STATES THAT REQUIRE CERTAIN AUTHORIZED USERS TO UNDERGO TRAINING AND/OR COMPLETION OF EDUCATIONAL COURSES BEFORE ACCESSING PMP DATA

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Please note that this compilation only includes those states that *require* some type of training or educational course by certain authorized users before they can access the prescription monitoring program. Numerous states offer *optional* training courses for users, and those states are not included in this document.

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Kentucky

Baldwin's Kentucky Revised Statutes Annotated (2012)
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

(1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.

(2) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(3) Every dispenser within the Commonwealth who is licensed to prescribe or dispense a controlled substance other than by the Board of Pharmacy, or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy, shall report to the Cabinet for Health and Family Services the data required by this section as prescribed by the cabinet by administrative regulation until July 1, 2013, at which time the report shall be filed with the cabinet within one (1) day of the dispensing, except that reporting shall not be required for:

(a) A drug, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, administered directly to a patient; or

(b) A drug, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) National drug code of the drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program in conformity with subsection (7) of this section;

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

(e) A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who requests information and certifies that the requested information is for the purpose of:

1. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient; or

2. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;

(f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;

2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or

3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

(g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;

2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;

3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or

4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area; or

(h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is

documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.

(7) The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:

(a) Appropriately managed by a single outpatient pharmacy or primary care physician; or

(b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.

(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

(a) A person specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with any other persons specified in subsection (6)(b) of this section authorized to receive data or a report if the persons specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section;

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B; and

(d) A practitioner, pharmacist, or employee who obtains data under subsection (6)(e) of this section may share the report with the patient or person authorized to act on the patient's behalf and place the report in the patient's medical record, with that individual report then being deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.

(9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class 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.

(13) (a) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, may submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot or continuing project to study, create, or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances.

(b) The pilot project shall:

1. Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

2. Study the use of an interactive system that includes a relational data base with query capability.

(c) Funding to create or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health and Family Services may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a

continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.

(17) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.

(18) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be an error resolution process allowing a patient to whom a report had been disclosed under subsection (8) of this section to request the correction of inaccurate information contained in the system relating to that patient.

Baldwin's Kentucky Revised Statutes Annotated (2012)
Title XVIII. Public Health
Chapter 218A. Controlled Substances

§ 218A.240 Controlled substances; duties and authority of state and local officers, Cabinet for Health and Family Services, and Kentucky Board of Pharmacy; civil proceedings; identification of trends; identification of prescribers, dispensers, and patients for licensing board; review of hospital's or health care facility's prescribing and dispensing practices

(1) All police officers and deputy sheriffs directly employed full-time by state, county, city, urban-county, or consolidated local governments, the Department of Kentucky State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health and Family Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths; to enter upon premises at all times for the purpose of

making inspections; to seize evidence; to interrogate all persons; to require the production of prescriptions, of books, papers, documents, or other evidence; to employ special investigators; and to expend funds for the purpose of obtaining evidence and to use data obtained under KRS 218A.202(7) in any administrative proceeding before the cabinet.

(3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health and Family Services.

(4) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

(a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

(b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

(c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.

(d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.420, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.

(6) The Cabinet for Health and Family Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.

(7) (a) The Cabinet for Health and Family Services shall proactively use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and

educational purposes and shall proactively identify trends in controlled substance usage and other potential problem areas. **Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection.** The cabinet shall notify a state licensing board listed in KRS 218A.205 if a report or analysis conducted under this subsection indicates that further investigation about improper, inappropriate or illegal prescribing or dispensing may be necessary by the board. The board shall consider each report and may, after giving due consideration to areas of practice, specialties, board certifications, and appropriate standards of care, request and receive a follow-up report or analysis containing relevant information as to the prescriber or dispenser and his or her patients.

(b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure, the Board of Nursing, the Office of Drug Control Policy, and the Board of Pharmacy, to be used to generate public trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850. The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system. Except as provided in subsection (8) of this section, these trend reports shall not identify an individual prescriber, dispenser, or patient. Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to this paragraph except that the report shall not identify an individual prescriber, dispenser, or patient.

