

NAMSDL



National Alliance for Model State Drug Laws

STATES WITH STATUTORY AUTHORITY TO REQUIRE NONRESIDENT PHARMACIES TO REPORT TO PRESCRIPTION MONITORING PROGRAM

This project was supported by Cooperative Agreement No. 2012-DC-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the office of Juvenile Justice and Delinquency Prevention, the office for Victims of Crime, the Community Capacity Development Office, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

© 2012 Research is current as of July 9, 2012. In order to ensure that the information contained herein is as current as possible, research is conducted using nationwide legal database software, individual state websites, and contact with state PMP officials. Please contact Heather Gray at (703) 836-6100, ext. 114 or hgray@namsdl.org with any additional updates or information that may be relevant to this document. This document is intended for educational purposes only and does not constitute legal advice or opinion. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS. 215 Lincoln Ave. Suite 201, Santa Fe, NM 87501.

Overview

Forty-eight states currently have laws and/or regulations in place regarding Prescription Monitoring Programs (PMPs). Of those, 41 require nonresident pharmacies – i.e., mail order, internet, and/or out-of-state pharmacies – to report to the state PMP. Only California, Georgia, Pennsylvania, and Texas do not require nonresident pharmacies to report prescription drug information to their state PMP. California and Texas require nonresident pharmacies to register with the regulatory board, but do not require them to submit prescription data. Georgia and Pennsylvania neither require nonresident pharmacies to submit prescription data nor do they require them to be licensed to do business in the state.

Nebraska and Wisconsin require nonresident pharmacies to be licensed, permitted and/or registered in their state; however, neither Nebraska nor Wisconsin has regulations in place at this time regarding submission of PMP data.

Massachusetts requires nonresident pharmacies to submit prescription information to the state PMP by rule. However, there is no corresponding requirement for a nonresident pharmacy to be licensed, registered or permitted by the regulatory board. Therefore, the Massachusetts PMP has no authority to require nonresident pharmacies to report prescription data.

Please note that this compilation reflects those states with statutory authority to require nonresident pharmacies to report to the state PMP. In some cases, a state with statutory authority to do so may not be actively collecting such data.

State Specific Information

Alabama

Alabama law requires every mail-order house (also known as a “nonresident pharmacy”) located outside of Alabama that dispenses drugs or medicines to anywhere inside the state of Alabama obtain a permit from the State Board of Pharmacy. Alabama regulation further requires that every such nonresident pharmacy comply with all statutory and regulatory requirements for controlled substances.

Alabama Code § 20-2-213 and Administrative Code 420-7-2-.12 specifically require “mail order pharmacies or pharmacy benefit programs filling prescriptions for or dispensing controlled substances to residents ...” of Alabama report to the state PMP.

Alaska

A pharmacy located outside of Alaska that regularly ships, mails, or delivers prescription drugs to consumers in Alaska is required to register with the board. All pharmacies licensed by the

board, including mail order pharmacies, are required to submit controlled substance prescription information to the state PMP per the Alaska PMP website.

Arizona

All nonresident pharmacies are required to obtain a nonresident permit and are required to report to the PMP all controlled substances dispensed to persons residing in Arizona.

Arkansas

Each dispenser located outside of Arkansas who is licensed and registered by the State Board of Pharmacy must submit information regarding each controlled substance prescription dispensed to a person whose address is within Arkansas. Every pharmacy that routinely ships, mails, or delivers a dispensed legend drug into Arkansas or otherwise practices pharmacy in Arkansas must hold a license issued by the Arkansas Board of Pharmacy.

California

Mail order pharmacies located out-of-state which ship, mail, or deliver controlled substances, dangerous drugs, or dangerous devices into California are defined as nonresident pharmacies under California Business & Professionals Code § 4112. Section 4112 requires such pharmacies to register with the California Board of Pharmacy, and to comply with all lawful directions and requests for information from the Board. Further, nonresident pharmacies must maintain records of all controlled substances, dangerous drugs and dangerous devices dispensed to patients in California so that the records are readily retrievable and distinguishable from the records of other drugs dispensed.

Additionally, California Business & Professionals Code § 4037 defines pharmacy as an area, place, or premise licensed by the Board of Pharmacy in which the profession of pharmacy is practiced and where prescriptions are compounded. However, this statute has not been deemed to include nonresident pharmacies within its purview. Consequently, given the language of the state PMP laws, nonresident pharmacies are not required to submit information to the state PMP.

