PDMP TTAC

Prescription Drug Monitoring Program Training and Technical Assistance Center

Prescription Drug Monitoring Program

Summary of Selected 2023 Bills and Regulations

April 2024

This project was supported by Grant No. 15PBJA-22-GG-03585 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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General Summary

The year 2023 saw the introduction of at least 122 state and federal bills related to prescription drug monitoring programs (PDMPs) and the proposal of at least 57 regulations related to PDMPs. In addition, some bills and regulations that were introduced in 2022 became effective in 2023. In 2023, approximately 33 state bills were enacted, 40 state regulations were adopted, and 1 federal regulation was adopted. The primary topics of the enacted bills or adopted regulations included advisory board composition, authorized access, mandatory queries, mandatory registration, medical marijuana/cannabis, narcotic treatment programs, overdose fatality review (OFR) teams, penalties and sanctions, PDMP funding, PDMP user access, and reporting requirements (including drugs of concern that are not controlled substances). Included in this summary is a selection of bills and regulations highlighting what may be considered significant actions related to PDMPs.

Significant State Regulatory or Statutory Actions

Alaska passed a bill exempting a controlled substance prescribed or dispensed by a veterinarian to treat an animal from the requirements of the PDMP. (See 2023 Alaska House Bill 56.)

Florida adopted a rule updating reporting standards to the new version of the American Society for Automation in Pharmacy for dispensing practitioners and pharmacies reporting controlled substances. (See Florida Administrative Code 64K-1.002.)

Illinois passed a bill requiring ”any new, ceased, or unconnected healthcare facility and its selected Electronic Health Records System or Pharmacy Management System to make contact with and ensure integration with the Prescription Monitoring Program.” The bill further provides that the department of human services (Department) must adopt rules ”requiring Electronic Health Records Systems and Pharmacy Management Systems to interface, by January 1, 2024, with the Prescription Monitoring Program to ensure that providers have access to specific patient records during the treatment of their patients. The Department shall identify actions to be taken if a prescriber’s Electronic Health Records System and Pharmacy Management System does not effectively interface with the Prescription Monitoring Program once the Prescription Monitoring Program is aware of the non-integrated connection.” The bill also provides that the Department not require, expressly or effectively, electronic health records systems, pharmacies, or other providers to utilize a particular entity or system for integration of pharmacy records with the PDMP. (See 2023 Illinois Senate Bill 285.)

Michigan passed a bill allowing for the creation of OFR teams. The bill provides that a PDMP program administrator may be invited to participate in an individual overdose review or community overdose review. (See Michigan Senate Bill 133.)

Mississippi passed a bill requiring the PDMP to issue a report each year to the legislature that indicates the number of opioid prescriptions that were provided to patients during that year. (See 2023 Mississippi House Bill 1158.)

Mississippi adopted a rule requiring physicians and physician assistants practicing in a registered pain management medical practice to register with the PDMP. A report from the PDMP must be obtained on the initial visit for each patient, and subsequent reports must be obtained for each patient at every visit. The rule also requires that physician assistants with prescriptive authority must register with the PDMP. (See 30 Mississippi ADC Part 2640, R. 1.14.)

Montana passed a bill permitting authorized staff of the department of public health and human services to review the de-identified prescription drug registry information involving individuals whose deaths have been ruled a suicide. The information must include a list of controlled substances dispensed to each person whose death was ruled a suicide. The bill requires a suicide prevention officer to request a list of controlled substances dispensed to each person whose death was ruled a suicide from the drug registry and report annually to the legislature on the toxicology information submitted by the coroner and the prescription drug registry information regarding the medications prescribed to individuals whose manner of death was ruled to be a suicide and direct a statewide suicide prevention program. (See 2023 Montana Senate Bill 284.)

Nebraska passed a bill creating the Overdose Fatality Review Teams Act. The bill provides that a local health department may include, either as temporary or permanent members, a PDMP's administrator or their designee as part of the OFR team. Information obtained by the PDMP is not subject to the requirements of record requests permitted by this Act. The bill also requires a local health department to enter into a data use agreement with the PDMP. (See 2023 Nebraska Legislative Bill 227.)

New Mexico adopted a regulation amending the definition for "drug of concern." "Drug of concern" is defined as "a non-controlled dangerous drug that the Board [of Pharmacy] has by rule determined to require dispenser PMP reporting of in the same manner as controlled substance prescription dispensing, when required reporting is expected to protect patients due to interaction of the drug of concern with controlled substances or other compelling issue. Gabapentin is a drug of concern, except when dispensed pursuant to a prescription issued by a veterinarian." (See New Mexico Administrative Code 16.19.29.7.)

Ohio adopted a regulation relating to controlled substances for the treatment of obesity. The regulation provides that a prescriber may use a Schedule III or IV controlled substance for the treatment of obesity only if it has a U.S. Food and Drug Administration-approved indication for that purpose. Before initiating treatment, the prescriber must access the Ohio Automated Rx Reporting System (OARRS) for the patient's prescription history during the preceding 12-month period and document, in the patient's record, the receipt and assessment of the report received. The rule also provides that the prescriber must not initiate treatment using a controlled substance upon ascertaining or having reason to believe that the patient has a history of or shows a propensity for alcohol or drug abuse. The prescriber may personally furnish or prescribe

controlled substances to treat obesity when the prescriber observes and records that the patient significantly benefits from the controlled substance and has no serious adverse effects related to the drug regimen. As part of the requirements, the rule indicates that the prescriber must access OARRS. (See Ohio Administrative Code 4731-11-04.)

