Louisiana Administrative Code

Title 46 – Professional and Occupational Standards

Part LIII – Pharmacists

Chapter 29. Prescription Monitoring Program

§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise:

Delegate – a person authorized by a prescriber or dispenser who is also an authorized user as described in Section 2917 of this Chapter to access and retrieve program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser rains accountability.

Drugs of Concern – drugs other than controlled substances as defined by rule whose use requires tracking for public health purposes or which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers [whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation]:

a. butalbital when in combination with at least 325 milligrams of acetaminophen per dosage unit.
b. naloxone.
c. promethazine when present in oral liquid formulation.
d. gabapentin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, amended LR 39:314 (February 2013), amended LR 40:1096 (June 2014), amended LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 45:42 (January 2019), amended LR 47:248 (February 2021).

§2903. Authority for Program Operation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1004.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2905. Authority to Engage Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1179.F.(6).
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2907. Authority to Contract with Vendors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1012.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2909. Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 40:1096 (June 2014), repealed by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2911. Reporting of Prescription Monitoring Information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance or drug monitored by the program.

B. Each dispenser shall submit the required information by electronic means no later than the next business day after the date of dispensing.

C. If the dispenser is unable to submit prescription information by electronic means, he may apply to the board for a waiver. The board may grant a waiver to that requirement; if so, the waiver shall state the format and frequency with which the dispenser shall submit the required information. The waiver shall expire one year after the date of issue, unless terminated sooner by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2913. Required Data Elements

A. The information submitted for each prescription shall include data relative to the identification of the following elements of the transaction, or alternative data as identified in the board's program user manual. To the extent possible, the data shall be transmitted in the format established by the American Society for Automation in Pharmacy (ASAP) Telecommunications Format for Prescription Monitoring Programs Standard Version 4.2 or a successor.

1. Prescriber Information;
    a. last and first name of prescriber;
    b. United States Drug Enforcement Administration (DEA) registration number, and suffix if applicable, or in the alternative, the national provider identifier (NPI) number, as issued by the United States Centers for Medicare and Medicaid Services (CMS).
2. Patient Information;
    a. last and first name of human patient and middle initial or name if available, or in the event of a veterinary prescription, the client's name and patient's animal species;
    b. complete address of patient;
    c. date of birth of patient;
    d. identification number of patient;
    e. gender code;
    f. species code.
3. Prescription Information;
    a. identification number of prescription;
    b. date of issuance;
    c. date of fulfillment;
    d. number of refills authorized on original prescription and refill number;
    e. method of payment for prescription (cash, insurance, or government subsidy).
4. Drug Information;
    a. National Drug Code (NDC) number;
    b. quantity dispensed;
    c. days supply.
5. Dispenser Information;
    a. DEA registration number, or in the alternative, the national provider identifier (NPI) number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013).

§2914. Record Retention of Prescription Transaction Information

A. The board shall retain a minimum of five years of prescription transaction information for review by persons authorized to access such information.

B. The board shall archive all prescription transaction information not available for direct or indirect access.

C. The board shall respond to requests for archived prescription transaction information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1006(G).
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2915. Failure to Report Prescription Information

A. A dispenser who fails to submit prescription monitoring information to the board as required shall be referred to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007).

§2917. Authorized Direct Access Users of Prescription Monitoring Information

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. persons authorized to prescribe or dispense controlled substances or drugs of concern, and their delegates, for the purpose of providing medical or pharmaceutical care for their patients, or for verifying their prescription records.
2. designated representatives from the professional licensing, certification, or regulatory agencies of this state or another state charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or other drugs of concern.
3. designated representatives from the Louisiana Medicaid program regarding Medicaid program recipients.
4. designated representatives of the board or any vendor or contractor establishing or maintaining the prescription monitoring program.
5. a medical examiner or coroner, or a delegate thereof, for the purpose of investigating an individual's death.
6. a licensed substance abuse addiction counselor providing services as part of a state-licensed substance abuse or addiction treatment program.
7. an epidemiologist with the Louisiana Department of Health for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board.
8. prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions, through a secure interstate data exchange system approved by the board, but only in compliance with the provisions of R.S. 40:1007(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 47:248 (February 2021).

