



## **PENALTY PROVISIONS FOR VIOLATIONS OF PRESCRIPTION MONITORING PROGRAM PRIVACY PROTECTIONS**

Please note that just because a state may not include specific penalty provisions in their PMP statutes or regulations does not mean that there are no penalties in that state for wrongly disclosing, using, or obtaining confidential patient information, only that the particular provision isn't included in the PMP statutes.

### **Research current through November 2014.**

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<b>State</b>	<b>Statutes</b>	<b>Wrongful Acts</b>	<b>Penalties</b>
Alabama	§ 20-2-216 § 13A-5-7 § 13A-5-12	Intentionally making unauthorized disclosure of information in PMP database	Class A misdemeanor, imprisonment in county jail or to hard labor for the county of not more than 1 year; fine of not more than \$6,000 or any amount not exceeding double the pecuniary gain to the defendant or loss to the victim
	§ 20-2-216 § 13A-5-6 § 13A-5-11	Intentionally obtaining unauthorized access to or destroying or altering information in database	Class C felony, imprisonment with hard labor of not more than 10 years or less than 1 year and 1 day; fine of not more than \$15,000 or any amount not more than double the pecuniary gain to defendant or loss to the victim
Alaska	§ 17.30.200 § 12.55.035 § 12.55.135	Knowingly accessing information beyond the scope of the person's authority	Class A misdemeanor; imprisonment of not more than 1 year; fine of not more than \$10,000 for a defendant that is not an organization; fine of not more than \$500,000 for a defendant that is an organization
	§ 17.30.200 § 12.55.035 § 12.55.125	Knowingly accessing information and recklessly disclosing that information to a person not entitled to access the database or receive information from it	Class C felony; imprisonment of not more than 5 years; if it's a first felony

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			conviction, 0-2 years; fine of not more than \$50,000 for a defendant that is not an organization; fine of not more than \$2,500,000 for a defendant that is an organization
	§ 17.30.200 § 12.55.035 § 12.55.125	Knowingly allow a person who is not authorized to access the database to access the database	Class C felony; imprisonment of not more than 5 years; if it's a first felony conviction, 0-2 years; fine of not more than \$50,000 for a defendant that is not an organization; fine of not more than \$2,500,000 for a defendant that is an organization
	§ 17.30.200 § 12.55.035 § 12.55.125	Unlawful for person without authority to knowingly access the database or knowingly receive information the person is not authorized to receive	Class C felony; imprisonment of not more than 5 years; if it's a first felony conviction, 0-2 years; fine of not more than \$50,000 for a defendant that is not an organization; fine of not more than \$2,500,000 for a defendant that is an organization
Arizona	§ 36-2610 § 13-702 § 13-703	Knowingly disclosing information obtained from database in a manner inconsistent with a legitimate professional or regulatory purpose, a legitimate law enforcement purpose,	Class 6 felony; for first felony offenders, between .33-2 years imprisonment; for subsequent felony

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		pursuant to a court order or as otherwise expressly authorized	offenders between .25-5.75 years depending upon circumstances
Arkansas	§ 20-7-611 ADC 007.07.4-XI § 5-4-401	Purposely disclosing information	Class C felony; imprisonment of not less than 3 years nor more than 10 years
	§ 20-7-611 ADC 007.07.4-XI § 5-4-401	Using such information in a manner or for a purpose in violation of statutes	Class C felony; imprisonment of not less than 3 years nor more than 10 years
	§ 20-7-611 ADC 007.07.4-XI § 5-4-401	Knowingly obtaining, using or disclosing, or attempting to obtain, use or disclose information by fraud or deceit from the PMP or from a person authorized to receive information from the PMP	Class C felony; imprisonment of not less than 3 years nor more than 10 years
	§ 20-7-611 ADC 007.07.4-XI § 5-4-401	Dispenser or practitioner who uses or discloses information in violation of statutes	Subject to disciplinary action by licensing board
	§ 20-7-611 ADC 007.07.4-XI § 5-4-401	Law enforcement officer who uses or discloses information in violation of statutes	Subject to disciplinary action by officer's agency or department
	§ 20-7-611 ADC 007.07.4-XI § 5-4-401	Violation of privacy provisions	Person whose privacy was compromised may bring civil suit
California	Health & Safety Code § 11165.1	Failure of subscriber to maintain effective controls for accessing a patient's PMP record	Denial of application to access PMP or suspension of access
	Health & Safety Code § 11165.1	Accessing information for any reason other than the care of his or her patient by subscriber	Denial of application to access PMP or suspension of access
	Health & Safety Code § 11165.2	Violations of PMP statutes or regulations by subscribers	Citation for order of abatement and/or administrative fine

