



## **DATA CONFIDENTIALITY – NOT SUBJECT TO PUBLIC OR OPEN RECORDS LAWS**

### **Research current through June 2014.**

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## Introduction

Every state with a prescription monitoring program deems the information in the program confidential. This memorandum sets out those states that specifically state in their prescription monitoring program statutes or regulations that the information within the program is not subject to public or open records laws. If a state is not included in this compilation that does not mean that information contained in the program can be accessed by persons or entities under the state public or open records laws. There may be provisions outside of the prescription monitoring program laws that cover the information contained in the program.

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Alabama  
§ 20-2-215

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

§ 20-2-215. Confidentiality of database.

**(a) The controlled substances database and all information contained therein and any records maintained by the department or by any entity contracting with the department which is submitted to, maintained, or stored as a part of the controlled substances prescription database, and any reproduction or copy of that information is hereby declared privileged and confidential, is not a public record, is not 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 licensing or regulatory boards of practitioners authorized to prescribe or dispense controlled substances.**

(b) Nothing in this section shall apply to records created or maintained in the regular course of business of a pharmacy, medical, dental, optometric, or veterinary practitioner, or other entity covered by this article and all information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil proceedings merely because such information contained in those records was reported to the controlled substances prescription database in accordance with the provisions of this article.

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Alaska  
§ 17.30.200

West's Alaska Statutes Annotated (2014)  
Title 17. Food and Drugs  
Chapter 30. Controlled Substances  
Article 5. Controlled Substance Prescription Database

§ 17.30.200. Controlled substance prescription database

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**(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.

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(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.

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Arizona  
§ 36-2604

Arizona Revised Statutes Annotated (2014)  
Title 36. Public Health and Safety  
Chapter 28. Controlled Substances Prescription Monitoring Program  
Article 1. General Provisions

§ 36-2604. Use and release of confidential information

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

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

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

1. A person who is authorized to prescribe or dispense a controlled substance, or a delegate who is authorized by the prescriber or dispenser, 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

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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 who is serving a lawful order of a court of competent jurisdiction.

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

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

E. For the purposes of this section, “delegate” means a licensed health care professional who is employed in the office of or in a hospital with the prescriber or dispenser or an unlicensed medical records technician, medical assistant or office manager who is employed in the office of or in a hospital with the prescriber and who has received training regarding both the Health Insurance Portability and Accountability Act privacy standards, 45 Code of Federal Regulations Part 164, Subpart E, and security standards, 45 Code of Federal Regulations, Part 164, Subpart C.

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Arkansas  
§ 20-7-606

West's Arkansas Code Annotated (2014)  
Title 20. Public Health and Welfare  
Subtitle 2. Health and Safety (Chapters 6 to 44)  
Chapter 7. State Board of Health--Department of Health  
Subchapter 6. Prescription Drug Monitoring Program Act

§ 20-7-606. 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.

(D) The Department of Human Services or the Crimes Against Children Division of the Department of State Police if:

(i) The purpose of the database access is related to an investigation under the Child Maltreatment Act, § 12-18-101 et seq., and not pursuant to a criminal investigation by a certified law enforcement officer; and

(ii) The Department of Human Services has obtained a court order to access the database under § 12-18-604.

(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, optometric, 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.

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Delaware  
16 § 4798

West's Delaware Code Annotated (2014)  
Title 16. Health and Safety  
Part IV. Food and Drugs  
Chapter 47. Uniform Controlled Substances Act  
Subchapter VII. Miscellaneous

§ 4798. The Delaware Prescription Monitoring Program

<Text of section effective upon the availability of appropriations, or of other adequate funding to implement and maintain the Prescription Monitoring Program and upon 3-1-2014. See Historical and Statutory Notes below. See also, text of section effective until 3-1-2014. >

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**(k) 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.**

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District of Columbia  
§ 48-853.05

West's District of Columbia Code Annotated 2001 Edition (2014)  
Division VIII. General Laws.  
Title 48. Foods and Drugs.  
Subtitle II. Prescription Drugs.  
Chapter 8G. Prescription Drug Monitoring Program.

§ 48-853.05. Confidentiality of data; disclosure of information; discretionary authority of the Director.

(a) All data, records, and reports relating to the prescribing and dispensing of covered substances to patients and any abstracts from such data, records, and reports that are in the possession of the Program pursuant to this chapter and any materials relating to the operation or safety of the Program shall be confidential and shall be exempt from disclosure based on requests made pursuant to subchapter II of Chapter 2 of Title 5. Information obtained pursuant to the Program may only be disclosed as provided in this chapter.