Colorado

Colorado Section 12-22-702 defines “prescription drug outlet” as any resident or nonresident pharmacy outlet registered or licensed in Colorado where prescriptions are compounded and dispensed. All nonresident drug outlets that ship, mail, or deliver, in any manner, drugs or devices into the state of Colorado are required to be registered with the Board of Pharmacy. Further, Colorado law provides that all prescription drug outlets are required to submit information regarding controlled substances to the state PMP.

Connecticut

Each pharmacy shall submit to the PMP information regarding controlled substances dispensed by such pharmacy. All nonresident pharmacies must register with the Board and, pursuant to the Connecticut PMP website, must report information regarding all transactions for Schedule II – V controlled substances.

Delaware

Delaware requires all dispensers to submit information regarding Schedule II, III, IV and V controlled substances to the PMP. “Dispenser” is defined as a person authorized by the State to dispense or distribute any controlled substance or drug monitored by the PMP.

All pharmacies located outside the state which deliver in any manner a prescription drug to a patient in the state is a nonresident pharmacy and must obtain a permit.

Florida

Florida defines “pharmacy” as any pharmacy that is subject to licensure or regulation by the department and that dispenses or delivers a controlled substance to an individual or address in Florida. All pharmacies are required to report to the PMP.

All nonresident pharmacies must register with the board and must comply with all requests for information made by the board.

Georgia

Pursuant to the Georgia Board of Pharmacy, the board has no authority or jurisdiction over pharmacies outside the state of Georgia.

Hawaii

Hawaii law requires all pharmacies, including mail order pharmacies pursuant to the state PMP website, to submit all controlled substance prescription data to the state PMP. All out-of-state pharmacies must first obtain a permit from the Board prior to distributing, shipping, mailing, or delivering prescription drugs into the state.

Idaho

All pharmacies, including out-of-state mail order pharmacies, must register with the Board of Pharmacy. Pursuant to their Idaho registration, these pharmacies must report to the state PMP information involving all prescriptions dispensed in Idaho for Schedule II, III and IV controlled substances.

Illinois

Dispensers, defined by Illinois law as a practitioner who dispenses, must submit prescription information to the state PMP. “Practitioner” includes pharmacies licensed by the state of Illinois to dispense controlled substances. Mail order pharmacies delivering prescriptions in Illinois must be licensed by the Illinois Department of Professional Regulations and must, therefore, report the dispensing of all controlled substances to the state PMP.

Indiana

Mail order pharmacies delivering prescriptions in Indiana must be licensed as a nonresident pharmacy by the Indiana Board of Pharmacy. Pursuant to the state PMP website, licensed dispensers, including nonresident pharmacies, are required to submit controlled substance prescription data to the PMP.

Iowa

Iowa law requires all licensed pharmacies that dispense controlled substances to patients in the state to submit information to the PMP. All nonresident pharmacies are required to be licensed by the board.

Kansas

All dispensers who dispense scheduled substances and drugs of concern in the state of Kansas or to an address in the state of Kansas are required to submit prescription information to the PMP. Nonresident pharmacies are required to register with the Board of Pharmacy before being permitted to ship, mail, or deliver, in any manner, prescription drugs to a patient in Kansas.

Kentucky

Every person or pharmacy located outside of Kentucky which does business, physically or by means of the Internet, facsimile, phone, mail, or other means, inside the state of Kentucky must have a current pharmacy permit issued by the Kentucky Board of Pharmacy. Such nonresident pharmacy must also submit all information regarding controlled substances dispensed to an address within Kentucky to the state PMP.

Louisiana

All pharmacies located outside of Louisiana which do business within the state must have a current pharmacy permit and shall be considered an out-of-state pharmacy. All dispensers, defined as those persons authorized to dispense controlled substances in the state of Louisiana, who dispense controlled substances and other drugs of concern in Louisiana or to an address in Louisiana are required to report to the PMP.

Maine

All dispensers are required to submit information regarding controlled substances to the state PMP. “Dispenser” is defined as a pharmacist who is licensed or registered pursuant to state law. Mail order prescription pharmacies must be licensed by the Board of Pharmacy and, therefore, are required to report to the PMP.

Maryland

Maryland specifically includes nonresident pharmacies in the definition of “dispenser,” and all nonresident pharmacies must have a permit from the Board of Pharmacy and must comply with all requests for information made by the Board. All dispensers must submit information to the state PMP.

Massachusetts

Pursuant to Massachusetts regulation 700.012, all pharmacies, including those in another state, commonwealth, district or territory, that deliver a controlled substance to a person in Massachusetts are required to report to the PMP. However, Massachusetts does not have any provision for the licensure of nonresident or mail order pharmacies and, thus, does not have authority to require nonresident pharmacies to report.