(8) If the cabinet deems it to be necessary and appropriate, upon the request of a state licensing board listed in KRS 218A.205, the cabinet shall provide the requesting board with the identity of prescribers, dispensers, and patients used to compile a specific trend report.

(9) Any hospital or other health care facility may petition the cabinet to review data from the electronic system specified in KRS 218A.202 as it relates to employees of that facility to determine if inappropriate prescribing or dispensing practices are occurring. The cabinet may initiate any investigation in such cases as he or she determines is appropriate, and may request the assistance from the hospitals or health care facilities in the investigation.

Louisiana

West's Louisiana Statutes Annotated (2012)
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X-A. Prescription Monitoring Program

§ 1007. Access to prescription monitoring information

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

B. The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons or entities except as in Subsections C, D, E, F, G, H, and I of this Section.

C. The board shall review the prescription monitoring information. If there is reasonable suspicion to believe a breach of professional or occupational standards may have occurred, the board shall notify the appropriate professional licensing agency with jurisdiction over prescribers or dispensers and shall provide prescription monitoring information required for an investigation.

D. The board shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information that identifies or could be reasonably used to identify prescribers, dispensers, and individual patients or persons who received prescriptions from prescribers.

E. The following persons, after successful completion of the educational courses identified in R.S. 40:1008, may access prescription monitoring information at no cost and in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

(1) Persons authorized to prescribe or dispense controlled substances or drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients, or for verifying their prescribing records.

(2) Designated representatives from the professional licensing, certification, or regulatory agencies of this state or another state charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern.

(3) Designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients.

(4) Designated representatives of the board and any vendor or contractor establishing or maintaining the prescription monitoring program.

F. The board may provide a report containing prescription monitoring information upon application of local, state, out-of-state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances or other drugs of concern in compliance with and as limited by the relevant requirements of any of the following:

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

(2) A grand jury subpoena.

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

(a) The information sought is relevant and material to a legitimate law enforcement inquiry.

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

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

G. The board may provide prescription monitoring information in response to queries from prescription monitoring programs located in other states, through its participation in a secure interstate data exchange system. However, the board shall not provide prescription monitoring information to prescription monitoring programs located in other states unless the laws of the state receiving the information provide at a minimum both of the following:

(1) That the prescription monitoring information is protected health information, not subject to Public Records Law, and not subject to disclosure.

(2) That the prescription monitoring information shall not be subject to civil subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.

H. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third party conduit that has been approved by the board.

I. The board may provide prescription monitoring information to an individual who requests his personal prescription monitoring information in accordance with procedures established by board regulation.

J. The board and the advisory council shall be immune from civil liability arising from inaccuracy of any of the information submitted to the board pursuant to this Part.

West's Louisiana Statutes Annotated (2012)
Louisiana Revised Statutes
Title 40. Public Health and Safety
Chapter 4. Food and Drugs
Part X-A. Prescription Monitoring Program

§ 1008. Education and treatment

A. The board shall, in consultation with and upon the recommendation of the advisory council, implement the following education courses:

(1) An orientation course during the implementation phase of the prescription monitoring program.

(2) A course for persons who are authorized to access the prescription monitoring information, but who did not participate in the orientation course.

(3) A course for persons who are authorized to access the prescription monitoring information, but who have violated the laws or breached occupational standards involving the prescribing, dispensing, or use of any controlled substances or drugs monitored by the prescription monitoring program.

(4) A continuing education course for health care providers or professionals on prescribing practices, pharmacology, and the identification, treatment, and referral of a patient addicted to or abusing controlled substances or drugs monitored by the prescription monitoring program.

B. The board shall, in consultation with and upon recommendation of the advisory council, implement an educational program to inform the public about the use, diversion and abuse of, addiction to, and treatment for the addiction to controlled substances or drugs monitored by the prescription monitoring program.

C. The board shall, upon reasonable suspicion, refer potential or alleged impaired prescribers and dispensers to the appropriate professional licensing or certification agency to ensure intervention, treatment, and ongoing monitoring and follow-up.