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Florida

§ 893.0551 (eff. until Oct. 1, 2014)

§ 893.0551 (eff. Oct. 1, 2014)

West's Florida Statutes Annotated (2014)

Title XLVI. Crimes (Chapters 775-899)

Chapter 893. Drug Abuse Prevention and Control

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

<Text of Section Effective Until October 1, 2014>

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**(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.**

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West's Florida Statutes Annotated (2014)  
Title XLVI. Crimes (Chapters 775-899)  
Chapter 893. Drug Abuse Prevention and Control

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

<Text of Section Effective October 1, 2014>

(1) For purposes of this section, the terms used in this section have the same meanings 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.**

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Georgia  
§ 16-13-60

West's Code of Georgia Annotated (2014)  
Title 16. Crimes and Offenses  
Chapter 13. Controlled Substances  
Article 2. Regulation of Controlled Substances  
Part 2. Controlled Substances Prescription Monitoring

§ 16-13-60. Confidentiality of information submitted

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

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

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

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

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

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

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

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

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

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

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

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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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Iowa  
§ 124.553

Iowa Code Annotated (2014)  
Title IV. Public Health  
Subtitle 1. Alcoholic Beverages and Controlled Substances  
Chapter 124. Controlled Substances  
Division VI. Drug Prescribing and Dispensing--Information Program

§ 124.553. Information access

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

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

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

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

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

d. A prescription database or monitoring program in another jurisdiction pursuant to subsection 8.

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.

8. The board may enter into an agreement with a prescription database or monitoring program operated in a state bordering this state or in the state of Kansas for the mutual exchange of information. Any agreement entered into pursuant to this subsection shall specify that all the information exchanged pursuant to the agreement shall be used and disseminated in accordance with the laws of this state.

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Kansas  
§ 65-1685

West's Kansas Statutes Annotated (2014)  
Chapter 65. Public Health  
Article 16. Regulation of Pharmacists

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

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

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Kentucky  
§ 218A.202

Baldwin's Kentucky Revised Statutes Annotated (2014)  
Title XVIII. Public Health  
Chapter 218A. Controlled Substances

§ 218A.202 Electronic system for monitoring controlled substances; required registration and reporting; penalty for illegal use of system; pilot or continuing project; continuing education programs; reports of failure to comply with section; administrative regulations

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**(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.**

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Louisiana  
§ 40:1007

West's Louisiana Statutes Annotated (2014)  
Louisiana Revised Statutes  
Title 40. Public Health and Safety  
Chapter 4. Food and Drugs  
Part X-A. Prescription Monitoring Program

§ 1007. Access to prescription monitoring information

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

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Maine  
22 § 7250

Maine Revised Statutes Annotated (2014)  
Title 22. Health and Welfare  
Subtitle 4. Human Services  
Part 3. Drug Abuse  
Chapter 1603. Controlled Substances Prescription Monitoring

§ 7250. Access to prescription monitoring information and confidentiality

**1. Confidentiality. Except as provided in this section, prescription monitoring information submitted to the department is confidential and is not a public record as defined in Title 1, section 402, subsection 3.**

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## Maryland

Health-General § 21-2A-06 (eff. until Oct. 1, 2014)

Health-General § 21-2A-06 (eff. Oct. 1, 2014)

CMR 10.47.07.06

West's Annotated Code of Maryland (2014)

Health--General

Title 21. Food, Drugs, and Cosmetics

Subtitle 2A. Prescription Drug Monitoring Program

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

<Text of Section Effective Until October 1, 2014>

### **Data not subject to discovery or subpoena**

#### **(a) Prescription monitoring data:**

**(1) Are confidential and privileged, and not subject to discovery, subpoena, or other means of legal compulsion in civil litigation;**

**(2) Are not public records; and**

**(3) Except as provided in subsections (b) and (d) of this section or as otherwise provided by law, may not be disclosed to any person.**

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West's Annotated Code of Maryland (2014)

Health--General

Title 21. Food, Drugs, and Cosmetics

Subtitle 2A. Prescription Drug Monitoring Program

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

<Text of Section Effective October 1, 2014>

### **Data not subject to discovery or subpoena**

#### **(a) Prescription monitoring data:**

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**(1) Are confidential and privileged, and not subject to discovery, subpoena, or other means of legal compulsion in civil litigation;**

**(2) Are not public records; and**

**(3) Except as provided in subsections (b), (c), and (e) of this section or as otherwise provided by law, may not be disclosed to any person.**

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Code of Maryland Regulations (2014)  
Title 10 Department of Health and Mental Hygiene  
Subtitle 47 Alcohol and Drug Abuse Administration  
Chapter 07 Prescription Drug Monitoring Program

.06 Confidentiality.

