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Prescription Drug Monitoring Program

Summary of Selected 2022 Bills and Regulations

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General Summary

The year 2022 saw the introduction of at least 77 state and federal bills related to prescription drug monitoring programs (PDMPs) and the proposal of at least 43 regulations related to PDMPs. In addition, some bills and regulations that were introduced in 2020 and 2021 became effective in 2022. In 2022, approximately 23 state bills were enacted, 2 federal bills were enacted, 50 state regulations were adopted, and 1 federal regulation was adopted. The primary topics of the enacted bills or adopted regulations included authorized access, delegate accounts, mandatory queries, mandatory registration, medical marijuana/cannabis, PDMP funding, PDMP user access, and reporting requirements. Included in this summary is a selection of bills and regulations highlighting what may be considered significant actions related to PDMPs.

Significant Federal Action

2021 U.S. Senate Bill 2796 became law on December 20, 2022, and the act may be cited as the Rural Opioid Abuse Prevention Act (Public Law Number 117-250). The bill amended Section 3021 of United States Code 10701 by adding subsection (1)(a)(1)(H) to allow for a pilot program for rural areas to implement community response programs that focus on presenting alternatives to incarceration and reducing opioid overdose deaths. The bill also added subsection (2), which allows for the pilot program to make grants to rural areas to implement community response programs to reduce opioid overdose deaths. A community response program identifies gaps in community prevention, treatment, and recovery services for individuals who enter the criminal justice system and establish treatment protocols to address shortcomings. The U.S. Attorney General will increase the amount provided as a grant under this section for a pilot program by no more than 5 percent for each of the 2 years following certification by the U.S. Attorney General of the submission of data by the rural area on the prescribing of Schedules II, III, and IV controlled substances to a PDMP or any other centralized database, which includes tracking the dispensation of such substances and providing for interoperability and data sharing with each program (including an electronic health records system). The passed bill is not intended to direct states to use a particular vendor's interstate sharing program, and each state can define how the PDMP will connect to other systems in the state.

Significant State Regulatory or Statutory Actions

Arizona amended when information from the PDMP can be released to a local, state, or federal law enforcement or criminal justice agency to include times when the agency has a valid search warrant and is using the information for an open investigation or complaint. The bill adds that if, after reviewing the information, an investigator finds no evidence of a statutory crime but suspects a medical practitioner of prescribing controlled substances inappropriately, the investigator may refer the medical practitioner to the professional licensing board for investigation but may not arrest or otherwise undergo criminal proceedings against the medical practitioner. (See 2022 Arizona Senate Bill 1469.)

Illinois amended the Illinois Controlled Substances Act to allow authorized employees of a county or municipal health department or the Department of Public Health to have access to data from the PDMP for either of the following purposes: (1) developing education programs or public health interventions relating to prescribing trends and controlled substance use or (2) conducting analyses and publishing reports on prescribing trends in their respective jurisdictions. Analyses and reports must not include information that identifies, by name, license, or address, any practitioner, dispenser, ultimate user, or other person administering a controlled substance. The bill requires that any county or municipal health department accessing data from the system implement safeguards to ensure the privacy and security of data obtained. The data is not admissible as evidence nor discoverable in any court or before any tribunal, board, agency, or person. (See 2022 Illinois Senate Bill 3024 [Public Act 102-0751].)

Kansas provides that if the advisory committee is reviewing PDMP information and the information appears to indicate that an individual is obtaining prescriptions that may represent “misuse or abuse” of scheduled substances and drugs of concern and the review does not identify a recent prescriber as a point of contact, the committee is authorized to notify the disability and behavioral health services section of the Kansas Department for Aging and Disability Services for the purpose of offering confidential treatment services and indicates that further disclosure of information is prohibited. In addition, the bill allows the board to provide a medical care facility with its PDMP data for statistical, research, or education purposes after removing information that could be used to identify individual practitioners or individuals who received prescriptions from dispensers. (See 2021 Kansas Senate Bill 200.)

Maryland requires the PDMP to monitor the dispensing of naloxone by all prescribers and to require dispensers to report naloxone data to the PDMP. (See 2022 Maryland Senate Bill 200 [Chapter 224].)

New Mexico adopted a regulation relating to narcotic treatment programs operating from a motor vehicle. The rule requires the consultant pharmacist to request and review a PDMP report covering at least a 1-year time period and another state report, at least quarterly, for each program patient receiving an opioid. The rule indicates that a pharmacist can use professional judgment to determine whether a more frequent review is appropriate and that a pharmacist will use professional judgment to avoid or resolve potential issues identified in the PDMP report review. The pharmacist must document the review of PDMP reports and their actions regarding the reports. (See 2022 New Mexico Administrative Code 16.19.10.7 and .11.)

A Closer Look at Mandatory Query and Reporting Requirements

Five state bills and 17 state regulations became effective in 2022 that included provisions regarding mandatory query or reporting requirements. The most common situations initiating a requirement to query or report to the PDMP included (1) before prescribing certain controlled substances, (2) at an initial visit, or (3) when making a recommendation for medical cannabis.

Two bills and eight regulations (two of which solely focused on requirements related to Medicaid programs) focused on addressing the requirement to query the PDMP prior to prescribing a Schedule II or III controlled substance, an opioid, or benzodiazepine.¹ Seven rules were adopted in 2022 that focused on checking the PDMP at the initial visit and periodically thereafter.² Four rules adopted in 2022 related to checking the PDMP before making a recommendation for medical cannabis or issuing a certification to use medical cannabis.³

Resources

Additional information regarding all legislation and regulations introduced and enacted in 2022 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 website, located at <https://www.pdmpassist.org/Policies/Maps>.

¹ See 2022 CO House Bill 1115; 2022 CO Senate Bill 27; AK 12 AAC 52.865; 7 CO ADC 1101-3:17, Exhibits 1 and 8; OR OAR 410-120-1260 (Medicaid requirement); 471 NE ADC Ch. 18 s.009 (Medicaid requirement); WV ADC 11-10-4; and WV ADC 19-14-1.

² See 7 CO ADC 1101-3:17, Exhibits 1 and 8; OK ADC 510:5-3; TX 22 TAC 195.4-5; WV ADC 11-10-4; WV ADC 19-14-1; WV ADC 69-11-17, 23, 24, 27 and 28; and NMAC 16.19.10.7 and .11.

³ See AL ADC 540-X-25-.10; 15 MS ADC Pt. 22, Subpt. 2, R. 2.11.4; 30 MS ADC Pt. 2840, R. 2.8; and 9 NYCRR 113.3, .13.