



Types of Authorized Recipients – Coroners and/or Medical Examiners or State Toxicologists

Research current through December 2014.

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Introduction

Each state determines by statute or regulation the persons or entities entitled to access or receive information in the prescription monitoring program database in that particular state. This memorandum sets out those states that allow access to or receipt of database information by coroners, medical examiners, and/or state toxicologists. This does not mean that if a particular state is not listed in this memorandum or the accompanying map that coroners, medical examiners, and toxicologists in that state are not allowed access to the information. If such persons fall within the definition of “practitioner” or “health care provider” in the state, he or she may qualify for access to the prescription monitoring program database. Additionally, some medical examiners are treated as law enforcement and may obtain access as a law enforcement official. The following states either specifically include coroners, medical examiners, and/or state toxicologists in the list of persons or entities entitled to access or NAMSDDL was informed by the administrator of the state prescription monitoring program that such persons are allowed access.

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Arkansas
§ 20-7-607
ADC 007.07.4-VII

West's Arkansas Code Annotated (2014)
Title 20. Public Health and Welfare
Subtitle 2. Health and Safety
Chapter 7. State Board of Health--Department of Health
Subchapter 6. Prescription Drug Monitoring Program Act

§ 20-7-607. Providing prescription monitoring information

(a)(1) The Department of Health may review the Prescription Drug Monitoring Program information, including without limitation a review to identify information that appears to indicate whether a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances.

(2) If information of misuse or abuse is identified, the department shall notify the practitioners and dispensers who prescribed or dispensed the prescriptions.

(b) The department shall provide information in the Prescription Drug Monitoring Program upon request and at no cost only to the following persons:

(1) A person authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for his or her patients or for reviewing information regarding prescriptions that are recorded as having been issued or dispensed by the requester;

(2) A patient who requests his or her own prescription monitoring information;

(3) A parent or legal guardian of a minor child who requests the minor child's Prescription Drug Monitoring Program information;

(4)(A) A designated representative of a professional licensing board of the professions of the healing arts representing health care disciplines whose licensees are prescribers pursuant to an investigation of a specific individual, entity, or business licensed or permitted by that board.

(B) Except as permitted by subsection (a)(2) of this section, the department shall provide information under subsection (b)(4)(A) of this section only if the requesting board states in writing that the information is necessary for an investigation;

(5) The State Medical Examiner as authorized by law to investigate causes of deaths for cases under investigation pursuant to his or her official duties and responsibilities;

(6) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances required to be submitted under this subchapter pursuant to the agency's official duties and responsibilities; and

(7) Personnel of the department for purposes of administration and enforcement of this subchapter.

(c) Information collected under this subchapter shall be maintained for three (3) years.

(d) The department may provide information to public or private entities for statistical, research, or educational purposes after encrypting or removing the patient's name, street name and number, patient identification number, month and day of birth, and prescriber information that could be used to identify individual patients or persons who received prescriptions from dispensers, or both.

West's Arkansas Administrative Code (2014)

Title 007. Department of Health

Division 07. Pharmacy Services

Rule 4. Regulations Pertaining to Prescription Drug Monitoring Program

007.07.4-VII. Providing Prescription Monitoring Information

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(B) Except as permitted by subsection (a)(2) of this section, the department shall provide information under subsection (b)(4)(A) of this section only if the requesting board states in writing that the information is necessary for an investigation;

(5) The State Medical Examiner as authorized by law to investigate causes of deaths for cases under investigation pursuant to his or her official duties and responsibilities;

(6) Local, state, and federal law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances required to be submitted under Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations pursuant to the agency's official duties and responsibilities; and

(7) Personnel of the department for purposes of administration and enforcement of Arkansas Code Annotated § 20-7-607 and this section.

(c) Information collected under Arkansas Code Annotated §§ 20-7-601 to -614 and these regulations shall be maintained for three (3) years.

(d) The department may provide information to public or private entities for statistical, research, or educational purposes after encrypting or removing the patient's name, street name and number, patient identification number, month and day of birth, and prescriber information that could be used to identify individual patients, persons who received prescriptions from dispensers, or both.

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Colorado
§ 12-42.5-404
3 CCR 719-1:23.00.00

West's Colorado Revised Statutes Annotated (2014)
Title 12. Professions and Occupations
Health Care
Article 42.5. Pharmacists, Pharmacy Businesses, and Pharmaceuticals
Part 4. Electronic Monitoring of Prescription Drugs

§ 12-42.5-404. Program operation--access--rules

(1) The board shall operate and maintain the program.

(2) The board shall adopt all rules necessary to implement the program.

(3) The program is available for query only to the following persons or groups of persons:

(a) Board staff responsible for administering the program;

(b) Any practitioner with the statutory authority to prescribe controlled substances, or an individual designated by the practitioner to act on his or her behalf in accordance with Section 12-42.5-403(1.5)(b) to the extent the query relates to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;

(c) A practitioner, or an individual designated by the practitioner to act on his or her behalf in accordance with Section 12-42.5-403(1.5)(b) engaged in a legitimate program to monitor a patient's drug abuse;

(c.5) The medical director, or his or her designee, at a facility that treats addiction with controlled substances, if an individual in treatment at the facility gives permission to the facility to access his or her program records;

(d) A pharmacist, an individual designated by the pharmacist in accordance with Section 12-42.5-403(1.5)(b) to act on his or her behalf, or a pharmacist licensed in another state, to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or to whom the pharmacist is providing clinical patient care services;

(e) Law enforcement officials so long as the information released is specific to an individual patient or practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;

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(f) The individual who is the recipient of a controlled substance prescription so long as the information released is specific to the individual;

(g) State regulatory boards within the division and the director of the division so long as the information released is specific to an individual practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;

(h) A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician;

(i) The Department of Public Health and Environment for purposes of population-level analysis, but any use of the program data by the department is subject to the federal “Health Insurance Portability and Accountability Act of 1996”, Pub.L. 104-191, as amended, and implementing federal regulations, including the requirement to remove any identifying data unless exempted from the requirement.

(4) The board shall not charge a practitioner or pharmacy who transmits data in compliance with the operation and maintenance of the program a fee for the transmission of the data.

(5) The board, the Department of Public Health and Environment, or the Department of Health Care Policy and Financing, pursuant to a written agreement that ensures compliance with this part 4, may provide data to qualified personnel of a public or private entity for the purpose of bona fide research or education so long as the data does not identify a recipient of a practitioner who prescribed, or a prescription drug outlet that dispensed, a prescription drug.

(6) The board shall provide a means of sharing information about individuals whose information is recorded in the program with out-of-state health care practitioners and law enforcement officials that meet the requirements of paragraph (b), (c), or (e) of subsection (3) of this section.

(7) The board shall develop criteria for indicators of misuse, abuse, and diversion of controlled substances and, based on those criteria, provide unsolicited reports of dispensed controlled substances to prescribing practitioners and dispensing pharmacies for purposes of education and intervention to prevent and reduce occurrences of controlled substance misuse, abuse, and diversion. In developing the criteria, the board shall consult with the Colorado Dental Board, Colorado Medical Board, State Board of Nursing, State Board of Optometry, Colorado Podiatry Board, and State Board of Veterinary Medicine.