**A. Prescription monitoring data are confidential, privileged, not subject to discovery, subpoena, or other means of legal compulsion in civil litigation, and are not public records.**

**B. The Program shall ensure that confidential or privileged patient information be kept confidential and that records or information protected by a privilege between a health care provider and a patient, or otherwise required by law to be held confidential, be filed in a manner that, except as otherwise provided in Health-General Article, §21-2A-06, Annotated Code of Maryland, and Regulation .04 of this chapter, does not disclose the identity of the person protected.**

C. The Program shall periodically conduct an audit review of prescription monitoring data and disclosure requests to ensure compliance with §B of this regulation.

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Massachusetts  
94C § 24A

Massachusetts General Laws Annotated (2014)  
Part I. Administration of the Government (Ch. 1-182)  
Title XV. Regulation of Trade (Ch. 93-110H)  
Chapter 94C. Controlled Substances Act

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

...

**(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.**

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Michigan  
§ 333.7333a

Michigan Compiled Laws Annotated (2014)  
Chapter 333. Health  
Public Health Code  
Article 7. Controlled Substances  
Part 73. Manufacture, Distribution, and Dispensing

§ 333.7333a. Dispensing of controlled substances; electronic monitoring system

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(10) The data and any report containing any patient identifiers obtained from the data are not public records and are not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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Minnesota  
§ 152.126

Minnesota Statutes Annotated (2014)  
Health (Ch. 144-159)  
Chapter 152. Drugs; Controlled Substances  
Prescriptions

§ 152.126. Prescription monitoring program.

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**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:

(i) prescribing or considering prescribing any controlled substance;

(ii) providing emergency medical treatment for which access to the data may be necessary; or

(iii) providing other medical treatment for which access to the data may be necessary and the patient has consented to access to the submitted data, 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) a licensed pharmacist who is providing pharmaceutical care for which access to the data may be necessary to the extent that the information relates specifically to a current patient for whom the pharmacist is providing pharmaceutical care if the patient has consented to access to the submitted data;

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(4) 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;

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

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

(7) authorized personnel of a vendor under contract with the state of Minnesota who are engaged in the design, implementation, operation, and maintenance of the prescription monitoring program 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, and subject to the requirement of de-identification and time limit on retention of data specified in subdivision 5, paragraphs (d) and (e);

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

(9) personnel of the Minnesota health care programs assigned to use the data collected under this section to identify and manage recipients whose usage of controlled substances may warrant restriction to a single primary care provider, a single outpatient pharmacy, and a single hospital;

(10) personnel of the Department of Human Services assigned to access the data pursuant to paragraph (h); and

(11) personnel of the health professionals services program established under section 214.31, to the extent that the information relates specifically to an individual who is currently enrolled in and being monitored by the program, and the individual consents to access to that information. The health professionals services program personnel shall not provide this data to a health-related licensing board or the Emergency Medical Services Regulatory Board, except as permitted under section 214.33, subdivision 3.

For purposes of clause (4), access by an individual includes persons in the definition of an individual under section 13.02.

(c) A permissible user identified in paragraph (b), clauses (1), (2), (3), (6), (7), (9), and (10) may directly access the data electronically. If the data is directly accessed electronically, the permissible user 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 subdivision 4 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 maintain a log of all persons who access the data for a person of at least three years and shall ensure that any permissible user complies with paragraph (c) prior to attaining direct access to the data.

(f) 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.

(g) The board may participate in an interstate prescription monitoring program data exchange system provided that permissible users in other states have access to the data only as allowed under this section, and that section 13.05, subdivision 6, applies to any contract or memorandum of understanding that the board enters into under this paragraph. The board shall report to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over health and human services policy and finance on the interstate prescription monitoring program by January 5, 2016.

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

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

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

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

(i) The board shall review the data submitted under subdivision 4 on at least a quarterly basis and shall establish criteria, in consultation with the advisory task force, for referring information about a patient to prescribers and dispensers who prescribed or dispensed the prescriptions in

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question if the criteria are met. The board shall report to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over health and human services policy and finance on the criteria established under this paragraph and the review process by January 5, 2016. This paragraph expires August 1, 2016.

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Mississippi  
§ 73-21-127

West's Annotated Mississippi Code (2014)  
Title 73. Professions and Vocations  
Chapter 21. Pharmacists  
Mississippi Pharmacy Practice Act

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

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

...

