



DATA CONFIDENTIALITY – PENALTIES FOR WRONGLY DISCLOSING, USING, OR OBTAINING DATA

Research current through June 2014.

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Clicking on a link below will take you directly to that page.

Introduction	Hawaii	Montana	South Carolina
Alabama	Idaho	New Hampshire	South Dakota
Alaska	Iowa	New Jersey	Tennessee
Arizona	Kansas	New Mexico	Texas
Arkansas	Kentucky	North Carolina	Utah
California	Louisiana	North Dakota	Vermont
Colorado	Maine	Ohio	Virginia
Delaware	Maryland	Oklahoma	Washington
District of Columbia	Massachusetts	Oregon	West Virginia
Georgia	Minnesota	Rhode Island	Wisconsin

Introduction

The following memorandum sets out those states that specifically include certain penalties in their prescription monitoring program statutes and/or regulations for persons or entities who wrongly disclose, use, or obtain program information. This does not mean that if a state is not included in the following compilation that the state has no penalties for violating program confidentiality. It simply means that such penalties are not included in the prescription monitoring program laws and may be found in the state's health records laws.

[Back to Top ↑](#)

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Alabama
§ 20-2-216

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

§ 20-2-216. Unauthorized disclosure of information; unauthorized access, alteration, or destruction of information.

Any person who intentionally makes an unauthorized disclosure of information contained in the controlled substances prescription database shall be guilty of a Class A misdemeanor. Any person or entity who intentionally obtains unauthorized access to or who alters or destroys information contained in the controlled substances prescription database shall be guilty of a Class C felony.

[Back to Top ↑](#)

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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

...

(l) A person

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

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

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

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

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

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[Back to Top ↑](#)

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Arizona
§ 36-2610

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

§ 36-2610. Prohibited acts; violation; classification

A. A person who is subject to this article and who fails to report required information pursuant to § 36-2608 is guilty of a class 2 misdemeanor.

B. A person who is subject to this article and who knowingly fails to report required information to the board in violation of § 36-2608 is guilty of a class 1 misdemeanor.

C. A person who is subject to this article and who knowingly reports information to the board that the person knows to be false or fraudulent is guilty of a class 6 felony.

D. A person who is granted access to the information maintained by the board as required by this article and who knowingly discloses the information in a manner inconsistent with a legitimate professional or regulatory purpose, a legitimate law enforcement purpose, the terms of a court order or as otherwise expressly authorized by this article is guilty of a class 6 felony.

[Back to Top ↑](#)

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Arkansas
§ 20-7-611
ADC 007.07.4-XI

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

§ 20-7-611. Unlawful acts and penalties

(a)(1) It is unlawful for a dispenser to purposely fail to submit prescription monitoring information as required under this subchapter.

(2) A violation of subdivision (a)(1) of this section is a Class B misdemeanor.

(b)(1) It is unlawful for a dispenser to purposely submit fraudulent prescription information.

(2) A violation of subdivision (b)(1) of this section is a Class D felony.

(c)(1) It is unlawful for a person authorized to receive prescription monitoring information to purposely disclose the information in violation of this subchapter.

(2) A violation of subdivision (c)(1) of this section is a Class C felony.

(d)(1) It is unlawful for a person authorized to receive prescription drug monitoring program information to use such information in a manner or for a purpose in violation of this subchapter.

(2) A violation of subsection (d)(1) of this section is a Class C felony.

(e)(1) It is unlawful for a person to knowingly obtain, use, or disclose or attempt to obtain, use, or disclose information by fraud or deceit from the Prescription Drug Monitoring Program or from a person authorized to receive information from the Prescription Drug Monitoring Program under this subchapter.

(2) A violation of subdivision (e)(1) of this section is a Class C felony.

(f) In addition to the criminal penalties provided in this section, a dispenser or practitioner who uses or discloses confidential information received from the Prescription Drug Monitoring Program in a manner or for a purpose in violation of this subchapter may be subject to disciplinary action by the dispenser's or practitioner's licensing board.

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(g) In addition to the criminal penalties provided in this section, a law enforcement officer who uses or discloses confidential information received from the Prescription Drug Monitoring Program in a manner or for a purpose in violation of this subchapter may be subject to disciplinary action by the law enforcement officer's agency or department.

(h) This subchapter does not limit a person whose privacy has been compromised unlawfully under this section from bringing a civil action to address the breach of privacy or to recover all damages to which the person may be entitled per violation, including attorney's fees and costs.

West's Arkansas Administrative Code (2014)

Title 007. Department of Health

Division 07. Pharmacy Services

Rule 4. Regulations Pertaining to Prescription Drug Monitoring Program

007.07.4-XI. Unlawful Acts and Penalties

(a)(1) It is unlawful for a dispenser to purposely fail to submit prescription monitoring information as required under Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations.

(2) A violation of subdivision (a) (1) of this section is a Class B misdemeanor.

(b)(1) It is unlawful for a dispenser to purposely submit fraudulent prescription information.

(2) A violation of subdivision (b) (1) of this section is a Class D felony.

(c)(1) It is unlawful for a person authorized to receive prescription monitoring information to purposely disclose the information in violation of Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations.

(2) A violation of subdivision (c) (1) of this section is a Class C felony.

(d)(1) It is unlawful for a person authorized to receive prescription drug monitoring program information to use such information in a manner or for a purpose in violation of Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations.