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

719-1:23.00.00. ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

23.00.10 Definitions:

a. “Bona fide investigation,” for purposes of an investigation of an individual prescriber under investigation by a state regulatory board, means:

1. Any investigation conducted by any state regulatory board within the Colorado Division of Professions and Occupations, or the Director of the Colorado Division of Professions and Occupations and

2. Investigations pertaining to matters which are the subject of a complaint or notice of charges pending in the Office of Administrative Courts so long as the information obtained from the PDMP is made available by the state regulatory board to the respondent in the pending case.

b. “Bona fide research or education” means research conducted by qualified entities whose recognized primary purpose is scientific inquiry; the results of which would likely contribute to the basic knowledge of prescribing practitioners, dispensing pharmacists, or entities for the purpose of curtailing substance abuse of consumers. The Board shall determine in its discretion on a case-by-case basis whether an individual or entity seeking access to the PDMP pursuant to CRS 12-42.5-404(5) constitutes “bona fide research or education” conducted by qualified personnel for purposes of satisfying the statutory limitations therein.

c. “Clinical patient care services” means pharmaceutical care provided in a clinical setting. The pharmacist providing clinical patient care services must be working closely with the physician/prescriber responsible for the patient's care. “Clinical patient care services” do not include monitoring previously dispensed prescriptions for any purpose in the absence of a current assessment of a patient whether in a clinical setting or not.

d. “Law Enforcement Official” means any of the following:

1. Sheriff;

2. Undersheriff;

3. Certified deputy sheriff;

4. Coroner;

5. Police Officer;
6. Southern Ute Police Officer;
7. Ute Mountain Ute police officer;
8. Town marshall;
9. CBI director and agents;
10. Colorado state patrol officer;
11. Colorado attorney general and any entity designated as “peace officers” by the Attorney General or acting on behalf of a state agency;
12. Attorney general criminal investigator;
13. District attorney and all assistants, deputies, etc. statutorily defined as “peace officers;”
14. District Attorney chief investigator and investigators;
15. Police administrator and police officers employed by the Colorado State Hospital in Pueblo; and
16. Federal special agents.

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23.00.70 PDMP Access

The PDMP shall be available for query only to the following persons or groups of persons:

- a. Board staff responsible for administering the PDMP;
- b. Any licensed practitioner, or up to three (3) trained individuals designated by the practitioner by way of registered PDMP sub-accounts of the prescriber to act on the prescriber's behalf in accordance with 12-42.5-403(1.5)(B), (C) AND (D), C.R.S., with the statutory authority to prescribe controlled substances to the extent the query relates to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing a controlled substance;
- c. Licensed pharmacists, or up to three (3) trained individuals designated by the practitioner by way of registered PDMP sub-accounts of the prescriber to act on the prescriber's behalf in accordance with 12-42.5-403(1.5)(B), (C) AND (D), C.R.S., or a pharmacist licensed in another

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state, with statutory authority to dispense controlled substances to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or to whom the pharmacist is providing clinical patient care services;

d. Practitioners engaged in a legitimate program to monitor a patient's controlled substance abuse;

e. Law enforcement officials so long as the information released is specific to an individual patient, prescriber, or prescription drug outlet and part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form;

f. The individual who is the recipient of a controlled substance prescription so long as the information released is specific to such individual. The procedure for individuals to obtain such information is as follows:

1. The individual shall submit a written, signed request to the Board on the Board-provided form;

2. The individual shall provide valid photographic identification prior to obtaining the PDMP information;

3. An individual submitting a request on behalf of another individual who is the recipient of a controlled substance prescription may only obtain PDMP information if the following documents are provided:

A. The original document establishing medical durable power of attorney of the individual submitting the request as power of attorney for the individual who is the recipient of the controlled substance prescription, and

B. Valid photographic identification of the individual submitting the request.

g. State regulatory boards within the Colorado Division of Professions and Occupations and the Director of the Colorado Division of Professions and Occupations so long as the information released is specific to an individual prescriber and is part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form; and

h. A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician.

I. The Department of Public Health and Environment for purposes of population-level analysis, but any use of the program data by the department is subject to the federal Health Insurance

Portability and Accountability Act of 1996 and implementing federal regulations, including the requirement to remove any identifying data unless exempted from the requirement.

23.00.80 Research or Education Agreements. The Board may enter into a written agreement to provide data to qualified personnel of a public or private entity for the purpose of bona fide research or education, so long as such information does not identify a recipient, prescriber, or dispenser of a prescription drug. Any public or private entity wishing to enter into or extend such an agreement shall submit a written request to the Board detailing the information it is seeking and the public benefit of such research or education. The Board will act on such request in the normal course of business.

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Delaware
16 § 4798

West's Delaware Code Annotated (2014)
Title 16. Health and Safety
Part IV. Food and Drugs
Chapter 47. Uniform Controlled Substances Act
Subchapter VII. Miscellaneous

§ 4798. The Delaware Prescription Monitoring Program

<Text of section effective upon the availability of appropriations, or of other adequate funding to implement and maintain the Prescription Monitoring Program and upon 3-1-2014. See Historical and Statutory Notes below.>

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(h) The Chief Medical Examiner or licensed physician designee may obtain a patient utilization report from the Prescription Monitoring Program for the purpose of investigating the death of an individual.

...

(2) The Office of Controlled Substances may provide data in the prescription monitoring program in the form of a report to the following persons:

- a. A prescriber, or other person authorized by the prescriber, or a dispenser, or other person authorized by the dispenser, who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;
- b. An individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to regulations;
- c. A designated representative of any Board or Commission pursuant to § 8735(a) of Title 29 responsible for the licensure, regulation, or discipline of prescribers, dispensers or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
- d. A local, state, or federal law-enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing controlled substances and who is involved in a bona fide specific drug-related investigation in which a report of suspected criminal activity involving controlled substances by an identified suspect has been made, and

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provided that such information be relevant and material to such investigation, limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought, and include identifying information only if nonidentifying information could not be used;

e. The Delaware Department of Health and Social Services regarding Medicaid program recipients;

f. A properly convened grand jury pursuant to a subpoena properly issued for the records;

g. Personnel of the Division of Professional Regulation for purposes of administration and enforcement of this section;

h. A licensed chemical dependency professional or licensed professional counselor of mental health who requests information and certifies that the requested information is for a patient enrolled in a substance abuse treatment program receiving treatment from, or under the direction of the chemical dependency professional or professional counselor of mental health.

i. The Chief Medical Examiner or licensed physician designee who requests information and certifies the request is for the purpose of investigating the death of an individual.

j. Qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber or dispenser must be deleted or redacted from such information prior to disclosure; and further provided that, release of the information may be made only pursuant to a written agreement between qualified personnel and the Office of Controlled Substances in order to ensure compliance with this subsection.

