



1 (a) (1) The information required by this article to be kept by  
2 the State Board of Pharmacy is confidential and is open to  
3 inspection only by inspectors and agents of the State Board of  
4 Pharmacy, members of the West Virginia State Police expressly  
5 authorized by the Superintendent of the West Virginia State Police  
6 to have access to the information, the elected sheriff of each  
7 county, authorized agents of local law-enforcement agencies as a  
8 member of a drug task force, authorized agents of the federal Drug  
9 Enforcement Administration, duly authorized agents of the Bureau  
10 for Medical Services and the Workers' Compensation Commission, duly  
11 authorized agents of the Office of the Chief Medical Examiner for  
12 use in post-mortem examinations, duly authorized agents of  
13 licensing boards of practitioners in this state and other states  
14 authorized to prescribe Schedules II, III and IV controlled  
15 substances, prescribing practitioners and pharmacists and persons  
16 with an enforceable court order or regulatory agency administrative  
17 subpoena: *Provided,* That ~~all information released by the state~~  
18 ~~Board of Pharmacy must be related to a specific patient or a~~  
19 ~~specific individual or entity under investigation by any of the~~  
20 ~~above parties except that practitioners who prescribe controlled~~  
21 ~~substances may request specific data related to their Drug~~  
22 ~~Enforcement Administration controlled substance registration number~~  
23 ~~or for the purpose of providing treatment to a patient~~  
24 practitioners who prescribe controlled substances may request

1 specific data related to their Drug Enforcement Administration  
2 controlled substance registration number or for the purpose of  
3 providing treatment to a patient.

4       (2) The board shall review the West Virginia Controlled  
5 Substances Monitoring Program database and issue a quarterly report  
6 to persons identified in this subsection that identifies or "red  
7 flags" abnormal or unusual practices of both medical professionals  
8 and patients who exceed predetermined parameters. The report shall  
9 also identify or "red flag" individuals who have exceeded their  
10 limit of pseudoephedrine. All reports and information received by  
11 these individuals from the board shall be kept confidential and may  
12 only be used in furtherance of their law enforcement  
13 responsibilities regarding abnormal prescription and dispensing  
14 practices. The board shall maintain the information required by  
15 this article for a period of not less than five years.  
16 Notwithstanding any other provisions of this code to the contrary,  
17 data obtained under the provisions of this article may be used for  
18 compilation of educational, scholarly or statistical purposes as  
19 long as the identities of persons or entities remain confidential.  
20 No individual or entity required to report under section four of  
21 this article may be subject to a claim for civil damages or other  
22 civil relief for the reporting of information to the Board of  
23 Pharmacy as required under and in accordance with the provisions of  
24 this article.

1       (3) The board, in conjunction with other appropriate boards,  
2 agencies, committees or commissions such as the Controlled  
3 Substances Advisory Board, shall establish the parameters  
4 identified in subdivision (2) of this subsection.

5       (b) All practitioners, as that term is defined in section one  
6 hundred-one, article two of this chapter who prescribe or dispense  
7 schedule II, III or IV controlled substances shall, on or before  
8 July 1, 2011, have online or other form of electronic access to the  
9 West Virginia Controlled Substances Monitoring Program database;

10       (c) Persons or entities with access to the West Virginia  
11 Controlled Substances Monitoring Program database pursuant to this  
12 section may, pursuant to rules promulgated by the Board of  
13 Pharmacy, delegate appropriate personnel to have access to said  
14 database;

15       (d) Good faith reliance by a practitioner on information  
16 contained in the West Virginia Controlled Substances Monitoring  
17 Program database in prescribing or dispensing or refusing or  
18 declining to prescribe or dispense a schedule II, III or IV  
19 controlled substance shall constitute an absolute defense in any  
20 civil or criminal action brought due to prescribing or dispensing  
21 or refusing or declining to prescribe or dispense; and

22       (e) The Board of Pharmacy is hereby authorized to promulgate  
23 an emergency rule under chapter twenty-nine-a to effectuate the  
24 amendments to this section enacted during the 2010 and 2011 Regular

1 ~~Session~~ Sessions of the Legislature.

2 (f) Nothing in the article shall be construed to require a  
3 practitioner to access the West Virginia Controlled Substances  
4 Monitoring Program database.

NOTE: The purpose of this bill is to permit specific law-enforcement officials access to certain confidential pharmaceutical information to identify unusual or abnormal drug practices of both patients and professionals. The bill also grants rulemaking authority

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.