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Massachusetts

Massachusetts General Laws Annotated (2012)
Part I. Administration of the Government (Ch. 1-182)
Title XV. Regulation of Trade (Ch. 93-110H)
Chapter 94C. Controlled Substances Act

<Text of Section Effective January 1, 2013>

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

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

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

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

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

The department shall promulgate rules and regulations relative to the use of the prescription monitoring program by registered participants that shall include requiring participants to utilize the prescription monitoring program prior to the issuance of a prescription for a narcotic drug contained in Schedule II or III to a patient for the first time. The department may require participants to utilize the prescription monitoring program prior to the issuance to a patient for the first time of benzodiazepines or any other Schedule IV or V commonly abused prescription drug that may lead to physical or psychological dependence or that patients with a history of substance dependence have been shown to experience significant addictive symptoms. The regulations shall specify the circumstances under which such narcotics may be prescribed without first utilizing the prescription monitoring program. The regulations may also specify the circumstances under which licensed support staff may use the prescription monitoring program on behalf of a registered participant. **When promulgating rules and regulations, the department shall also require that pharmacists be trained in the use of the prescription monitoring program as part of the continuing education requirements mandated for licensure by the board of registration in pharmacy, pursuant to section 24A of chapter 112 of the General Laws.** The department shall also study the feasibility and value of expanding the prescription monitoring program to include Schedule VI prescription drugs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

At this time, pursuant to their website, the Massachusetts Executive Office of Health and Human Services requires that duly authorized representatives of the following organizations receive in-person training from the Drug Control Program before receiving or accessing information in the PMP:

a. Office of the Attorney General of Massachusetts
b. Massachusetts State Police Diversion Investigative Unit
c. United States Drug Enforcement Administration
d. Massachusetts Executive Office of Health and Human Services
e. Massachusetts Board of Registration in Medicine

f. Massachusetts Board of Registration in Dentistry
g. Massachusetts Board of Registration in Nursing
h. Massachusetts Board of Registration in Pharmacy
i. Massachusetts Board of Registration of Physician Assistants
j. Massachusetts Board of Registration in Podiatry
k. Massachusetts Department of Public Health, Drug Control Program.

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Montana

Per the state PDMP representative, Montana requires all authorized users to complete a training program before being granted access.

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Nevada

West's Nevada Revised Statutes Annotated (2012)
Title 40. Public Health and Safety
Chapter 453. Controlled Substances
Uniform Controlled Substances Act
General Provisions

§ 453.1545. Board and Division required to develop computerized program to track prescriptions for controlled substances and course of training for persons who access program; Board required to provide certain practitioners Internet access to database of program; reporting of illegal activity; agreements with state agency to receive or exchange information obtained by program; confidentiality of information obtained from program; immunity from liability for practitioner who transmits certain required information and reports; gifts, grants and donations

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

(a) Be designed to provide information regarding:

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

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

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

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

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

(1) The name of the person;

(2) The physical address of the person;

(3) The telephone number of the person; and

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

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

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

(b) Completes the course of instruction described in subsection 7.

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

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

5. The Board and the Division may cooperatively enter into a written agreement with an agency of any other state to provide, receive or exchange information obtained by the program with a program established in that state which is substantially similar to the program established pursuant to subsection 1, including, without limitation, providing such state access to the database of the program or transmitting information to and receiving information from such state. Any information provided, received or exchanged as part of an agreement made pursuant to this section may only be used in accordance with the provisions of this chapter.

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

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

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

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

8. A practitioner who is authorized to write prescriptions for each person who is authorized to dispense controlled substances listed in schedule II, III or IV who acts with reasonable care when transmitting to the Board or the Division a report or information required by this section or a regulation adopted pursuant thereto is immune from civil and criminal liability relating to such action.

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

New Jersey

Pursuant to the state PMP representative, New Jersey requires authorized users to receive training prior to accessing the PMP database.