(2) A violation of subsection (d) (1) of this section is a Class C felony.

(e)(1) It is unlawful for a person to knowingly obtain, use, or disclose or attempt to obtain, use, or disclose information by fraud or deceit from the Prescription Drug Monitoring Program or from a person authorized to receive information from the Prescription Drug Monitoring Program under Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations.

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(2) A violation of subdivision (e) (1) of this section is a Class C felony.

(f) In addition to the criminal penalties provided in this section, a dispenser or practitioner who uses or discloses confidential information received from the Prescription Drug Monitoring Program in a manner or for a purpose in violation of Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations may be subject to disciplinary action by the dispenser's or practitioner's licensing board.

(g) In addition to the criminal penalties provided in this section, a law enforcement officer who uses or discloses confidential information received from the Prescription Drug Monitoring Program in a manner or for a purpose in violation of Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations may be subject to disciplinary action by the law enforcement officer's agency or department.

(h) Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations do not limit a person whose privacy has been compromised unlawfully under this section from bringing a civil action to address the breach of privacy or to recover all damages to which the person may be entitled per violation, including attorney's fees and costs.

[Back to Top ↑](#)

California
Civil Code § 56.36

West's Annotated California Codes (2014)
Civil Code
Division 1. Persons
Part 2.6. Confidentiality of Medical Information
Chapter 7. Violations

§ 56.36. Misdemeanors; violations; remedies

(a) Any violation of the provisions of this part that results in economic loss or personal injury to a patient is punishable as a misdemeanor.

(b) In addition to any other remedies available at law, any individual may bring an action against any person or entity who has negligently released confidential information or records concerning him or her in violation of this part, for either or both of the following:

(1) Except as provided in subdivision (e), nominal damages of one thousand dollars (\$1,000). In order to recover under this paragraph, it shall not be necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the patient.

(c)(1) In addition, any person or entity that negligently discloses medical information in violation of the provisions of this part shall also be liable, irrespective of the amount of damages suffered by the patient as a result of that violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation.

(2)(A) Any person or entity, other than a licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable for an administrative fine or civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable on a first violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation, or on a second violation for an administrative fine or civil penalty not to exceed ten thousand dollars (\$10,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

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(3)(A) Any person or entity, other than a licensed health care professional, who knowingly or willfully obtains or uses medical information in violation of this part for the purpose of financial gain shall be liable for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation.

(B) Any licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part for financial gain shall be liable on a first violation, for an administrative fine or civil penalty not to exceed five thousand dollars (\$5,000) per violation, or on a second violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation. Nothing in this subdivision shall be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(4) Nothing in this subdivision shall be construed as authorizing an administrative fine or civil penalty under both paragraphs (2) and (3) for the same violation.

(5) Any person or entity who is not permitted to receive medical information pursuant to this part and who knowingly and willfully obtains, discloses, or uses medical information without written authorization from the patient shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation.

(d) In assessing the amount of an administrative fine or civil penalty pursuant to subdivision (c), the Office of Health Information Integrity, licensing agency, or certifying board or court shall consider any one or more of the relevant circumstances presented by any of the parties to the case including, but not limited to, the following:

(1) Whether the defendant has made a reasonable, good faith attempt to comply with this part.

(2) The nature and seriousness of the misconduct.

(3) The harm to the patient, enrollee, or subscriber.

(4) The number of violations.

(5) The persistence of the misconduct.

(6) The length of time over which the misconduct occurred.

(7) The willfulness of the defendant's misconduct.

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(8) The defendant's assets, liabilities, and net worth.

(e)(1) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2013, in which the defendant establishes the affirmative defense in paragraph (2), the court shall award any actual damages and reasonable attorney's fees and costs, but may not award nominal damages for a violation of this part.

(2) The defendant is entitled to an affirmative defense if all of the following are established, subject to the equitable considerations in paragraph (3):

(A) The defendant is a covered entity or business associate, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, in effect as of January 1, 2012.

(B) The defendant has complied with any obligations to notify all persons entitled to receive notice regarding the release of the information or records.

(C) The release of confidential information or records was solely to another covered entity or business associate.

(D) The release of confidential information or records was not an incident of medical identity theft. For purposes of this subparagraph, "medical identity theft" means the use of an individual's personal information, as defined in Section 1798.80, without the individual's knowledge or consent, to obtain medical goods or services, or to submit false claims for medical services.

(E) The defendant took appropriate preventive actions to protect the confidential information or records against release consistent with the defendant's obligations under this part or other applicable state law and the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) (HIPAA) and all HIPAA Administrative Simplification Regulations in effect on January 1, 2012, contained in Parts 160, 162, and 164 of Title 45 of the Code of Federal Regulations and Part 2 of Title 42 of the Code of Federal Regulations, including, but not limited to:

(i) Developing and implementing security policies and procedures.

(ii) Designating a security official who is responsible for developing and implementing its security policies and procedures, including educating and training the workforce.

(iii) Encrypting the information or records, and protecting against the release or use of the encryption key and passwords, or transmitting the information or records in a manner designed to provide equal or greater protections against improper disclosures.

(F) The defendant took reasonable and appropriate corrective action after the release of the confidential information or records, and the covered entity or business associate that received the confidential information or records destroyed or returned the confidential

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information or records in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. A court may consider this subparagraph to be established if the defendant shows in detail that the covered entity or business associate could not destroy or return the confidential information or records because of the technology utilized.