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District of Columbia
§ 48-853.05

West's District of Columbia Code Annotated 2001 Edition (2014)
Division VIII. General Laws.
Title 48. Foods and Drugs.
Subtitle II. Prescription Drugs.
Chapter 8G. Prescription Drug Monitoring Program.

§ 48-853.05. Confidentiality of data; disclosure of information; discretionary authority of the Director.

(a) All data, records, and reports relating to the prescribing and dispensing of covered substances to patients and any abstracts from such data, records, and reports that are in the possession of the Program pursuant to this chapter and any materials relating to the operation or safety of the Program shall be confidential and shall be exempt from disclosure based on requests made pursuant to subchapter II of Chapter 2 of Title 5. Information obtained pursuant to the Program may only be disclosed as provided in this chapter.

(b) Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable District and federal laws and regulations, the Director shall disclose information relevant to:

(1) A specific investigation of a specific patient or of a specific dispenser or prescriber to an agent designated by the Chief of the Metropolitan Police Department to conduct drug diversion investigations;

(2) An investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health occupations board or the Department;

(3) A disciplinary proceeding before a health occupations board or in any subsequent hearing, trial, or appeal of an action or board order to designated employees of the Department;

(4) The proceedings of any grand jury or additional grand jury that has been properly impaneled in accordance with § 11-1916; and

(5) A specific investigation of a specific dispenser or specific prescriber to an agent of the United States Drug Enforcement Administration with authority to conduct drug diversion investigations.

(c)(1) In accordance with the Department's regulations and applicable federal law and regulations, the Director may, at the Director's discretion, disclose:

(A) Information in the possession of the Program concerning a patient who is over the age of 18 years to that patient, or to the parent or legal guardian of a child aged 18 years or under, unless otherwise prohibited by District or federal law;

(B) Information on a specific patient to a prescriber for the purpose of establishing the treatment history of the specific patient when the patient is either under care and treatment by the prescriber or the prescriber is initiating treatment of the patient;

(C) Information on a specific patient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription when the patient is seeking a covered substance from the dispenser or the facility in which the dispenser practices;

(D) Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting, or denying licenses, certificates, or registrations to practice a health profession when the regulatory authority licenses the dispenser or prescriber, or the dispenser or prescriber is seeking licensure by a regulatory authority;

(E) Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the District Medicaid program, DC Health Care Alliance, or any other public health care program; information relating to an investigation relating to a specific patient who is currently eligible for and receiving, or who has been eligible for and has received medical assistance services; information relevant to the Medicaid Fraud Control Unit of the Office of the Inspector General, or to designated employees of the Department of Health Care Finance, as appropriate;

(F) Information relevant to the determination of the cause of death of a specific patient to the designated employees of the Office of the Chief Medical Examiner; and

(G) Information for the purpose of bona fide research or education to qualified personnel; provided, that:

(i) Data elements that would reasonably identify a specific patient, prescriber, or dispenser shall be deleted or redacted from the information before disclosure; and

(ii) Release of the information shall only be made pursuant to a written agreement between qualified personnel and the Director to ensure compliance with this chapter.

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

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

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

(d) Confidential information that has been received, maintained, or developed by a health occupations board or disclosed by the health occupations board pursuant to this chapter shall not be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services; provided, that this section shall not be construed to inhibit any investigation or prosecution conducted pursuant to this chapter.

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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.

(b) The board shall carry out a program to protect the confidentiality of the information described in subsection (a). The board may disclose the information to another person only under subsection (c), (d), or (g).

(c) The board may disclose confidential information described in subsection (a) to any person who is authorized to engage in receiving, processing, or storing the information.

(d) Except as provided in subsections (e) and (f), the board may release confidential information described in subsection (a) to the following persons:

(1) A member of the board or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves a controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates controlled substances or enforces controlled substances rules or laws in another state;

that is certified to receive controlled substance prescription drug information from the INSPECT program.

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) A controlled substance monitoring program in another state with which Indiana has established an interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

(e) Information provided to an individual under:

(1) subsection (d)(3) is limited to information:

(A) concerning an individual or proceeding involving the unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding; and

(2) subsection (d)(4) may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient.

(f) Before the board releases confidential information under subsection (d), the applicant must be approved by the INSPECT program in a manner prescribed by the board.

(g) The board may release to:

(1) a member of the board or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive controlled substance prescription drug information; and

(B) approved by the board to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

(h) The information described in subsection (g) may not be released until it has been reviewed by:

(1) a member of the board who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

(2) the board's designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection (i).

(i) An investigator or a law enforcement officer receiving confidential information under subsection (c), (d), or (g) may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

(j) The board may compile statistical reports from the information described in subsection (a). The reports must not include information that identifies any practitioner, ultimate user, or other person administering a controlled substance. Statistical reports compiled under this subsection are public records.

(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.

(l) A practitioner is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner seeking or not seeking information from the INSPECT program. The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

(m) The board may review the records of the INSPECT program. If the board determines that a violation of the law may have occurred, the board shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe controlled substances.

(n) A practitioner who in good faith discloses information based on a report from the INSPECT program to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

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Kansas
§ 65-1685

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

§ 65-1685. Same; database information privileged and confidential; persons authorized to receive data; advisory committee review of information

(a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(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 provided in subsections (c) and (d).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense scheduled substances and drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the department of health and environment regarding authorized medicaid program recipients;

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(6) persons authorized by a grand jury subpoena, inquisition subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program;

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(9) persons authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse or diversion of scheduled substances or drugs of concern; and

(10) medical examiners, coroners or other persons authorized under law to investigate or determine causes of death.

(d) The prescription monitoring program advisory committee established pursuant to K.S.A. 65-1689, and amendments thereto, is authorized to review and analyze the data for purposes of identifying patterns and activity of concern.

(1) If a review of information appears to indicate a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances and drugs of concern, the advisory committee is authorized to notify the prescribers and dispensers who prescribed or dispensed the prescriptions. If the review identifies patterns or other evidence sufficient to create a reasonable suspicion of criminal activity, the advisory committee is authorized to notify the appropriate law enforcement agency.

(2) If a review of information appears to indicate that a violation of state or federal law relating to prescribing controlled substances and drugs of concern may have occurred, or that a prescriber or dispenser has knowingly prescribed, dispensed or obtained controlled substances and drugs of concern in a manner that is inconsistent with recognized standards of care for the profession, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in prescribing or dispensing of controlled substances and drugs of concern or to the appropriate law enforcement agency is warranted.

(A) For purposes of such determination the advisory committee may, in consultation with the appropriate regulatory agencies and professional organizations, establish criteria regarding appropriate standards and utilize volunteer peer review committees of professionals with expertise in the particular practice to create such standards and review individual cases.

(B) The peer review committee or committees appointed herein shall have authority to request and receive information in the prescription monitoring program database from the director of the prescription monitoring program.

