



Pain & Policy Studies Group
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ESSENTIAL ELEMENTS OF AN ELECTRONIC PRESCRIPTION MONITORING PROGRAM

There currently is a wide variety of factors that characterize state electronic Prescription Monitoring Programs (PMPs), which originated in the mid-1990s but often have been based on programs established as far back as the 1970s or before. Of the 35 existing state PMPs, over half were created since 2005 when the federal government adopted the National All Schedules Prescription Electronic Reporting (NASPER) Act.

NASPER offers program grants to states that want to create a PMP, but the resulting PMP must conform to a number of specific requirements to qualify for funding. It is expected that NASPER will continue to motivate states to consider adopting a new PMP, or to encourage states to modify already-established programs. Given this likelihood, it is important that any new PMP is effective at reducing abuse and diversion and has little risk of restricting legitimate prescribing and impeding patient care.

The four essential elements of an electronic PMP listed below are not meant to be comprehensive, but rather to highlight core characteristics that are most directly important to achieving a balanced PMP that supports pain management and patient care. Also, these essential elements largely conform to NASPER requirements.

(1) Program monitors multiple schedules of medications (at least Schedules II-IV) (see below Section 3: Purpose)

Justification: Historically, state PMPs have monitored only Schedule II controlled substances. Research has demonstrated that focusing only on this narrow class of opioid analgesics, which are the only drugs indicated for treating severe pain, stigmatized these medications as well as the practitioners who prescribed them. As a result, the medical use of Schedule II medications tended to be lower in states with such a PMP, while prescriptions for drugs in Schedules III-V were more frequent (called the “substitution effect”). This created the situation in which patients with cancer and chronic severe pain, who legitimately required a Schedule II analgesic, often did not have access to these medications. PMPs that monitor multiple schedules of medications (i.e., Schedules II-V) avoid the possibility of a substitution effect.

(2) Program is administered by a state healthcare department (e.g., Department of Health or Board of Pharmacy) (see below Section 4: Definitions)

Justification: Along with monitoring only Schedule II controlled substances, past PMPs have been frequently administered by state law enforcement agencies. Requiring police to scrutinize prescriptions, rather than members of a state healthcare agency who are more likely prepared to appropriately interpret prescribing practices within an overall clinical context, has been suggested as another reason for the substitution effect evidenced with past PMPs. Current PMPs typically are administered by a state’s healthcare agency, whose members can be expected to possess the understanding to discriminate legitimate medical practice from substandard or unprofessional conduct or criminal activity. Such knowledge of legitimate clinical practice is essential to correctly interpret PMP information, such as the prescription amount and duration, as well as the characteristics of the practitioners who are prescribing and the patients who are receiving the prescriptions.

(3) Program creates a multidisciplinary Advisory Council (see below Section 6: Advisory Council)

Justification: Membership of an effective Advisory Council usually comprises a multidisciplinary panel that includes healthcare professionals, pain management and addiction medicine specialists, regulatory members, law enforcement officials, and patient advocates. The presence of an Advisory Council is useful for offering assistance to the state agency administering the program (i.e., the Board of Pharmacy) about (1) designing, maintaining, and operating the PMP, as well as creating regulations to implement the program, (2) creating orientation, educational; and training courses, and (3) developing appropriate outcome measures to evaluate program effectiveness. Without an Advisory Council that represents a broad constituency of diverse interests, it becomes more likely that the resulting PMP will have a more limited scope relating to program objectives, implementation, and outcomes, or may contain requirements that have unanticipated undue consequences in certain clinical situations.

(4) Program requires an annual or semi-annual evaluation of the program's (1) effectiveness at reducing prescription medication abuse and diversion, and (2) effect on practitioners' prescribing for legitimate medical purposes, including pain relief (see below Section 11: Evaluation; data analysis; reporting), which often is linked to the program's clearly-stated intent to identify and prevent abuse of controlled substances while avoiding interfering with the legitimate medical use of these prescription medications (see below Section 2: Legislative Intent)

Justification: Although a PMP often is a state's primary drug abuse and diversion control measure, there is little evidence to suggest the effectiveness of such programs. The legislative policies that create PMPs typically have not required program evaluations of relevant outcomes. In addition, any reports that have been produced tend not to be publicly available. Consequently, these programs are being adopted as drug control mechanisms without a clear understanding of their impact, either positively or negatively. A periodic evaluation of a state PMP is important to demonstrate the program's goal of preventing abuse and diversion, as well as its impact on legitimate medical practice. Importantly, attention must be paid to the specific outcomes measured, and whether they sufficiently relate to the stated objectives for the program.



