

SJR 20: Prescription Drug Abuse

Comparison of Montana and Oklahoma Registry Laws and Rules

Prepared for the Children, Families, Health, and Human Services Interim Committee
 June 2014

At its May 2014 meeting, the Children, Families, Health, and Human Services Interim Committee asked for a comparison of the laws governing the Montana and Oklahoma prescription drug registries. The laws in both states allow certain practices to be established by administrative rule. This briefing paper discusses the provisions contained in both the laws and rules for the two registry programs.

Feature	Montana	Oklahoma
Who Operates	<ul style="list-style-type: none"> • Law allows the Montana Board of Pharmacy to contract with vendor or other services necessary to operate the registry 	<ul style="list-style-type: none"> • Law allows the Oklahoma Bureau of Narcotics and Dangerous Drugs Control to contract with vendor or create a state-run registry
What's Included	<ul style="list-style-type: none"> • Law requires reporting of prescriptions containing drugs listed in Schedules II through V of Montana's controlled substances law 	<ul style="list-style-type: none"> • Law requires reporting of prescriptions containing drugs listed in Schedules II through V of Oklahoma's Uniform Controlled Dangerous Substances Act
Who Reports	<ul style="list-style-type: none"> • Pharmacies, including mail-order pharmacies 	<ul style="list-style-type: none"> • Pharmacies, including mail-order pharmacies • Dispensing practitioners, including veterinarians and outpatient hospital pharmacies
Reporting Requirements	<ul style="list-style-type: none"> • Reporting requirements established by administrative rule • Pharmacies must: <ul style="list-style-type: none"> ▸ report on a weekly basis ▸ use the 2009 electronic reporting format established by the American Society of Automation in Pharmacy 	<ul style="list-style-type: none"> • Reporting requirements established by law and rule • Law requires real-time reporting; rule requires reporting within five minutes of dispensing • Pharmacies use the 2009 electronic reporting format established by the American Society of Automation in Pharmacy
Unsolicited Reporting	<ul style="list-style-type: none"> • Law allows Board of Pharmacy to notify prescribers and pharmacies of possible misuse or diversion • Administrative rules say that a person's use of four or more prescribers or pharmacies in a 60-day period may indicate possible misuse or diversion 	<ul style="list-style-type: none"> • Law required Bureau of Narcotics and Dangerous Drugs Control to develop criteria for producing reports that show use outside of the norm, in consultation with state licensing boards and professional associations representing prescribers and pharmacies • A person's use of five or more prescribers or pharmacies in a 30-day period is considered outside of the norm
Confidentiality	<ul style="list-style-type: none"> • Law requires that authorized users keep the information confidential in compliance with the Montana Constitution and state and federal health care laws 	<ul style="list-style-type: none"> • State law prohibits disclosure of registry information to any individual or group not specifically provided for by law

Who Has Access	<ul style="list-style-type: none"> • State law allows access to: <ul style="list-style-type: none"> ▸ pharmacists, to provide patient care ▸ patients ▸ prescribers, to provide patient care or to check their own prescribing histories ▸ licensing boards that regulate individuals who prescribe, administer, or dispense drugs ▸ law enforcement, with an investigative subpoena ▸ registries in other states ▸ Department of Public Health and Human Services for reviewing and enforcing public health, Medicaid, or Medicare laws ▸ Board of Pharmacy for reviewing for possible misuse or diversion of drugs • Administrative rule allows access to: <ul style="list-style-type: none"> ▸ authorized agents of users allowed by law ▸ Montana Medicaid and Medicare programs ▸ tribal health programs ▸ Indian Health Service ▸ U.S. Department of Veterans Affairs 	<ul style="list-style-type: none"> • State law allows access to: <ul style="list-style-type: none"> ▸ pharmacists ▸ prescribers ▸ law enforcement ▸ licensing boards that regulate individuals who prescribe, administer, or dispense drugs ▸ grand juries ▸ the state Board of Health ▸ Oklahoma Medicaid program ▸ Indian Health Service facilities licensed and registered with the Bureau of Narcotics ▸ tribal groups licensed and registered with the Bureau of Narcotics ▸ U.S. Department of Veterans Affairs ▸ the Department of Mental Health and Substance Abuse Services and State Department of Health for statistical, research, prevention, or education efforts
Advisory Group	<ul style="list-style-type: none"> • Law requires an advisory group to provide suggestions for development of the registry • Law identifies key stakeholders to be represented 	<ul style="list-style-type: none"> • No general advisory group required by law or rule but an advisory group is convened as needed
Penalties	<ul style="list-style-type: none"> • Pharmacies that fail to submit required information may be subject to administrative sanctions • Law requires that registry users who disclose or use information in violation of the law: <ul style="list-style-type: none"> ▸ be referred to the appropriate licensing boards for possible sanctions; and ▸ are subject to a penalty of up to \$10,000 per violation 	<ul style="list-style-type: none"> • Failure to submit information is a misdemeanor punishable by up to one year in jail and a \$1,000 fine or an administrative penalty of up to \$2,000 per violation • Disclosure of information in violation of the law is a misdemeanor punishable by up to one year in jail and a \$1,000 fine
Funding	<ul style="list-style-type: none"> • Registry may use grants, gifts, or donations • Pharmacists and providers who prescribe or dispense controlled substances pay a \$15 annual fee that will expire on July 1, 2015, unless the Legislature extends it • Registry budget estimated at about \$301,000 a year 	<ul style="list-style-type: none"> • Registry is funded by the general fund, from licensing fees that fund several Bureau of Narcotics programs • License fees are \$420 every three years • Registry budget is about \$520,000 a year