Oregon passed a bill requiring a pharmacy to report dispensation of prescription drugs classified in Schedules II through V to the PDMP when the drug is prescribed and dispensed to an individual for use by the individual or the individual's animal. This bill prohibits the Oregon Health Authority from disclosing PDMP information to veterinarians. The bill also provides that prescribing and dispensing naloxone or a drug containing pseudoephedrine or ephedrine or a salt, isomer, or salt of an isomer of pseudoephedrine or ephedrine is not subject to the PDMP. (See 2023 Oregon House Bill 3258.)

South Carolina passed a bill allowing a coroner or their designee to possess and administer an opioid antidote under certain circumstances. When a coroner or their designee administers an opioid antidote, they must report, within 30 days of administration, to the department's bureau of emergency medical services, information regarding the opioid antidote administered for inclusion in the PDMP. Drug Control will verify whether any prescription history of the person appears in the PDMP and, if a prescription history exists, will document the date on which the opioid antidote was administered in response to a verified opioid overdose for further review by a practitioner or delegate. (See 2023 South Carolina House Bill 3691.)

A Closer Look at Bills and Regulations Relating to Medical Marijuana/Cannabis

Several states passed bills and regulations relating to medical marijuana/cannabis. The following are a selection of bills and regulations highlighting what may be considered significant actions related to PDMPs and medical marijuana/cannabis.

Connecticut requires that any cannabis or medical marijuana products sold by a hybrid retailer to qualifying patients and caregivers must be dispensed by a licensed pharmacist and must be recorded in the PDMP in real time or immediately upon completion of the transaction. Only a licensed pharmacist or dispensary technician may upload or access data in the PDMP. If cannabis dispensed to a patient or caregiver is unable to be delivered and is returned by the delivery service to the hybrid retailer, it must be returned to the licensed inventory system and removed from the PDMP no later than 48 hours after receipt of the cannabis from the delivery service. (See 2023 Connecticut House Bill 6700.)

Florida amended the requirement that a physician perform an in-person physical examination on the patient while in the same room for medical marijuana certification. An in-person physical examination is only required for the initial certification. A telehealth appointment is sufficient for a renewal of certification. The requirement still remains in place that the physician must check the patient's controlled substance history in the PDMP prior to issuing a certification to use medical marijuana. (See 2023 Florida House Bill 387.)

Kentucky requires a medicinal cannabis practitioner who provides written certifications for the use of medicinal cannabis to only provide a patient with a written certification after the practitioner has reviewed a report of information from the electronic monitoring system for a period of time that covers at least the 12 months immediately preceding the date of the report. Within 24 hours of providing a patient with a written certification for the use of medicinal cannabis, a practitioner must record the issuance of the certification in the electronic monitoring system. A dispensary must maintain records that include notations of the amount of medicinal cannabis being dispensed and enter that information into the electronic monitoring system. A dispensary must check the electronic monitoring system to determine the amount of medical cannabis the person is legally allowed to purchase. (See 2023 Kentucky Senate Bill 47.)

Louisiana requires that prior to dispensing any marijuana product to a patient, the pharmacist must review the patient's records in the PDMP. The pharmacist must resolve any concerns identified in that review by consultation with the recommending authorized clinician. (See Louisiana Administrative Code 46:LIII.2457.)

Ohio requires a dispensary to comply with all dispensing requirements, including reporting to OARRS, for medical marijuana. (See Ohio Administrative Code 3796:6-3-02.)

Pennsylvania requires a practitioner to review a patient's controlled substance history in the PDMP when determining whether a patient would benefit from medical marijuana. A practitioner must review the PDMP prior to issuing or modifying a patient's certification to determine the controlled substance history of the patient and whether the controlled substance history would impact the patient's use of medical marijuana products. (See 28 Pennsylvania Administrative Code 1181a.27, 1181a.30, 1191a.25.)

Virginia provides that when a cannabis product is dispensed, the primary cannabinoid of the cannabis product dispensed must be reported to the PDMP. (See 2022 Virginia House Bill 2368.) Virginia prohibits a practitioner from issuing a written certification for the use of cannabis products while on the premises of a pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor cannot endorse or promote any practitioner who issues certifications to patients. A pharmaceutical processor must register with the board of pharmacy (board) each cannabis product it manufactures. Part of that requirement includes that within 2 business days of the board's approval or deemed approval, the board must enter the cannabis product's national drug code number into the PDMP. (See 2022 Virginia Senate Bill 1337 and 2022 Virginia House Bill 1846.)

Resources

Additional information regarding all legislation and regulations introduced and enacted in 2023 can be found at https://www.pdmpassist.org/Policies/Legislative. PDMP issue-specific maps and charts can be found on the PDMP Training and Technical Assistance Center website, located at https://www.pdmpassist.org/Policies/Maps.