(G) The covered entity or business associate that received the confidential information or records, or any of its agents, independent contractors, or employees, regardless of the scope of the employee's employment, did not retain, use, or release the information or records.

(H) After the release of the confidential information or records, the defendant took reasonable and appropriate action to prevent a future similar release of confidential information or records.

(I) The defendant has not previously established an affirmative defense pursuant to this subdivision, or the court determines, in its discretion, that application of the affirmative defense is compelling and consistent with the purposes of this section to promote reasonable conduct in light of all the facts.

(3)(A) In determining whether the affirmative defense may be established pursuant to paragraph (2), the court shall consider the equity of the situation, including, but not limited to, (i) whether the defendant has previously violated this part, regardless of whether an action has previously been brought, and (ii) the nature of the prior violation.

(B) To the extent the court allows discovery to determine whether there has been any other violation of this part that the court will consider in balancing the equities, the defendant shall not provide any medical information, as defined in Section 56.05. The court, in its discretion, may enter a protective order prohibiting the further use of any personal information, as defined in Section 1798.80, about the individual whose medical information may have been disclosed in a prior violation.

(4) In an action under this subdivision in which the defendant establishes the affirmative defense pursuant to paragraph (2), a plaintiff shall be entitled to recover reasonable attorney's fees and costs without regard to an award of actual or nominal damages or the imposition of administrative fines or civil penalties.

(5) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2013, in which the defendant establishes the affirmative defense pursuant to paragraph (2), a defendant shall not be liable for more than one judgment on the merits under this subdivision for releases of confidential information or records arising out of the same event, transaction, or occurrence.

(f)(1) The civil penalty pursuant to subdivision (c) shall be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by any of the following:

(A) The Attorney General.

(B) Any district attorney.

(C) Any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance.

(D) Any city attorney of a city.

(E) Any city attorney of a city and county having a population in excess of 750,000, with the consent of the district attorney.

(F) A city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county.

(G) The Director of the Office of Health Information Integrity may recommend that any person described in subparagraphs (A) to (F), inclusive, bring a civil action under this section.

(2) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in paragraph (3), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

(3) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered.

(4) Nothing in this section shall be construed as authorizing both an administrative fine and civil penalty for the same violation.

(5) Imposition of a fine or penalty provided for in this section shall not preclude imposition of any other sanctions or remedies authorized by law.

(6) Administrative fines or penalties issued pursuant to Section 1280.15 of the Health and Safety Code shall offset any other administrative fine or civil penalty imposed under this section for the same violation.

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(g) For purposes of this section, “knowing” and “willful” shall have the same meanings as in Section 7 of the Penal Code.

(h) No person who discloses protected medical information in accordance with the provisions of this part shall be subject to the penalty provisions of this part.

[Back to Top ↑](#)

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Colorado
§ 12-42.5-406

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

§ 12-42.5-406. Violations--penalties

A person who knowingly releases, obtains, or attempts to obtain information from the program in violation of this part 4 shall be punished by a civil fine of not less than one thousand dollars and not more than ten thousand dollars for each violation. Fines paid shall be deposited in the general fund.

[Back to Top ↑](#)

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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. >

...

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

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

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

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

...

[Back to Top ↑](#)

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District of Columbia
§ 48-853.09

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.

§ 48-853.09. Unlawful disclosure of information and acts; disciplinary action authorized; penalties.

(a) It shall be unlawful for any person having access to the confidential information in possession of the Program or any data or reports produced by the Program to disclose the confidential information except as provided in this chapter. Any person who discloses this confidential information in violation of the provisions of this chapter shall be guilty of a misdemeanor upon conviction.

(b) It shall be unlawful for any person who lawfully receives confidential information from the Program to redisclose or use the confidential information in any way other than the authorized purpose for which the request was made. Any person who discloses confidential information in violation of this chapter shall be guilty of a misdemeanor upon conviction.

(c) Nothing in this section shall prohibit a person who prescribes or dispenses a covered substance required to be reported to the program from redisclosing information obtained from the Program to another prescriber or dispenser who has prescribed or dispensed a covered substance to the same patient.

(d) Unauthorized use or disclosure of confidential information received from the Program shall also be grounds for disciplinary action by the relevant health occupations board.

[Back to Top ↑](#)

Georgia
§ 16-13-64

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

§ 16-13-64. Failure to submit information; penalties

(a) A dispenser who knowingly and intentionally fails to submit prescription information to the agency as required by this part or knowingly and intentionally submits incorrect prescription information shall be guilty of a felony and, upon conviction thereof, shall be punished for each such offense by imprisonment for not less than one year nor more than five years, a fine not to exceed \$50,000.00, or both, and such actions shall be reported to the licensing board responsible for issuing such dispenser's dispensing license for action to be taken against such dispenser's license.

(b) An individual authorized to access electronic data base prescription information pursuant to this part who negligently uses, releases, or discloses such information in a manner or for a purpose in violation of this part shall be guilty of a misdemeanor. Any person who is convicted of negligently using, releasing, or disclosing such information in violation of this part shall, upon the second or subsequent conviction, be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years, a fine not to exceed \$5,000.00, or both.

(c)(1) An individual authorized to access electronic data base prescription information pursuant to this part who knowingly obtains or discloses such information in a manner or for a purpose in violation of this part shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than five years, a fine not to exceed \$50,000.00, or both.

