State PMP Laws that Explicitly Do Not Require Prescribers and/or Pharmacists to Access PMP Information

Research current through December 2014.

This project was supported by Grant No. G1399ONDCP03A, awarded by the Office of National Drug Control Policy. 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 Office of National Drug Control Policy or the United States Government.

Clicking on one of the links below will take you directly to that page.

Introduction

This memorandum is a compilation of statutes and regulations for states that explicitly state that health care providers (i.e., prescribers or practitioners) and/or dispensers are not required to access the prescription monitoring program. This should not be taken to mean that if a state is not listed in this compilation that prescribers and dispensers are required to query the prescription monitoring program.

Back to Top ↑

Alabama
§ 20-2-214

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

§ 20-2-214. Limited access to database permitted for certain persons or entities.

The following persons or entities shall be permitted access to the information in the controlled substances database, subject to the limitations indicated below:

(1) Authorized representatives of the certifying boards, provided, however, that access shall be limited to information concerning the licensees of the certifying board, however, authorized representatives from the Board of Medical Examiners may access the database to inquire about certified registered nurse practitioners (CRNPs), or certified nurse midwives (CNMs) that hold a Qualified Alabama Controlled Substances Registration Certificate (QACSC).

(2) A licensed practitioner approved by the department who has authority to prescribe, dispense, or administer controlled substances. The licensed practitioner's access shall be limited to information concerning himself or herself, registrants who possess a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises physician supervision or with whom they have a joint practice agreement, a certified registered nurse practitioner and a certified nurse midwife with a Qualified Alabama Controlled Substances Registration Certificate over whom the practitioner exercises professional oversight and direction pursuant to an approved collaborative practice agreement, a current patient of the practitioner, and individuals seeking treatment from the practitioner. **Practitioners shall have no requirement or obligation, under this article, to access or check the information in the controlled substances database prior to prescribing, dispensing, or administering medications or as part of their professional practice. However, the applicable licensing boards, in their discretion, may impose such a requirement or obligation by regulations.**

(3) A licensed physician approved by the department who has authority to prescribe, dispense, or administer controlled substances may designate up to two employees who may access the database on the physician's behalf.

(4) A licensed certified registered nurse practitioner or a licensed certified nurse midwife approved by the department who is authorized to prescribe, administer, or dispense pursuant to a Qualified Alabama Controlled Substances Registration Certificate; provided, however, that such access shall be limited to information concerning a current or prospective patient of the registered nurse practitioner or certified nurse midwife.

(5) A licensed assistant to physician approved by the department who is authorized to prescribe, administer, or dispense pursuant to a Qualified Alabama Controlled Substances Registration Certificate; provided, however, that such access shall be limited to information concerning a current patient of the assistant to the physician or an individual seeking treatment from the assistant to physician.

(6) A licensed pharmacist approved by the department, provided, however, that such access is limited to information related to the patient or prescribing practitioner designated on a controlled substance prescription that a pharmacist has been asked to fill. **Pharmacists shall have no requirement or obligation to access or check the information in the controlled substances database prior to dispensing or administering medications or as part of their professional practices.**

(7) State and local law enforcement authorities as authorized under Section 20-2-91, and federal law enforcement authorities authorized to access prescription information upon application to the department accompanied by a declaration that probable cause exists for the use of the requested information.

(8) Employees of the department and consultants engaged by the department for operational and review purposes.

(9) The prescription drug monitoring program of any of the other states or territories of the United States, if recognized by the Alliance for Prescription Drug Monitoring Programs under procedures developed by the United States Department of Justice or the Integrated Justice Information Systems Institute or successor entity subject to or consistent with limitations for access prescribed by this chapter for the Alabama Prescription Drug Monitoring Program.

(10) Authorized representatives of the Alabama Medicaid Agency; provided, however, that access shall be limited to inquiries concerning possible misuse or abuse of controlled substances by Medicaid recipients.

Back to Top ↑

Alaska
§ 17.30.200
12 AAC 52.855

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

§ 17.30.200. Controlled substance prescription database

. . .

(h) An individual who has submitted information to the database in accordance with this section may not be held civilly liable for having submitted the information. **Nothing in this section requires or obligates a dispenser or practitioner to access or check the database before dispensing, prescribing, or administering a medication, or providing medical care to a person.** Dispensers or practitioners may not be held civilly liable for damages for accessing or failing to access the information in the database.

. . .