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(C) If the determination is made that a referral to a regulatory or law enforcement agency is not warranted but educational or professional advising might be appropriate, the advisory committee may refer the prescribers or dispensers to other such resources.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

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Kentucky
§ 218A.202
902 KAR 55:110

Baldwin's Kentucky Revised Statutes Annotated (2014)
Title XVIII. Public Health
Chapter 218A. Controlled Substances

§ 218A.202 Electronic system for monitoring controlled substances; required registration and reporting; penalty for illegal use of system; pilot or continuing project; continuing education programs; reports of failure to comply with section; administrative regulations

...

(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:

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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) The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;

(g) 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;

(h) 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;

(i) 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; or

(j) A medical examiner engaged in a death investigation pursuant to KRS 72.026.

...

Kentucky Administrative Regulations (2014)
Title 902. Cabinet for Health and Family Services Department for Public Health
Chapter 55. Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances

...

Section 4. Request for Report. (1) A written or electronic request shall be filed with the cabinet prior to the release of a report, except for a subpoena issued by a grand jury or an appropriate court order issued by a court of competent jurisdiction.

(2) A request for a KASPER patient report shall be made electronically at www.chfs.ky.gov/KASPER.

(3) A request for a KASPER provider report made by a peace officer authorized to receive data under KRS 218A.202, or a designated representative of a board responsible for the licensure, regulation, or discipline of prescribing practitioners shall be made by written application on the "Request for KASPER Report (Law Enforcement and Licensure Boards)" Form DCB-15L.

(4) A medical examiner engaged in a death investigation pursuant to KRS 72.026 may query KASPER for a report on the decedent.

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Maine
22 § 7250
ADC 14-118, Ch. 11, § 7

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

§ 7250. Access to prescription monitoring information and confidentiality

...

4. Access to information. The following persons may access prescription monitoring information:

- A. A prescriber, insofar as the information relates to a patient under the prescriber's care;
- B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled;
- C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause;
- D. A patient to whom a prescription is written, insofar as the information relates to that patient;
- E. Department personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system;
- F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022;**
- G. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its

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members, avoiding duplicate dispensing of controlled substances and providing treatment pattern data under subsection 6; and

H. Another state pursuant to subsection 4-A.

...

Code of Maine Rules (2014)

14. Department of Human Services - General

118. Community Services Programs (Office of Substance Abuse)

Chapter 11. Rules Governing The Controlled Substances Prescription Monitoring Program

Sec. 7. Access to Prescription Monitoring Information

...

7. By the Office of the Chief Medical Examiner

A. The Chief Medical Examiner or a designee may obtain any prescription monitoring information as required for an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case. The information shall be provided in a format established by the Office of Substance Abuse, which may include, but is not limited to delivery by electronic means, facsimile transmission, or telephonic communication.

B. The Chief Medical Examiner or a designee must submit a request via mail, facsimile, or secure electronic transmission, to a location specified by the Monitor or the Office. The request shall contain the surname, first name, and date of birth of the decedent and the time period for which the information is being requested.

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Maryland
Health-General § 21-2A-06
ADC 10.47.07.04

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

§ 21-2A-06. Confidentiality of prescription monitoring data

...

Allowable disclosure of prescription monitoring data

(b) The Program shall disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

(1) A prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;

(2) A dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;

(3) A federal law enforcement agency or a State or local law enforcement agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide individual investigation;

(4) A licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for the purposes of furthering an existing bona fide individual investigation;

(5) A rehabilitation program under a health occupations board, on issuance of an administrative subpoena;

(6) A patient with respect to prescription monitoring data about the patient;

(7) Subject to subsection (h) of this section, the authorized administrator of another state's prescription drug monitoring program;

(8) The following units of the Department, on approval of the Secretary, for the purpose of furthering an existing bona fide individual investigation:

(i) The Office of the Chief Medical Examiner;

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- (ii) The Maryland Medical Assistance Program;
 - (iii) The Office of the Inspector General;
 - (iv) The Office of Health Care Quality; and
 - (v) The Division of Drug Control; or
- (9) The technical advisory committee established under § 21-2A-07 of this subtitle for the purposes set forth in subsection (c) of this section.

(c) (1) In accordance with regulations adopted by the Secretary:

(I) The Program may review prescription monitoring data for indications of possible misuse or abuse of a monitored prescription drug; and

(II) If the Program's review of prescription monitoring data indicates possible misuse or abuse of a monitored prescription drug, the Program may report the possible misuse or abuse to the prescriber or dispenser of the monitored prescription drug.

(2) Before the Program reports the possible misuse or abuse of a monitored prescription drug to a prescriber or dispenser under this subsection, the Program shall obtain from the technical advisory committee:

(I) Clinical guidance regarding indications of possible misuse or abuse; and

(II) Interpretation of the prescription monitoring data that indicates possible misuse or abuse.

Review of requests for information

(d) (1) Before the Program discloses information under subsection (b)(3), (4), (5), or (8) of this section, the technical advisory committee shall:

(I) Review the requests for information;

(II) Provide clinical guidance and interpretation of the information requested to the Secretary to assist in the Secretary's decision on how to respond to a judicial subpoena, administrative subpoena, or other request; and

(III) Provide clinical guidance and interpretation of the information requested to the authorized recipient of the information.

(2) Notwithstanding paragraph (1) of this subsection, the Program may disclose information to the authorized administrator of another state's prescription drug monitoring program for

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disclosure to the persons listed in subsection (B)(1), (2), and (6) of this section without the review, clinical guidance, and interpretation of the technical advisory committee.

...

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

.04 Disclosure of Prescription Monitoring Data.

...

H. Upon request, the Program may disclose prescription monitoring data to the Office of the Chief Medical Examiner, the Maryland Medical Assistance Program, the Office of the Inspector General of the Department, the Office of Health Care Quality, and the Division of Drug Control provided that the request:

- (1) Includes information sufficient to identify the unique prescriber, dispenser, licensed health care practitioner, or patient about whom prescription monitoring data is requested;**
- (2) Specifies the time frame for which prescription monitoring data is requested, including the day, month and year the report is to begin and end;**
- (3) Includes a case number or other identifier sufficient to identify an existing bona fide individual investigation; and**
- (4) Includes an attestation that the request was approved by the Secretary.**

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Minnesota

Per the state PDMP representative, Minnesota is doing a pilot program to allow access to county coroners and medical examiners.

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Mississippi

Per the state PMP representative, Mississippi allows access by county coroners and/or medical examiners.

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Montana
§ 37-7-1506

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

§ 37-7-1506. Providing prescription drug registry information

(1) Registry information is health care information as defined in 50-16-504 and is confidential. Except as provided in 37-7-1504, the board is authorized to provide data from the registry, upon request, only to the following:

(a) a person authorized to prescribe or dispense prescription drugs if the person certifies that the information is needed to provide medical or pharmaceutical treatment to a patient who is the subject of the request and who is under the person's care or has been referred to the person for care;

(b) a prescriber who requests information relating to the prescriber's own prescribing information if the prescriber certifies that the requested information is for a purpose in accordance with board rule;

(c) an individual requesting the individual's registry information if the individual provides evidence satisfactory to the board that the individual requesting the information is the person about whom the data entry was made;

(d) a designated representative of a government agency responsible for licensing, regulating, or disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense drugs, in order to conduct investigations related to a health care professional who is the subject of an active investigation for drug misuse or diversion;

(e) a county coroner or a peace officer employed by a federal, state, tribal, or local law enforcement agency if the county coroner or peace officer has obtained an investigative subpoena;

(f) an authorized individual under the direction of the department of public health and human services for the purpose of reviewing and enforcing that department's responsibilities under the public health, medicare, or medicaid laws; or

(g) a prescription drug registry in another state if the data is subject to limitations and restrictions similar to those provided in 37-7-1502 through 37-7-1513.