(2) Any person who knowingly obtains, attempts to obtain, or discloses electronic data base prescription information pursuant to this part under false pretenses shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than five years, a fine not to exceed \$100,000.00, or both.

(3) Any person who obtains or discloses electronic data base prescription information not specifically authorized herein with the intent to sell, transfer, or use such information for commercial advantage, personal gain, or malicious harm shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than two years nor more than ten years, a fine not to exceed \$250,000.00, or both.

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(d) Any person who is injured by reason of any violation of this part shall have a cause of action for the actual damages sustained and, where appropriate, punitive damages. Such person may also recover attorney's fees in the trial and appellate courts and the costs of investigation and litigation reasonably incurred.

(e) The penalties provided by this Code section are intended to be cumulative of other penalties which may be applicable and are not intended to repeal such other penalties.

[Back to Top ↑](#)

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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.

...

(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.

[Back to Top ↑](#)

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Idaho
§ 37-2726

West's Idaho Code Annotated (2014)
Title 37. Food, Drugs, and Oil
Chapter 27. Uniform Controlled Substances
Article III

§ 37-2726. Filing prescriptions--Database

...

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

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

(8) Any person with access to the board's online prescription monitoring program pursuant to a board issued user account, login name and password who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in another person not authorized to receive or use such information under the provisions of any state or federal law, rule or regulation obtaining information from the controlled substances prescriptions database, shall be guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six (6) months or by a fine not to exceed two

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thousand dollars (\$2,000), or both. The foregoing criminal penalty is in addition to, and not in lieu of, any other civil or administrative penalty or sanction authorized by law.

(9) The board may, at its discretion, block access to certain controlled substances prescriptions database data if the board has reason to believe that access to the data is or may be used illegally.

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[Back to Top ↑](#)

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Iowa
§ 124.558

Iowa Code Annotated (2014)
Title IV. Public Health [Chs. 123-158]
Subtitle 1. Alcoholic Beverages and Controlled Substances [Chs. 123-134]
Chapter 124. Controlled Substances
Division VI. Drug Prescribing and Dispensing--Information Program

§ 124.558. Prohibited acts--penalties

1. Failure to comply with requirements. A pharmacist, pharmacy, prescribing practitioner, or agent of a pharmacist or prescribing practitioner who knowingly fails to comply with the confidentiality requirements of this division or who delegates program information access to another individual except as provided in section 124.553, is subject to disciplinary action by the appropriate professional licensing board. A pharmacist or pharmacy that knowingly fails to comply with other requirements of this division is subject to disciplinary action by the board. Each licensing board may adopt rules in accordance with chapter 17A to implement the provisions of this section.

2. Unlawful access, disclosure, or use of information. A person who intentionally or knowingly accesses, uses, or discloses program information in violation of this division, unless otherwise authorized by law, is guilty of a class “D” felony. This section shall not preclude a pharmacist or prescribing practitioner who requests and receives information from the program consistent with the requirements of this chapter from otherwise lawfully providing that information to any other person for medical or pharmaceutical care purposes.

[Back to Top ↑](#)

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Kansas
§ 65-1693

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

§ 65-1693. Same; penalties

(a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) A person who knowingly, and without authorization, obtains or attempts to obtain prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(e) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

[Back to Top ↑](#)

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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

...

(11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

(12) Intentional disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

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[Back to Top ↑](#)

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Louisiana
§ 40:1009

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

§ 1009. Unlawful acts and penalties

A. A dispenser who fails to submit prescription monitoring information to the board as required by this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

B. A person or entity authorized to possess prescription monitoring information pursuant to this Part who knowingly discloses such information in violation of this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

C. A person or entity authorized to possess prescription monitoring information pursuant to this Part who uses such information in a manner or for a purpose in violation of this Part shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than five years, and in addition, may be fined not more than five thousand dollars.

[Back to Top ↑](#)

Maine
22 § 7251

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

§ 7251. Unlawful acts and penalties

1. Failure to submit information. A dispenser who knowingly fails to submit prescription monitoring information to the department as required by this chapter is subject to discipline by the Maine Board of Pharmacy pursuant to Title 32, chapter 117, subchapter 4 or by the applicable professional licensing entity.

2. Unlawful disclosure or use of information. A person who intentionally or knowingly uses or discloses prescription monitoring information in violation of this chapter, unless otherwise authorized by law, is guilty of a Class C crime.

[Back to Top ↑](#)

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Maryland
Health-General § 21-2A-09

West's Annotated Code of Maryland (2014)
Health--General
Title 21. Food, Drugs, and Cosmetics
Subtitle 2A. Prescription Drug Monitoring Program

§ 21-2A-09. Fines and penalties for violations

Knowing failure to submit data

(a) A dispenser who knowingly fails to submit prescription monitoring data to the Program as required under this subtitle shall be subject to a civil penalty not exceeding \$500 for each failure to submit required information.

Knowing disclosure, use, or receipt of data by fraud or deceit

(b)(1) A person who knowingly discloses, uses, obtains, or attempts to obtain by fraud or deceit, prescription monitoring data in violation of this subtitle shall be guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$10,000 or both.

(2) In addition to the penalties under paragraph (1) of this subsection, a prescriber or dispenser who knowingly discloses or uses prescription monitoring data in violation of this subtitle shall be subject to disciplinary action by the appropriate licensing entity.

