or illegal activity by a health care provider or dispenser, the Department may provide data on such an instance to the appropriate licensing or certification authority. That authority may report the data that are evidence of suspected fraudulent or illegal activity to a trained law enforcement officer. The trained law enforcement officer shall not have access to the VPMS data except for information provided to the officer by the licensing or certification authority.

3. The Commissioner of Health may personally disclose data from the VPMS database to the Commissioner of Public Safety personally when the Commissioner of Health has consulted with

at least one of the patient's health care providers and believes such disclosure is necessary to avert a serious and imminent threat to a person or the public.

Section 3.5 Department of Health Use of Data.

1. The Department may use the data contained in the VPMS database for health promotion purposes including the publication of aggregate, de-identified data about the extent of reportable prescription drug use in Vermont or the change in the consumption of certain controlled substances.

2. The Department may use aggregated, de-identified data in the VPMS database to evaluate the effectiveness of its drug prevention and treatment programs, and the benefits received from educational programs directed at providers and pharmacists on the use and abuse of controlled substances.

Vermont Administrative Code (2011)

12-5-21:4. TRAINING

Section 4.1 Designation of Training Programs.

The Department, in consultation with the Advisory Committee and one or more individuals with medical expertise relating to prescribing controlled substances and treatment of drug addiction and dependence, will periodically designate one or more training programs for law enforcement officers relating to responsible and proper use of VPMS data. The Department will maintain a list of current trained law enforcement officers qualified to receive a report from a professional licensure board as authorized by 18 V.S.A. § 4284(b)(5).

VIRGINIA

- Agent of the Department of State Police designated to conduct drug diversion investigations
    - Must be relevant to a specific investigation of a specific recipient, dispenser or prescriber
    - Pursuant to written request which includes a case number, time period, and specific person being investigated
- Grand jury or special grand jury
- Agent of the United States DEA with authority to conduct drug diversion investigations
    - Must be relevant to a specific investigation of a specific dispenser or prescriber

Annotated Code of Virginia (2011)

§ 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.

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.

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

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

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

Virginia Administrative Code (2011)

18 VAC 76-20-50. Criteria for mandatory disclosure of information by the director.

A. In order to request disclosure of information contained in the program, an individual shall be registered with the director as an authorized agent entitled to receive reports under § 54.1-2523 B of the Code of Virginia.

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

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

B. An authorized agent shall only request disclosure of information related to a specific investigation, or in the case of a request from the Health Practitioners' Intervention Program (HPIP), disclosure of information related to a specific applicant for or participant in HPIP. Requests shall be made in a format designated by the department and shall contain a case identifier number, a specified time period to be covered in the report, and the specific recipient, prescriber or dispenser for which the report is to be made.

C. The request from an authorized agent shall include an attestation that the prescription data will not be further disclosed and only used for the purposes stated in the request and in accordance with the law.

WASHINGTON

- Local, state and federal law enforcement or prosecutorial officials
    - Must be pursuant to a bona fide specific investigation involving a designated person
- Grand jury subpoena or court order

Revised Code of Washington (2011)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

WEST VIRGINIA

- West Virginia State Police who are specifically authorized to receive the information
- Authorized agents of local law enforcement who are members of a drug task force
- United States DEA
- Court order
- For all requestors:
    - Must be related to a specific person who is under investigation

Code of West Virginia (2011)

§ 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;

(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)

§ 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;

(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.

WISCONSIN

- Court order
- County department, sheriff or police department or district attorney
    - Limited to investigation of threatened or suspected child abuse or neglect where suspect is identified by name
    - Health care provider can release the information to the agency without a request for the information
- Department of Corrections, Department of Justice, or district attorney
    - For use in the prosecution of any proceeding or evaluation if the records involve or relate to an individual who is the subject of the proceeding or evaluation

Wisconsin Statutes (2011)

§ 146.82. Confidentiality of patient health care records

(1) Confidentiality. All patient health care records shall remain confidential. Patient health care records may be released only to the persons designated in this section or to other persons with the informed consent of the patient or of a person authorized by the patient. This subsection does not prohibit reports made in compliance with s. 253.12(2), 255.40, or 979.01; records generated or disclosed pursuant to rules promulgated under s. 450.19; testimony authorized under s. 905.04(4)(h); or releases made for purposes of health care operations, as defined in 45 CFR 164.501, and as authorized under 45 CFR 164, subpart E.