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MODEL ELECTRONIC PRESCRIPTION MONITORING PROGRAM ACT

Note: This Model Electronic Prescription Monitoring Program (PMP) was informed by the Model PMP Acts developed by the National Alliance for Model State Drug Laws and the Alliance of States with Prescription Monitoring Programs/National Association of State Controlled Substances Authorities; by the National All Schedules Prescription Electronic Reporting Act of 2005; and by legislation created in Alabama, Arizona, California, Colorado, Connecticut, Hawaii, Iowa, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, New York, North Carolina, North Dakota, Nevada, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, Vermont, Virginia, and Wyoming.

Section 1. Short title

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

Section 2. Legislative Intent

[Insert state-appropriate findings, which should emphasize the program's dual purpose of reducing abuse and diversion of controlled substances in a state while avoiding interfering with appropriate professional practice and patient care. See acceptable examples below.]

MAINE: It is the intent of the Legislature that the prescription monitoring program established pursuant to this chapter serve as a means to promote the public health and welfare and to detect and prevent substance abuse. This chapter is not intended to interfere with the legitimate medical use of controlled substances.

NORTH CAROLINA: (a) The General Assembly makes the following findings:

- (1) North Carolina is experiencing an epidemic of poisoning deaths from unintentional drug overdoses.
- (2) Since 1997, the number of deaths from unintentional drug overdoses has increased threefold, from 228 deaths in 1997 to 690 deaths in 2003.
- (3) The number of unintentional deaths from illicit drugs in North Carolina has decreased since 1992 while unintentional deaths from licit drugs, primarily prescriptions, have increased.
- (4) Licit drugs are now responsible for over half of the fatal unintentional poisonings in North Carolina.
- (5) Over half of the prescription drugs associated with unintentional deaths are narcotics (opioids).
- (6) Of these licit drugs, deaths from methadone, usually prescribed as an analgesic for severe pain, have increased sevenfold since 1997.
- (7) Methadone from opioid treatment program clinics is a negligible source of the methadone that has contributed to the dramatic increase in unintentional methadone-related deaths in North Carolina.
- (8) Review of the experience of the 19 states that have active controlled substances reporting systems clearly documents that implementation of these reporting systems do not create a "chilling" effect on prescribing.
- (9) Review of data from controlled substances reporting systems help:
 - a. Support the legitimate medical use of controlled substances.
 - b. Identify and prevent diversion of prescribed controlled substances.
 - c. Reduce morbidity and mortality from unintentional drug overdoses.
 - d. Reduce the costs associated with the misuse and abuse of controlled substances.
 - e. Assist clinicians in identifying and referring for treatment patients misusing controlled substances.
 - f. Reduce the cost for law enforcement of investigating cases of diversion and misuse.
 - g. Inform the public, including health care professionals, of the use and abuse trends related to prescription drugs.
- (b) This Article is intended to improve the State's ability to identify controlled substance abusers or misusers and refer them for treatment, and 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.

VERMONT: The general assembly recognizes the important public health benefits of the legal medical use of controlled substances and also the significant risk to public health that can arise due to the abuse of those substances. It is the intent of this chapter to create the Vermont prescription monitoring system, which will provide an electronic database and reporting system for electronic monitoring of prescriptions for Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, to promote the public health through enhanced opportunities for treatment for and prevention of abuse of controlled substances, without interfering with the legal medical use of those substances

Section 3. Purpose

[Insert state-appropriate goals, which can be used to specify the schedules of controlled substances to be monitored and to reaffirm the legislative intent language characterizing the program's dual purpose of reducing abuse and diversion of controlled substances in a state while avoiding interfering with appropriate professional practice and patient care. See acceptable examples below.]

IDAHO: (1) The board shall maintain a program to track the prescriptions for controlled substances that are filed with the board under *section 37-2726, Idaho Code*, for the purpose of assisting in identifying illegal activity related to the dispensing of controlled substances and for the purpose of assisting the board in providing information to patients, practitioners and pharmacists to assist in avoiding inappropriate use of controlled substances. The tracking program and any data created thereby shall be administered by the board.

LOUISIANA: The purpose of this Part is to authorize the development, implementation, operation, and evaluation of an electronic system for the monitoring of controlled substances and other drugs of concern that are dispensed in the state or dispensed to an address within the state. The goal of the program is to improve the state's ability to identify and inhibit the diversion of controlled substances and drugs in an efficient and cost-effective manner and in a manner that shall not impede the appropriate utilization of these drugs for legitimate medical purposes.