(3) The release of prescription monitoring data by a prescriber or dispenser to a licensed health care professional solely for treatment purposes in a manner otherwise consistent with State and federal law is not a violation of this subtitle.

[Back to Top ↑](#)

Massachusetts
105 CMR 700.012

Code of Massachusetts Regulations (2014)
Title 105: Department of Public Health
Chapter 700.000: Implementation of M.g.l. C. 94C

700.012: Prescription Monitoring Program

...

(E) Security Protections.

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

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

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

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

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

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

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[Back to Top ↑](#)

Minnesota
§ 152.126

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

§ 152.126. Prescription monitoring program.

...

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

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

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[Back to Top ↑](#)

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Montana
§ 37-7-1513

West's Montana Code Annotated (2013)
Title 37. Professions and Occupations
Chapter 7. Pharmacy
Part 15. Prescription Drug Registry

§ 37-7-1513. Unlawful acts--sanctions--civil penalties

(1) A pharmacist who fails to submit prescription drug order information to the board as required by 37-7-1503 or who willfully submits incorrect prescription drug order information must be referred to the board for consideration of administrative sanctions.

(2) A person or entity authorized to possess registry information pursuant to 37-7-1504 through 37-7-1506 who willfully discloses or uses the registry information in violation of 37-7-1504 through 37-7-1506 or a rule adopted pursuant to this part must be referred to the appropriate licensing board or regulatory agency for consideration of administrative sanctions.

(3) In addition to the administrative sanction provided in subsection (2), a person or entity who willfully discloses or uses information from the registry in violation of 37-7-1504 through 37-7-1506 or a rule adopted pursuant to this part is liable for a civil penalty of up to \$10,000 for each violation.

(4) The board may institute and maintain in the name of the state any enforcement proceedings under this section. Upon request of the department, the attorney general shall petition the district court to impose, assess, and recover the civil penalty.

(5) An action under subsection (3) or to enforce this part or a rule adopted under this part may be brought in the district court of any county where a violation occurs or, if mutually agreed on by the parties in the action, in the district court of the first judicial district.

(6) Civil penalties collected pursuant to this part must be deposited into the state special revenue account created pursuant to 37-7-1511 and must be used to defray the expenses of the board in establishing and maintaining the registry and in discharging its administrative and regulatory duties in relation to this part.

[Back to Top ↑](#)

New Hampshire
§ 318-B:36

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:36 Unlawful Act and Penalties.

I. Any person who fails to submit the information required in RSA 318-B:33 or knowingly submits incorrect information shall be subject to a warning letter and provided with an opportunity to correct the failure. Any person who subsequently fails to correct or fails to resubmit the information may be subject to discipline by the board.

II. Any person whose failure to report the dispensing of a schedule II-IV controlled substance that conceals a pattern of diversion of controlled substances into illegal use shall be guilty of a violation and subject to the penalties established under RSA 318-B:26 and the board's rules as applicable. In addition, such person may be subject to appropriate criminal charges if the failure to report is determined to have been done knowingly to conceal criminal activity.

III. Any person who engages in prescribing or dispensing of controlled substances in schedule II-IV without having registered with the program may be subject to discipline by the appropriate regulatory board.

IV. Any person authorized to receive program information who knowingly discloses such information in violation of this subdivision shall be subject to discipline by the appropriate regulatory board and to all other relevant penalties under state and federal law.

V. Any person authorized to receive program information who uses such information for a purpose in violation of this subdivision shall be subject to disciplinary action by the appropriate regulatory board and to all other relevant penalties under state and federal law.

VI. Unauthorized use or disclosure of program information shall be grounds for disciplinary action by the relevant regulatory board.

VII. Any person who knowingly accesses, alters, destroys, or discloses program information except as authorized in this subdivision or attempts to obtain such information by fraud, deceit, misrepresentation, or subterfuge shall be guilty of a class B felony.

[Back to Top ↑](#)

New Jersey
§ 45:1-49

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

§ 45:1-49. Penalties

a. A pharmacy permit holder, or a person designated by a pharmacy permit holder to be responsible for submitting data required by section 25 of P.L.2007, c. 244 (C.45:1-45), who knowingly fails to submit data as required, shall be subject to disciplinary action pursuant to section 8 of P. L.1978, c. 73 (C.45:1-21) and may be subject to a civil penalty in an amount not to exceed \$1,000 for repeated failure to comply with sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50).

b. (1) A pharmacy permit holder, pharmacist or practitioner, or any other person or entity who knowingly discloses or uses prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, C.45:1-45 through C.45:1-50 et seq.) shall be subject to a civil penalty in an amount not to exceed \$10,000.

(2) A pharmacy permit holder, pharmacist, or practitioner who knowingly discloses or uses prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 et seq.), shall also be subject to disciplinary action pursuant to section 8 of P.L.1978, c. 73 (C.45:1-21).

c. A penalty imposed under this section shall be collected by the director pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c. 274 (C.2A:58-10 et seq.).

[Back to Top ↑](#)

New Mexico

Pursuant to the New Mexico PMP administrator, New Mexico has penalties for wrongly obtaining PMP data.

