PRESCRIPTION MONITORING PROGRAM ACT STATUTES & REGULATIONS

UPDATED JUNE 2023

65-1681. Prescription monitoring program act.
This act shall be known and may be cited as the prescription monitoring program act.
History: L. 2008, ch. 104, § 1; July 1.

65-1682. Same; definitions.
As used in this act, unless the context otherwise requires:

(a) "Audit trail information" means information produced regarding requests for prescription monitoring program data that the board and advisory committee use to monitor compliance with this act.

(b) "Board" means the state board of pharmacy.

(c) "Delegate" means:

(1) A registered nurse, licensed practical nurse, respiratory therapist, emergency medical responder, paramedic, dental hygienist, pharmacy technician or pharmacy intern who has registered for access to the program database as an agent of a practitioner or pharmacist to request program data on behalf of the practitioner or pharmacist;

(2) a death investigator who has registered for limited access to the program database as an agent of a medical examiner, coroner or another person authorized under law to investigate or determine causes of death; or

(3) an individual authorized to access the program database by the board in rules and regulations.

(d) "Dispenser" means a practitioner, pharmacy or pharmacist who delivers a scheduled substance or drug of concern to an ultimate user, but does not include:

(1) A licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a medical care facility as defined in K.S.A. 65-425, and amendments thereto, practitioner or other authorized person who administers such a substance;

(3) a registered wholesale distributor of such substances;

(4) a veterinarian licensed by the Kansas board of veterinary examiners who dispenses or prescribes a scheduled substance or drug of concern; or

(5) a practitioner who has been exempted from the reporting requirements of this act in rules and regulations promulgated by the board.

(e) "Drug of concern" means any drug that demonstrates a potential for abuse and is designated as a drug of concern in rules and regulations promulgated by the board.

(f) "Patient" means the individual who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(g) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(h) "Pharmacy" means a premises, laboratory, area or other place currently registered with the board where scheduled substances or drugs of concern are offered for sale or dispensed in this state.

(i) "Practitioner" means an individual licensed to practice medicine and surgery, dentist, podiatrist, optometrist or other individual authorized by law to prescribe or dispense scheduled substances and drugs of concern.

(j) "Program" means the prescription monitoring program.

(k) "Scheduled substance" means controlled substances included in schedules II, III or IV of the schedules designated in K.S.A. 65-4107, 65-4109 and 65-4111, and amendments thereto, respectively, or the federal controlled substances act, 21 U.S.C. § 812.

History: L. 2008, ch. 104, § 2; L. 2022, ch. 74, § 3; April 28.

65-1683 Same; required information to be submitted by dispenser; rules and regulations; waiver; acceptance of gifts and grants.

(a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the nationally recognized telecommunications format to be used for submission of information that each dispenser shall submit to the board. Such information may include, but not be limited to:

(1) The dispenser identification number;

(2) the date the prescription is filled;

(3) the prescription number;

(4) whether the prescription is new or is a refill;

(5) the national drug code for the drug dispensed;

(6) the quantity dispensed;

(7) the number of days' supply of the drug;

(8) the patient identification number;

(9) the patient's name;

(10) the patient's address;

(11) the patient's date of birth;

(12) the prescriber identification number;

(13) the date the prescription was issued by the prescriber;

(14) the source of payment for the prescription;

(15) the diagnosis code;

(16) the patient's species code; and

(17) the date the prescription was sold.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may, in consultation with the advisory committee, enable features and include additional information to enhance the program database. Such information may include, but not be limited to:

(1) The date or fact of death;

(2) the dispensation or administration of emergency opioid antagonists, as defined by K.S.A. 65-16,127, and amendments thereto; and

(3) the data related to an overdose event.

(e) The board is hereby authorized to apply for and to accept grants and may accept any donation, gift or bequest made to the board for furthering any phase of the prescription monitoring program.

(f) The board shall remit all moneys received by it under subsection (e) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the non-federal gifts and grants fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

History: L. 2008, ch. 104, § 3; L. 2012, ch. 107, § 4; L. 2022, ch. 74, § 4; April 28.

65-1684. Same; charges and fees prohibited.
The board shall not impose any charge for the establishment or maintenance of the prescription monitoring program database on a registered wholesale distributor, pharmacist, dispenser or other person authorized to prescribe or dispense scheduled substances and drugs of concern. The board shall not charge any fees for the transmission of data to the database or for the receipt of information from the database, except that the board may charge a fee to an individual who requests the individual's own prescription monitoring information in accordance with procedures adopted by the board.
History: L. 2008, ch. 104, § 4; July 1.

