

**NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS
MODEL PRESCRIPTION MONITORING ACT
AUGUST 2002**

SECTION 1. SHORT TITLE.

This Act shall be known and may be cited as the "Model Prescription Monitoring Act".

SECTION 2. LEGISLATIVE FINDINGS.

[insert state-appropriate findings]

SECTION 3. PURPOSE.

[insert state-appropriate mission/purposes]

SECTION 4. DEFINITIONS.

(a) "Board" means the advisory board established under Section 6 of this Act.

(b) "Dispenser" means a person authorized in this state to distribute to the ultimate user a substance monitored by the prescription monitoring program, but does not include:

(I) a licensed hospital pharmacy that distributes such substances for the purposes of inpatient hospital care or the dispensing of prescriptions for controlled substances at the time of discharge from such a facility;

(II) a licensed nurse or medication aide who administers such a substance at the direction of a licensed physician; or

(III) a wholesale distributor of a substance monitored by the prescription monitoring program.

(c) "Prescriber" means a licensed health care professional with prescriptive authority

(d) "Prescription monitoring information" means information submitted to and maintained by the Prescription Monitoring Program.

(e) "Prescription Monitoring Program (PMP)" means a program established under Section 5 of this Act.

SECTION 5. ESTABLISHMENT OF A PRESCRIPTION MONITORING PROGRAM.

(a) The [designated state agency or entity] shall establish and maintain, with the consultation of the Board, an electronic system for monitoring the following substances dispensed in the state: [insert all or any combination of the following: federally controlled substances, additional state specified controlled substances, and drugs of concern documented to demonstrate a potential for abuse, particularly those identified by law enforcement and addiction treatment professionals.]

(b) The [designated state agency or entity] may contract with a vendor to establish and maintain the electronic monitoring system pursuant to guidelines which the [designated state agency or entity] shall promulgate.

SECTION 6. ADVISORY BOARD.

(a) The Advisory Board shall have the following members:

- (I) [insert appropriate designees of state health, law enforcement and prosecutorial agencies]
- (II) [insert appropriate designees of occupational licensing, certification and regulatory entities]
- (III) [insert appropriate designees of impaired professionals programs]
- (IV) [insert appropriate pain management and addiction treatment representatives]
- (V) [insert appropriate patient rights advocates]
- (VI) [insert appropriate recovering community advocates]
- (VII) [insert appropriate community leaders]

(b) The [designated state agency or entity] shall seek and the Board shall provide input and advice regarding the development and operation of the electronic monitoring system, including but not limited to:

- (I) which state controlled substances should be monitored,
- (II) which drugs of concern demonstrate a potential for abuse and should be monitored,
- (III) design and implementation of educational courses identified in Section 9,
- (IV) proper analysis and interpretation of prescription monitoring information,
- (V) design and implementation of an evaluation component, and
- (VI) potential nominees to the Board.

SECTION 7. REPORTING OF PRESCRIPTION MONITORING INFORMATION.

(a) Each dispenser shall submit to the [designated state agency or entity], by electronic means, or other format specified in a waiver granted by the [designated state agency or entity], information specified by the [designated state agency or entity], including:

- (I) A patient identifier,
- (II) The drug dispensed,
- (III) The date of the dispensing,
- (IV) The quantity dispensed,
- (V) The prescriber, and
- (VI) The dispenser.

(b) Each dispenser shall submit the required information as frequently as specified by the [designated state agency]

(c) The [designated state agency or entity] may grant a waiver of electronic submission to any dispenser for good cause, including financial hardship, as determined by the [designated state agency or entity]. The waiver shall state the format and frequency with which the dispenser shall submit the required information.

SECTION 8. ACCESS TO THE PRESCRIPTION MONITORING INFORMATION/CONFIDENTIALITY.

(a) Except as indicated in paragraphs (b), (c), and (d), prescription monitoring information submitted to the [designated state agency or entity] shall be confidential and not subject to public or open records laws.

