



# **TYPES OF AUTHORIZED RECIPIENTS – PHYSICIAN ASSISTANTS AND RESIDENT PHYSICIANS**

**Research current through June 2014.**

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## Introduction

Each state determines by statute or regulation the persons or entities entitled to access or receive information in the prescription monitoring program database in that particular state. This memorandum sets out those states that allow access to or receipt of database information by physician assistants and/or resident physicians. This does not mean that if a particular state is not listed in this memorandum or the accompanying map that those entities in that state are not allowed access to the information. If they fall within the definition of “practitioner” or “healthcare practitioner” in the state, then they may be allowed access. The following states either specifically include physician assistants and/or resident physicians in the list of persons or entities entitled to access or NAMSDDL was informed by the administrator of the state prescription monitoring program that such persons are allowed access.

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Alabama  
§ 20-2-214

Code of Alabama (2014)  
Title 20. Food, Drugs, and Cosmetics.  
Chapter 2. Controlled Substances.  
Article 10. . Controlled Substances Prescription Database.

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

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

(1) Authorized representatives of the certifying boards, provided, however, that access shall be limited to information concerning the licensees of the certifying board, however, authorized representatives from the Board of Medical Examiners may access the database to inquire about certified registered nurse practitioners (CRNPs), or certified nurse midwives (CNMs) that hold a Qualified Alabama Controlled Substances Registration Certificate (QACSC).

(2) A licensed practitioner approved by the department who has authority to prescribe, dispense, or administer controlled substances. The licensed practitioner's access shall be limited to information concerning himself or herself, registrants who possess a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises physician supervision or with whom they have a joint practice agreement, a certified registered nurse practitioner and a certified nurse midwife with a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises professional oversight and direction pursuant to an approved collaborative practice agreement, a current patient of the practitioner, and individuals seeking treatment from the practitioner. Practitioners shall have no requirement or obligation, under this article, 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. However, the applicable licensing boards, in their discretion, may impose such a requirement or obligation by regulations.

(3) A licensed physician approved by the department who has authority to prescribe, dispense, or administer controlled substances may designate up to two employees who may access the database on the physician's behalf.

(4) A licensed certified registered nurse practitioner or a licensed certified nurse midwife 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 registered nurse practitioner or certified nurse midwife.

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**(5) 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 patient of the assistant to the physician or an individual seeking treatment from the assistant to physician.**

(6) 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.

(7) 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 a declaration that probable cause exists for the use of the requested information.

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

(9) 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.

(10) Authorized representatives of the Alabama Medicaid Agency; provided, however, that access shall be limited to inquiries concerning possible misuse or abuse of controlled substances by Medicaid recipients.

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Colorado  
§ 12-42.5-404

West's Colorado Revised Statutes Annotated (2014)  
Title 12. Professions and Occupations  
Health Care  
Article 42.5. Pharmacists, Pharmacy Businesses, and Pharmaceuticals  
Part 4. Electronic Monitoring of Prescription Drugs

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

- (1) The board shall operate and maintain the program.
- (2) The board shall adopt all rules necessary to implement the program.
- (3) The program is available for query only to the following persons or groups of persons:**
  - (a) Board staff responsible for administering the program;
  - (b) Any practitioner with the statutory authority to prescribe controlled substances, or an individual designated by the practitioner to act on his or her behalf in accordance with Section 12-42.5-403(1.5)(b) 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) A practitioner, or an individual designated by the practitioner to act on his or her behalf in accordance with Section 12-42.5-403(1.5)(b) engaged in a legitimate program to monitor a patient's drug abuse;
  - (c.5) The medical director, or his or her designee, at a facility that treats addiction with controlled substances, if an individual in treatment at the facility gives permission to the facility to access his or her program records;
  - (d) A pharmacist, an individual designated by the pharmacist in accordance with Section 12-42.5-403(1.5)(b) to act on his or her behalf, or a pharmacist licensed in another state, to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or to whom the pharmacist is providing clinical patient care services;
  - (e) Law enforcement officials so long as the information released is specific to an individual patient or practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;

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

(g) State regulatory boards within the division and the director of the division so long as the information released is specific to an individual practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;

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

(i) The Department of Public Health and Environment for purposes of population-level analysis, but any use of the program data by the department is subject to the federal “Health Insurance Portability and Accountability Act of 1996”, Pub.L. 104-191, as amended, and implementing federal regulations, including the requirement to remove any identifying data unless exempted from the requirement.