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			of not more than \$2,500 for each violation; criminal action may not be initiated for an offense if a citation has been issued pursuant to this provision and citation may not be issued if criminal action has been filed
	Civil Code § 56.36 Penal Code § 19.2	Any violation that results in economic loss or personal injury to a patient	Misdemeanor; imprisonment not to exceed 1 year
	Civil Code § 56.36	Negligently disclosing medical information	Administrative fine or civil penalty of \$2,500 per violation; patient may bring civil suit for damages
	Civil Code § 56.36	Any person or entity, other than licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of statute	Administrative fine or civil penalty of \$25,000 per violation (not cumulative with other penalty provisions)
	Civil Code § 56.36	Any licensed health care professional who knowingly and willfully obtains, discloses, or uses medical information in violation of statute	1 <sup>st</sup> violation – administrative fine or civil penalty of \$2,500 per violation 2 <sup>d</sup> violation – fine or penalty of \$10,000 per violation 3 <sup>d</sup> and subsequent – fine or penalty of \$25,000 per violation
	Civil Code § 56.36	Any person or entity, other than health care professional, who knowingly or	Administrative fine or civil penalty of

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		willfully obtains, discloses or uses medical information for financial gain	\$250,000 per violation plus disgorgement of any funds or other consideration obtained
	Civil Code § 56.36	Any licensed health care professional who knowingly and willfully obtains, discloses or uses medical information for financial gain	1 <sup>st</sup> violation – administrative fine or civil penalty of \$5,000 per violation 2d violation – fine or penalty of \$25,000 per violation 3d and subsequent – fine or penalty of \$250,000 per violation and subject to disgorgement of funds or other consideration
	Civil Code § 56.36	Any person or entity who is not permitted to receive medical information who knowingly and willfully obtains, discloses, or uses medical information without written authorization from patient	Civil penalty not to exceed \$250,000 per violation
Colorado	§ 12-42.5-406	Knowingly releasing, obtaining, or attempting to obtain information from the PMP in violation of statutes	Civil fine of not less than \$1,000 and not more than \$10,000 for each violation
Connecticut	§ 21a-254 § 53a-35a § 53a-41	Any person who knowingly discloses information except as authorized	Class D felony; imprisonment of not more than 5 years; fine of not more than \$5,000
Delaware	16 § 4798	Person authorized to have information who knowingly discloses such information	Class G felony, fined not more than \$5,000 nor imprisoned more than 2 years, or both

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	16 § 4798	Person authorized to have information who intentionally uses the information in furtherance of other crimes	Class E felony, fined not more than \$10,000 nor imprisoned more than 5 years, or both
	16 § 4798	Person not authorized to have information who obtains such information fraudulently	Class E felony, fined not more than \$10,000 nor imprisoned more than 5 years, or both
District of Columbia	§ 48-853.09	Unlawful for persons having access to information to disclose such information	Misdemeanor,
	§ 48-853.09	Unlawful for persons lawfully in receipt of information to redisclose or use the information in any way other than for an authorized purpose	Misdemeanor,
	§ 48-853.09	Unauthorized use or disclosure of information	Disciplinary action by relevant health occupations board
Florida	§ 893.0551 § 775.082 § 775.083	Person who knowingly and willfully violates the statute regarding confidentiality	3d degree felony – term of imprisonment not to exceed 5 years, plus potential fine of \$5,000 or any higher amount equal to double the pecuniary gain of offender or double the pecuniary loss of victim
Georgia	§ 16-13-64	An individual authorized to access information who negligently uses, releases, or discloses such information	First offense – misdemeanor 2d or subsequent offense – felony; imprisonment of not less than 1 year nor more than 3 years, fine of not more than \$5,000, or both