MISSISSIPPI: The Board of Pharmacy shall develop and implement a computerized program to track prescriptions for controlled substances and to report illegal activity, under the following conditions:

(a) The prescriptions tracked shall be prescriptions for controlled substances listed in Schedule II, III, IV or V that are filled by a pharmacy. The program shall provide information regarding the inappropriate use of controlled substances in Schedule II, III, IV and V to pharmacies, practitioners and appropriate state agencies in order to prevent the improper or illegal use of such controlled substances. The program shall not infringe on the legal use of controlled substances for the management of severe or intractable pain.

NEVADA: 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

2. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.

3. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.

4. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section, must not be disclosed to any person. That information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on his behalf by his attorney; or

(b) Upon the lawful order of a court of competent jurisdiction.

5. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

SOUTH CAROLINA: This article 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.

Section 4. Definitions

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

- (1) **"Administer"** or **"administration"** means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or any other means.
- (2) **"Advisory Council"** means the multidisciplinary entity established by this Act.
- (3) **"Board"** means the state board of pharmacy [considered "the designated agency"].
- (4) **"Controlled substance"** means any substance or drug defined, enumerated, or included in [federal/state law].
- (5) **"De-identified information"** means health information that is not individually identifiable information because an expert has made that determination under *title 45, CFR, § 164.514* or direct identifiers and specified demographic information have been removed in accordance with the requirements of that section.
- (6) **"Dispense"** or **"dispensing"** means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.
- (7) **"Dispenser"** means a person authorized by this state to dispense or distribute to the ultimate user any controlled substance or drug monitored by the program, but shall not include any of the following:
 - a. A licensed health care facility pharmacy that dispenses or distributes any controlled substance or drug monitored by the program for the purposes of inpatient care [or the dispensing of prescriptions for controlled substances or drug monitored by the program at the time of discharge from such a facility].
 - b. A practitioner who dispenses or distributes to a patient a single quantity of such controlled substance or drug adequate to treat the patient for a maximum of forty-eight-hours.
 - c. A practitioner or other authorized person who administers such controlled substance or drug upon the lawful order of a practitioner.
 - d. A wholesale distributor of such controlled substance or drug monitored by the program [that is credentialed by the appropriate state agency].
- (8) **"Distribute"** or **"distribution"** means the delivery of a drug other than by administering or dispensing.
- (9) **"Drug"** means any of the following:
 - a. Any substance recognized as a drug in the official compendium, or supplement thereto, designated by the [designated state agency] for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals.
 - b. Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or pain in humans or other animals.
 - c. Any substance other than food intended to affect the structure or any function of the body of humans or other animals.
- (10) **"Drugs of concern"** means drugs other than controlled substances as defined by rule which demonstrate a potential for abuse or diversion.
- (11) **"Interoperability"** means an agreement to electronically share prescription monitoring information with another state concerning the dispensing of controlled substances or drug monitored by the program (a) to a recipient who resides in the other state, or (b) prescribed by a prescriber whose principal place of business is located in another state.
- (12) **"Patient"** means the person or animal who is the ultimate user of a controlled substance or drug monitored by the program for whom a prescription is issued and for whom a controlled substance or drug is dispensed.

- (13) **"Prescriber"** means a licensed health care professional with prescriptive authority.
- (14) **"Prescription monitoring information"** means data submitted to and maintained by the prescription monitoring program established by this Act.
- (15) **"Prescription Monitoring Program" or "PMP"** means the electronic program established by this Act.

Section 5. Establishment of prescription monitoring program

The [designated state agency] shall establish and maintain, in consultation with and upon the recommendation of the Advisory Council, an electronic prescription monitoring program for reporting of [specific schedules of] controlled substances and drugs of concern that are dispensed in the state or dispensed to an address in the state. The PMP shall be: (1) used to assist law enforcement to identify illegal activity related to the prescribing, dispensing, and consumption of controlled substances or drugs of concern, (2) used to provide information to patients, medical practitioners, and pharmacists to help avoid the inappropriate use of controlled substances and drugs of concern, and (3) designed to minimize inconvenience to patients, prescribing medical practitioners, and pharmacies while effectuating the collection and storage of prescription monitoring information. The PMP shall not interfere with the legal use of a controlled substance or drug of concern for the management of chronic pain.