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New Mexico

Code of New Mexico Rules (2012)
Title 16. Occupational and Professional Licensing
Chapter 19. Pharmacists
Part 29. Controlled Substance Prescription Monitoring Program

16.19.29. CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM

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

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

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

16.19.29.4 DURATION: Permanent.

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

16.19.29.6 OBJECTIVE: The objective of Part 29 of Chapter 19 is to promote the public health and welfare by detecting and preventing substance abuse and encouraging appropriate treatment of pain and other conditions for which controlled substances are prescribed. The purpose of the system is to improve access to controlled substances for legitimate medical needs by allowing a practitioner or a pharmacist to obtain a patient's pharmaceutical history related to controlled substances. The program's objectives will include education of the public and health care professionals regarding the nature and extent of the problem of drug abuse, appropriate prescribing and use of controlled substances, and the medical treatment options for abusers of controlled substances and pain management.

16.19.29.7 DEFINITIONS:

A. “Controlled substance” has the meaning given such term in 30-31-2 NMSA.

B. “Board of pharmacy” means the state agency responsible for the functions listed in 16.19.29.8 NMAC.

C. “Patient” means the person or animal who is the ultimate user of a drug for whom a prescription is issued and for whom a drug is dispensed.

D. “Dispenser” means the person who delivers a schedule II - V controlled substance as defined in Subsection E to the ultimate user, but does not include the following:

(1) a licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner, or other authorized person who administers such a substance; or

(3) a wholesale distributor of a schedule II - V controlled substance;

(4) clinics, urgent care or emergency departments dispensing no more than 12 dosage units to an individual patient within a 72 hour period.

E. “Prescription monitoring program” (PMP) means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners, of which the data is to be used to support efforts in education, research, enforcement and abuse prevention.

F. “Schedule II, III, IV and V controlled substance” means substances that are listed in schedules II, III, IV, and V of the schedules provided under 30-31-5 to 30-31-10 of NMSA or the federal controlled substances regulation (21 U.S.C. 812).

G. “Report” means a compilation of data concerning a patient, a dispenser, a practitioner, or a controlled substance.

16.19.29.8 REQUIREMENTS FOR THE PRESCRIPTION MONITORING PROGRAM:

A. The board shall monitor the dispensing of all schedule II, III, IV and V controlled substances by all pharmacies licensed to dispense such substances to patients in this state.

B. Each dispenser shall submit to the board by electronic means information regarding each prescription dispensed for a drug included under Subsection A of this section. Information to be reported shall conform to the standards developed by the American society for automation in pharmacy (ASAP) and published in the “ASAP telecommunications format for controlled substances”, 2009 4.1 edition. Information submitted for each prescription shall include:

(1) dispenser DEA number;

(2) date prescription filled;

(3) prescription number;

(4) whether the prescription is new or a refill;

(5) NDC code for drug dispensed;

(6) quantity dispensed;

(7) patient name;

(8) patient address;

(9) patient date of birth;

(10) prescriber DEA number;

(11) date prescription issued by prescriber;

(12) and payment classification.

C. Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board; but shall report at least every seven days. The executive director shall have the authority to approve submission schedules that exceed seven days. A record of each controlled substance prescription dispensed must be transmitted to the boards' agent electronically.

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

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

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

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

D. The board will establish written protocols for reviewing the prescription data reported. These protocols will be reviewed and approved by the board as needed but at least once every calendar year. These protocols will define information to be screened, frequency and thresholds for

screening and the parameters for using the data. Data will be used to notify providers, patients and pharmacies to educate, provide for patient management and treatment options.

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

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

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

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

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

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

(6) human services department regarding medicaid program recipients;

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

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

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

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

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

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

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

16.19.29.10 REPORTS: A written request will be filed with the board prior to release of a report.

A. Persons listed in Paragraphs (1) through (10) of Subsection E of 16.19.29.9 NMAC must submit a written request listing the information for the report.