**(e)(i) Access to collected data shall be confidential and not subject to the provisions of the federal Freedom of Information Act or the Mississippi Open Records Act.** Upon request, the State Board of Pharmacy shall provide collected information to: pharmacists or practitioners who are properly registered with the State Board of Pharmacy and are authorized to prescribe or dispense controlled substances for the purpose of providing medical and pharmaceutical care for their patients; local, state and federal law enforcement officials engaged in the administration, investigation or enforcement of the laws governing illicit drug use; regulatory and licensing boards in this state; Division of Medicaid regarding Medicaid and Medicare Program recipients; judicial authorities under grand jury subpoena; an individual who requests the individual's own prescription monitoring information; and prescription monitoring programs in other states through mutual agreement adhering to State Board of Pharmacy policies.

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New Hampshire  
§ 318-B:34

Revised Statutes Annotated of the State of New Hampshire (2014)  
Title XXX. Occupations and Professions (Ch. 309 to 332-J)  
Chapter 318-B. Controlled Drug Act  
Controlled Drug Prescription Health and Safety Program

§ 318-B:34 Confidentiality.

**I. Information contained in the program, information obtained from it, and information contained in the records of requests for information from the program, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except as provided in this subdivision.**

II. The board shall establish and maintain procedures to ensure the privacy and confidentiality of patients and patient information.

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New Jersey  
§ 45:1-46

New Jersey Statutes Annotated (2014)  
Title 45. Professions and Occupations  
Subtitle 1. Professions and Occupations Regulated by State Boards of Registration and Examination  
Chapter 1. General Provisions  
Article 3. Record Background Checks for Health Care Professionals

§ 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.).**

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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

...

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

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

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

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

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

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

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

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

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

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

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

(6) human services department regarding medicaid program recipients;

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

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

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

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

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

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

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

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North Carolina  
§ 90-113.74

West's North Carolina General Statutes Annotated (2014)  
Chapter 90. Medicine and Allied Occupations  
Article 5E. North Carolina Controlled Substances Reporting System Act

§ 90-113.74. Confidentiality

**(a) Prescription information submitted to the Department is privileged and confidential, is not a public record pursuant to G.S. 132-1, is not subject to subpoena or discovery or any other use in civil proceedings, and except as otherwise provided below may only be used for investigative or evidentiary purposes related to violations of State or federal law and regulatory activities. Except as otherwise provided by this section, prescription information shall not be disclosed or disseminated to any person or entity by any person or entity authorized to review prescription information.**

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Ohio

§ 4729.80 (eff. until Sept. 17, 2014)

§ 4729.80 (eff. Sept. 17, 2014)

Baldwin's Ohio Revised Code Annotated (2014)

Title XLVII. Occupations--Professions

Chapter 4729. Pharmacists; Dangerous Drugs

Miscellaneous Provisions

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

<Text of Section Effective Until September 17, 2014>

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**(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.**

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Baldwin's Ohio Revised Code Annotated (2014)

Title XLVII. Occupations--Professions

Chapter 4729. Pharmacists; Dangerous Drugs

Miscellaneous Provisions

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

<Text of Section Effective September 17, 2014>

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## Oklahoma

63 § 2-309D (eff. until Nov. 1, 2014)

63 § 2-309D (eff. Nov. 1, 2014)

Oklahoma Statutes Annotated (2014)

Title 63. Public Health and Safety

Chapter 2. Uniform Controlled Dangerous Substances Act

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

Anti-Drug Diversion Act

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

<Text of Section Effective Until November 1, 2014>

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

1. Peace officers certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes who are employed as investigative agents of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
2. The United States Drug Enforcement Administration Diversion Group Supervisor;
3. The executive director or chief investigator, as designated by each board, of the following state boards:
  - a. Board of Podiatric Medical Examiners,
  - b. Board of Dentistry,
  - c. State Board of Pharmacy,
  - d. State Board of Medical Licensure and Supervision,
  - e. State Board of Osteopathic Examiners,
  - f. State Board of Veterinary Medical Examiners,
  - g. Oklahoma Health Care Authority,

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

i. State Board of Health;

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

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

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

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Oklahoma Statutes Annotated (2014)

Title 63. Public Health and Safety

Chapter 2. Uniform Controlled Dangerous Substances Act

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

Anti-Drug Diversion Act

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

<Text of Section Effective November 1, 2014>

**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,

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- c. State Board of Pharmacy,
- d. State Board of Medical Licensure and Supervision,
- e. State Board of Osteopathic Examiners,
- f. State Board of Veterinary Medical Examiners,
- g. Oklahoma Health Care Authority,
- h. Department of Mental Health and Substance Abuse Services, and
- i. State Board of Health;

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

- 4. A multicounty grand jury properly convened pursuant to the Multicounty Grand Jury Act; and
- 5. The Department of Mental Health and Substance Abuse Services and the State Department of Health for statistical, research, substance abuse prevention or educational purposes provided that the consumer's confidentiality is not compromised.