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

(c) The [designated state agency or entity] may provide prescription monitoring information for public research, policy or education purposes, to the extent all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

(d) The following persons, after successful completion of the educational courses identified in Section 9(a), may access the prescription monitoring information in the same

or similar manner, and for the same or similar purposes, as those persons are authorized to access similar confidential information under federal and state law and regulation.

- (I) [insert prescribers]
- (II) [insert dispensers]
- (III) [insert all appropriate law enforcement personnel]
- (IV) [insert all appropriate occupational licensing, certification and regulatory personnel]
- (V) [insert all appropriate judicial authorities]
- (VI) [insert all appropriate personnel of the designated state agency or vendor/contractor establishing and maintaining the prescription monitoring program]

NOTE: Patients have several traditional means other than a prescription monitoring program to access their medical information. However, some states' existing laws will require that patients have access to their prescription information which is maintained by a monitoring program. Those states will therefore need to include patients as a category of individuals able to access the prescription monitoring information under this section.

(e) The [designated state agency or entity] shall be immune from civil liability arising from inaccuracy of any of the information submitted to the [designated state agency or entity] pursuant to this Act.

SECTION 9. EDUCATION AND TREATMENT

(a) The [designated state agency or entity] shall, in consultation with the Board, implement the following education courses:

- (I) An orientation course during the implementation phase of the PMP.
- (II) A course for persons who are authorized to access the prescription monitoring information but who did not participate in the orientation course.
- (III) A course for persons who are authorized to access the prescription monitoring information but who have violated laws or breached occupational standards involving dispensing, prescribing and use of substances monitored by the PMP.
- (IV) A continuing education course for health care professionals developed by the American Society of Addiction Medicine and the state medical society on prescribing practices, pharmacology and identification, treatment and referral of patients addicted to or abusing substances monitored by the PMP.

When appropriate, the [designated state agency or entity], in consultation with the Board, shall develop the content of the education courses described in paragraphs (I) - (III).

(b) The [designated state agency or entity], in consultation with the Board, shall strongly recommend the application of a course to inform the public about use, diversion and abuse of, and addiction to, substances monitored by the PMP.

(c) The [designated state agency or entity], in consultation with the Board, shall, when appropriate:

- (I) work with associations for impaired professionals to ensure intervention, treatment and ongoing monitoring and follow-up; and
- (II) ensure that individual patients who are identified and who have become addicted to substances monitored by the PMP receive addiction treatment.

SECTION 10. UNLAWFUL ACTS AND PENALTIES

(a) A dispenser who knowingly fails to submit prescription monitoring information to the [designated state agency or entity] as required by this Act shall be subject to [insert appropriate administrative, civil or criminal penalty].

(b) A person authorized to have prescription monitoring information pursuant to this Act who knowingly discloses such information in violation of this Act shall be subject to [insert appropriate administrative, civil or criminal penalty.]

(c) A person authorized to have prescription monitoring information pursuant to this Act who uses such information in a manner or for a purpose in violation of this Act shall be subject to [insert appropriate administrative, civil or criminal penalty.]

SECTION 11. EVALUATION, DATA ANALYSIS AND REPORTING.

(a) The [designated state agency] shall, in consultation with the Board, design and implement an evaluation component to identify cost-benefits of the prescription monitoring program, and other information relevant to policy, research and education involving substances monitored by the PMP.

(b) The [designated state agency] shall report to the [insert appropriate state decisionmakers, e.g, legislature] on a periodic basis, no less than annually, about the cost-benefits and other information noted in paragraph (a).

SECTION 12. RULES AND REGULATIONS.

The [designated state agency] shall promulgate rules and regulations necessary to implement the provisions of this Act.

SECTION 13. SEVERABILITY.

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

SECTION 14. EFFECTIVE DATE.

This Act shall be effective on [insert specific date or reference to normal state method of determination of the effective date].