- (2) The board shall maintain a record of each individual or entity that requests information from the registry and whether the request was granted pursuant to this section.
- (3) The board may release information in summary, statistical, or aggregate form for educational, research, or public information purposes. The information may not identify a person or entity.
- (4) Information collected by or obtained from the registry may not be used:
- (a) for commercial purposes; or
 - (b) as evidence in any civil or administrative action, except in an investigation and disciplinary proceeding by the department or the agency responsible for licensing, regulating, or disciplining licensed health care professionals who are authorized to prescribe, administer, or dispense prescription drugs.
- (5) Information obtained from the registry in accordance with the requirements of this section may be used in the course of a criminal investigation and subsequent criminal proceedings.
- (6) The board shall adopt rules to ensure that only authorized individuals have access to the registry and only to appropriate information from the registry. The rules must be consistent with:
- (a) the privacy provisions of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.;
 - (b) administrative rules adopted in connection with that act;
 - (c) Article II, section 10, of the Montana constitution; and
 - (d) the privacy provisions of Title 50, chapter 16.
- (7) The procedures established by the board under this section may not impede patient access to prescription drugs for legitimate medical purposes.

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New Mexico

Per the state PMP administrator, the New Mexico PMP releases information to medical examiners.

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New York
Public Health Law § 3371

McKinney's Consolidated Laws of New York Annotated (2014)
Public Health Law
Chapter 45. Of the Consolidated Laws
Article 33. Controlled Substances
Title VI. Records and Reports

§ 3371. Confidentiality of certain records, reports, and information

1. No person, who has knowledge by virtue of his or her office of the identity of a particular patient or research subject, a manufacturing process, a trade secret or a formula shall disclose such knowledge, or any report or record thereof, except:

- (a) to another person employed by the department, for purposes of executing provisions of this article;
- (b) pursuant to judicial subpoena or court order in a criminal investigation or proceeding;
- (c) to an agency, department of government, or official board authorized to regulate, license or otherwise supervise a person who is authorized by this article to deal in controlled substances, or in the course of any investigation or proceeding by or before such agency, department or board;
- (d) to the prescription monitoring program registry and to authorized users of such registry as set forth in subdivision two of this section;
- (e) to a practitioner to inform him or her that a patient may be under treatment with a controlled substance by another practitioner for the purposes of subdivision two of this section, and to facilitate the department's review of individual challenges to the accuracy of controlled substances histories pursuant to subdivision six of section thirty-three hundred forty-three-a of this article;
- (f) to a pharmacist to provide information regarding prescriptions for controlled substances presented to the pharmacist for the purposes of subdivision two of this section and to facilitate the department's review of individual challenges to the accuracy of controlled substances histories pursuant to subdivision six of section thirty-three hundred forty-three-a of this article;
- (g) to the deputy attorney general for medicaid fraud control, or his or her designee, in furtherance of an investigation of fraud, waste or abuse of the Medicaid program, pursuant to an agreement with the department;

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(h) to a local health department for the purpose of conducting public health research or education: (i) pursuant to an agreement with the commissioner; (ii) when the release of such information is deemed appropriate by the commissioner; (iii) for use in accordance with measures required by the commissioner to ensure that the security and confidentiality of the data is protected; and (iv) provided that disclosure is restricted to individuals within the local health department who are engaged in the research or education;

(i) to a medical examiner or coroner who is an officer of or employed by a state or local government, pursuant to his or her official duties; and

(j) to an individual for the purpose of providing such individual with his or her own controlled substance history or, in appropriate circumstances, in the case of a patient who lacks capacity to make health care decisions, a person who has legal authority to make such decisions for the patient and who would have legal access to the patient's health care records, if requested from the department pursuant to subdivision six of section thirty-three hundred forty-three-a of this article or from a treating practitioner pursuant to subparagraph (iv) of paragraph (a) of subdivision two of this section.

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North Carolina
§ 90-113.74

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

§ 90-113.74. Confidentiality

...

(c) The Department shall release data in the controlled substances reporting system to the following persons only:

(1) Persons authorized to prescribe or dispense controlled substances for the purpose of providing medical or pharmaceutical care for their patients. A person authorized to receive data pursuant to this paragraph may delegate the authority to receive the data to other persons working under his or her direction and supervision, provided the Department approves the delegation.

(2) An individual who requests the individual's own controlled substances reporting system information.

(3) Special agents of the North Carolina State Bureau of Investigation who are assigned to the Diversion & Environmental Crimes Unit and whose primary duties involve the investigation of diversion and illegal use of prescription medication. SBI agents assigned to the Diversion & Environmental Crimes Unit may then provide this information to other SBI agents who are engaged in a bona fide specific investigation related to enforcement of laws governing licit drugs. The SBI shall notify the Office of the Attorney General of North Carolina of each request for inspection of records maintained by the Department.

(4) Primary monitoring authorities for other states pursuant to a specific ongoing investigation involving a designated person, if information concerns the dispensing of a Schedule II through V controlled substance to an ultimate user who resides in the other state or the dispensing of a Schedule II through V controlled substance prescribed by a licensed health care practitioner whose principal place of business is located in the other state.

(5) To a sheriff or designated deputy sheriff or a police chief or a designated police investigator who is assigned to investigate the diversion and illegal use of prescription medication or pharmaceutical products identified in Article 5 of this Chapter of the General Statutes as Schedule II through V controlled substances and who is engaged in a bona fide specific investigation related to the enforcement of laws governing licit drugs pursuant to a lawful court order specifically issued for that purpose.

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(6) The Division of Medical Assistance for purposes of administering the State Medical Assistance Plan.

(7) Licensing boards with jurisdiction over health care disciplines pursuant to an ongoing investigation by the licensing board of a specific individual licensed by the board.

(8) Any county medical examiner appointed by the Chief Medical Examiner pursuant to G.S. 130A-382 and the Chief Medical Examiner, for the purpose of investigating the death of an individual.

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North Dakota

Per the state PMP representative, North Dakota allows access by medical examiners who are licensed prescribers.

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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.>

...