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

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

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

(7) The board shall develop criteria for indicators of misuse, abuse, and diversion of controlled substances and, based on those criteria, provide unsolicited reports of dispensed controlled substances to prescribing practitioners and dispensing pharmacies for purposes of education and intervention to prevent and reduce occurrences of controlled substance misuse, abuse, and diversion. In developing the criteria, the board shall consult with the Colorado Dental Board, Colorado Medical Board, State Board of Nursing, State Board of Optometry, Colorado Podiatry Board, and State Board of Veterinary Medicine.

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Hawaii  
§ 329-104

West's Hawai'i Revised Statutes Annotated (2013)  
Division 1. Government  
Title 19. Health  
Chapter 329. Uniform Controlled Substances Act  
[Part VIII]. Electronic Prescription Accountability System

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

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

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

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

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

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

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

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

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



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

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

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New Mexico  
ADC 16.19.29

Code of New Mexico Rules (2014)  
Title 16. Occupational and Professional Licensing  
Chapter 19. Pharmacists  
Part 29. Controlled Substance Prescription Monitoring Program

16.19.29. CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM

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

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

B. The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in Subsection C, D, and E of this 16.19.29.9 NMAC.

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

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

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

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

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<sup>1</sup> Per the PMP representative, this includes physician assistants.

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

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

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

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

(6) human services department regarding medicaid program recipients;

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

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

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

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

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

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

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

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North Dakota  
§ 19-03.5-03

West's North Dakota Century Code Annotated (2014)  
Title 19. Foods, Drugs, Oils, and Compounds  
Chapter 19-03.5. Prescription Drug Monitoring Program

§ 19-03.5-03. Access to prescription information

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

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

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

**a. A prescriber for the purpose of providing medical care to a patient, a dispenser for the purpose of filling a prescription or providing pharmaceutical care for a patient, a prescriber or dispenser inquiring about the prescriber's or dispenser's own prescribing activity, or a prescriber or dispenser in order to further the purposes of the program;<sup>2</sup>**

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

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

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

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

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<sup>2</sup> Per the PMP representative, this includes physician assistants.

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- f. Workforce safety and insurance for purposes regarding the utilization of controlled substances by a claimant;
  - g. Judicial authorities under grand jury subpoena or court order or equivalent judicial process for investigation of criminal violations of controlled substances laws;
  - h. Public or private entities for statistical, research, or educational purposes after the information is de-identified with respect to any prescriber, dispenser, or patient who received a prescription for a controlled substance;
  - i. A peer review committee which means any committee of a health care organization, composed of health care providers, employees, administrators, consultants, agents, or members of the health care organization's governing body, which conducts professional peer review as defined in chapter 23-34; or
  - j. A licensed addiction counselor for the purpose of providing services for a licensed treatment program in this state.
4. The board shall maintain a record of each person who requests information from the central repository. The board may use the records to document and report statistics and outcomes. The board may provide records of the requests for information to:
- a. A board or regulatory agency responsible for the licensing of individuals authorized to prescribe or dispense controlled substances that is engaged in an investigation of the individual who submitted the request for information from the central repository; and
  - b. Local, state, and federal law enforcement or prosecutorial officials engaged in the enforcement of laws relating to controlled substances for the purpose of an active investigation of an individual who requested information from the central repository.

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## Texas

### Health and Safety Code § 481.076

Vernon's Texas Statutes and Codes Annotated (2014)

Health and Safety Code

Title 6. Food, Drugs, Alcohol, and Hazardous Substances

Subtitle C. Substance Abuse Regulation and Crimes

Chapter 481. Texas Controlled Substances Act

Subchapter C. Regulation of Manufacture, Distribution, and Dispensation of Controlled Substances, Chemical Precursors, and Chemical Laboratory Apparatus

§ 481.076. Official Prescription Information

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

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

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

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

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

**(B) a pharmacist or a pharmacy technician, as defined by Section 551.003, Occupations Code, acting at the direction of a pharmacist or a practitioner who is a physician, dentist, veterinarian, podiatrist, or advanced practice nurse or is a physician assistant described by Section 481.002(39)(D) or a nurse licensed under Chapter 301, Occupations Code, acting at the direction of a practitioner 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.

(a-1) A person authorized to receive information under Subsection (a)(3)(B) or (C) may access that information through a health information exchange, subject to proper security measures to ensure against disclosure to unauthorized persons.

(a-2) A person authorized to receive information under Subsection (a)(3)(B) may include that information in any form in the medical or pharmacy record of the patient who is the subject of the information. Any information included in a patient's medical or pharmacy record under this subsection is subject to any applicable state or federal confidentiality or privacy laws.

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