

**Alliance of States with Prescription Monitoring Programs
and
National Association of State Controlled Substances
Authorities**

PRESCRIPTION MONITORING PROGRAM MODEL ACT

October 2002

Section 1. Short Title.

This Act shall be known and may be cited as the “Prescription Monitoring Program Model Act.”

Section 2. Legislative Findings

[insert state findings]

Section 3. Purpose

This act is intended to improve the state’s ability to identify and stop diversion of prescription drugs in an efficient and cost effective manner that will not impede the appropriate medical utilization of licit controlled substances or other licit drugs of abuse.

Section 4. Definitions

- (a) “Controlled substance” has the meaning given such term in [section of the state controlled substances act].
- (b) [Designated state agency] means the state agency responsible for the functions listed in Section 5.
- (c) “Patient” means the person or animal who is the ultimate user of a drug for whom a prescription is issued and/or for whom a drug is dispensed.
- (d) “Dispenser” means a person who delivers a Schedule II–V controlled substance as defined in subsection (e) to the ultimate user, but does not include:
 - (I) a licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care [or the dispensing of prescriptions for controlled substances at the time of discharge from such a facility];
 - (II) a practitioner, or other authorized person who administers such a substance; or

- (III) a wholesale distributor of a Schedule II–V controlled substance.
- (e) “Schedule II, III, IV and/or V controlled substances” mean controlled substances that are listed in Schedules II, III, IV, and V of the Schedules provided under [insert section of the state controlled substances act] or the Federal Controlled Substances Act (21 U.S.C. 812).

Section 5. Requirements for Prescription Monitoring Program.

- (a) The [designated state agency] shall establish and maintain a program for the monitoring of prescribing and dispensing of all Schedule II, III and IV controlled substances [and, if selected by the state, Schedule V controlled substances and/or additional drugs identified by the designated state agency as demonstrating a potential for abuse] by all professionals licensed to prescribe or dispense such substances in this state.
- (b) Each dispenser shall submit to the [designated state agency] by electronic means information regarding each prescription dispensed for a drug included under paragraph (a) of this section. The information submitted for each prescription shall include, but not be limited to:
 - (I) Dispenser identification number.
 - (II) Date prescription filled.
 - (III) Prescription number.
 - (IV) Prescription is new or is a refill.
 - (V) NDC code for drug dispensed.
 - (VI) Quantity dispensed.
 - (VII) Number of days supply of the drug
 - (VIII) Patient identification number.
 - (IX) Patient name.
 - (X) Patient address.
 - (XI) Patient date of birth.
 - (XII) Prescriber identification number.
 - (XIII) Date prescription issued by prescriber.
 - (XIV) Person who receives the prescription from the dispenser, if other than the patient.
 - (XV) Source of payment for prescription.
 - (XVI) State issued serial number [if state chooses to establish a serialized prescription system].
- (c) Each dispenser shall submit the information in accordance with transmission methods and frequency established by the [designated state agency]; but shall report at least every thirty days, between the 1st and the 15th of the month following the month the prescription was dispensed.
- (d) The [designated state agency] may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver

may permit the dispenser to submit prescription information by paper form or other means, provided all information required in paragraph (b) of this section is submitted in this alternative format.

Note: the following paragraphs, (e) - (h), are intended for those states that choose to establish a serialized prescription system as part of the prescription monitoring program.

- (e) A serialized [single copy or multiple copy] prescription form, shall be issued by the [designated state agency] to individual [insert "and institutional" if practitioners in health care institutions issue prescriptions that can be filled in pharmacies outside the institutions] prescribers and shall be used for all prescriptions for drugs in [Schedule II, III, IV and/or V] controlled substances. Each series of prescriptions shall be issued to a specific prescriber [in consecutively numbered blocks of ____] and shall only be used by that prescriber.
- (f) Each prescriber shall only prescribe drugs in [Schedule II, III, IV and/or V] controlled substances on official serialized prescription forms issued by the [designated state agency].
- (g) Each dispenser shall only dispense drugs in [Schedule II, III, IV and/or V] controlled substances on such official serialized prescription forms.
- (h) The [designated state agency] shall charge each prescriber an amount sufficient to cover the costs of processing requests for forms, printing the prescription forms, and operating the prescription monitoring program.

Note: States may chose to use alternative method than paragraph (h) to pay the cost of their serialized prescription forms and monitoring system, for example, through controlled substances registration fees. In such instances, paragraph (h) can be deleted.

Section 6. Access to Prescription Information.

- (a) Prescription information submitted to the [designated state agency] shall be confidential and not subject to public or open records laws, except as provided in paragraphs (c), (d), and (e) of this section.

Note: States may choose to also amend their open record statutes to specifically exclude from disclosure prescription information collected by their prescription monitoring program.

- (b) The [designated state agency] 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 in paragraphs (c), (d), and (e) of this section.

- (c) The [designated state agency or entity] shall review the prescription information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the [designated state agency] shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity, and provide prescription information required for an investigation.
- (d) The [designated state agency] shall be authorized to provide data in the prescription monitoring program to the following persons.
 - (I) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients.
 - (II) An individual who requests the individual's own prescription monitoring information in accordance with procedures established under [insert state statute granting individuals access to state held data concerning themselves].
 - (III) [insert name or type of state boards and regulatory agencies that supervise or regulate a profession that is authorized for controlled substances activity].
 - (IV) Local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing licit drugs.
 - (V) [insert state Medicaid agency] regarding Medicaid program recipients.
 - (VI) [insert judicial authorities] under grand jury subpoena or court order [or equivalent judicial process in each state].
 - (VII) Personnel of the [designated state agency] for purposes of administration and enforcement of this Act, or [insert state controlled substances act], [if any other state statute is applicable, insert "or" and reference the other statutes].
- (e) The [designated state agency] may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients and/or persons who received prescriptions from dispensers.

Section 7. Authority to Contract

The [designated state agency] is authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in Section

6 of this Act and shall be subject to the penalties specified in Section 8 of this Act for unlawful acts.

Section 8. Rules and Regulations.

The [designated state agency] shall promulgate rules and regulations setting forth the procedures and methods for implementing this Act.

Section 9. 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 or knowingly submits incorrect prescription information 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 10. 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 11. Effective Date.

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

**Adopted by *Alliance of States with Prescription Monitoring Programs*,
October 22, 2002.**

**Adopted by *National Association of State Controlled Substances
Authorities*, October 25, 2002**