Notice Requirements for Prescription Monitoring Programs

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Introduction

This memorandum compiles all of the statutes and regulations from states that require health care providers and/or dispensers to provide notice to their patients or clients that their information will be shared with the state prescription monitoring program and/or that their information contained within the prescription monitoring program database may be accessed.

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Colorado
§ 12-42.5-403
ADC 719-1:23.00.00

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

§ 12-42.5-403. Prescription drug use monitoring program

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(2) Each practitioner and each dispensing pharmacy shall disclose to a patient receiving a controlled substance that his or her identifying prescription information will be entered into the program database and may be accessed for limited purposes by specified individuals.

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West's Colorado Administrative Code (2014)
Title 700. Department of Regulatory Agencies
719. State Board of Pharmacy
3 CCR 719-1. State Board of Pharmacy Rules

719-1:23.00.00. ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

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23.00.60 Patient Notification. Prescription Drug Outlets shall disclose to patients receiving controlled substance prescriptions that their prescription information is being submitted to the PDMP, and that this prescription information may be queried by specific individuals for a limited number of purposes as authorized by statute.

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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.

. . .

(c)(2) For the purposes of a disclosure under paragraph (1)(B) or (C) of this subsection:

(A) The request shall be made and the information shall be provided in the manner specified by the Director through rulemaking; and

(B) Notice shall be given to patients that the information described in paragraph (1)(B) or (C) of this subsection, as applicable, may be requested by a prescriber or dispenser participating with the Program.

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Kansas
ADC 68-21-4

Kansas Administrative Regulations (2014)
Agency 68. Board of Pharmacy
Article 21. Prescription Monitoring Program

68-21-4 Notice of requests for information.

Each dispenser who may access information maintained by the board on each drug of concern and schedule II through IV drug dispensed to one of the dispenser's patients for the purpose of providing medical or pharmaceutical care shall notify the patient of this access to prescription monitoring information by performing either of the following:

(a) Posting an easily viewable sign at the place where prescription orders are issued or accepted for dispensing; or

(b) providing written material about the dispenser's access to prescription monitoring information.

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Maryland
ADC 10.47.07.05

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

.05 Notice to Patients.

A. Dispenser.

(1) Any dispenser who intends to request prescription monitoring data from the Program may post a sign that can be easily viewed by the public at the place where the prescription is delivered to the dispenser.

(2) The sign shall disclose to the public that the dispenser may access prescription monitoring data on a patient for whom a prescription for a monitored prescription drug is presented.

(3) In lieu of posting a sign, the dispenser may provide such notice in written material provided to the patient.

B. Prescriber.

(1) Any prescriber who intends to request prescription monitoring data from the Program may post a sign that can be easily viewed by the public that discloses to the public that the prescriber may access prescription monitoring data on a patient.

(2) In lieu of posting a sign, the prescriber may provide such notice in written material provided to the patient.

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Minnesota
§ 152.126
§ 245A.192

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

§ 152.126. Prescription monitoring program.

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

(1) name of the prescriber;

(2) national provider identifier of the prescriber;

(3) name of the dispenser;

(4) national provider identifier of the dispenser;

(5) prescription number;

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

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

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

(9) date the prescription was written;

(10) date the prescription was filled;

(11) name and strength of the controlled substance;

(12) quantity of controlled substance prescribed;

(13) quantity of controlled substance dispensed; and

(14) number of days supply.

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

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

(1) individuals residing in a health care facility as defined in section 151.58, subdivision 2, paragraph (b), when a drug is distributed through the use of an automated drug distribution system according to section 151.58; and

(2) individuals receiving a drug sample that was packaged by a manufacturer and provided to the dispenser for dispensing as a professional sample pursuant to Code of Federal Regulations, title 21, part 203, subpart D.

(d) A dispenser must provide to the patient for whom the prescription was written a conspicuous notice of the reporting requirements of this section and notice that the information may be used for program administration purposes.

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Minnesota Statutes Annotated (2014)
Public Welfare and Related Activities (Ch. 245-267)
Chapter 245A. Human Services Licensing

§ 245A.192. Providers licensed to provide treatment of opioid addiction

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Subd. 11. Prescription monitoring program. **(a) Upon admission to a methadone clinic outpatient treatment program, clients shall be notified that the Department of Human Services and the medical director will monitor the prescription monitoring program to review the prescribed controlled drugs the clients have received.** The medical director or the medical director's delegate must review data from the Minnesota Board of Pharmacy prescription monitoring program (PMP) established under section 152.126 prior to the client being ordered any controlled substance as defined under section 152.126, subdivision 1, paragraph (b), including medications used for the treatment of opioid addiction. The subsequent reviews of the PMP data must occur quarterly and be documented in the client's individual file. When the PMP data shows a recent history of multiple prescribers or multiple prescriptions for controlled substances, then subsequent reviews of the PMP data must occur monthly and be documented in

the client's individual file. If, at any time, the medical director believes the use of the controlled substances places the client at risk of harm, the program must seek the client's consent to discuss the client's opioid treatment with other prescribers and must seek consent for the other prescriber to disclose to the opioid treatment program's medical director the client's condition that formed the basis of the other prescriptions. Additionally, any findings from the PMP data that are relevant to the medical director's course of treatment for the client must be documented in the client's individual file. A review of the PMP is not required for every medication dose adjustment.