Alaska Administrative Code (2014)
Title 12. Professional and Vocational Regulations
Part 1. Boards and Commissions Subject to Centralized Licensing
Chapter 52. Board of Pharmacy
Article 9. Controlled Substance Prescription Database

. . .

(d) Nothing in this section requires a pharmacist or practitioner to receive information from the controlled substance prescription database or to request a patient profile from the board.

Back to Top ↑

Georgia
§ 16-13-63

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

§ 16-13-63. Civil liability

Nothing in this part shall require a dispenser or prescriber to obtain information about a patient from the program established pursuant to this part. A dispenser or prescriber shall not have a duty and shall not be held civilly liable for damages to any person in any civil or administrative action or criminally responsible for injury, death, or loss to person or property on the basis that the dispenser or prescriber did or did not seek or obtain information from the electronic data base established pursuant to Code Section 16-13-57.

Back to Top ↑

Illinois
720 § 570/314.5
720 § 570/318

West's Smith-Hurd Illinois Compiled Statutes Annotated (2014)
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 570. Illinois Controlled Substances Act
Article III. Registration and Control of Manufacture, Distribution and Dispensing
570/314.5. Medication shopping; pharmacy shopping

§ 314.5. Medication shopping; pharmacy shopping.

. . .

(e) Nothing in this Section shall be construed to create a requirement that any prescriber, dispenser, or pharmacist request any patient medication disclosure, report any patient activity, or prescribe or refuse to prescribe or dispense any medications.

. . .

West's Smith-Hurd Illinois Compiled Statutes Annotated (2014)
Chapter 720. Criminal Offenses
Offenses Against the Public
Act 570. Illinois Controlled Substances Act
Article III. Registration and Control of Manufacture, Distribution and Dispensing
570/318. Confidentiality of information

§ 318. Confidentiality of information.

. . .

(j) Based upon federal, initial and maintenance funding, a prescriber and dispenser inquiry system shall be developed to assist the health care community in its goal of effective clinical practice and to prevent patients from diverting or abusing medications.

(1) An inquirer shall have read-only access to a stand-alone database which shall contain records for the previous 12 months.

(2) Dispensers may, upon positive and secure identification, make an inquiry on a patient or customer solely for a medical purpose as delineated within the federal HIPAA law.

(3) The Department shall provide a one-to-one secure link and encrypted software necessary to establish the link between an inquirer and the Department. Technical assistance shall also be provided.

(4) Written inquiries are acceptable but must include the fee and the requestor's Drug Enforcement Administration license number and submitted upon the requestor's business stationery.

(5) As directed by the Prescription Monitoring Program Advisory Committee and the Clinical Director for the Prescription Monitoring Program, aggregate data that does not indicate any prescriber, practitioner, dispenser, or patient may be used for clinical studies.

(6) Tracking analysis shall be established and used per administrative rule.

(7) Nothing in this Act or Illinois law shall be construed to require a prescriber or dispenser to make use of this inquiry system.

(8) If there is an adverse outcome because of a prescriber or dispenser making an inquiry, which is initiated in good faith, the prescriber or dispenser shall be held harmless from any civil liability.

. . .

Back to Top ↑

Indiana
§ 35-48-7-11.1

West's Annotated Indiana Code (2014)
Title 35. Criminal Law and Procedure
Article 48. Controlled Substances
Chapter 7. Central Repository for Controlled Substances Data

§ 35-48-7-11.1 INSPECT program; confidentiality

Sec. 11.1. (a) Information received by the INSPECT program under section 8.1 of this chapter is confidential.

. . .

(k) Except as provided in IC 25-22.5-13, this section may not be construed to require a practitioner to obtain information about a patient from the data base.

. . .

Back to Top ↑

Iowa
§ 124.553

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

§ 124.553. Information access

. . .

6. Nothing in this section shall require a pharmacist or prescribing practitioner to obtain information about a patient from the program. A pharmacist or prescribing practitioner does not have a duty and shall not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or prescribing practitioner did or did not seek or obtain or use information from the program. A pharmacist or prescribing practitioner acting reasonably and in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving or using information from the program.

. . .

Back to Top ↑

Kansas
§ 65-1688

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

§ 65-1688. Same; act does not create civil liability or duty

No person authorized to prescribe or dispense scheduled substances and drugs of concern shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense scheduled substances and drugs of concern did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to a patient. **Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense scheduled substances and drug of concern to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to such patient.**

Back to Top ↑

Maryland
Health-General § 21-2A-04
ADC 10.47.07.08

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

§ 21-2A-04. Regulations

In general

(a) The Secretary, in consultation with the Board, shall adopt regulations to carry out this subtitle.