65-1685 Same; database information privileged and confidential; persons authorized to receive data; oversight thereof; advisory committee review of information.

(a) The program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, including audit trail information, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those individuals engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to individuals except as provided in subsections (c) and (d).

(c) The board is hereby authorized to provide data in the program to the following individuals:

(1) Individuals authorized to prescribe or dispense scheduled substances and drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those individuals engaged in the prescribing or dispensing of scheduled substances and drugs of concern;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the department of health and environment regarding authorized medicaid program recipients or practitioners;

(6) individuals authorized by a grand jury subpoena, inquisition subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program;

(8) personnel of the board for purposes of operation of the program and administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto;

(9) individuals authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse or diversion of scheduled substances or drugs of concern;

(10) medical examiners, coroners or other individuals authorized under law to investigate or determine causes of death;

(11) persons operating a practitioner or pharmacist impaired provider program in accordance with K.S.A. 65-4924, and amendments thereto, for the purpose of reviewing drugs dispensed to a practitioner or pharmacist enrolled in the program;

(12) delegates of individuals authorized by paragraphs (1), (9) and (10);

(13) individuals or organizations notified by the advisory committee as provided in subsection (g);

(14) practitioners or pharmacists conducting research approved by an institutional review board who have obtained patient consent for the release of program data; and

(15) an overdose fatality review board established by the state of Kansas.

(d) An individual registered for access to the program database shall notify the board in writing within 30 calendar days of any action that would disqualify the individual from being authorized to receive program data as provided in subsection (c).

(e) The state board of healing arts, board of nursing, Kansas dental board and board of examiners in optometry shall notify the board in writing within 30 calendar days of any denial, suspension, revocation or other administrative limitation of a practitioner's license or registration that would disqualify the practitioner from being authorized to receive program data as provided in subsection (c).

(f) A practitioner or pharmacist shall notify the board in writing within 30 calendar days of any action that would disqualify a delegate from being authorized to receive program data on behalf of the practitioner or pharmacist.

(g) The prescription monitoring program advisory committee established pursuant to K.S.A. 65-1689, and amendments thereto, is authorized to review and analyze program data for purposes of identifying patterns and activity of concern.

(1) If a review of information appears to indicate an individual may be obtaining prescriptions in a manner that may represent misuse or abuse of scheduled substances and drugs of concern, the advisory committee is authorized to notify the prescribers and dispensers who prescribed or dispensed the prescriptions. If the review does not identify a recent prescriber as a point of contact for potential clinical intervention, the advisory 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. Further disclosure of information is prohibited. If the review identifies patterns or other evidence sufficient to create a reasonable suspicion of criminal activity, the advisory committee is authorized to notify the appropriate law enforcement agency.

(2) If a review of information appears to indicate that a violation of state or federal law relating to prescribing scheduled substances and drugs of concern may have occurred, or that a prescriber or dispenser has knowingly prescribed, dispensed or obtained scheduled substances and drugs of concern in a manner that is inconsistent with recognized standards of care for the profession, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those individuals engaged in prescribing or dispensing of scheduled substances and drugs of concern or to the appropriate law enforcement agency is warranted.

(A) For purposes of such determination the advisory committee may, in consultation with the appropriate regulatory agencies and professional organizations, establish criteria regarding appropriate standards and utilize volunteer peer review committees of professionals with expertise in the particular practice to create such standards and review individual cases.

(B) The peer review committee or committees appointed herein shall have authority to request and receive information in the program database from the director of the program.

(C) If the determination is made that a referral to a regulatory or law enforcement agency is not warranted but educational or professional advising might be appropriate, the advisory committee may refer the prescribers or dispensers to other such resources.

(3) If a review of information appears to indicate that program data has been accessed or used in violation of state or federal law, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those individuals engaged in prescribing or dispensing of scheduled substances and drugs of concern is warranted and may make such report.

(e) The board is hereby authorized to provide program data to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or individuals who received prescriptions from dispensers.

(f) The board is hereby authorized to provide a medical care facility with its program 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.