	§ 16-13-64	An individual authorized to access information who knowingly obtains or discloses such information in a manner or for a purpose in violation of law	Felony, imprisoned for not less than 1 year nor more than 5 years, fine not to exceed \$50,000, or both
	§ 16-13-64	Any person who knowingly obtains, attempts to obtain, or discloses information under false pretenses	Felony, imprisonment of not less than 1 year nor more than 5 years, fine not to exceed \$100,000, or both
	§ 16-13-64	Any person who, without authorization, obtains or discloses information with the intent to sell, transfer, or use such information for commercial advantage, personal gain, or malicious harm	Felony, imprisonment of not less than 2 years nor more than 10 years, fine of \$250,000, or both
	§ 16-13-64	Violation of privacy protections	Person harmed by any violation has a civil cause of action for actual damages and, when appropriate, punitive damages, attorney fees and costs
Hawaii	§ 329-104 § 706-660	Unlawful to knowingly disclose or attempt to disclose information, or use or attempt to use information in the database	Class C felony; imprisonment of not more than 5 years
Idaho	§ 37-2726	Any person who knowingly misrepresents to the board that he is entitled to information from the PMP and receives information as a result of that misrepresentation	Misdemeanor, imprisonment of not more than 6 months or a fine not to exceed \$2,000, or both; penalty is in addition to any other civil or administrative penalty authorized
	§ 37-2726	Any person in possession of information who knowingly discloses such information to a person who is not	Misdemeanor, imprisonment of not more than 6 months



		<p>authorized to receive or use the information</p> <p>Does not apply to patient who discloses information about himself; disclosure by prosecuting attorney, deputy prosecuting attorney, special prosecutor, special assistant attorney general in the course of a criminal proceeding, whether pre- or post-conviction</p>	<p>or a fine not to exceed \$2,000 or both; penalty is in addition to any other civil or administrative penalty authorized</p>
	§ 37-2726	<p>Any person with access to the PMP who intentionally shares or recklessly fails to safeguard his user account, login name and password, resulting in a person not authorized to access such information obtaining access to the PMP</p>	<p>Misdemeanor, imprisonment of not more than 6 months or a fine not to exceed \$2,000 or both; penalty is in addition to any other civil or administrative penalty authorized</p>
Illinois	720 § 570/406 730 § 5-4.5-55	<p>Person who knowingly or intentionally violates 720 §§ 570/316, 317, 318, or 319</p>	<p>Class A misdemeanor; imprisonment of less than 1 year or fine not to exceed \$2,500, or both</p>
Indiana	§ 35-48-7-14 § 35-50-3-2	<p>Person who knowingly or intentionally violates statutory provisions</p>	<p>Class A misdemeanor; imprisonment of not more than 1 year and also may be fined not more than \$5,000</p>
Iowa	§ 124.558 § 902.9	<p>Person who knowingly or intentionally accesses, uses, or discloses program information without authorization in violation of statute</p>	<p>Class D felony; imprisonment of not more than 5 years and fine of not less than \$750 nor more than \$7,500 for a non-habitual offender; not more than 15 years for an habitual offender</p>

	ADC 657-37.9	Pharmacy or practitioner who knowingly fails to comply with the confidentiality provisions	Subject to disciplinary action by professional licensing board as well as the penalty provisions of § 124.558
	ADC 657-37.9	PMP administrator or member of the program who knowingly fails to comply with confidentiality provisions	Subject to disciplinary action by the board as well as the penalty provisions of § 124.558
Kansas	§ 65-1693	Person with authorization to access information who knowingly discloses such information	Level 10, nonperson felony
	§ 65-1693	Person with authorization to access information who knowingly uses such information in a manner or for a purpose in violation of statute	Level 10, nonperson felony
	§ 65-1693	Person who knowingly, without authorization, obtains or attempts to obtain information	Level 10, nonperson felony
Kentucky	§ 218A.202 § 532.020	Intentional disclosure of information to a person not authorized to receive it or obtaining information not relating to a bona fide specific investigation	1 <sup>st</sup> offense – Class B misdemeanor, imprisonment of at not more than 90 days Each subsequent offense – Class A misdemeanor, imprisonment of at least 90 days but not more than 12 months
	§ 446.070	Violations of privacy provisions	Person injured may recover damages notwithstanding any penalty imposed
Louisiana	§ 40:1009	Person or entity authorized to possess information who knowingly discloses it	Administrative sanctions as deemed appropriate by agency and may, upon criminal