[Back to Top ↑](#)

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North Carolina
§ 90-113.75

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

§ 90-113.75. Civil penalties; other remedies; immunity from liability

(a) A person who intentionally, knowingly, or negligently releases, obtains, or attempts to obtain information from the system in violation of a provision of this Article or a rule adopted pursuant to this Article shall be assessed a civil penalty by the Department not to exceed ten thousand dollars (\$10,000) per violation. The clear proceeds of penalties assessed under this section shall be deposited to the Civil Penalty and Forfeiture Fund in accordance with Article 31A of Chapter 115C of the General Statutes. The Commission shall adopt rules establishing the factors to be considered in determining the amount of the penalty to be assessed.

(b) In addition to any other remedies available at law, an individual whose prescription information has been disclosed in violation of this Article or a rule adopted pursuant to this Article may bring an action against any person or entity who has intentionally, knowingly, or negligently released confidential information or records concerning the individual for either or both of the following:

(1) Nominal damages of one thousand dollars (\$1,000). In order to recover damages under this subdivision, it shall not be necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the individual.

(c) A person or entity permitted access to data under this Article that, in good faith, makes a report or transmits data required or allowed by this Article is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of making the report or transmitting the data.

[Back to Top ↑](#)

North Dakota
§ 19-03.5-10

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

§ 19-03.5-10. Reporting unlawful acts and penalties

1. The board may report to a dispenser's licensing board any dispenser who knowingly fails to submit prescription drug monitoring information to the board as required by this chapter or who knowingly submits incorrect prescription information to the board.

2. A person, including a vendor, who uses or discloses prescription drug monitoring information in violation of this chapter is subject to the penalty provided in section 12.1-13-01.

[Back to Top ↑](#)

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Ohio

§ 4729.86 (eff. until Sept. 17, 2014)

§ 4729.86 (eff. Sept. 17, 2014)

§ 4729.861 (eff. Jan. 1, 2015)

Baldwin's Ohio Revised Code Annotated (2014)

Title XLVII. Occupations--Professions

Chapter 4729. Pharmacists; Dangerous Drugs

Miscellaneous Provisions

§ 4729.86 Prohibitions; restrictions on obtaining further information from database

<Text of Section Effective Until September 17, 2014>

If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, all of the following apply:

(A)(1) No person identified in divisions (A)(1) to (10) or (B) of section 4729.80 of the Revised Code shall disseminate any written or electronic information the person receives from the drug database or otherwise provide another person access to the information that the person receives from the database, except as follows:

(a) When necessary in the investigation or prosecution of a possible or alleged criminal offense;

(b) When a person provides the information to the prescriber or pharmacist for whom the person is approved by the board to serve as a delegate of the prescriber or pharmacist for purposes of requesting and receiving information from the drug database under division (A)(5) or (6) of section 4729.80 of the Revised Code;

(c) When a prescriber or pharmacist provides the information to a person who is approved by the board to serve as such a delegate of the prescriber or pharmacist.

(2) No person shall provide false information to the state board of pharmacy with the intent to obtain or alter information contained in the drug database.

(3) No person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code.

(B) A person shall not use information obtained pursuant to division (A) of section 4729.80 of the Revised Code as evidence in any civil or administrative proceeding.

(C)(1) The board may restrict a person from obtaining further information from the drug database if any of the following is the case:

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- (a) The person violates division (A)(1), (2), or (3) of this section;**
 - (b) The person is a requestor identified in division (A)(11) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section;**
 - (c) The person fails to comply with division (B) of this section, regardless of the jurisdiction in which the failure to comply occurred.**
- (2) The board shall determine the extent to which the person is restricted from obtaining further information from the database.**

Baldwin's Ohio Revised Code Annotated (2014)
 Title XLVII. Occupations--Professions
 Chapter 4729. Pharmacists; Dangerous Drugs
 Miscellaneous Provisions

§ 4729.86 Prohibitions; restrictions on obtaining further information from database

<Text of Section Effective September 17, 2014>

If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code, all of the following apply:

(A)(1) No person identified in divisions (A)(1) to (12) or (B) of section 4729.80 of the Revised Code shall disseminate any written or electronic information the person receives from the drug database or otherwise provide another person access to the information that the person receives from the database, except as follows:

- (a) When necessary in the investigation or prosecution of a possible or alleged criminal offense;
- (b) When a person provides the information to the prescriber or pharmacist for whom the person is approved by the board to serve as a delegate of the prescriber or pharmacist for purposes of requesting and receiving information from the drug database under division (A)(5) or (6) of section 4729.80 of the Revised Code;
- (c) When a prescriber or pharmacist provides the information to a person who is approved by the board to serve as such a delegate of the prescriber or pharmacist.

(2) No person shall provide false information to the state board of pharmacy with the intent to obtain or alter information contained in the drug database.

(3) No person shall obtain drug database information by any means except as provided under section 4729.80 or 4729.81 of the Revised Code.

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(B) A person shall not use information obtained pursuant to division (A) of section 4729.80 of the Revised Code as evidence in any civil or administrative proceeding.

(C)(1) Except as provided in division (C)(2) of this section, after providing notice and affording an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, the board may restrict a person from obtaining further information from the drug database if any of the following is the case:

(a) The person violates division (A)(1), (2), or (3) of this section;

(b) The person is a requestor identified in division (A)(13) of section 4729.80 of the Revised Code and the board determines that the person's actions in another state would have constituted a violation of division (A)(1), (2), or (3) of this section;

(c) The person fails to comply with division (B) of this section, regardless of the jurisdiction in which the failure to comply occurred;

(d) The person creates, by clear and convincing evidence, a threat to the security of information contained in the database.