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Oregon  
§ 431.966

West's Oregon Revised Statutes Annotated (2014)  
Title 36. Public Health and Safety  
Chapter 431. State and Local Administration and Enforcement of Health Laws  
Prescription Monitoring Program  
(Program)

§ 431.966. Prescription monitoring information disclosure; limitations

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

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

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

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

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

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## South Carolina

§ 44-53-1650

Code of Laws of South Carolina 1976 Annotated (2014)

Title 44. Health

Chapter 53. Poisons, Drugs and Other Controlled Substances

Article 15. Prescription Monitoring Program

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

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

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

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

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

(1) a practitioner or pharmacist or authorized delegate 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;

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(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.

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## Tennessee

§ 53-10-306 (eff. until July 1, 2016)

§ 53-10-306 (eff. July 1, 2016)

West's Tennessee Code Annotated (2014)

Title 53. Food, Drugs and Cosmetics

Chapter 10. Legend Drugs

Part 3. Tennessee Prescription Safety Act of 2012

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

<Text of section effective until July 1, 2016. See, also, section effective July 1, 2016.>

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

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

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

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

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

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

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

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

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

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

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

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

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

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

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

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

(9) The judge of a drug court treatment program, created pursuant to title 16, chapter 22, that is participating in the pilot project pursuant to this act to the extent the information relates specifically to a current participant in the drug court treatment program. Any judge or personnel of a drug court treatment program receiving information from the database pursuant to this subdivision (a)(9) shall comply with the requirements of this subsection (a) and the following:

(A) Any judge of a participating drug court requesting information from the database shall submit an application to the board pursuant to subdivision (a)(9)(B) that must include acknowledgment by the district attorney general of the judge's judicial district that the judge is seeking information from the database on a current participant in the drug court treatment program;

(B) An application submitted by the judge of a drug court treatment program shall include:

(i) The applicant's name, title, agency, agency address, and the business email address;

(ii) The signatures of the judge and the district attorney general of the judicial district in which the judge has jurisdiction; and

(iii) The names of any current participants in the drug court treatment program that the judge has a reasonable belief may not be in compliance with the guidelines or rules of participation in the drug court treatment program as they pertain solely to the participant's unauthorized use or misuse of controlled substances. Such information shall not be considered a public record as defined by § 10-7-503; and



(C) The board shall, as part of the duty to maintain the database pursuant to § 53-10-305(e), receive the authorized application sent by the judge of the participating drug court treatment program pursuant to this subsection (a); or

(10) A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision (a)(10) shall have a separate identifiable authentication for access.

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West's Tennessee Code Annotated (2014)  
Title 53. Food, Drugs and Cosmetics  
Chapter 10. Legend Drugs  
Part 3. Tennessee Prescription Safety Act of 2012

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

<Text of section effective July 1, 2016>

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

- (1) Personnel of the committee specifically assigned to conduct analysis or research;
- (2) Authorized committee, board, or department of health personnel engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;
- (3) A licensed health care practitioner having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the practitioner, to whom the practitioner has prescribed or dispensed or is prescribing or dispensing or considering prescribing or dispensing any controlled substance;
- (4) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist has dispensed, is dispensing or considering dispensing any controlled substance;

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

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

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

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

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

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

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

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

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

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

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

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

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

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

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Vermont  
18 § 4284

West's Vermont Statutes Annotated (2014)  
Title Eighteen. Health  
Part 5. Foods and Drugs  
Chapter 84A. Vermont Prescription Monitoring System

§ 4284. Protection and disclosure of information

**(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to the Public Records Act. The Department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.**

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Virginia  
§ 54.1-2523

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director

**A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 15 of § 2.2-3705.5. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.**

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.
2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).
3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription in accordance with § 54.1-3303 when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

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

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8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

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Wisconsin  
ADC Phar. 18.13

Wisconsin Administrative Code (2014)  
Pharmacy Examining Board  
Chapter Phar 18. Prescription Drug Monitoring Program

Phar 18.13 Confidentiality of PDMP information.

**(1) The PDMP information maintained by the board, department or a vendor contracting with the department which is submitted to, maintained, or stored as a part of the program is not subject to inspection or copying under s. 19.35, Stats.**

(2) A person who discloses PDMP information in violation of s. 146.82 or 450.19, Stats., this chapter, or other state or federal laws or regulations relating to the privacy of patient health care records, may be subject to disciplinary action by the licensing board that issued the license under which the person is authorized to prescribe or dispense monitored prescription drugs and all appropriate civil and criminal penalties.

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