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			conviction, be imprisoned, with or without hard labor, for not more than 5 years and, in addition, fined not more than \$5,000
	§ 40:1009	Person or entity authorized to possess information who uses such information in a manner or for a purpose in violation of statute	Administrative sanctions as deemed appropriate by agency and may, upon criminal conviction, be imprisoned, with or without hard labor, for not more than 5 years and, in addition, fined not more than \$5,000
Maine	22 § 7251 17-A § 1252	Person who intentionally or knowingly uses or discloses information	Class C crime; imprisonment of not more than 5 years
Maryland	Health-Gen. § 21-2A-09 ADC 10.47.07.07	Person who knowingly discloses, uses, obtains, or attempts to obtain by fraud or deceit, PMP information	Misdemeanor, imprisonment of not more than 1 year or fine not more than \$10,000 or both
	Health-Gen. § 21-2A-09 ADC 10.47.07.07	Prescriber or dispenser who knowingly discloses or uses PMP information	May be subject to disciplinary action by appropriate licensing board in addition to criminal penalties
Massachusetts	105 ADC 700.012	Willfully fails to comply with confidentiality and privacy standards regarding requesting, using or disclosing data	Suspension or termination of Controlled Substance Registration
	105 ADC 700.012	Failure to reasonably protect data	Suspension or termination of Controlled Substance Registration

	105 ADC 700.012	Attempt to obtain data through fraud or deceit	Suspension or termination of Controlled Substance Registration
Michigan		Nothing in PMP statutes or regulations	
Minnesota	§ 152.126	Prescriber or dispenser authorized to access information who knowingly discloses the data	Subject to disciplinary action and civil penalties
Mississippi	ADC 30-20-3001:V ADC 30-20-3001:IX	Pharmacist's unlawful disclosure of information or using information obtained for unlawful or unethical purposes	Board disciplinary sanctions, including monetary penalties
	ADC 30-20-3001:XXXIV	Pharmacy intern/extern's unlawful disclosure of information or using information obtained for unlawful or unethical purposes	Board disciplinary sanctions including refusal to issue or renew registration
Montana	§ 37-7-1513	Willful disclosure of information or use of information in violation of law	Referred for administrative sanctions; civil penalty of up to \$10,000 per violation for willful disclosure
Nebraska		Nothing in PMP statutes or regulations	
Nevada		Nothing in PMP statutes or regulations	
New Hampshire	§ 318-B:36	Person who knowingly discloses information or uses such information in violation of law	Board disciplinary sanctions; other relevant penalties under state and federal law
	§ 318-B:36	Unauthorized use or disclosure of information	Disciplinary action by relevant licensing board
	§ 318-B:36 § 651:2	Knowingly accessing, altering, destroying, or disclosing information or attempting to obtain such information by fraud, deceit, misrepresentation, or subterfuge	Class B felony, imprisonment of not more than 7 years
New Jersey	§ 45:1-49	Any person who knowingly discloses or uses PMP information in violation of statute	Civil penalty not to exceed \$10,000 and disciplinary action for pharmacist or practitioner