§2919. Registration Procedures for Authorized Direct Access Users

A. Authorized users of prescription monitoring information, and their delegates, shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1. a. A prescriber or dispenser, excluding veterinarians, shall be automatically registered as a participant in the program and shall authenticate their identity through an online process in order to activate their account.
   b. An agency applicant shall file an application with the program, using the form supplied by the program for that purpose.
2. The board shall verify the prescriber or dispenser applicant is in possession of a valid license to prescribe or dispense controlled substances, or in the case of an agency applicant, the board shall verify agency representation

3. Upon verification of all requirements, the board shall issue the appropriate credential necessary to access prescription monitoring information.
4. Upon receipt of information that an authorized user no longer possesses authority to prescribe or dispense controlled substances, the program shall terminate the user's credentials to access prescription monitoring information. If or when the user's authority to prescribe or dispense controlled substances is reinstated, the program may reinstate the user's credentials to access prescription monitoring information.
5. Prescribers and dispensers approved for access shall be responsible for the enabling and disabling of access privileges for their delegates, as well as the supervision of their activities.

AUTHORITY NOTE: Promulgated by R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 47:249 (February 2021).

§2921. Methods of Access to Prescription Monitoring Information and Audit Trail Information

A. Prescribers and dispensers, as well as their delegates, once properly registered, may solicit prescription monitoring information from the program concerning their patients, or for verifying their prescription records. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information and audit trail information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

C. Designated representatives of the Louisiana Medicaid program, once properly registered, may solicit prescription monitoring information from the program concerning specific recipients. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

D. Designated representatives of the board, or any vendor or contractor establishing or maintaining the program, once properly registered, may solicit prescription monitoring information from the program for the purpose of establishing or maintaining the program's database.

E. Upon receipt of one of the following methods of application by local, state, out-of-state, or federal law enforcement or prosecutorial officials, including judicially supervised specialty courts within the criminal justice system that are authorized by the Louisiana Supreme Court, the program may provide prescription monitoring information and audit trail information:
   1. a court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;
   2. a grand jury subpoena; or
   3. an administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided by law enforcement to the board, and further, provided all of the following:
      a. the information sought is relevant and material to a legitimate law enforcement inquiry;
      b. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought;
      c. de-identified information, or limited information that does not identify, or could not reasonably lead to the identification of an individual patient, could not reasonably be used.

F. A medical examiner or coroner, or a delegate thereof, once properly registered, may solicit prescription monitoring information from the program for the purpose of investigating an individual's death. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

G. A licensed substance abuse addiction counselor, once properly registered, may solicit prescription monitoring information from the program for the purpose of providing services as part of a state-licensed substance abuse or addiction treatment program. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

H. Upon receipt of an administrative request from a probation or parole officer, the program may provide prescription monitoring information. The probation or parole officer must certify the request for prescription monitoring information is for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.

I. An epidemiologist with the Louisiana Department of Health, once properly registered, may solicit prescription monitoring information from the program for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board.

J. Individuals may solicit their own prescription monitoring information and audit trail information from the

program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

K. A parent, legal guardian, or legal healthcare agent may solicit prescription monitoring information and audit trail information from the program for the purpose of reviewing the history of monitored drugs dispensed to a child or an individual for whom the agent makes healthcare decisions, to the extent consistent with federal and state confidentiality laws and regulations. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

L. An executor of a will or a court-appointed succession representative of an estate may solicit prescription monitoring information and audit trail information from the program for the purpose of reviewing the history of monitored drugs dispensed to a deceased individual. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

M. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of maintaining the database, analysis and reporting of data, compliance reviews, and responding to legitimate inquiries from authorized users or other individuals.

N. Prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions may access prescription monitoring information from the program through a secure interstate data exchange system or health information exchange system approved by the board~~.~~, but only in compliance with the provisions of R.S. 40:1007(G).

O. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third party conduit that has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 47:249 (February 2021).

§2923. Unlawful Use or Disclosure of Prescription Monitoring Information

A. If the program receives evidence of inappropriate or unlawful use or disclosure of prescription monitoring information by an authorized user or his delegate, the program shall refer that user to the appropriate professional licensing, certification, or regulatory agency for administrative sanctions as deemed appropriate by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007), amended LR 40:1095 (June 2014).

§2925. Release of Prescription Monitoring Information to Other Entities

A. The program shall provide prescription monitoring information to public or private entities, whether located in or outside of the state, for public research, policy, or educational purposes, but only after removing information that identifies or could reasonably be used to identify prescribers, dispensers, and individual patients or persons who received prescriptions from prescribers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007), amended LR 39:315 (February 2013).

§2927. Legislative Oversight

A. The board shall report to the appropriate legislative oversight committee on a periodic basis, but in no case less than annually, the cost benefits and other information relevant to policy, research, and education involving controlled substances and other drugs of concern monitored by the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).

§2929. Program Evaluation

A. The board shall, in consultation with and upon recommendation of the advisory council, 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 controlled substances and drug monitored by the prescription monitoring program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1348 (July 2007).