[The [designated state agency] may contract with another agency of this state or with a private vendor, as necessary, to establish and maintain the PMP pursuant to rules promulgated by the [designated state agency]. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription monitoring information in Section 8 of this Act and further shall be subject to the penalties specified in Section 10 of this Act for unlawful acts.]

[If the central repository is not operated by the [designated state agency], the vendor-repository:

- (A) Shall provide information in response to the [designated state agency's] inquiries within [a specified time period] and shall provide routine reports on a regular schedule to be specified by the [designated state agency]; and*
- (B) Shall not withhold access to the collected information for any reason other than failure of the [designated state agency] to pay agreed fees and charges for the use of the central repository.*

If the relationship between the [designated state agency] and the vendor-repository is terminated, the vendor-repository shall provide to the [designated state agency] within [a specified time period] all collected information, the database maintained by the vendor-repository, and such software as is needed to access the information and the database.]

Section 6. Advisory Council

A. The mission of the Advisory Council is to consult with and advise the [designated state agency] on matters related to the establishment, maintenance, and operation of the PMP, access to the prescription monitoring information, how access is to be regulated, and security of information contained in the prescription monitoring database. The Advisory Council shall consist of [a specific number of] the following members, each of whom may appoint a designee:

- [insert appropriate designees of state healthcare licensing agencies]*
- [insert appropriate designees of state healthcare societies and associations]*
- [insert appropriate designees of state healthcare commission and/or Congressional Healthcare Committees]*
- [insert appropriate pain management representatives]*
- [insert appropriate addiction treatment representatives]*
- [insert appropriate designee of state Attorney General office]*
- [insert appropriate designee of state prosecutorial agencies]*
- [insert appropriate designees of Federal, state, and local law enforcement agencies]*
- [insert appropriate designees of independent, chain, and hospital outpatient pharmacies and pharmacists]*
- [insert appropriate patient rights advocates]*
- [insert appropriate consumer privacy or security advocates]*
- [insert appropriate community leaders]*

B. Advisory Council members shall serve at the pleasure of the [designated state agency] and their respective appointing authorities, [a specific number] of whom shall constitute a quorum for the transaction of all business. The members shall elect a chairman and vice chairman whose duties shall be established by the Advisory Council. The [designated state agency]

shall fix a time and place for regular meetings of the Advisory Council, which shall meet [at a specified frequency]. The Advisory Council shall establish policies and procedures necessary to carry out its duties. Advisory Council members are not eligible to receive compensation or reimbursement for expenses.

C. The [designated state agency] shall seek, and the Advisory Council shall provide, information and advice regarding the development and operation of the PMP, including but not limited to the following:

- (1) [Which controlled substances should be monitored, including
 - a. removing a controlled substance listed in Schedules II through V from the PMP, if it is determined that the burden imposed by the program substantially outweighs the risk of diversion of the particular controlled substance; or
 - b. returning a substance previously removed from Schedules II through V to the PMP, if it is determined that the risk of diversion substantially outweighs the burden imposed by the program on the particular controlled substance.]
- (2) [Which drugs of concern should be monitored.]
- (3) [Design and implementation of educational courses identified in Section 9.]
- (4) [The methodology to be used for proper analysis and interpretation of prescription monitoring information.]
- (5) [Design and implementation of a program evaluation identified in Section 11.]
- (6) [Identification of potential additional members to the Advisory Council.]

Section 7. Reporting of prescription monitoring information

A. Each dispenser shall submit to the [designated state agency] by electronic means, or other format specified in a waiver granted by the [designated state agency], information regarding each prescription dispensed for a controlled substance or drug of concern monitored by the program. The information submitted for each prescription shall include, at a minimum:

- (1) Prescriber information.

[Prescriber name]

[Prescriber address]

[Prescriber telephone number]

[Prescriber license and DEA registration numbers]

- (2) Patient information.

[Patient identification number]

[Patient name]

[Patient address]

[Patient date of birth]

[Name of person to whom drugs are dispensed]

[Method of payment for the prescription]

- (3) Prescription information.

[Date prescription issued by prescriber]

[Date prescription filled]

[Prescription number]

[Prescription is new or is a refill]

[Quantity dispensed]

[Number of refills ordered]

- (4) Controlled substance or drug information.

[The prescription drug dispensed]

[National Drug Code (NDC) number for drug dispensed]

[Drug strength and quantity prescribed]

(5) Dispenser information.