(2)(a) To the extent that the law or regulation is applicable to the prescription monitoring program, if a disclosure of prescription monitoring information, other than the sex of a patient for whom a drug was prescribed, complies with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and regulations adopted under it, including 45 C.F.R. parts 160 and 164, federal alcohol and drug treatment confidentiality laws and regulations adopted under those laws, including 42 C.F.R. part 2, and state health and mental health confidentiality laws, including ORS 179.505, 192.517 and 192.553 to 192.581, the Oregon Health Authority shall disclose the information:

(A) To a practitioner or pharmacist, or, if a practitioner or pharmacist authorizes the authority to disclose the information to a member of the practitioner's or pharmacist's staff, to a member of the practitioner's or pharmacist's staff. If a practitioner or pharmacist authorizes disclosing the information to a member of the practitioner's or pharmacist's staff under this subparagraph, the practitioner or pharmacist remains responsible for the use or misuse of the information by the staff member. To receive information under this subparagraph, or to authorize the receipt of information by a staff member under this subparagraph, a practitioner or pharmacist must certify that the requested information is for the purpose of evaluating the need for or providing medical or pharmaceutical treatment for a patient to whom the practitioner or pharmacist anticipates providing, is providing or has provided care.

(B) To a practitioner in a form that catalogs all prescription drugs prescribed by the practitioner according to the number assigned to the practitioner by the Drug Enforcement Administration of the United States Department of Justice.

(C) To designated representatives of the authority or any vendor or contractor with whom the authority has contracted to establish or maintain the electronic system of the prescription monitoring program.

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(D) Pursuant to a valid court order based on probable cause and issued at the request of a federal, state or local law enforcement agency engaged in an authorized drug-related investigation involving a person to whom the requested information pertains.

(E) To a health professional regulatory board that certifies in writing that the requested information is necessary for an investigation related to licensure, renewal or disciplinary action involving the applicant, licensee or registrant to whom the requested information pertains.

(F) To a prescription monitoring program of another state if the confidentiality, security and privacy standards of the requesting state are determined by the authority to be equivalent to those of the authority.

(G) To the State Medical Examiner or designee of the State Medical Examiner, for the purpose of conducting a medicolegal investigation or autopsy.

(b) The authority may disclose information from the prescription monitoring program that does not identify a patient, practitioner or drug outlet:

(A) For educational, research or public health purposes;

(B) To a local public health authority, as defined in ORS 431.260; or

(C) To officials of the authority who are conducting special epidemiologic morbidity and mortality studies in accordance with ORS 432.060 and rules adopted under ORS 431.110.

(c) The authority shall disclose information relating to a patient maintained in the electronic system operated pursuant to the prescription monitoring program established under ORS 431.962 to that patient at no cost to the patient within 10 business days after the authority receives a request from the patient for the information.

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Pennsylvania

35 § 872.9 (eff. June 30, 2015)

Purdon's Pennsylvania Statutes and Consolidated Statutes (2015)

Title 35 P.S. Health and Safety

Chapter 6B. Drugs, Poisons and Dangerous Substances

Achieving Better Care by Monitoring All Prescriptions Program (Abc-Map) Act

§ 872.9. Access to prescription information

<Text of Section effective June 30, 2015>

(a) Confidentiality.--Except as set forth in subsection (b), prescription information submitted to the system and records of requests to query the system shall be confidential and not subject to disclosure under the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law.

(b) Authorized users.--The following individuals may query the system according to procedures determined by the board and with the following limitations:

(1) Prescribers may query the system for:

(i) an existing patient; and

(ii) prescriptions written using the prescriber's own Drug Enforcement Agency number.

(2) Dispensers may query the system for a current patient to whom the dispenser is dispensing or considering dispensing any controlled substance.

(3)(i) The Office of Attorney General shall query the system on behalf of all law enforcement agencies, including, but not limited to, the Office of the Attorney General and Federal, State and local law enforcement agencies for:

(A) Schedule II controlled substances as indicated in the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act and in the manner determined by the Pennsylvania Attorney General pursuant to 28 Pa. Code § 25.131 (relating to every dispensing practitioner); and

(B) all other schedules upon receipt of a court order obtained by the requesting law enforcement agency. Upon receipt of a motion under this clause, the court may enter an ex parte order granting the motion if the law enforcement agency has demonstrated by a preponderance of the evidence that:

(I) the motion pertains to a person who is the subject of an active criminal investigation with a reasonable likelihood of securing an arrest or prosecution in the foreseeable future; and

(II) there is reasonable suspicion that a criminal act has occurred.

(ii) Data obtained by a law enforcement agency under this paragraph shall only be used to establish probable cause to obtain a search warrant or arrest warrant.

(iii) Requests made to the Office of Attorney General to query the system under this paragraph shall be made in a form or manner prescribed by the Office of Attorney General and shall include the court order, when applicable. Each individual designee of the Office of Attorney General shall have a unique identifier when accessing the system.

(4) The Office of Attorney General shall query the system on behalf of a grand jury investigating a criminal violation of a law governing controlled substances.

(5) Approved department personnel may query the system for the purpose of:

(i) conducting internal reviews related to controlled substance laws; or

(ii) engaging in the analysis of controlled substance prescription information as part of the assigned duties and responsibilities of employment.

(6) Designated representatives from the Commonwealth or out-of-State agency or board responsible for licensing or certifying prescribers or dispensers whose professional practice was or is regulated by that agency or board for the purpose of conducting administrative investigations or proceedings.

(7) Designated Commonwealth personnel who are responsible for the development and evaluation of quality improvement strategies, program integrity initiatives or conducting internal compliance reviews and data reporting for the medical assistance program, Children's Health Insurance Program (CHIP), Pharmaceutical Assistance Contract for the Elderly (PACE) or Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier (PACENET).

(8) Personnel from the Department of Drug and Alcohol Programs engaged in the administration of the Methadone Death and Incident Review Team.

(9) A medical examiner or county coroner for the purpose of investigating the death of the individual whose record is being queried.

(10) A prescription drug monitoring official, dispenser or prescriber of a state with which this Commonwealth has an interoperability agreement.

(11) Upon providing evidence of identity and within 30 days from the date of the request, an individual who is the recipient of a controlled substance prescription entered into the system, the individual's parent or guardian if the individual is under 18 years of age or the individual's health care power of attorney.

(c) Access for active investigation.--In the case where a law enforcement agency has accessed the system for an active investigation, the information about that query shall be withheld from the individual subject to the query for a period of six months after the conclusion of the investigation.