(g) The board may, in its discretion, block any user's access to the program database if the board has reason to believe that access to the data is or may be used by such user in violation of state or federal law.

History: L. 2008, ch. 104, § 5; L. 2012, ch. 107, § 5; L. 2022, ch. 74, § 5; April 28.

65-1685a. Same; another agency as contractor.

History: L. 2008, ch. 104, § 5; L. 2012, ch. 102, § 24; Repealed, L. 2013, ch. 133, § 37; July 1.

65-1686. Same; another agency as contractor.

The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in K.S.A. 2013 Supp. 65-1685, and amendments thereto, and shall be subject to the penalties specified in K.S.A. 2013 Supp. 65-1693, and amendments thereto, for unlawful acts.

History: L. 2008, ch. 104, § 6; July 1.

65-1687 Same; maintenance of records.

(a) All information collected for the prescription monitoring program database and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be retained for five years.

(b) Program data shall not be stored outside of the program database, with the following exceptions:

(1) Temporary storage necessary to deliver program data to electronic health records or pharmacy management systems approved by the board;

(2) retention of specific information or records related to an investigation or proceeding under administrative or criminal law;

(3) program data provided under K.S.A. 65-1685(e), and amendments thereto; or

(4) board retention of information for purposes of operation of the program and administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto.

History: L. 2008, ch. 104, § 7; L. 2022, ch. 74, § 6; April 28.

65-1688 Same; act does not create civil liability or duty.
No person authorized to prescribe or dispense scheduled substances and drugs of concern shall be liable to any person in a civil action for damages or other relief for injury, death or loss to person or property on the basis that such person authorized to prescribe or dispense scheduled substances and drugs of concern did or did not seek or obtain information from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drugs of concern to a patient. Nothing in this act shall be construed to create a duty or otherwise require a person authorized to prescribe or dispense scheduled substances and drug of concern to obtain information about a patient from the prescription monitoring program prior to prescribing or dispensing scheduled substances and drug of concern to such patient.
History: L. 2008, ch. 104, § 8; July 1.

65-1689 Same; advisory committee created; members; terms.
(a) There is hereby created the program advisory committee which, subject to the oversight of the board, shall be responsible for the operation of the program. The advisory committee shall consist of at least 10 members appointed by the board as follows:
(1) Two licensed physicians, one nominated by the Kansas medical society and one nominated by the Kansas association of osteopathic medicine;
(2) two licensed pharmacists nominated by the Kansas pharmacists association;
(3) one person representing the Kansas bureau of investigation nominated by the attorney general;
(4) one person representing the university of Kansas school of medicine nominated by the dean of such school;
(5) one person representing the university of Kansas school of pharmacy nominated by the dean of such school;
(6) one licensed dentist nominated by the Kansas dental association;
(7) one person representing the Kansas hospital association nominated by such association;
(8) one licensed advanced practice provider nominated by either the board of nursing or the state board of healing arts; and
(9) the board may also appoint other persons authorized to prescribe or dispense scheduled substances and drugs of concern, recognized experts and representatives from law enforcement.
(b) The appointments to the advisory committee shall be for terms of three years.
(c) The advisory committee shall elect a chairperson from among its members who shall serve a one-year term. The chairperson may serve consecutive terms.
(d) The advisory committee, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.
(e) Upon the expiration of the term of office of any member of the advisory committee on or after the effective date of this act, and in any case of a vacancy existing on or after the effective date of this act, a successor shall be appointed by the board pursuant to this section.
(f) All members of the advisory committee shall serve without compensation.
History: L. 2008, ch. 104, § 9; L. 2022, ch. 74, § 7; April 28.

65-1690 Same; advisory committee in cooperation with other entities.
(a) The prescription monitoring program advisory committee shall work with each entity charged with administrative oversight of those persons engaged in the prescribing or dispensing of

scheduled substances and drugs of concern to develop a continuing education program for such persons about the purposes and uses of the prescription monitoring program.
(b) The advisory committee shall work with the Kansas bar association to develop a continuing education program for attorneys about the purposes and uses of the prescription monitoring program.
(c) The advisory committee shall work with the Kansas bureau of investigation to develop a continuing education program for law enforcement officers about the purposes and uses of the prescription monitoring program.
History: L. 2008, ch. 104, § 10; July 1.