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New Mexico	ADC 16.19.29.14	Individual registrants who violate privacy protections	Subject to termination of access to program and complaint may be filed with regulatory board
New York	Public Health Law § 3396 Public Health Law § 12-b	Person who violates any provision of chapter, or any regulation lawfully made	Imprisonment not exceeding 1 year or fine not exceeding \$2,000, or both
North Carolina	§ 90-113.75	Person who intentionally, knowingly or negligently releases, obtains, or attempts to obtain information in violation of law	Civil penalty not to exceed \$10,000 per violation; person whose information was disclosed may bring civil action
North Dakota	§ 19-03.5-10 § 12.1-13-01 § 12.1-32-01	Person who uses or discloses prescription information in violation of law	Class C felony, imprisonment of not more than 5 years, a fine of \$10,000, or both
Ohio	§ 4729.86 § 4729.99	No person shall disseminate any information received from the database	Misdemeanor of the 3 <sup>rd</sup> degree; misdemeanor of the 1 <sup>st</sup> degree for repeat offenders
	§ 4729.86 § 4729.99	Obtaining information from database in violation of law	Felony of the 5 <sup>th</sup> degree; felony of the 4 <sup>th</sup> degree for repeat offenders
Oklahoma	63 § 2-309D 21 § 10	Unauthorized disclosure of information	Misdemeanor; imprisonment of not more than 1 year or by a fine not exceeding \$500 or both; deemed willful neglect of duty and grounds for removal from office
Oregon	§ 431.966 § 431.990 § 161.615 § 161.635	Department, person, or entity who, with malice, criminal intent, gross negligence, recklessness or willful intent, violates statute	Subject to civil suit and potentially Class A misdemeanor;

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			imprisonment of a maximum of 1 year and potential fine of up to \$6,250 or not exceeding double the amount of monetary gain by defendant
	§ 431.970	Practitioner or pharmacist who discloses or uses information in violation of statute	Reported to disciplinary board
	§ 431.992	Violation of § 431.966	In addition to other penalties provided by law, a civil penalty of not more than \$10,000 per violation may be imposed
Pennsylvania	Sec. 10 (eff. June 30, 2015)	Knowingly or intentionally obtaining or attempting to obtain information from the program in violation of law or by misrepresentation or fraud	Misdemeanor of the 1 <sup>st</sup> degree, imprisonment of not more than 5 years
	Sec. 10 (eff. June 30, 2015)	Knowingly or intentionally releasing, publishing, selling, transferring, or otherwise making available or attempting to release, publish, sell, transfer, or otherwise make available information	Felony of the 3 <sup>rd</sup> degree, imprisonment of not more than 7 years
	Sec. 10 (eff. June 30, 2015)	Knowing, intentional, or negligent release or use of information	Civil penalty of not less than \$2,500 for each offense
	Sec. 10 (eff. June 30, 2015)	Prescribers or dispensers who violate privacy protections	Also subject to sanctions by the appropriate licensing board
Rhode Island	§ 21-28-3.32 ADC 31-2-1:4.0	Unlawfully accessing information in violation of law	Civil action, damages can include punitive damages
South Carolina	§ 44-53-1680	Person authorized to have information who knowingly discloses such information	Felony, fined not more than \$10,000 or imprisoned not more than 10 years, or both

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	§ 44-53-1680	Person authorized to have information who uses such information in a manner or for a purpose in violation of law	Felony, fined not more than \$10,000 or imprisoned not more than 10 years, or both
	§ 16-1-90 § 16-1-20	Knowingly disclosing information from PMP or using information in a manner or for a purpose in violation of the PMP	Class E felony, imprisoned for not more than 10 years
South Dakota	§ 34-20E-19 § 22-6-1	Person who knowingly discloses information	Class 6 felony, imprisonment of 2 years, fine of \$4,000 or both
Tennessee	§ 53-10-306 § 40-35-111	Person who obtains or attempts to obtain information by misrepresentation or fraud	Class A misdemeanor, imprisonment not to exceed 11 months, 29 days, fine of not more than \$2,500, or both
	§ 53-10-306 § 40-35-111	Person who knowingly uses, releases, publishes, or otherwise makes available to any other person or entity information submitted to, contained in, or obtained from database in violation of law	Class A misdemeanor, imprisonment not to exceed 11 months, 29 days, fine of not more than \$2,500, or both
	§ 53-10-306 § 40-35-111	Intentional unauthorized disclosure by law enforcement personnel, judicial drug task force members, or TBI agents	Class A misdemeanor, imprisonment not to exceed 11 months, 29 days, fine of not more than \$2,500, or both; authorization to access database shall be suspended pending final disposition and permanently revoked if found guilty
	§ 53-10-306	Prohibited access to, an inappropriate request for, or illegal disclosure of	Violation of the canons of the code