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Tennessee

§ 53-10-306 (eff. until July 1, 2016)

§ 53-10-306 (eff. July 1, 2016)

West's Tennessee Code Annotated (2014)

Title 53. Food, Drugs and Cosmetics

Chapter 10. Legend Drugs

Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-306. Confidentiality; disclosure; penalties

<Text of section effective until July 1, 2016. See, also, section effective July 1, 2016.>

(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons in accordance with the limitations stated and rules promulgated pursuant to this part, or as otherwise provided for in § 53-10-311:

(1) Personnel of the committee specifically assigned to conduct analysis or research;

(2) Authorized committee, board, or department of health personnel or any designee appointed by the committee engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;

(3) A prescriber conducting medication history reviews who is actively involved in the care of the patient; a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber; or a prescriber having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision (a)(3) shall have a separate identifiable authentication for access;

(4) A dispenser or pharmacist not authorized to dispense controlled substances conducting drug utilization or medication history reviews who is actively involved in the care of the patient; or a dispenser having authority to dispense controlled substances to the extent the information relates specifically to a current or a bona fide prospective patient to whom that dispenser has dispensed, is dispensing, or considering dispensing any controlled substance. Each authorized individual referenced under this subdivision (a)(4) shall have a separate identifiable authentication for access;

(5) A county medical examiner appointed pursuant to § 38-7-104 when acting in an official capacity as established in § 38-7-109; provided, any access to information from the database shall be subject to the confidentiality provisions of this part except where information obtained from the database is appropriately included in any official report of the county medical examiners, toxicological reports or autopsy reports issued by the county medical examiner under § 38-7-110(c);

(6) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities related directly to TennCare:

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

(C) The bureau of TennCare's chief medical officer, associate chief medical directors, director of quality oversight, and associate director of pharmacy;

(7) A quality improvement committee as defined in § 68-11-272 of a hospital licensed under title 68 or title 33, as part of the committee's confidential and privileged activities under § 68-11-272(b)(4) with respect to the evaluation, supervision or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital's administrator to be prescribing controlled substances for the prescriber's personal use;

(8) Law enforcement personnel; provided, that such personnel are engaged in the official investigation and enforcement of state or federal laws involving controlled substances or violations under this part; and that any law enforcement personnel receiving information from the database pursuant to this section shall comply with the requirements of this subsection (a):

(A)(i) Any law enforcement agency or judicial district drug task force that wants one (1) or more of its officers or agents to have the authorization to request information from the database shall first pre-approve each such officer. Pre-approval shall be by the applicant's supervisor, who shall be either the chief of police, county sheriff or the judicial district drug task force director. The list of pre-approved applicants shall be sent to the district attorney general in the judicial district in which the agency or task force has jurisdiction;

(ii) By December 1 of each year, each district attorney general shall send to the board of pharmacy a list of applicants authorized to request information from the database from that general's judicial district for the next calendar year;

(B)(i) If the Tennessee bureau of investigation (TBI) wants one (1) or more of its agents to have the authorization to request information from the database each such agent shall first be pre-approved by the agent's immediate supervisor and division head. Approved applicants shall be sent to the board by the director;

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(ii) By December 1 of each year, the TBI director shall send to the board of pharmacy a list of applicants authorized to request information from the database from the bureau for the next calendar year;

(C) An application submitted by law enforcement personnel shall include, but not be limited to the:

(i) Applicant's name; title; agency; agency address; agency contact number; agency supervisor; and badge number, identification number or commission number, and the business email address of each applicant officer or agent, the appropriate district attorney general and, if a TBI agent, the TBI director and their business email addresses; and

(ii) Signatures of the applicant, the applicants approving supervisor and the district attorney general of the judicial district in which the applicant has jurisdiction or the approving division head and the TBI director;

(D) It shall be a duty of the board, as part of its duties to maintain the database pursuant to § 53-10-305(c), to receive and verify the lists of authorized applications sent to it by the district attorneys general and the director of the TBI pursuant to this subsection (a); or

(9) The judge of a drug court treatment program, created pursuant to title 16, chapter 22, that is participating in the pilot project pursuant to this act to the extent the information relates specifically to a current participant in the drug court treatment program. Any judge or personnel of a drug court treatment program receiving information from the database pursuant to this subdivision (a)(9) shall comply with the requirements of this subsection (a) and the following:

(A) Any judge of a participating drug court requesting information from the database shall submit an application to the board pursuant to subdivision (a)(9)(B) that must include acknowledgment by the district attorney general of the judge's judicial district that the judge is seeking information from the database on a current participant in the drug court treatment program;

(B) An application submitted by the judge of a drug court treatment program shall include:

(i) The applicant's name, title, agency, agency address, and the business email address;

(ii) The signatures of the judge and the district attorney general of the judicial district in which the judge has jurisdiction; and

(iii) The names of any current participants in the drug court treatment program that the judge has a reasonable belief may not be in compliance with the guidelines or rules of participation in the drug court treatment program as they pertain solely to the participant's unauthorized use or misuse of controlled substances. Such information shall not be considered a public record as defined by § 10-7-503; and

(C) The board shall, as part of the duty to maintain the database pursuant to § 53-10-305(e), receive the authorized application sent by the judge of the participating drug court treatment program pursuant to this subsection (a); or

(10) A healthcare practitioner extender, who is acting under the direction and supervision of a prescriber or dispenser, and only to the extent the information relates specifically to a current or bona fide prospective patient to whom the prescriber or dispenser has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance. Each authorized individual referenced under this subdivision (a)(10) shall have a separate identifiable authentication for access.

...

(m) Where an investigation is conducted under § 38-7-109, and information within the database is obtained pursuant to the requirements of this part, there exists a rebuttable presumption that the county medical examiner is acting in good faith.

...

West's Tennessee Code Annotated (2014)
Title 53. Food, Drugs and Cosmetics
Chapter 10. Legend Drugs
Part 3. Tennessee Prescription Safety Act of 2012

§ 53-10-306. Confidentiality; disclosure; penalties

<Text of section effective July 1, 2016>

(a) Information sent to, contained in, and reported from the database in any format is confidential and not subject to title 10, chapter 7, regarding public records, and not subject to subpoena from any court and shall be made available only as provided for in § 53-10-308 and to the following persons, and in accordance with the limitations stated and rules promulgated pursuant to this part:

- (1) Personnel of the committee specifically assigned to conduct analysis or research;
- (2) Authorized committee, board, or department of health personnel engaged in analysis of controlled substances prescription information as a part of the assigned duties and responsibilities of their employment;
- (3) A licensed health care practitioner having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective

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patient of the practitioner, to whom the practitioner has prescribed or dispensed or is prescribing or dispensing or considering prescribing or dispensing any controlled substance;

(4) A licensed pharmacist having authority to dispense controlled substances to the extent the information relates specifically to a current patient to whom that pharmacist has dispensed, is dispensing or considering dispensing any controlled substance;

(5) A county medical examiner appointed pursuant to § 38-7-104 when acting in an official capacity as established in § 38-7-109; provided, any access to information from the database shall be subject to the confidentiality provisions of this part except where information obtained from the database is appropriately included in any official report of the county medical examiners, toxicological reports or autopsy reports issued by the county medical examiner under § 38-7-110(c);

(6) Personnel of the following entities actively engaged in analysis of controlled substances prescription information as a part of their assigned duties and responsibilities related directly to TennCare:

(A) The office of inspector general;

(B) The medicaid fraud control unit; and

(C) The bureau of TennCare's chief medical officer, associate chief medical directors, director of quality oversight, and associate director of pharmacy; or

(7) A quality improvement committee as defined in § 68-11-272 of a hospital licensed under title 68 or title 33, as part of the committee's confidential and privileged activities under § 68-11-272(b)(4) with respect to the evaluation, supervision or discipline of a healthcare provider employed by the hospital or any of its affiliates or subsidiaries, who is known or suspected by the hospital's administrator to be prescribing controlled substances for the prescriber's personal use;

(8) Law enforcement personnel; provided, that such personnel are engaged in the official investigation and enforcement of state or federal laws involving controlled substances; and that any law enforcement personnel receiving information from the database pursuant to this section shall comply with the requirements of this subsection (a):

...