65-1691 Same; board consultation with advisory committee; annual report.
In consultation with and upon recommendation of the prescription monitoring program advisory committee, the board shall review the effectiveness of the prescription monitoring program and submit an annual report to the Senate standing committee on public health and welfare and the House standing committee on health and human services.
History: L. 2008, ch. 104, § 11; July 1.

65-1692 Same; rules and regulations.
The board is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this act.
History: L. 2008, ch. 104, § 12; July 1.

65-1693 Same; penalties.
(a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10 non-person felony.
(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, non-person felony.
(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10 non-person felony.
(d) A person who knowingly, and without authorization, obtains or attempts to obtain prescription monitoring information shall be guilty of a severity level 10, nonperson felony.
(e) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.
History: L. 2008, ch. 104, § 13; L. 2012, ch 107, § 6; May 17.

65-1694 Same; veterinary prescription monitoring program task force; study; members; report.
(a) There is hereby established the veterinary prescription monitoring program task force which shall study and determine whether to require veterinarians to report to a prescription monitoring program under this act. Such study shall include appropriate methods and procedures of reporting by the veterinarians with the necessary database field information. The task force shall

utilize nationally available resources afforded by the American Association of Veterinary State boards and the American veterinary medical associations department of state legislative and regulatory affairs and development of the plan in consultation with the advisory committee.
(b) The task force shall consist of three members as follows: one member appointed by the prescription monitoring program advisory committee; one member appointed by the Kansas board of veterinary examiners; and one member nominated by the Kansas veterinary medical association and appointed by the Kansas board of veterinary examiners.
(c) Appointments shall be made within 120 days after the effective date of this act. The initial meeting of the task force shall be convened within 180 days after the effective date of this act. The task force shall elect a chairperson and may elect any additional officers from among its members. All task force members shall serve without compensation.
(d) The task force shall report its findings and progress to the prescription monitoring program advisory committee at least annually or when requested by the advisory committee. The task force shall report its progress to the Senate committee on public health and welfare and the House committee on health and human services, if requested, and report its conclusions and recommendations to such committees within 5 years after the effective date of this act. Based on the recommendation by the task force, this act shall be amended to include the veterinarians as practitioners.
History: L. 2008, ch. 104, § 15; July 1.

65-1694a. Same; prescription monitoring program fund created.

(a) There is hereby established in the state treasury the prescription monitoring program fund. Such fund shall be administered by the president of the state board of pharmacy or the president's designee. All expenditures from the prescription monitoring program fund shall be for the purpose of operating the prescription monitoring program that is established in accordance with the prescription monitoring program act. All expenditures from the prescription monitoring program fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the state board of pharmacy or the president's designee.

(b) This section shall be a part of and supplemental to the prescription monitoring program act.

History: L. 2021, ch. 110, § 8; May 27.

Article 21: Prescription Monitoring Program

68-21-1. Definitions.
As used in this article of the board's regulations, each of the following terms shall have the meaning specified in this regulation:
(a) "Authentication" means the provision of information, an electronic device, or a certificate by the board or its designee to a requester that allows the requester to electronically access prescription monitoring information. The authentication may include the provision of a user name, a password, or an electronic identification device or certificate.
(b) "DEA" means the drug enforcement administration of the United States department of justice.
(c) "Dispenser identification number" means the DEA number. If a DEA number is not issued to the dispenser, the dispenser identification number means the NPI number or the Kansas license number.
(d) "Drug enforcement administration number" means a unique registration number issued to a practitioner authorized by the DEA to prescribe controlled substances.
(e) "National provider identifier" and "NPI" mean a unique 10-digit number issued by the national provider identifier registry and used to identify each practitioner whose services are authorized by medicaid or medicare.
(f) "Patient identification number" means that patient's unexpired temporary or permanent driver's license number, state-issued identification card number, or pharmacy system-generated identification number. If the patient does not have one of those numbers, the dispenser shall use the patient's first, middle, and last initials, followed by the patient's eight-digit birth date. The patient identification number shall not include a social security number.
(g) "Report" means a compilation of data concerning a dispenser, patient, drug of concern, or scheduled substance as defined in K.S.A. 65-1682, and amendments thereto.
(h) "Valid photographic identification" means any of the following:
(1) An unexpired driver's license, state identification card, or instruction permit;
(2) an unexpired official passport issued by any nation;
(3) a United States military identification card; or
(4) an unexpired identification card issued by a United States Indian tribe.
(i) "Zero report" means an electronic data submission reflecting no dispensing activity for a given period. (Authorized by K.S.A. 65-1692; implementing K.S.A. 2022 Supp. 65-1682; effective Oct. 15, 2010; amended Aug. 13, 2014; amended June 2, 2023.)