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		information from the database by a judge of a drug court	of Judicial Conduct, including Rules 1.2, 1.3, and 3.5
Texas	Health & Safety Code § 481.127 Penal Code § 12.35	Knowingly gives, permits, or obtains unauthorized access to information	State jail felony, imprisonment of not more than 2 years nor less than 180 days, and may be fined not more than \$10,000
Utah	§ 58-37f-601 § 76-3-203 § 76-3-301	Person who knowingly and intentionally releases information in violation of law	Third degree felony, imprisonment not to exceed 5 years and fine of up to \$5,000
	§ 58-37f-601 § 76-3-203 § 76-3-301	Person who obtains or attempts to obtain information by misrepresentation or fraud	Third degree felony, imprisonment not to exceed 5 years and fine of up to \$5,000
	§ 58-37f-601 § 76-3-203 § 76-3-301	Person who obtains or attempts to obtain information for a purpose other than as authorized	Third degree felony, imprisonment not to exceed 5 years and fine of up to \$5,000
	§ 58-37f-601 § 76-3-203 § 76-3-301	Person may not knowingly and intentionally use, release, publish, or otherwise make available to any person any information obtained from database except as provided by law	Each violation is third degree felony and subject to civil penalty of not more than \$5,000
	§58-17b-504	Violation of Chapter 37f by licensee	Citation issued; may be assessed a fine of up to \$10,000 for a single violation or up to \$2,000 per day of ongoing violation, whichever is greater
Vermont	18 § 4284 ADC 12-5-21:5	Person who knowingly discloses confidential information, or obtains information not related to a bona fide investigation	Imprisonment for not more than 1 year or a fine of not more than \$1,000, or both



Virginia	§ 54.1-2525 § 18.2-11	Unlawful to disclose information in violation of statute	Class 1 misdemeanor, imprisonment of not more than 12 months or fine of not more than \$2,500, or both; grounds for disciplinary action
	§ 54.1-2525 § 18.2-11	Unlawful for any person in possession of information to redisclose or use such information contrary to law	Class 1 misdemeanor, imprisonment of not more than 12 months or fine of not more than \$2,500 or both; grounds for disciplinary action
Washington	§ 70.225.060	Person authorized to have information who knowingly discloses it	Subject to civil penalty; may also be subject to termination of right to access program, having a complaint filed with licensing board, or reported to law enforcement
	§ 70.225.060	Person authorized to have information who uses such information in a manner or for a purpose in violation of law	Subject to civil penalty; may also be subject to termination of right to access program, having a complaint filed with licensing board, or reported to law enforcement
West Virginia	§ 60A-9-7	Person granted access to information who willfully discloses such information inconsistent with legitimate law enforcement purpose, legitimate professional regulatory purpose, pursuant to a court order, or as otherwise expressly permitted by law	Misdemeanor, imprisonment of not more than 6 months or fined not more than \$1,000, or both

	§ 60A-9-7	Unauthorized access, use, or disclosure	Felony, imprisonment of not less than 1 year nor more than 5 years, fine of not less than \$3,000 nor more than \$10,000 or both
Wisconsin	§ 450.18	Any person who violates chapter or any rule promulgated under the authority of the chapter	Imprisoned not less than 30 days nor more than 90 days, or fine of not less than \$50 nor more than \$100, or both
	ADC Phar 18.13	Disclosure of information in violation of law	May be subject to disciplinary action from licensing board, and all appropriate civil and criminal penalties
Wyoming	§ 35-7-1060	Upon a showing of malice, gross negligence, recklessness or willful and wanton conduct in disclosing information	Subject to civil or criminal liability or action for legal or equitable relief