Michigan

A pharmacy licensed by the state that dispenses to an address in Michigan must report the dispensing of Schedule 2 through 5 prescription drugs to the PMP. Michigan requires that all pharmacies doing business in the state, whether or not located in the state, be licensed.

Minnesota

All pharmacies that regularly dispense medications for Minnesota residents and mail, ship, or deliver prescription medications into Minnesota are required to register with the Board of Pharmacy. Each dispenser, defined as a person authorized by law to dispense a controlled substance, is required to submit controlled substance prescription information to the state PMP. Per the Minnesota PMP website, that requirement includes mail order and out-of-state pharmacies.

Mississippi

Reporting of dispensing information to the PMP is mandatory for any entity dispensing controlled substances in or into the state of Mississippi. Mississippi law provides that any pharmacy located outside the state that ships, mails, or delivers, in any manner, controlled substances or prescription drugs into the state must have a permit from the Board of Pharmacy.

Montana

Every entity licensed by the board as a certified pharmacy or out-of-state mail order pharmacy that dispenses drugs to patients in Montana is required to provide prescription information to the PMP. All out-of-state mail service pharmacies are required to be registered with the board.

Nebraska

Nebraska law requires that any person operating a mail service pharmacy outside the state of Nebraska obtain a mail service pharmacy license before shipping, mailing, or in any manner delivering dispensed prescription drugs into the state. At this time, regulations have not been implemented regarding reporting requirements so it is unknown whether licensed mail service pharmacies would be required to submit prescription data to the PMP.

Nevada

Every pharmacy located outside of Nevada that provides mail order service to residents of Nevada must be licensed by the Board of Pharmacy. All registered pharmacies must report controlled substance prescription information to the state PMP.

New Hampshire

All dispensers who are licensed and registered by the Board of Pharmacy and who are located outside the boundaries of New Hampshire must submit information to the state PMP for all prescription dispensed to patients who reside in New Hampshire.

New Jersey

All pharmacies permitted by the New Jersey Board of Pharmacy are required to submit information about controlled substance prescriptions to the state PMP. All nonresident pharmacies that ship, mail, distribute or deliver in any manner into the state of New Jersey are required to be registered with the board.

New Mexico

The New Mexico Board of Pharmacy 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 the state of New Mexico. No nonresident pharmacy shall ship, mail or deliver prescription drugs to a patient in New Mexico unless it is first licensed by the Board. All nonresident pharmacies must, as a condition of their licensure, follow all statutory and regulatory requirements of New Mexico regarding controlled substances.

New York

All nonresident pharmacies that ship, mail, or deliver prescription drugs or devices to other establishments, authorized prescribers and/or patients residing in New York, including any such pharmacies that transact business via the internet, must register with the department. Further, all such nonresident pharmacies must comply with all statutory and regulatory requirements of the state of New York regarding controlled substances, including reporting to the state PMP.

North Carolina

Any pharmacy which ships, mails, or delivers in any manner a legend drug into North Carolina must register with the Board of Pharmacy. The pharmacy must employ a pharmacist who has met requirements for licensure equivalent to the requirements of North Carolina, and such pharmacist must agree in writing to be subject to the provisions of the Pharmacy Act and the rules of the Board. "Dispenser" is defined as a person who delivers a Schedule II through V controlled substance to a patient in North Carolina and would include a nonresident pharmacist. All dispensers are required to report to the state PMP.

North Dakota

Any pharmacy operating outside of North Dakota which ships, mails, or delivers in any manner a dispensed prescription drug or legend drug into North Dakota must obtain and hold a pharmacy permit issued by the North Dakota Board of Pharmacy and must abide by all state laws and rules of the board. Pursuant to state law and rules, every dispenser licensed by any North Dakota regulatory agency must submit information regarding controlled substance prescriptions dispensed to the state PMP.

Ohio

All pharmacies located outside of Ohio that are licensed as terminal distributors of dangerous drugs shall report all dangerous drugs that are dispensed to residents of Ohio to the PMP. Every person who sells dangerous drugs at retail for delivery or distribution to persons residing in the state of Ohio are required to be licensed by Ohio as a terminal distributor of dangerous drugs and must comply with all statutory and regulatory requirements of the state of Ohio for controlled substances, including reporting to the PMP.

Oklahoma

Nonresident drug outlets are required to obtain a registration issued by the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and, pursuant to Okla. Stat. Ann. Tit. 63, § 2-309C, are required to submit information to the state PMP within seven days of the date the controlled substance is dispensed.

Oregon

Pharmacies licensed with the Oregon Board of Pharmacy that dispense controlled substances in the state of Oregon or to an address in the state are required to report prescription data to the PMP. All out of state pharmacies are required to obtain a license from the board.