68-21-2. Electronic reports.
(a) Except as specified in subsections (d) and (e), each dispenser shall file a report with the board for each scheduled substance and drug of concern sold in Kansas or to an address in Kansas. This report shall be submitted by the end of the next business day from the day that the drug is sold.
(b) Except as specified in subsections (c), (d), and (e), each dispenser that does not dispense scheduled substances or drugs of concern in Kansas or to an address in Kansas during the reporting period specified in subsection (a) shall file a zero report with the board. Each zero report shall be filed by the end of the next business day.
(c) Any dispenser that meets the following conditions may submit a written request to the board for an exemption from subsection (b):

(1) The dispenser does not monthly dispense more than 10 prescriptions for scheduled substances and drugs of concern in Kansas or to an address in Kansas.

(2) The dispenser is unable to automate submission of a zero report.

(d) Any medical care facility, as defined by K.S.A. 65-1626 and amendments thereto, may submit a written request to the board for an exemption from subsections (a) and (b) if the medical care facility provides an interim supply of a scheduled substance or drug of concern to an outpatient on an emergency basis and the interim quantity does not exceed a 48-hour supply and, as described in K.A.R. 68-7-11(d)(2)(B), is limited to an amount sufficient to supply the outpatient's needs until a prescription can be filled in accordance with K.A.R. 68-7-11. This exemption shall apply only to the outpatient emergency interim supply of drugs and not to other outpatient dispensing or supply activities of the medical care facility.

(e) Any dispenser that does not dispense scheduled substances or drugs of concern in Kansas or to an address in Kansas may submit a written request to the board for an exemption from subsections (a) and (b) if both of the following conditions are met:

(1) The dispenser has submitted the required reports for at least three months or has provided three months of dispensing records to the board.

(2) The request is accompanied by the following:

(A) If the dispenser is a nonresident pharmacy, a list of states in which the pharmacy is registered;

(B) the current prescription monitoring program reporting status in each state in which the dispenser is registered; and

(C) a copy of any written reprimand, censure, or other disciplinary action related to prescription monitoring program reporting that the dispenser has had in any state, district, or territory.

(f) Each dispenser or pharmacy that no longer meets the criteria for exemption specified in subsection (c), (d), or (e) shall notify the board and begin submitting reports within seven days.

(g) Each exemption issued by the board shall expire annually on August 31.

(h) Except as specified in K.A.R. 68-21-3, each report required to be submitted pursuant to subsection (a) shall be submitted by secure file transfer protocol in the electronic format established by the American society for automation in pharmacy, dated no earlier than 2020, version 4, release 2b.

(i) Each dispenser shall correct any reporting error within seven days of discovering the error or being notified of the error by the board or the board's designee. (Authorized by K.S.A. 65-1692; implementing K.S.A. 2022 Supp. 65-1683; effective Oct. 15, 2010; amended April 15, 2011; amended Aug. 13, 2014; amended June 2, 2023.)

68-21-3. Revoked.

(Authorized by K.S.A. 2009 Supp. 65-1692; implementing K.S.A. 2009 Supp. 65-1683; effective Oct. 15, 2010; revoked June 2, 2023.)

68-21-4. Notice of requests for information.

Each dispenser who may access information maintained by the board on each drug of concern and scheduled substance dispensed to one of the dispenser's patients for the purpose of providing medical or pharmaceutical care shall notify the patient of this access to program information by performing either of the following:

(a) Posting an easily viewable sign at the place where prescription orders are issued or accepted for dispensing; or
(b) providing written material about the dispenser's access to program information. (Authorized by K.S.A. 65-1692; implementing K.S.A. 65-1685, as amended by L. 2022, ch. 74, sec. 5; effective Oct. 15, 2010; amended June 2, 2023.)

68-21-5. Access to program information.
(a) Any patient or patient's designee may obtain a report listing all program information that pertains to the patient by submitting a written request to the board on a form provided by the board, which shall include the following:

(1) The patient's name and, if applicable, the name of the patient's designee;

(2) the patient's residential address and, if applicable, the residential address of the patient's designee;

(3) the patient's telephone number and, if applicable, the telephone number of the patient's designee;

(4) the time period for which information is being requested;

(5) a copy of a valid photographic identification of the patient or the patient's designee; and

(6) if the requester is not the patient, a copy of official documents establishing either legal guardianship or power of attorney.