(2) Access without informed consent. (a) Notwithstanding sub. (1), patient health care records shall be released upon request without informed consent in the following circumstances:

1. To health care facility staff committees, or accreditation or health care services review organizations for the purposes of conducting management audits, financial audits, program monitoring and evaluation, health care services reviews or accreditation.

2. To the extent that performance of their duties requires access to the records, to a health care provider or any person acting under the supervision of a health care provider or to a person licensed under s. 256.15, including medical staff members, employees or persons serving in training programs or participating in volunteer programs and affiliated with the health care provider, if any of the following is applicable:

a. The person is rendering assistance to the patient.

b. The person is being consulted regarding the health of the patient.

c. The life or health of the patient appears to be in danger and the information contained in the patient health care records may aid the person in rendering assistance.

d. The person prepares or stores records, for the purposes of the preparation or storage of those records.

3. To the extent that the records are needed for billing, collection or payment of claims.

4. Under a lawful order of a court of record.

5. In response to a written request by any federal or state governmental agency to perform a legally authorized function, including but not limited to management audits, financial audits, program monitoring and evaluation, facility licensure or certification or individual licensure or certification. The private pay patient, except if a resident of a nursing home, may deny access granted under this subdivision by annually submitting to a health care provider, other than a nursing home, a signed, written request on a form provided by the department. The provider, if a hospital, shall submit a copy of the signed form to the patient's physician.

6. For purposes of research if the researcher is affiliated with the health care provider and provides written assurances to the custodian of the patient health care records that the information will be used only for the purposes for which it is provided to the researcher, the information will not be released to a person not connected with the study, and the final product of the research will not reveal information that may serve to identify the patient whose records are being released under this paragraph without the informed consent of the patient. The private pay patient may deny access granted under this subdivision by annually submitting to the health care provider a signed, written request on a form provided by the department.

7. To an elder-adult-at-risk agency designated under s. 46.90(2) or other investigating agency under s. 46.90 for purposes of s. 46.90(4) and (5) or to an adult-at-risk agency designated under s. 55.043(1d) for purposes of s. 55.043. The health care provider may release information by initiating contact with the elder-adult-at-risk agency or adult-at-risk agency without receiving a request for release of the information from the elder-adult-at-risk agency or adult-at-risk agency.

8. To the department under s. 255.04and to the persons specified under s. 255.04(3). The release of a patient health care record under this subdivision shall be limited to the information prescribed by the department under s. 255.04(2).

9. a. In this subdivision, “abuse” has the meaning given in s. 51.62(1)(ag); “neglect” has the meaning given in s. 51.62(1)(br); and “parent” has the meaning given in s. 48.02(13), except that “parent” does not include the parent of a minor whose custody is transferred to a legal custodian, as defined in s. 48.02(11), or for whom a guardian is appointed under s. 54.10 or s. 880.33, 2003 stats.

b. Except as provided in subd. 9.c. and d., to staff members of the protection and advocacy agency designated under s. 51.62(2) or to staff members of the private, nonprofit corporation with which the agency has contracted under s. 51.62(3)(a)3., if any, for the purpose of protecting and advocating the rights of a person with developmental disabilities, as defined under s. 51.62(1)(am), who resides in or who is receiving services from an inpatient health care facility, as defined under s. 51.62(1)(b), or a person with mental illness, as defined under s. 51.62(1)(bm).
c. If the patient, regardless of age, has a guardian appointed under s. 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with developmental disability, as defined in s. 51.01(5)(a), who has a parent or has a guardian appointed under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33, 2003 stats., information concerning the patient that is obtainable by staff members of the agency or nonprofit corporation with which the agency has contracted is limited, except as provided in subd. 9.e., to the nature of an alleged rights violation, if any; the name, birth date and county of residence of the patient; information regarding whether the patient was voluntarily admitted, involuntarily committed or protectively placed and the date and place of admission, placement or commitment; and the name, address and telephone number of the guardian of the patient and the date and place of the guardian's appointment or, if the patient is a minor with developmental disability who has a parent or has a guardian appointed under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33, 2003 stats., the name, address and telephone number of the parent or guardian appointed under s. 48.831 of the patient.