Scope of regulations

(b) The regulations adopted by the Secretary shall:

(1) Specify the prescription monitoring data required to be submitted under § 21-2A-03 of this subtitle;

(2) Specify the electronic or other means by which information is to be submitted:

(i) Without unduly increasing the workload and expense on dispensers; and

(ii) In a manner as compatible as possible with existing data submission practices of dispensers;

(3) Specify that the Program:

(i) Shall provide the information technology software to dispensers necessary to upload prescription drug monitoring data to the Program; and

(ii) May not impose any fees or other assessments on prescribers or dispensers to support the operation of the Program;

(4) Specify that a prescriber or dispenser is not required or obligated to access or use prescription monitoring data available under the Program;

(5) Identify the mechanism by which prescription monitoring data are disclosed to a person, in accordance with § 21-2A-06 of this subtitle;

(6) Identify the circumstances under which a person may disclose prescription monitoring data received under the Program;

(7) Specify the process for the Program's review of prescription monitoring data and reporting of possible misuse or abuse of a monitored prescription drug under § 21-2A-06(c) of this subtitle;

(8) Establish requirements for Program retention of prescription monitoring data for 3 years; and

(9) Require that:

(i) Confidential or privileged patient information be kept confidential; and

(ii) Records or information protected by a privilege between a health care provider and a patient, or otherwise required by law to be held confidential, be filed in a manner that, except as otherwise provided in § 21-2A-06 of this subtitle, does not disclose the identity of the person protected.

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

.08 General Provisions.

. . .

C. A prescriber or dispenser:

(1) Is not required or obligated to access or use the prescription monitoring data available under the Program; and

(2) When acting in good faith, is not subject to liability or disciplinary action arising solely from:

(a) Requesting or receiving, or failing to request or receive, prescription monitoring data from the Program; or

(b) Acting, or failing to act, on the basis of prescription monitoring data provided by the Program.

. . .

Back to Top ↑

Minnesota
§ 152.126

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

§ 152.126. Controlled substances prescription electronic reporting system

. . .

Subd. 9. Immunity from liability; no requirement to obtain information. (a) A pharmacist, prescriber, or other dispenser making a report to the program in good faith under this section is immune from any civil, criminal, or administrative liability, which might otherwise be incurred or imposed as a result of the report, or on the basis that the pharmacist or prescriber did or did not seek or obtain or use information from the program.

(b) Nothing in this section shall require a pharmacist, prescriber, or other dispenser to obtain information about a patient from the program, and the pharmacist, prescriber, or other dispenser, if acting in good faith, is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

Back to Top ↑

New Jersey
§ 45:1-46

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

§ 45:1-46. Access to prescription information

. . .

d. The division may provide prescription monitoring information to the following persons:

(1) a practitioner authorized to prescribe, dispense or administer controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient of the practitioner. **Nothing in sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a practitioner to access or check the prescription monitoring information prior to prescribing, dispensing or administering medications beyond that which may be required as part of the practitioner's professional practice;**

(2) a pharmacist authorized to dispense controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient. **Nothing in sections 25 through 30 of P.L.2007, c. 244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a pharmacist to access or check the prescription monitoring information prior to dispensing medications beyond that which may be required as part of the pharmacist's professional practice;**

(3) a designated representative of the State Board of Medical Examiners, New Jersey State Board of Dentistry, New Jersey Board of Nursing, New Jersey State Board of Optometrists, New Jersey State Board of Pharmacy, State Board of Veterinary Medical Examiners, or any other board in this State or another state that regulates the practice of persons who are authorized to prescribe or dispense controlled dangerous substances, as applicable, who certifies that he is engaged in a bona fide specific investigation of a designated practitioner whose professional practice was or is regulated by that board;

(4) a State, federal or municipal law enforcement officer who is acting pursuant to a court order and certifies that the officer is engaged in a bona fide specific investigation of a designated practitioner or patient;

(5) a designated representative of a state Medicaid or other program who certifies that he is engaged in a bona fide investigation of a designated practitioner or patient;

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

(7) authorized personnel of the division or vendor or contractor responsible for establishing and maintaining the program; and

(8) the controlled dangerous substance monitoring program in another state with which the division has established an interoperability agreement.