B. Reports will be prepared and delivered to the requesting person via U.S. mail, facsimile, or other electronic means.

C. Reports may be provided by secured electronic means after verification of electronic request.

D. The program will produce reports for the board that evaluate the effectiveness of the program and assist in identifying diversion of controlled substances. The program will produce statistical reports to evaluate the dispensing of controlled substances and utilization of the program. These reports will be able to provide data on:

(1) number of solicited reports from prescribers for a specified time period;

(2) number of solicited reports from a specified prescriber for a specified time period;

(3) number of solicited reports from pharmacies for a specified time period;

(4) number of solicited reports from a specified pharmacy for a specific time period;

(5) number of solicited reports from other unauthorized individuals for a specified time period;

(6) number of individuals receiving a prescription for a specified schedule for a specified time period;

(7) threshold report of number of individuals receiving a prescription for a specified schedule from 6 or more prescribers or 6 or more pharmacies within a specified time period;

(8) number of solid dosage units for a specified schedule for pain relievers, tranquilizers, stimulants and sedatives for a specified time period;

(9) list of individual prescriptions for a specified zip-code or state code;

(10) number of prescriptions for a specified zip-code;

(11) number of dosage units for a specified drug and specified zip-code.

E. The board shall receive a quarterly program outcomes report from staff or contractors. A statistical analysis of the data that does not include protected information should be reported on the web site or in the newsletter.

16.19.29.11 AUTHORITY TO CONTRACT: The board is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contract shall be bound to comply with the provisions regarding confidentiality of prescription information in 16.19.29.9 NMAC of this regulation and shall be subject to the penalties specified in 16.19.29.12 NMAC of this regulation for unlawful regulations.

16.19.29.12 REGISTRATION FOR ACCESS TO PRESCRIPTION INFORMATION:

A. Practitioners with individual drug enforcement administration (DEA) issued numbers will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued to the practitioner. One subaccount per practitioner account is authorized for an agent of the practitioner. The agent designated by the practitioner will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued to the agent.

B. Pharmacies with DEA issued numbers will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued. Pharmacies will designate one individual who will complete and submit a hard copy written, signed and notarized application. After verification of submitted information, a username and password will be issued to the individual. Pharmacies will not be permitted to obtain a subaccount.

C. All registrations will be renewed every three years by completing and submitting a new application.

D. All registrants to the prescription monitoring program will complete a web based training program approved by the board.

16.19.29.13 INFORMATION EXCHANGE WITH OTHER PRESCRIPTION MONITORING PROGRAMS:

A. The New Mexico board of pharmacy may provide prescription monitoring information to other states' prescription monitoring programs and such information may be used by those programs consistent with the provisions of the rule.

B. The New Mexico board of pharmacy may request and receive prescription monitoring information from other states' prescription monitoring programs and may use such information under provisions of this rule.

C. The New Mexico board of pharmacy may develop the capability to transmit information to and receive information from other prescription monitoring programs employing the standards of interoperability.

D. The New Mexico board of pharmacy is authorized to enter into written agreements with other states' prescription monitoring programs or other entities hosting compatible information sharing technologies for the purpose of describing the terms and conditions for sharing of prescription information under this section.

16.19.29.14 PENALTIES:

A. A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this regulation or knowingly submits incorrect prescription information shall be subject to disciplinary proceedings as defined in 61-11-20 NMSA.

B. Prescription information submitted to the New Mexico prescription monitoring program (PMP) is protected health information. Registrants with access to the PMP are required to exercise due diligence in protecting this information and access it only as necessary in the course of legitimate professional regulatory, or law enforcement duties.

C. Individual registrants found to be in violation of this section may be subject to one or more of the following actions:

(1) Termination of access to the program information.

(2) A complaint may be filed with appropriate professional regulatory entities.

16.19.29.15 SEVERABILITY: If any provisions of this regulation or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the regulation which can be given effect without the invalid provisions or applications, and to this end the provisions of this regulation are severable.

South Carolina

Pursuant to their website, the South Carolina Department of Health and Environmental Control requires all practitioners and pharmacists requesting direct access to the PMP database to complete a SCRIPTS online training course prior to submitting an access request form.