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Oregon
§ 431.962
ADC 410-121-4015

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)

§ 431.962. Prescription monitoring program

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

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(2) In consultation with the commission, the authority shall adopt rules for the operation of the electronic prescription monitoring program established under subsection (1) of this section, including but not limited to standards for:

(a) Reporting data;

(b) Providing maintenance, security and disclosure of data;

(c) Ensuring accuracy and completeness of data;

(d) Complying with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581;

(e) Ensuring accurate identification of persons or entities requesting information from the database;

(f) Accepting printed or nonelectronic reports from pharmacies that do not have the capability to provide electronic reports; and

(g) Notifying a patient, before or when a drug classified in schedules II through IV is dispensed to the patient, about the prescription monitoring program and the entry of the prescription in the system.

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Oregon Administrative Rules Compilation (2014)
Chapter 410. Oregon Health Authority, Division of Medical Assistance Programs
Division 121. Pharmaceutical Services
Non-medicaid Rules Prescription Drug Monitoring Program

410-121-4015. Notification to Patients

Using language provided by the Authority, a pharmacy shall notify each patient receiving a controlled substance about the Prescription Drug Monitoring Program before or when the controlled substance is dispensed to the patient. The notification shall include that the prescription will be entered into the system.

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Pennsylvania
35 § 872.5 (eff. June 30, 2015)

Purdon's Pennsylvania Statutes and Consolidated Statutes (2014)
Title 35 P.S. Health and Safety
Chapter 6B. Drugs, Poisons and Dangerous Substances
Achieving Better Care by Monitoring All Prescriptions Program (Abc-Map) Act

§ 872.5. Powers and duties of board

<Text of Section Effective June 30, 2015>

The board shall have the following powers and duties:

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(3) Create a written notice to be used by prescribers and used or displayed by dispensers to provide notice to patients that information regarding prescriptions for controlled substances is being collected by the program and that the patient has a right to review and correct the information with the program. The notice must include all of the following:

(i) The manner in which the patient may access the patient's personal information. The notice shall state that one-time quarterly patient access shall be at no cost.

(ii) An explanation of the program and the program's authorized users.

(iii) The program's record retention policies.

(iv) An explanation that prescription information is confidential and is not subject to the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law.

(v) Any cost associated with accessing the information more than once during each calendar quarter.

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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

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(h) At the time of signing a prescription which is required by the department to be entered into the prescription drug monitoring database, the prescribing practitioner shall inform the patient in writing of the existence of the prescription drug monitoring database, the patient's right to access their own prescription information, and the name and contact information of the agency operating the program.

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Utah
§ 26-1-36

West's Utah Code Annotated (2014)
Title 26. Utah Health Code
Chapter 1. Department of Health Organization

§ 26-1-36. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain

(1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section 26-1-30, the department shall develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:

(a) investigate the causes of and risk factors for death and nonfatal complications of prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section 58-37f-201;

(b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;

(c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and

(d) educate the public regarding:

(i) the purpose of the Controlled Substance Database established in Section 58-37f-201; and

(ii) the requirement that a person's name and prescription information be recorded on the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

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Vermont
18 § 4283
ADC 12-5-21:1

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

§ 4283. Creation; implementation

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(g) The commissioner shall develop and provide advisory notices, which shall make clear that all prescriptions for controlled drugs in Schedules II, III, and IV are entered into a statewide database in order to protect the public. The notices shall be distributed at no cost to dispensers and health care providers who are subject to this chapter.

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West's Vermont Administrative Code (2014)
Title 12. Agency of Human Services
Subtitle 5. Department of Health
General
Rule 21. Prescription Monitoring System

12-5-21:1. GENERAL PROVISIONS

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Section 1.5 Distribution of Advisory Notices.

Each dispenser shall provide to customers to whom a reportable prescription is dispensed the advisory notice developed and distributed by the Department by: 1) prominently displaying the advisory notice in a manner readily accessible to its customers, or 2) duplicating the complete text of the advisory notice in another format, such as by printing on customer receipts or on patient instructions or providing a written insert for delivery to the patient, or 3) both.

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Virginia
18 VAC 76-20-70

Virginia Administrative Code (2014)
Title 18. Professional and Occupational Licensing
Vac Agency No. 76. Department of Health Professions
Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-70. Notice of requests for information.

A. Any dispenser who intends to request information from the program for a recipient or prospective recipient of a Schedule II, III, or IV controlled substance shall post a sign that can be easily viewed by the public at the place where the prescription is accepted for dispensing and that discloses to the public that the pharmacist may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the dispenser may provide such notice in written material provided to the recipient, or may obtain written consent from the recipient.

B. Any prescriber who intends to request information from the program about a patient or prospective patient shall post a sign that can be easily viewed by the public that discloses to the public that the prescriber may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the prescriber may provide such notice in written material provided to the patient, or may obtain written consent from the patient.

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West Virginia
ADC 69-7-29

West Virginia Code of State Rules (2014)
Title 69. Department of Health and Human Resources
Legislative Rule (Ser. 7)
Series 7. Regulation of Opioid Treatment Programs

§ 69-7-29. Orientation.

29.1. Every person admitted to an opioid treatment program shall receive program orientation. The orientation shall be made verbally at the earliest opportunity at which the patient is stable and capable of understanding and retaining the information presented. Information provided in the orientation shall be given to the patient at the time the decision is made to admit the patient, regardless of his or her condition.

29.2. Orientation shall include the following:

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29.2.d. An explanation about obtaining reports from the Controlled Substances Monitoring Program database; how the reports are used to treat and monitor the patient and the requirement that the reports be maintained in the patient files.

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