(2) If the board determines that allegations regarding a person's actions warrant restricting the person from obtaining further information from the drug database without a prior hearing, the board may summarily impose the restriction. A telephone conference call may be used for reviewing the allegations and taking a vote on the summary restriction. The summary restriction shall remain in effect, unless removed by the board, until the board's final adjudication order becomes effective.

(3) The board shall determine the extent to which the person is restricted from obtaining further information from the database.

Baldwin's Ohio Revised Code Annotated (2014)
Title XLVII. Occupations--Professions
Chapter 4729. Pharmacists; Dangerous Drugs
Miscellaneous Provisions

§ 4729.861

<Text of Section Effective January 1, 2015>

If the state board of pharmacy establishes and maintains a drug database pursuant to section 4729.75 of the Revised Code and if the board restricts a prescriber from obtaining further information from the database pursuant to division (C) of section 4729.86 of the

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Revised Code, the board shall notify the government entity responsible for licensing the prescriber.

[Back to Top ↑](#)

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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>

...

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

...

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>

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E. Any unauthorized disclosure of any information collected at the central repository provided by the Anti-Drug Diversion Act shall be a misdemeanor. Violation of the

provisions of this section shall be deemed willful neglect of duty and shall be grounds for removal from office.

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[Back to Top ↑](#)

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Oregon
§ 431.970

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)

§ 431.970. Reporting of violations

If a practitioner or pharmacist authorized to obtain controlled substance prescription information from the prescription monitoring system established under ORS 431.962 discloses or uses information obtained from the system in violation of ORS 431.966, the Oregon Health Authority shall report the individual to the appropriate health professional regulatory board.

[Back to Top ↑](#)

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Rhode Island

§ 21-28-3.32

West's General Laws of Rhode Island Annotated (2014)

Title 21. Food and Drugs

Chapter 28. Uniform Controlled Substances Act

Article III. Regulation of Manufacturing, Distributing, Prescribing, Administering, and Dispensing Controlled Substances

§ 21-28-3.32. Electronic prescription database

...

(i) No person shall access information in the prescription monitoring database except to the extent and for the purposes authorized by subsection (a).

(j) In any civil action allowing a violation of this chapter, the court may award damages, including punitive damages, and reasonable attorneys' fees and costs to a prevailing plaintiff, and injunctive and any other appropriate relief.

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[Back to Top ↑](#)

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South Carolina

§ 44-53-1680

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

§ 44-53-1680. Violations and penalties.

(A) A dispenser or authorized delegate who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor, and upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person or persons authorized to have prescription monitoring information pursuant to this article who knowingly discloses this information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person or persons authorized to have prescription monitoring information pursuant to this article who uses this information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) Nothing in this chapter requires a pharmacist or practitioner to obtain information about a patient from the prescription monitoring program. A pharmacist or practitioner does not have a duty and must 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 practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program.

[Back to Top ↑](#)

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South Dakota
§ 34-20E-19

South Dakota Codified Laws (2014)
Title 34. Public Health and Safety
Chapter 34-20E. Prescription Drug Monitoring Program

§ 34-20E-19. Knowing disclosure of information in violation of chapter as felony

Any person authorized to have prescription monitoring information pursuant to this chapter who knowingly discloses such information in violation of this chapter is subject to a Class 6 felony.

[Back to Top ↑](#)

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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.>

...

(k)(1) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a Class A misdemeanor.

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

(3) Intentional unauthorized use or disclosure of database information by law enforcement personnel, judicial district drug task force members or TBI agents shall be punishable as a Class A misdemeanor.

(4) Any law enforcement personnel, judicial district drug task force member or TBI agent charged with a violation of this section shall have such person's authorization to request information from the database suspended pending final disposition of any criminal prosecution. Any law enforcement personnel, judicial district drug task force member or TBI agent found guilty of a violation of this subsection (i) shall have such person's authorization to request information from the database permanently revoked.

(5) Where an individual authorized under subsection (a) acts in good faith in accessing or using information from the database in accordance with the limitations under this part, that person shall not incur any civil or criminal liability as a result of that use or access.

...

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>

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(k)(1) Any person who obtains or attempts to obtain information from the database by misrepresentation or fraud is guilty of a Class A misdemeanor.

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

(3) Intentional unauthorized use or disclosure of database information by law enforcement personnel, judicial district drug task force members or TBI agents shall be punishable as a Class A misdemeanor.

(4) Any law enforcement personnel, judicial district drug task force member or TBI agent charged with a violation of this section shall have such person's authorization to request information from the database suspended pending final disposition of any criminal prosecution. Any law enforcement personnel, judicial district drug task force member or TBI agent found guilty of a violation of this subsection (i) shall have such person's authorization to request information from the database permanently revoked.

(5) Where an individual authorized under subsection (a) acts in good faith in accessing or using information from the database in accordance with the limitations under this part, that person shall not incur any civil or criminal liability as a result of that use or access.

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[Back to Top ↑](#)

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Texas

Health and Safety Code § 481.127

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 D. Offenses and Penalties

§ 481.127. Offense: Unauthorized Disclosure of Information

(a) A person commits an offense if the person knowingly gives, permits, or obtains unauthorized access to information submitted to the director under Section 481.074(q) or 481.075.