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Utah

West's Utah Code Annotated (2012)
Title 58. Occupations and Professions
Chapter 37F. Controlled Substance Database Act
Part 4. Registration and Training

§ 58-37f-402. Online tutorial and test relating to the database--Fees--Rulemaking authority

(1) The division shall develop an online tutorial and an online test for registration to use the database that provides instruction regarding, and tests, the following:

(a) the purpose of the database;

(b) how to access and use the database;

(c) the law relating to:

(i) the use of the database; and

(ii) the information submitted to, and obtained from, the database; and

(d) basic knowledge that is important for all people who prescribe controlled substances to know in order to help ensure the health and safety of an individual to whom a controlled substance is prescribed.

(2) The division shall design the test described in this section as follows:

(a) an individual shall answer all of the questions correctly in order to pass the test;

(b) an individual shall be permitted to immediately retake the portion of the test that the individual answers incorrectly as many times as necessary for the individual to pass the test; and

(c) after an individual takes the test, the test software shall:

(i) immediately inform the individual of the number of questions that were answered incorrectly;

(ii) provide the correct answers;

(iii) replay the portion of the tutorial that relates to the incorrectly answered questions; and

(iv) ask the individual the incorrectly answered questions again.

(3) The division shall design the tutorial and test so that it is possible to take the tutorial and complete the test in 20 minutes or less, if the individual answers all of the questions correctly on the first attempt.

(4) The division shall ensure that the tutorial and test described in this section are fully functional and available for use online on or before November 1, 2010.

(5) The division shall impose a fee, in accordance with Section 63J-1-504, on an individual who takes the test described in this section, to pay the costs incurred by the division to:

(a) develop, implement, and administer the tutorial and test described in this section; and

(b) fulfill the other duties imposed on the division under this part.

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

(a) develop, implement, and administer the tutorial and test described in this section; and

(b) fulfill the other duties imposed on the division under this part.

(7) The Department of Health shall assist the division in developing the portion of the test described in Subsection (1)(d).

(8) Completing the online tutorial and passing the online test described in this section shall count as 1/2 hour of continuing professional education under Subsection 58-37-6.5(1)(a).

Vermont

West's Vermont Statutes Annotated (2012)
Title Eighteen. Health
Part 5. Foods and Drugs
Chapter 84A. Vermont Prescription Monitoring System

§ 4282. Definitions

As used in this chapter:

(1) "Dispenser" shall mean any person who "dispenses" or engages in "dispensing" as those terms are defined in subdivision 2022(5) of Title 26.

(2) "Health care provider" shall mean an individual licensed, certified, or authorized by law to provide professional health care service in this state to an individual during that individual's medical or dental care, treatment, or confinement.

(3) "Trained law enforcement officer" shall include any officer designated by the department of public safety who has completed a training program established by rule by the department of health, which is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from VPMS.

(4) "VPMS" shall mean the Vermont prescription monitoring system established under this chapter.

West's Vermont Administrative Code (2012)
Title 12. Agency of Human Services
Subtitle 5. Department of Health
General
Rule 21. Prescription Monitoring System
12-5-21:4. TRAINING

Section 4.1 Designation of Training Programs.

The Department, in consultation with the Advisory Committee and one or more individuals with medical expertise relating to prescribing controlled substances and treatment of drug addiction and dependence, will periodically designate one or more training programs for law enforcement officers relating to responsible and proper use of VPMS data. The Department will maintain a list of current trained law enforcement officers qualified to receive a report from a professional licensure board as authorized by 18 V.S.A. § 4284(b)(5).