(b)(1) Any practitioner, dispenser, or delegate may obtain program information relating to a patient in accordance with K.S.A. 65-1685, and amendments thereto, by submitting an electronic request to the board in a manner established by the board, using authentication. Information regarding more than one patient may be submitted in a single request.
Each request shall be submitted in a format established by the board and shall include the following elements for each patient:

(A) The patient's first name and last name;

(B) the patient's date of birth; and

(C) the time period for which information is being requested.

(2) The authentication and identity of the practitioner, dispenser, or delegate shall be verified by the board before allowing access to any program information. If the authentication is lost or missing or if the security of the authentication is compromised, the practitioner, dispenser, or delegate shall notify the board in writing as soon as possible.

(c) In conjunction with an active investigation, any designated representative of a professional licensing, certification, or regulatory agency charged with administrative oversight of practitioners or dispensers may obtain program information for a practitioner licensed or regulated by the agency or for a patient by submitting a written request to the board on a form provided by the board.

(1) If the request is for program information related to a practitioner, the request shall include the following:

(A) The requestor's name and agency;

(B) the practitioner's name;

(C) the practitioner's DEA number, if issued to the practitioner;

(D) the practitioner's NPI number, if issued to the practitioner; and

(E) the time period for which information is being requested.

(2) If the request is for program information related to a patient, the request shall include the following:

(A) The requestor's name and agency;
(B) the patient's first name and last name;
(C) the patient's date of birth; and
(D) the time period for which information is being requested.

(d) Any designated representative from the department of health and environment, an overdose fatality review board established by the state, or an impaired provider program for practitioners may obtain program information related to a patient in accordance with K.S.A. 65-1685, and amendments thereto, by submitting an electronic written request to the board in a manner established by the board, using authentication. The request shall include the following:

(1) The patient's first name and last name;
(2) the patient's date of birth; and
(3) the time period for which information is being requested. (Authorized by K.S.A. 65-1692; implementing K.S.A. 65-1685, as amended by L. 2022, ch. 74, sec. 5; effective Oct. 15, 2010; amended June 2, 2023.)

68-21-6. Reciprocal agreements with other states or government entities to share information.

(a) Reciprocal agreements with one or more of the following entities within the United States may be entered into by the board to share program data if the entity's prescription monitoring program is compatible with the program:

(1) A state, commonwealth, district, or territory;
(2) a military or veteran health system;
(3) an Indian health system or service; or
(4) a city, county, municipality, or township.

(b) In determining the compatibility of the entity's prescription monitoring program, the following may be considered by the board:

(1) The safeguards for privacy of patient records and the entity's success in protecting patient privacy;
(2) the persons authorized by the entity to view the data collected by the program;
(3) the schedules of controlled substances monitored by the entity;
(4) the data required by the entity to be submitted on each prescription; and
(5) the costs and benefits to the board of mutually sharing data with the entity.

(c) Any reciprocal agreement may be reviewed annually by the board to determine its continued compatibility with the program.

(Authorized by K.S.A. 65-1692; implementing K.S.A. 65-1685; effective October 15, 2010; amended November 29, 2019.)

68-21-7. Drugs of concern.

(a) Each of the following shall be classified as a drug of concern:

(1) Any product containing all three of these drugs: butalbital, acetaminophen, and caffeine;
(2) any compound, mixture, or preparation that contains any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers and is exempt from being reported to the statewide electronic logging system for the sale of methamphetamine precursors;
(3) any compound, mixture, or preparation that contains any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers and is exempt from

being reported to the statewide electronic logging system for the sale of methamphetamine precursors;

(4) promethazine with codeine; and

(5) any product, compound, mixture, or preparation that contains gabapentin.

(b) Each request to have a drug added to the program for monitoring shall be submitted in writing to the board.

This regulation shall take effect 90 days after publication in the Kansas register.

(Authorized by K.S.A. 2013 Supp. 65-1692; implementing K.S.A. 2013 Supp. 65-1682; effective Oct. 15, 2010; amended Feb. 4, 2015; amended May 11, 2018.)