d. Except as provided in subd. 9.e., any staff member who wishes to obtain additional information about a patient described in subd. 9.c. shall notify the patient's guardian or, if applicable, parent in writing of the request and of the guardian's or parent's right to object. The staff member shall send the notice by mail to the guardian's or, if applicable, parent's address. If the guardian or parent does not object in writing within 15 days after the notice is mailed, the staff member may obtain the additional information. If the guardian or parent objects in writing within 15 days after the notice is mailed, the staff member may not obtain the additional information.

e. The restrictions on information that is obtainable by staff members of the protection and advocacy agency or private, nonprofit corporation that are specified in subd. 9.c. and d. do not apply if the custodian of the record fails to promptly provide the name and address of the parent or guardian; if a complaint is received by the agency or nonprofit corporation about a patient, or if the agency or nonprofit corporation determines that there is probable cause to believe that the health or safety of the patient is in serious and immediate jeopardy, the agency or nonprofit corporation has made a good-faith effort to contact the parent or guardian upon receiving the name and address of the parent or guardian, the agency or nonprofit corporation has either been unable to contact the parent or guardian or has offered assistance to the parent or guardian to resolve the situation and the parent or guardian has failed or refused to act on behalf of the patient; if a complaint is received by the agency or nonprofit corporation about a patient or there is otherwise probable cause to believe that the patient has been subject to abuse or neglect by a parent or guardian; or if the patient is a minor whose custody has been transferred to a legal custodian, as defined in s. 48.02(11) or for whom a guardian that is an agency of the state or a county has been appointed.

10. To persons as provided under s. 655.17(7)(b), as created by 1985 Wisconsin Act 29, if the patient files a submission of controversy under s. 655.04(1), 1983 stats., on or after July 20, 1985 and before June 14, 1986, for the purposes of s. 655.17(7)(b), as created by 1985 Wisconsin Act 29.

11. To a county department, as defined under s. 48.02 (2g), a sheriff or police department or a district attorney for purposes of investigation of threatened or suspected child abuse or neglect or suspected unborn child abuse or for purposes of prosecution of alleged child abuse or neglect, if the person conducting the investigation or prosecution identifies the subject of the record by name. The health care provider may release information by initiating contact with a county department, sheriff or police department or district attorney without receiving a request for release of the information. A person to whom a report or record is disclosed under this subdivision may not further disclose it, except to the persons, for the purposes and under the conditions specified in s. 48.981 (7).

12. To a school district employee or agent, with regard to patient health care records maintained by the school district by which he or she is employed or is an agent, if any of the following apply:

a. The employee or agent has responsibility for preparation or storage of patient health care records.

b. Access to the patient health care records is necessary to comply with a requirement in federal or state law.

13. To persons and entities under s. 940.22.

14. To a representative of the board on aging and long-term care, in accordance with s. 49.498(5)(e).

15. To the department under s. 48.60(5)(c), 50.02(5) or 51.03(2) or to a sheriff, police department or district attorney for purposes of investigation of a death reported under s. 48.60(5)(a), 50.035(5)(b), 50.04(2t)(b) or 51.64(2).

16. To a designated representative of the long-term care ombudsman under s. 16.009(4), for the purpose of protecting and advocating the rights of an individual 60 years of age or older who resides in a long-term care facility, as specified in s. 16.009(4)(b).

17. To the department under s. 50.53(2).

18. Following the death of a patient, to a coroner, deputy coroner, medical examiner or medical examiner's assistant, for the purpose of completing a medical certificate under s. 69.18 (2) or investigating a death under s. 979.01 or 979.10. The health care provider may release information by initiating contact with the office of the coroner or medical examiner without

receiving a request for release of the information and shall release information upon receipt of an oral or written request for the information from the coroner, deputy coroner, medical examiner or medical examiner's assistant. The recipient of any information under this subdivision shall keep the information confidential except as necessary to comply with s. 69.18, 979.01 or 979.10.