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West Virginia

West's Annotated Code of West Virginia (2012)
Chapter 60A. Uniform Controlled Substances Act
Article 9. Controlled Substances Monitoring

§ 60A-9-5. Confidentiality; limited access to records; period of retention; no civil liability for required reporting

(a)(1) The information required by this article to be kept by the State Board of Pharmacy is confidential and not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovery in civil matters absent a court order and is open to inspection only by inspectors and agents of the State Board of Pharmacy, members of the West Virginia State Police expressly authorized by the Superintendent of the West Virginia State Police to have access to the information, authorized agents of local law-enforcement agencies as members of a federally affiliated drug task force, authorized agents of the federal Drug Enforcement Administration, duly authorized agents of the Bureau for Medical Services, duly authorized agents of the Office of the Chief Medical Examiner for use in post-mortem examinations, duly authorized agents of licensing boards of practitioners in this state and other states authorized to prescribe Schedules II, III and IV controlled substances, prescribing practitioners and pharmacists and persons with an enforceable court order or regulatory agency administrative subpoena: **Provided, That all law-enforcement personnel who have access to the Controlled Substances Monitoring Program database shall be granted access in accordance with applicable state laws and Board of Pharmacy legislative rules, shall be certified as a West Virginia law-enforcement officer and shall have successfully completed United States Drug Enforcement Administration Diversion Training and National Association of Drug Diversion Investigation Training.** All information released by the State Board of Pharmacy must be related to a specific patient or a specific individual or entity under investigation by any of the above parties except that practitioners who prescribe or dispense controlled substances may request specific data related to their Drug Enforcement Administration controlled substance registration number or for the purpose of providing treatment to a patient: Provided, however, That the West Virginia Controlled Substances Monitoring Program Database Review Committee established in subsection (b) of this section is authorized to query the database to comply with said subsection.

(2) Subject to the provisions of subdivision (1) of this subsection, the board shall also review the West Virginia Controlled Substance Monitoring Program database and issue reports that identify abnormal or unusual practices of patients who exceed parameters as determined by the advisory committee established in this section. The board shall communicate with prescribers and dispensers to more effectively manage the medications of their patients in the manner recommended by the advisory committee. All other reports produced by the board shall be kept confidential. The board shall maintain the information required by this article for a period of not less than five years. Notwithstanding any other provisions of this code to the contrary, data

obtained under the provisions of this article may be used for compilation of educational, scholarly or statistical purposes, and may be shared with the West Virginia Department of Health and Human Resources for those purposes, as long as the identities of persons or entities and any personally identifiable information, including protected health information, contained therein shall be redacted, scrubbed or otherwise irreversibly destroyed in a manner that will preserve the confidential nature of the information. No individual or entity required to report under section four of this article may be subject to a claim for civil damages or other civil relief for the reporting of information to the Board of Pharmacy as required under and in accordance with the provisions of this article.

(3) The board shall establish an advisory committee to develop, implement and recommend parameters to be used in identifying abnormal or unusual usage patterns of patients in this state. This advisory committee shall:

(A) Consist of the following members: A physician licensed by the West Virginia Board of Medicine, a dentist licensed by the West Virginia Board of Dental Examiners, a physician licensed by the West Virginia Board of Osteopathy, a licensed physician certified by the American Board of Pain Medicine, a licensed physician board certified in medical oncology recommended by the West Virginia State Medical Association, a licensed physician board certified in palliative care recommended by the West Virginia Center on End of Life Care, a pharmacist licensed by the West Virginia Board of Pharmacy, a licensed physician member of the West Virginia Academy of Family Physicians, an expert in drug diversion and such other members as determined by the board.

(B) Recommend parameters to identify abnormal or unusual usage patterns of controlled substances for patients in order to prepare reports as requested in accordance with subsection (a), subdivision (2) of this section.

(C) Make recommendations for training, research and other areas that are determined by the committee to have the potential to reduce inappropriate use of prescription drugs in this state, including, but not limited to, studying issues related to diversion of controlled substances used for the management of opioid addiction.

(D) Monitor the ability of medical services providers, health care facilities, pharmacists and pharmacies to meet the twenty-four hour reporting requirement for the Controlled Substances Monitoring Program set forth in section three of this article, and report on the feasibility of requiring real-time reporting.

(E) Establish outreach programs with local law enforcement to provide education to local law enforcement on the requirements and use of the Controlled Substances Monitoring Program database established in this article.

