§7250. Access to prescription monitoring information and confidentiality

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Confidentiality. Except as provided in this section, prescription monitoring information submitted to the department is confidential and is not a public record as defined in Title 1, section 402, subsection 3.
[PL 2011, c. 657, Pt. AA, §69 (AMD).]

2. Review of information. If the prescription monitoring information surpasses thresholds as established by the department, the department shall notify the prescriber, the dispenser and, if the department determines it to be necessary, the professional licensing entity and provide all relevant prescription monitoring information to those persons and entities through an established letter of notification.
[PL 2011, c. 657, Pt. AA, §69 (AMD).]

3. Permissible disclosure of information. The department may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.
[PL 2011, c. 657, Pt. AA, §69 (AMD).]

4. Access to information. The following persons may access prescription monitoring information:

A. A prescriber, insofar as the information relates to a patient under the prescriber's care; [PL 2003, c. 483, §1 (NEW).]

B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled; [PL 2003, c. 483, §1 (NEW).]

C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause; [PL 2003, c. 483, §1 (NEW).]

D. A patient to whom a prescription is written, insofar as the information relates to that patient; [PL 2009, c. 196, §1 (AMD); PL 2009, c. 298, §1 (AMD).]

E. Department personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system; [PL 2011, c. 657, Pt. AA, §69 (AMD).]

F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022; [PL 2011, c. 218, §1 (AMD).]

REVISOR'S NOTE: (Paragraph F as enacted by PL 2009, c. 298, §3 is REALLOCATED TO TITLE 22, SECTION 7250, SUBSECTION 4, PARAGRAPH G)

G. **(REALLOCATED FROM T. 22, §7250, sub-§4, ¶F)** The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members, avoiding duplicate dispensing of controlled substances and providing treatment pattern data under subsection 6; [PL 2015, c. 488, §4 (AMD).]

H. Another state or a Canadian province pursuant to subsection 4-A; [PL 2015, c. 488, §5 (AMD).]

I. Staff members of a licensed hospital who are authorized by the chief medical officer of the hospital, insofar as the information relates to a patient receiving care in the hospital's emergency department or receiving inpatient services or surgical services from the hospital; [PL 2017, c. 213, §5 (AMD).]

J. Staff members of a pharmacist who are authorized by the pharmacist on duty, insofar as the information relates to a customer seeking to have a prescription filled; [PL 2017, c. 213, §5 (AMD).]

K. The chief medical officer, medical director or other administrative prescriber employed by a licensed hospital, insofar as the information relates to prescriptions written by prescribers employed by that licensed hospital; [PL 2021, c. 161, §2 (AMD).]

K-1. The chief medical officer, medical director or other administrative prescriber employed by a federally qualified health center as defined in 42 United States Code, Section 1395x, subsection (aa) (1993) or a group practice of prescribers insofar as the information relates to prescriptions written by prescribers employed by the federally qualified health center or the group practice; and [PL 2021, c. 161, §3 (NEW).]

L. Staff members of a group practice of prescribers who are authorized by a designated group practice leader, insofar as the information relates to a patient receiving care from that group practice. [PL 2017, c. 213, §7 (NEW).]

[PL 2021, c. 161, §§2, 3 (AMD).]

4-A. Information sharing with other states and Canadian provinces. The department may provide prescription monitoring information to and receive prescription monitoring information from another state or a Canadian province that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the department. The department may enter into a prescription monitoring information sharing agreement with another state or a Canadian province to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For purposes of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

[PL 2015, c. 488, §7 (AMD).]

5. Purge of information. The department shall purge from the program all information that is more than 6 years old.

[PL 2011, c. 657, Pt. AA, §69 (AMD).]

6. Treatment pattern data. The department may provide to a prescriber who treats a member under the MaineCare program prescription monitoring information on the prescriber and other prescribers that is de-identified as to prescriber and patient and that indicates treatment patterns in comparison among peers. If the department has shared with a prescriber treatment pattern data under this subsection, the department shall allow the prescriber time to align the prescriber's prescribing patterns with the patterns of the peers of the prescriber. The department may take appropriate actions with regard to a prescriber who is unable to achieve treatment pattern alignment as provided in this subsection.

[PL 2011, c. 657, Pt. O, §4 (NEW).]

7. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2017, c. 243, §3) Disclosure of methadone treatment in a medical emergency; documentation. Records entered pursuant to section 7249-A may be disclosed in an emergency setting only to the extent necessary to meet a bona fide

emergency in which the patient's prior informed consent cannot be obtained and only to the health care professionals involved in treating the patient. These records may not be disclosed in any other circumstances, including to prescribers using the program to enter or check information outside of the medical emergency. Records disclosed pursuant to this subsection may not be used to initiate or substantiate any criminal charges against a patient or to conduct any criminal investigation. Any disclosure pursuant to this subsection is subject to 42 Code of Federal Regulations, Section 2.32 and the following requirements.

A. The disclosure must be documented by the health care professional involved in treating the patient and entered into the program and communicated to the patient's methadone treatment facility. The documentation must include the date and time of the disclosure, the nature of the patient's emergency, the name of the facility or the hospital where the disclosure occurred and the names of the health care professionals who accessed the records. [PL 2017, c. 243, §3 (NEW); PL 2017, c. 243, §5 (AFF).]

B. Any disclosure must include a statement that informs the health care professionals accessing the program that federal law prohibits the health care professionals from making further disclosures that identify the patient without the specific written consent of the patient. [PL 2017, c. 243, §3 (NEW); PL 2017, c. 243, §5 (AFF).]

[PL 2017, c. 243, §3 (NEW); PL 2017, c. 243, §5 (AFF).]

8. Report regarding program. The department shall provide to the joint standing committee of the Legislature having jurisdiction over health and human services matters on or before January 15th of each year, and at such other times as the committee requests, data pertaining to the aggregate number of prescriptions of each drug required to be included in the program, the number of prescribers participating in the program categorized by specialty, any historical trends or patterns in prescribing practices within the State, any progress in the implementation of information sharing agreements authorized by subsection 4-A and any other information pertaining to the work of the program as requested by the committee that is reasonably available to the department, as long as all information reasonably likely to reveal the patient or the prescriber or other person who is the subject of the information has been removed.

[PL 2017, c. 460, Pt. F, §6 (NEW).]

SECTION HISTORY

PL 2003, c. 483, §1 (NEW). RR 2009, c. 1, §§14-16 (COR). PL 2009, c. 196, §§1-3 (AMD). PL 2009, c. 298, §§1-3 (AMD). PL 2011, c. 218, §§1-4 (AMD). PL 2011, c. 657, Pt. AA, §69 (AMD). PL 2011, c. 657, Pt. O, §§3, 4 (AMD). PL 2015, c. 488, §§4-7 (AMD). PL 2017, c. 87, §§1, 2 (AMD). PL 2017, c. 213, §§5-7 (AMD). PL 2017, c. 243, §3 (AMD). PL 2017, c. 243, §5 (AFF). PL 2017, c. 460, Pt. F, §6 (AMD). PL 2021, c. 161, §§2, 3 (AMD).