. . .

Back to Top ↑

North Dakota
§ 19-03.5-05

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

§ 19-03.5-05. Immunity

Nothing in this chapter requires a prescriber or dispenser to obtain information about a patient from the central repository prior to prescribing or dispensing a controlled substance. A prescriber, dispenser, or other health care practitioner may not be held liable in damages to any person in any civil action on the basis that the prescriber, dispenser, or other health care practitioner did or did not seek to obtain information from the central repository. Unless there is shown a lack of good faith, the board, any other state agency, a prescriber, dispenser, or any other individual in proper possession of information provided under this chapter may not be subject to any civil liability by reason of:

1. The furnishing of information under the conditions provided in this chapter;

2. The receipt and use of, or reliance on, such information;

3. The fact that any such information was not furnished; or

4. The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

Back to Top ↑

Oregon
§ 431.966

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

§ 431.966. Prescription monitoring information disclosure; limitations

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

. . .

(7) Nothing in ORS 431.962 to 431.978 and 431.992 requires a practitioner or pharmacist who prescribes or dispenses a prescription drug to obtain information about a patient from the prescription monitoring program. A practitioner or pharmacist who prescribes or dispenses a prescription drug may not be held liable for damages in any civil action on the basis that the practitioner or pharmacist did or did not request or obtain information from the prescription monitoring program.

Back to Top ↑

South Carolina
§ 44-53-1680

Code of Laws of South Carolina 1976 Annotated (2014)
Title 44. Health
Chapter 53. Poisons, Drugs and Other Controlled Substances
Article 15. Prescription Monitoring Program

§ 44-53-1680. Violations and penalties.

. . .

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

Back to Top ↑

South Dakota
§ 34-20E-11

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

§ 34-20E-11. Immunity from civil liability

Nothing in this chapter requires a prescriber or dispenser to obtain information about a patient from the central repository prior to prescribing or dispensing a controlled substance. A prescriber, dispenser, or other health care provider may not be held liable in damages to any person in any civil action on the basis that the prescriber, dispenser, or other health care provider did or did not seek to obtain information from the central repository. Unless there is shown a lack of good faith, the board, a prescriber, dispenser, or any other person in proper possession of information provided under this chapter is not subject to any civil liability by reason of:

(1) The furnishing of information under the conditions provided in this chapter;

(2) The receipt and use of, or reliance on, such information;

(3) The fact that any such information was not furnished; or

(4) The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

Back to Top ↑

Wisconsin
§ 450.19

West's Wisconsin Statutes Annotated (2014)
Regulation and Licensing (Ch. 440 to 480)
Chapter 450. Pharmacy Examining Board

§ 450.19. Prescription drug monitoring program

. . .

(3)(a) A pharmacy, pharmacist, or practitioner is immune from civil or criminal liability or professional discipline arising from the pharmacy's, pharmacist's, or practitioner's compliance in good faith with this section or with rules promulgated under this section.

(b) Nothing in this section may be construed to require a pharmacy, pharmacist, or practitioner to obtain, before prescribing or dispensing a monitored prescription drug to a patient, information about the patient that has been collected pursuant to the program established under sub. (2).

(4) Records generated under the program under this section are not subject to inspection or copying under s. 19.35.

Back to Top ↑

Wyoming
ADC AI PDSC Ch. 8, § 3

Wyoming Rules and Regulations (2014)
Department of Administration and Information
Board of Pharmacy - Commissioner of Drugs and Substances Control
Chapter 8. Prescription Drug Monitoring Program

Section 3. Solicited Patient Profiles.

. . .

(b) Pharmacists and practitioners are under no obligation to, but may request patient profiles from the board provided the following conditions are met:

(i) All requests must be submitted on a form provided by the board and must be mailed, faxed, or by using the online process to the board's office;

(ii) All requests must be signed with a manual or electronic signature by the pharmacist or practitioner requesting the information and include the business name/address of the pharmacist or practitioner;

(iii) All requests shall include the patient's name, date of birth, purpose of the request, and the date range for the profile;

(iv) A statement indicating a pharmacist/patient or practitioner/patient relationship exists; and

(v) All profiles generated by the board shall be faxed or mailed to the pharmacist or practitioner at their business address, and if mailed marked “confidential, to be opened by addressee only”; or the profile shall be generated using the online process to be reviewed or printed by the requestor.

. . .

Back to Top ↑