Pennsylvania

An out-of-state mail order pharmacy delivering prescription drugs to a location in Pennsylvania is not required to be licensed under the Pharmacy Act (Act) of Pennsylvania and, therefore, is not required to report data to the Commonwealth's PMP.

Under this Act, a pharmacy is defined as "every place properly issued a permit by the Board of Pharmacy where drugs ... are stored, dispensed or compounded ..." "Dispense" is defined under the Act to mean the "preparation of a prescription drug ... in a suitable container appropriately labeled for such use ..." Under Pennsylvania law, a pharmacy dispenses in the location where the drug is prepared and labeled for proper use which would be the physical location of the pharmacy and not the patient. An out-of-state mail order pharmacy is, therefore, outside of the jurisdiction of Pennsylvania since the drug is dispensed from the state where the drugs are prepared for subsequent use.

Rhode Island

All professionals licensed to dispense controlled substances to a resident of Rhode Island are required to report prescription and dispensing information for Schedules II and III controlled substances to the state PMP. Any pharmacy located outside of Rhode Island that ships, mails, or delivers, in any manner, legend drugs, controlled substances, or devices into Rhode Island is required to be licensed by the department and shall comply with the board regulations when dispensing legend drugs or devices to residents of Rhode Island, including reporting to the PMP.

South Carolina

South Carolina law requires all professionals licensed to dispense Schedule II, III and IV controlled substances in or into the state to report such information to the PMP. All nonresident pharmacies are required to obtain a permit from the Board of Pharmacy.

South Dakota

South Dakota law requires all dispensers to report controlled substance prescription information to the state PMP, including nonresident pharmacies that dispense and send prescriptions to South Dakota residents. Nonresident pharmacies are required to be licensed before doing business in South Dakota.

Tennessee

A dispenser who is licensed in the state of Tennessee, who is dispensing controlled substances from within or outside of the state, is required to submit information regarding the dispensing of Schedules II, III, IV and V controlled substances to the PMP. Tennessee law defines “dispenser” as any health care practitioner, pharmacist, and pharmacy that has authority to dispense controlled substances to any address within the state of Tennessee. All pharmacies that dispense and mail prescriptions from another state into Tennessee must be licensed by the Board of Pharmacy.

Texas

Texas law requires that nonresident pharmacies be licensed by the Board of Pharmacy. However, they do not require that nonresident pharmacies report to the state PMP.

Utah

Utah law requires any out-of-state pharmacy that ships a prescription drug to a resident within Utah to be licensed by the state. Pursuant to the Utah PMP website, those pharmacies are required to submit information to the state PMP.

Vermont

All pharmacies licensed by the Vermont Board of Pharmacy that dispense Schedule II, III and IV controlled substances to addresses within Vermont are required to submit information regarding such dispensing to the state PMP. All drug outlets, including nonresident pharmacies, are required to register and be licensed by the Board of Pharmacy.

Virginia

Any pharmacy located outside of Virginia that ships, mails, or delivers, in any manner, Schedule II through VI drugs or devices pursuant to a prescription into Virginia must register with the Board of Pharmacy and, further, must comply with the reporting requirements of the state PMP.

Washington

Nonresident pharmacies located outside of Washington that ship, mail, or deliver, in any manner, controlled substances, legend drugs, or devices into Washington must be licensed by the department of health and must submit all transactions involving patients with a Washington zip code to the PMP.

West Virginia

Whenever a prescription is filled by a pharmacy or pharmacist licensed by the Board of Pharmacy, but situated outside of West Virginia for delivery to a person residing in West Virginia, the pharmacy or pharmacist shall report the relevant information to the state PMP. All mail order and nonresident pharmacies are required to be registered by the Board of Pharmacy.

Wisconsin

No pharmacy that is in another state may ship, mail, or otherwise deliver a prescribed drug or device to persons inside Wisconsin unless the pharmacy is licensed by the Pharmacy Examining Board. At this time, the Board has not passed regulations outlining who must report to the state PMP so it is unknown whether out-of-state pharmacies will be required to submit controlled substance prescription information at this time.

Wyoming

Any pharmacy located outside of Wyoming that ships, mails, or delivers, in any manner, controlled substances or dangerous drugs or devices into Wyoming pursuant to a prescription or provides pharmaceutical care to a resident of Wyoming is a nonresident pharmacy and must obtain a license from the board. Further, all nonresident retail pharmacies are required to submit all information regarding the dispensing of Schedule II, III or IV controlled substances to patients in the state of Wyoming to the state PMP.