(b) The Board of Pharmacy shall create a West Virginia Controlled Substances Monitoring Program Database Review Committee of individuals consisting of two prosecuting attorneys from West Virginia counties, two physicians with specialties which require extensive use of controlled substances and a pharmacist who is trained in the use and abuse of controlled substances. The review committee may determine that an additional physician who is an expert in the field under investigation be added to the team when the facts of a case indicate that the additional expertise is required. The review committee, working independently, may query the database based on parameters established by the advisory committee. The review committee may make determinations on a case-by-case basis on specific unusual prescribing or dispensing patterns indicated by outliers in the system or abnormal or unusual usage patterns of controlled substances by patients which the review committee has reasonable cause to believe necessitates further action by law enforcement or the licensing board having jurisdiction over the prescribers or dispensers under consideration. The review committee shall also review notices provided by the chief medical examiner pursuant to subsection (h), section ten, article twelve, chapter sixty-one of this code and determine on a case-by-case basis whether a practitioner who prescribed or dispensed a controlled substance resulting in or contributing to the drug overdose may have breached professional or occupational standards or committed a criminal act when prescribing the controlled substance at issue to the decedent. Only in those cases in which there is reasonable cause to believe a breach of professional or occupational standards or a criminal act may have occurred, the review committee shall notify the appropriate professional licensing agency having jurisdiction over the applicable prescriber or dispenser and appropriate law-enforcement agencies and provide pertinent information from the database for their consideration. The number of cases identified shall be determined by the review committee based on a number that can be adequately reviewed by the review committee. The information obtained and developed may not be shared except as provided in this article and is not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovering in civil matters absent a court order.

(c) The Board of Pharmacy is responsible for establishing and providing administrative support for the advisory committee and the West Virginia Controlled Substances Monitoring Program Database Review Committee. The advisory committee and the review committee shall elect a chair by majority vote. Members of the advisory committee and the review committee may not be compensated in their capacity as members but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) The board shall promulgate rules with advice and consent of the advisory committee, in accordance with the provisions of article three, chapter twenty-nine-a of this code on or before June 1, 2013. The legislative rules must include, but shall not be limited to, the following matters: (1) Identifying parameters used in identifying abnormal or unusual prescribing or dispensing patterns; (2) processing parameters and developing reports of abnormal or unusual prescribing or dispensing patterns for patients, practitioners and dispensers; (3) establishing the information to be contained in reports and the process by which the reports will be generated and disseminated; and (4) setting up processes and procedures to ensure that the privacy,

confidentiality, and security of information collected, recorded, transmitted and maintained by the review committee is not disclosed except as provided in this section.

(e) All practitioners, as that term is defined in section one hundred-one, article two of this chapter who prescribe or dispense schedule II, III or IV controlled substances shall, on or before July 1, 2011, have online or other form of electronic access to the West Virginia Controlled Substances Monitoring Program database;

(f) Persons or entities with access to the West Virginia Controlled Substances Monitoring Program database pursuant to this section may, pursuant to rules promulgated by the Board of Pharmacy, delegate appropriate personnel to have access to said database;

(g) Good faith reliance by a practitioner on information contained in the West Virginia Controlled Substances Monitoring Program database in prescribing or dispensing or refusing or declining to prescribe or dispense a schedule II, III or IV controlled substance shall constitute an absolute defense in any civil or criminal action brought due to prescribing or dispensing or refusing or declining to prescribe or dispense; and

(h) A prescribing or dispensing practitioner may notify law enforcement of a patient who, in the prescribing or dispensing practitioner's judgment, may be in violation of section four hundred ten, article four of this chapter, based on information obtained and reviewed from the controlled substances monitoring database. A prescribing or dispensing practitioner who makes a notification pursuant to this subsection is immune from any civil, administrative or criminal liability that otherwise might be incurred or imposed because of the notification if the notification is made in good faith.

(i) Nothing in the article may be construed to require a practitioner to access the West Virginia Controlled Substances Monitoring Program database except as provided in section five-a of this article.

(j) The Board of Pharmacy shall provide an annual report on the West Virginia Controlled Substance Monitoring Program to the Legislative Oversight Commission on Health and Human Resources Accountability with recommendations for needed legislation no later than January 1 of each year.