<Text of subsec. (2)(a)18m. eff. until date stated in secretary of children and families notice. See, historical and statutory notes.>

18m. If the subject of the patient health care records is a child or juvenile who has been placed in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21, or for whom placement in a foster home, treatment foster home, group home, residential care center for children and youth, or juvenile correctional facility is recommended under s. 48.33(4), 48.425(1)(g), 48.837(4)(c), or 938.33(3) or (4), to an agency directed by a court to prepare a court report under s. 48.33(1), 48.424(4)(b), 48.425(3), 48.831(2), 48.837(4)(c), or 938.33(1), to an agency responsible for preparing a court report under s. 48.365(2g), 48.425(1), 48.831(2), 48.837(4)(c), or 938.365(2g), to an agency responsible for preparing a permanency plan under s. 48.355(2e), 48.38, 48.43(1)(c) or (5)(c), 48.63(4) or (5)(c), 48.831(4)(e), 938.355(2e), or 938.38 regarding the child or juvenile, or to an agency that placed the child or juvenile or arranged for the placement of the child or juvenile in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or juvenile or arranged for the placement of the child or juvenile in any of those placements, to the foster parent or treatment foster parent of the child or juvenile or the operator of the group home, residential care center for children and youth, or juvenile correctional facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

<Text of subsec. (2)(a)18m. eff. on date stated in secretary of children and families notice. See, historical and statutory notes.>

18m. If the subject of the patient health care records is a child or juvenile who has been placed in a foster home, group home, residential care center for children and youth, or juvenile correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21, or for whom placement in a foster home, group home, residential care center for children and youth, or juvenile correctional facility is recommended under s. 48.33(4), 48.425(1)(g), 48.837(4)(c), or 938.33(3) or (4), to an agency directed by a court to prepare a court report under s. 48.33(1), 48.424(4)(b), 48.425(3), 48.831(2), 48.837(4)(c), or 938.33(1), to an agency responsible for preparing a court report under s. 48.365(2g), 48.425(1), 48.831(2), 48.837(4)(c), or 938.365(2g), to an agency responsible for preparing a permanency plan under s. 48.355(2e), 48.38, 48.43(1)(c) or (5)(c), 48.63(4) or (5)(c), 48.831(4)(e), 938.355(2e), or 938.38 regarding the child or juvenile, or to an agency that placed the child or juvenile or arranged for the placement of the child or juvenile in any of those placements and, by any of those agencies, to any other of those agencies and, by the agency that placed the child or juvenile or arranged for the placement of the child or juvenile in any of those placements, to the foster parent of the child or juvenile or the operator of

the group home, residential care center for children and youth, or juvenile correctional facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

19. To a procurement organization , as defined in s. 157.06(2)(p), for the purpose of conducting an examination to ensure the medical suitability of a body part that is or could be the subject of an anatomical gift under s. 157.06.

20. If the patient health care records do not contain information and the circumstances of the release do not provide information that would permit the identification of the patient.

21. To a prisoner's health care provider, the medical staff of a prison or jail in which a prisoner is confined, the receiving institution intake staff at a prison or jail to which a prisoner is being transferred or a person designated by a jailer to maintain prisoner medical records, if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388 or to the department of corrections if the disclosure is made with respect to a prisoner's patient health care records under s. 302.388(4).

(c) Notwithstanding sub. (1), patient health care records shall be released to appropriate examiners and facilities in accordance with s. 971.17(2)(e), (4)(c), and (7)(c). The recipient of any information from the records shall keep the information confidential except as necessary to comply with s. 971.17 .

(cm) Notwithstanding sub. (1), patient health care records shall be released, upon request, to appropriate persons in accordance with s. 980.031(4) and to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the treatment records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning records made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(3) Reports made without informed consent. (a) Notwithstanding sub. (1), a physician or advanced practice nurse prescriber certified under s. 441.16(2) who treats a patient whose physical or mental condition in the physician's or advanced practice nurse prescriber's judgment affects the patient's ability to exercise reasonable and ordinary control over a motor vehicle may report the patient's name and other information relevant to the condition to the department of transportation without the informed consent of the patient.