(b) An offense under this section is a state jail felony.

[Back to Top ↑](#)

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Utah
§ 58-37f-601

West's Utah Code Annotated (2014)
Title 58. Occupations and Professions
Chapter 37F. Controlled Substance Database Act
Part 6. Penalties

§ 58-37f-601. Unlawful release or use of database information--Criminal and civil penalties

(1) Any person who knowingly and intentionally releases any information in the database or knowingly and intentionally releases any information obtained from other state or federal prescription monitoring programs by means of the database in violation of the limitations under Part 3, Access, is guilty of a third degree felony.

(2)(a) Any person who obtains or attempts to obtain information from the database or from any other state or federal prescription monitoring programs by means of the database by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the database for a purpose other than a purpose authorized by this chapter or by rule is guilty of a third degree felony.

(3)(a) Except as provided in Subsection (3)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person any information obtained from the database or from any other state or federal prescription monitoring programs by means of the database for any purpose other than those specified in Part 3, Access.

(b) Each separate violation of this Subsection (3) is a third degree felony and is also subject to a civil penalty not to exceed \$5,000.

(c) The procedure for determining a civil violation of this Subsection (3) is in accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

(d) Civil penalties assessed under this Subsection (3) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(e) This Subsection (3) does not prohibit a person who obtains information from the database under Subsection 58-37f-301(2)(f), (g), (i), or (4)(c) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file; or

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(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

[Back to Top ↑](#)

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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

...

(i) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

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[Back to Top ↑](#)

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Virginia
§ 54.1-2525

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

§ 54.1-2525. Unlawful disclosure of information; disciplinary action authorized; penalties

A. It shall be unlawful for any person having access to the confidential information in the possession of the program or any data or reports produced by the program to disclose such confidential information except as provided in this chapter. Any person having access to the confidential information in the possession of the program or any data or reports produced by the program who discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.

B. It shall be unlawful for any person who lawfully receives confidential information from the Prescription Monitoring Program to redisclose or use such confidential information in any way other than the authorized purpose for which the request was made. Any person who lawfully receives information from the Prescription Monitoring Program and discloses such confidential information in violation of this chapter shall be guilty of a Class 1 misdemeanor upon conviction.

C. Nothing in this section shall prohibit a person who prescribes or dispenses a covered substance required to be reported to the program from redisclosing information obtained from the Program to another prescriber or dispenser who has prescribed or dispensed a covered substance to a recipient.

D. Unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program shall also be grounds for disciplinary action by the relevant health regulatory board.

[Back to Top ↑](#)

Washington
§ 70.225.060

West's Revised Code of Washington Annotated (2014)
Title 70. Public Health and Safety
Chapter 70.225. Prescription Monitoring Program

§ 70.225.060. Violations--Penalties--Disclosure exemption for health care providers

(1) A dispenser who knowingly fails to submit prescription monitoring information to the department as required by this chapter or knowingly submits incorrect prescription information is subject to disciplinary action under chapter 18.130 RCW.

(2) A person authorized to have prescription monitoring information under this chapter who knowingly discloses such information in violation of this chapter is subject to civil penalty.

(3) A person authorized to have prescription monitoring information under this chapter who uses such information in a manner or for a purpose in violation of this chapter is subject to civil penalty.

(4) In accordance with chapter 70.02 RCW and federal health care information privacy requirements, any physician or pharmacist authorized to access a patient's prescription monitoring may discuss or release that information to other health care providers involved with the patient in order to provide safe and appropriate care coordination.

[Back to Top ↑](#)

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West Virginia
§ 60A-9-7

West's Annotated Code of West Virginia (2014)
Chapter 60A. Uniform Controlled Substances Act
Article 9. Controlled Substances Monitoring

§ 60A-9-7. Criminal penalties

(a) Any person who is required to submit information to the state Board of Pharmacy pursuant to the provisions of this article who fails to do so as directed by the board is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500.

(b) Any person who is required to submit information to the state Board of Pharmacy pursuant to the provisions of this article who knowingly and willfully refuses to submit the information required by this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail not more than six months or fined not more than \$1,000, or both confined or fined.

(c) Any person who is required by the provisions of this article to submit information to the state Board of Pharmacy who knowingly submits thereto information known to that person to be false or fraudulent is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail not more than one year or fined not more than \$5,000, or both confined or fined.

(d) Any prescriber or dispenser who is required to access the information contained in the West Virginia Controlled Substances Monitoring Program database as set forth in subsection (a) of section five-a of this article and fails to do so as directed by the rules of their licensing board shall be subject to such discipline as the licensing board deems appropriate.

(e) Any person granted access to the information required by the provisions of this article to be maintained by the state Board of Pharmacy, who shall willfully disclose the information required to be maintained by this article in a manner inconsistent with a legitimate law-enforcement purpose, a legitimate professional regulatory purpose, the terms of a court order or as otherwise expressly authorized by the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than six months or fined not more than \$1,000, or both confined or fined.

(f) Unauthorized access or use or unauthorized disclosure for reasons unrelated to the purposes of this article of the information in the database is a felony punishable by

imprisonment in a state correctional facility for not less than one year nor more than five years or fined not less than \$3,000 nor more than \$10,000, or both imprisoned or fined.

[Back to Top ↑](#)

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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.

[Back to Top ↑](#)

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