[Dispenser name]

[Dispenser address]

[Dispenser telephone number]

[Dispenser license and DEA registration numbers]

[Pharmacy from which the drug is dispensed]

[Other information consistent with standards of the American Society for Automation in Pharmacy, or as required by rule]

B. Each dispenser shall submit the required information in accordance with transmission methods and frequency established by the [designated state agency]; however, the frequency shall not be more than once per week.

C. The [designated state agency] may issue a waiver to a dispenser who is unable to submit prescription information by electronic means [for specific reasons]. The waiver shall state the format and frequency with which the dispenser shall submit the required information.

D. Nothing in this section requires a prescriber or dispenser to obtain information about a patient from the PMP prior to prescribing or dispensing a controlled substance or drug of concern. A prescriber, dispenser, or other health care practitioner may not be held liable in damages to any person in any civil, criminal, or administrative action on the basis that the prescriber, dispenser, or other health care practitioner did or did not seek to obtain information from the PMP.

E. Any person or entity required to report information concerning prescriptions to the [designated state agency] pursuant to the requirements of this Act shall not be liable to any person or entity for any claim of damages as a result of reporting the information and no lawsuit may be predicated thereon. Any person or entity who submits report information in good faith containing prescription monitoring information that is not the subject of the PMP shall not be liable to any person or entity for any claim of damages, from either civil, criminal, or administrative actions, and no lawsuit may be predicated thereon.

Section 8. Access to prescription monitoring information

A. Except as otherwise provided in this Section, prescription monitoring information submitted to the [designated state agency] pursuant to this Act shall be protected health information, not subject to public or open records law, and not subject to disclosure. Prescription monitoring information shall not be available for civil subpoena nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Notwithstanding the requirements of this paragraph, professional licensing agencies and law enforcement may utilize prescription monitoring information in the course of any investigation and subsequent administrative and criminal proceedings, but only in accordance with federal and state law and the requirements of this Act.

The [designated state agency] shall establish appropriate safeguards for ensuring the accuracy and completeness of the PMP database.

The [designated state agency] shall not release prescription monitoring information unless it is provided with evidence, satisfactory to the [designated state agency], that the person requesting the information is entitled to receive the data.

B. The [designated state agency] shall establish and maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained pursuant to this Act is not disclosed to persons or entities, and are not subject to public or open records laws, except as otherwise provided in this Section.

C. The [designated state agency] shall review the prescription monitoring information collected pursuant to this Act. If there is reasonable cause to believe a breach of professional standards [*or violation of law*] may have occurred, the [designated state agency] shall notify the appropriate professional licensing agency with jurisdiction over prescribers or dispensers [*or the appropriate law enforcement agency*] and shall provide prescription monitoring information required for an investigation. The [designated state agency] shall, upon reasonable cause:

- (1) refer potential or alleged impaired prescribers and dispensers to the appropriate professional licensing agency to ensure intervention, treatment, and ongoing monitoring and follow-up; and

- (2) ensure that individual patients who are identified and who are determined to have become addicted to controlled substances or drugs of concern monitored by the PMP receive addiction treatment.

D. The [designated state agency] 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 individual patients or persons who received prescriptions from prescribers.

E. The following persons, after successful completion of the education and training courses identified in Section 9, may directly access the prescription monitoring information at no cost and 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, for the purpose of providing medical or pharmaceutical care for their patients.]*
- (2) *[Designated representatives from the professional licensing agencies charged with administrative oversight of those professionals engaged in the prescribing or dispensing of controlled substances or drugs of concern.]*
- (3) *[Designated representatives from the [state] Medicaid program regarding Medicaid program recipients.]*
- (4) *[Designated representatives of the [designated state agency] and any vendor or contractor establishing or maintaining the prescription monitoring program.]*
- (5) *[Designated representatives in another state with which [the state adopting this Act] has established an interoperability agreement.]*

The [designated state agency] shall maintain a record of all persons who access the prescription monitoring information and shall ensure that any permissible user complies with Section 9 prior to attaining direct access to the information.

F. The [designated state agency] may provide a report containing prescription monitoring information upon application of federal, state, or local law enforcement or prosecutorial officials engaged in the administration, investigation, or enforcement of the laws governing controlled substances or drugs of concern in compliance with and as limited by the relevant requirements of any of the following:

- (1) An official court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer.
- (2) A grand jury subpoena.
- (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 [designated state agency], 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.

G. The [designated state agency] may provide prescription monitoring information to an individual who requests his personal prescription monitoring information, or a guardian of the individual, parent or guardian of a minor, or health care agent of the individual acting under a health care directive, in accordance with procedures established by regulation.