(m) Where an investigation is conducted under § 38-7-109, and information within the database is obtained pursuant to the requirements of this part, there exists a rebuttable presumption that the county medical examiner is acting in good faith.

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Vermont
18 § 4284

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

§ 4284. Protection and disclosure of information

...

(b)(1) The Department shall provide only the following persons with access to query the VPMS:

(A) A health care provider, dispenser, or delegate who is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.

(C) The Medical Director of the Department of Vermont Health Access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(D) A medical examiner or delegate from the Office of the Chief Medical Examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.

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(C) A patient for whom a prescription is written, insofar as the information relates to that patient.

(D) The relevant occupational licensing or certification authority if the Commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a drug diversion investigator.

(E)(i) The Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, if the Commissioner of Health, personally, or a Deputy Commissioner of Health, personally, makes the disclosure and has consulted with at least one of the patient's health care providers, when the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, when he or she requests data from the Commissioner of Health, and the Commissioner of Health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The Commissioner or Deputy Commissioner of Public Safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

(F) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring information with the Vermont Department of Health as described in section 4288 of this title.

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Virginia
§ 54.1-2523
18 VAC 76-20-60

West's Annotated Code of Virginia (2014)
Title 54.1. Professions and Occupations
Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions
Chapter 25.2. Prescription Monitoring Program

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 15 of § 2.2-3705.5. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription in accordance with § 54.1-3303 when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release

of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

Virginia Administrative Code (2014)

Title 18. Professional and Occupational Licensing

Vac Agency No. 76. Department of Health Professions

Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-60. Criteria for discretionary disclosure of information by the director.

A. In accordance with § 54.1-2523 C of the Code of Virginia, the director may disclose information in the program to certain persons provided the request is made in a format designated by the department.

B. The director may disclose information to:

1. The recipient of the dispensed drugs, provided the request is accompanied by a copy of a valid photo identification issued by a government agency of any jurisdiction in the United States verifying that the recipient is over the age of 18 and includes a notarized signature of the requesting party. The report shall be mailed to the street or mailing address indicated on the recipient request form.

2. The prescriber for the purpose of establishing a treatment history for a patient or prospective patient or for the purpose of obtaining a record of prescriptions issued by that prescriber, provided the request is accompanied by the prescriber's registration number with the United States Drug Enforcement Administration (DEA) and attestation that the prescriber is in

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compliance with patient notice requirements of 18 VAC 76-20-70. The prescriber may delegate the submission of a request for information, provided the delegation is in compliance with § 54.1-2523.2 of the Code of Virginia. The health care professionals to whom the prescriber has authorized access to information shall be registered with the program. Requests for information made by a delegated health care professional shall be made in his own name, using his own unique identifiers assigned by the program.

3. Another regulatory authority conducting an investigation or disciplinary proceeding or making a decision on the granting of a license or certificate, provided the request is related to an allegation of a possible controlled substance violation and that it is accompanied by the signature of the chief executive officer who is authorized to certify orders or to grant or deny licenses.

4. Governmental entities charged with the investigation and prosecution of a dispenser, prescriber, or recipient participating in the Virginia Medicaid program, provided the request is accompanied by the signature of the official within the Office of the Attorney General responsible for the investigation.

5. A dispenser for the purpose of establishing a prescription history for a specific person to assist in determining the validity of a prescription, provided the request is accompanied by the dispenser's license number issued by the relevant licensing authority and an attestation that the dispenser is in compliance with patient notice requirements of 18 VAC 76-20-70. The dispenser may delegate the submission of a request for information, provided the delegation is in compliance with § 54.1-2523.2 of the Code of Virginia. The health care professionals to whom the dispenser has authorized access to information shall be registered with the program. Requests for information made by a delegated health care professional shall be made in his own name, using his own unique identifiers assigned by the program.

C. In each case, the request must be complete and provide sufficient information to ensure the correct identity of the prescriber, recipient, or dispenser.

D. Except as provided in subdivision B 1 of this section and § 54.1-2525 C of the Code of Virginia, the request form shall include an attestation that the prescription data will not be further disclosed and will only be used for the purposes stated in the request and in accordance with the law.

E. In order to request disclosure of information contained in the program, a designated employee of the Department of Medical Assistance Services or of the Office of the Chief Medical Examiner shall register with the director as an authorized agent entitled to receive reports under § 54.1-2523 C of the Code of Virginia.

1. Such request for registration shall include an attestation from the applicant's employer of the eligibility and identity of such person.

2. Registration as an agent authorized to receive reports shall expire on June 30 of each even-numbered year or at any such time as the agent leaves or alters his current employment or otherwise becomes ineligible to receive information from the program.

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Washington
ADC 246-470-060

Washington Administrative Code (2014)
Title 246. Health, Department of
Chapter 246-470. Prescription Monitoring Program

246-470-060. Law enforcement, prosecutorial officials, coroners, and medical examiners' access to information from the program.

Local, state, or federal law enforcement officers and prosecutorial officials may obtain prescription monitoring information for a bona fide specific investigation involving a designated person. **A local, state, or federal coroner or medical examiner may obtain prescription monitoring information for a bona fide specific investigation to determine cause of death.**

(1) Registration for access. Local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners shall register with the department in order to receive an authentication to access information from the program. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may access information from the program electronically using the authentication issued by the department.

(4) Local, state, or federal law enforcement officers and prosecutorial officials shall electronically attest that the requested information is required for a bona fide specific investigation involving a designated person prior to accessing prescription monitoring information.

(5) Local, state, or federal coroner or medical examiners shall electronically attest that the requested information is required for a bona fide specific investigation to determine cause of death prior to accessing prescription monitoring information.

(6) Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may alternately submit a written request via mail or facsimile transmission in a format established by the department. The written request must contain an attestation that the requested information is required for a bona fide specific

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investigation involving a designated person or for a bona fide specific investigation to determine cause of death.

(7) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the local, state, and federal law enforcement officers, prosecutorial officials, coroners or medical examiners shall notify the department by telephone and in writing as soon as reasonably possible.

(8) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

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West Virginia
§ 60A-9-5

West's Annotated Code of West Virginia (2014)
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

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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.

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Wisconsin
ADC Phar. 18.11

Wisconsin Administrative Code (2014)
Pharmacy Examining Board
Chapter Phar 18. Prescription Drug Monitoring Program

Phar 18.11 Methods of obtaining PDMP information.

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(8) The board shall disclose the minimum amount of PDMP information necessary to a coroner, deputy coroner, medical examiner, or medical examiner's assistant following the death of a patient in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential patient health care records under ss. 146.82 and 450.19, Stats., this chapter, and other state or federal laws and regulations relating to the privacy of patient health care records if the person does all of the following:

(a) Creates an account with the board on a form provided by the board.

(b) Provides proof sufficient to the board that the person is entitled to the information under s. 146.82 (2) (a) 18., Stats.

(c) Makes a request for the PDMP information through its account with the board.

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