(b) Notwithstanding sub. (1), an optometrist who examines a patient whose vision in the optometrist's judgment affects the patient's ability to exercise reasonable and ordinary control

over a motor vehicle may report the patient's name and other information relevant to the condition to the department of transportation without the informed consent of the patient.

(4) Release of a portion of a record to certain persons. (a) In this subsection:

1. “Immediate family” has the meaning given in s. 350.01(8m).

2. “Incapacitated” has the meaning given in s. 50.94(1)(b).

(b) Notwithstanding sub. (1), a health care provider may release a portion, but not a copy, of a patient health care record, to the following, under the following circumstances:

1. Any person, if the patient or a person authorized by the patient is not incapacitated, is physically available, and agrees to the release of that portion.

2. Any of the following, as applicable, if the patient and person authorized by the patient are incapacitated or are not physically available, or if an emergency makes it impracticable to obtain an agreement from the patient or from the person authorized by the patient, and if the health care provider determines, in the exercise of his or her professional judgment, that release of a portion of the patient health care record is in the best interest of the patient:

a. A member of the patient's immediate family, another relative of the patient, a close personal friend of the patient, or an individual identified by the patient, that portion that is directly relevant to the involvement by the member, relative, friend, or individual in the patient's care.

b. Any person, that portion that is necessary to identify, locate, or notify a member of the patient's immediate family or another person that is responsible for the care of the patient concerning the patient's location, general condition, or death.

(5) Redisclosure. (a) In this subsection, “covered entity” has the meaning given in 45 CFR 160.103.

(b) Notwithstanding sub. (1) and except as provided in s. 610.70(5), a covered entity may redisclose a patient health care record it receives under this section without consent by the patient or person authorized by the patient if the redisclosure of the patient health care record is a release permitted under this section.

(c) Notwithstanding sub. (1), an entity that is not a covered entity may redisclose a patient health care record it receives under this section only under one of the following circumstances:

1. The patient or a person authorized by the patient provides informed consent for the redisclosure.

2. A court of record orders the redisclosure.

3. The redisclosure is limited to the purpose for which the patient health care record was initially received.

WYOMING

- The Board shall report any information to law enforcement that it reasonably suspects may relate to fraudulent or illegal activity

Wyoming Statutes (2011)

§ 35-7-1060. Controlled substances prescription tracking program

(a) In addition to other duties and responsibilities as provided by this act, the board shall maintain a computerized program to track prescriptions for controlled substances for the purposes of assisting patients, practitioners and pharmacists to avoid inappropriate use of controlled substances and of assisting with the identification of illegal activity related to the dispensing of controlled substances. The tracking program and any data created thereby shall be administered by the board, and the board may charge reasonable fees to help defray the costs of operating the program. Any fee shall be included with and in addition to other registration fees established by the board as authorized in W.S. 35-7-1023.

(b) All prescriptions for schedule II, III and IV controlled substances dispensed by any retail pharmacy licensed by the board shall be filed with the board electronically or by other means required by the board no more than seven (7) days after dispensed. The board may require the filing of other prescriptions and may specify the manner in which the prescriptions are filed.

(c) The tracking program shall not be used to infringe on the legal use of a controlled substance. Information obtained through the controlled substance prescription tracking program is confidential and may not be released and is not admissible in any judicial or administrative proceeding, except as follows:

(i) The board may release information to practitioners and pharmacists when the release of the information may be of assistance in preventing or avoiding inappropriate use of controlled substances;

(ii) The board shall report any information that it reasonably suspects may relate to fraudulent or illegal activity to the appropriate law enforcement agency and the relevant occupational licensing board;

(iii) The board may release information to the patient to whom the information pertains or his agent or, if the patient is a minor, to his parents or guardian;

(iv) The board may release information that does not identify individual patients, practitioners, pharmacists or pharmacies, for educational, research or public information purposes; and

(v) Subject to the rules of evidence, information obtained from the program is admissible in a criminal proceeding or an administrative proceeding involving professional licensing.

(d) Unless there is shown malice, gross negligence, recklessness or willful and wanton conduct in disclosing information collected under this act, the board, any other state agency and any other person or entity in proper possession of information as provided by this section shall not be subject to any civil or criminal liability or action for legal or equitable relief.

(e) The board may apply for and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.