H. The [designated state agency], all law enforcement officers, all officers of the court, and all professional licensing agencies and officers, in using the prescription monitoring information for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

I. The [designated state agency] and the Advisory Council shall be immune from civil, criminal, or administrative liability arising from inaccuracy of any of the prescription monitoring information submitted to the [designated state agency] pursuant to this Act, or as a result of the act of reporting the information, and no lawsuit may be predicated thereon.

J. The [designated state agency] shall purge from the PMP database all information more than [specific number of] years old.

Section 9. Education and training

A. The [designated state agency] shall, in consultation with and upon the recommendation of the Advisory Council, implement the following education and training courses:

- (1) An orientation course for persons who are authorized to access the prescription monitoring information, offered during the implementation phase of the PMP, including the transmission, retrieve, and use of prescription monitoring information.
- (2) A course for persons who are authorized to access the prescription monitoring information, but who did not participate in the orientation course.
- (3) A course for persons who are authorized to access the prescription monitoring information, but who have violated the laws or breached professional standards involving the prescribing, dispensing, or use of any controlled substances or drugs of concern monitored by the PMP.
- (4) A continuing education course for health care practitioners on prescribing practices, pharmacology, and the identification, treatment, and referral of a patient addicted to or abusing controlled substances or drugs of concern monitored by the PMP.

B. The [designated state agency] shall, in consultation with and upon the recommendation of the Advisory Council, implement an educational program to inform the public about the legitimate use, diversion, and addiction to or abuse of controlled substances or drugs of concern monitored by the PMP.

Section 10. Unlawful acts and penalties

A. A dispenser who knowingly fails to submit prescription monitoring information to the [designated state agency] as required by this Act, or knowingly submits incorrect prescription monitoring information, shall be referred to the appropriate professional licensing agency for administrative sanctions as deemed appropriate by that agency.

B. A person or entity authorized to possess prescription monitoring information pursuant to this Act who knowingly discloses such information in violation of this Act shall be referred to the appropriate professional licensing agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, [insert penalty]. Nothing shall restrict the right of a patient to share his or her own prescription monitoring information.

C. A person or entity authorized to possess 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 referred to the appropriate professional licensing agency for administrative sanctions as deemed appropriate by that agency and may, upon criminal conviction, [insert penalty].

Section 11. Evaluation; data analysis; reporting

A. The [designated state agency] shall, in consultation with and upon the recommendation of the Advisory Council, design and implement an evaluation component to identify cost-benefits of the PMP, including its effect on diversion and abuse of controlled substances and drugs of concern, whether it is negatively impacting appropriate prescribing practices of controlled substances and drugs of concern, and other information relevant to policy, research, and education involving controlled substances and drugs of concern monitored by the PMP.

B. The [designated state agency] shall report to the [appropriate legislative oversight committee or committees] on a periodic basis, but in no case less than annually, the cost-benefits and other information noted in Paragraph A of this Section.

Section 12. Rules and regulations

The [designated state agency] shall promulgate rules and regulations necessary to implement the provisions of this Act. The [designated state agency], in consultation with and upon the recommendation of the Advisory Council, the appropriate professional licensing agencies with jurisdiction over prescribers and dispensers, the state police, and appropriate medical professional associations, may also promulgate rules for the production of a prescription form on paper that minimizes the potential for forgery. The rules shall not include any requirement that sequential numbers, bar codes, or symbols be affixed, printed, or written on a prescription form or that the prescription form be a state produced prescription form. In examining the need for rules for the production of a prescription form on paper that minimizes the potential for forgery, the [designated state agency] shall consider and identify the following:

- (a) Cost, benefits, and barriers.
- (b) Overall cost-benefit analysis.
- (c) Compatibility with the PMP established under this Act.

Section 13. Funding authority

A. The [designated state agency] shall have the authority to make application for, receive, and administer funding in the form of grants, donations or gifts, federal matching funds, interagency transfers, and appropriated funds designated for the development, implementation, maintenance, or enhancement of the prescription monitoring program. Any funding balance does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. Funding received by the [designated state agency] to develop, implement, maintain, or enhance the PMP must be used for the expenses of administering this Act.

B. The [designated state agency] shall not be required to fund any aspect of the PMP.

C. A dispenser shall not be required to pay a new fee dedicated to the operation of the PMP and shall not incur any additional costs solely related to the transmission of prescription monitoring information to the [designated state agency].

Section 14. 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 this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

Section 15. Effective Date

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