MARYLAND Department of Health

MARYLAND PDMP

Maryland PDMP Investigative User's Terms of Use

Health General Article, Section 21-2A, Annotated Code of Maryland (Chapter 166, 2011) authorizes the Prescription Drug Monitoring Program (PDMP) to disclose prescription monitoring data to the following entities, who may request data through the RxGov platform:

1. a federal, state, or local law enforcement agency, on issuance of a subpoena for the purpose of furthering an existing, bona fide, individual investigation;
2. a licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity; for the purpose of furthering an existing, bona fide, individual investigation;
3. specific units of the Maryland Department of Health (MDH), including: Office of the Chief Medical Examiner, Office of Health Care Quality, Office of the Inspector General, Maryland Medical Assistance, Office of Controlled Substances Administration on approval of the Secretary for the purpose of furthering an existing, bona fide, individual investigation;
4. the following entities, on approval of the Secretary and for the purpose of furthering an existing bona fide individual case review:
    a. the State Child Fatality Review Team or a local child fatality review team as defined in Health-General Article, §5-701, Annotated Code of Maryland, upon request from the chair of the State or local team;
    b. a local drug overdose fatality review team as described in Health-General Article, §5-902, Annotated Code of Maryland, upon request from the chair of the local team;
    c. the Maternal Mortality Review Program, as defined in Health-General Article, §13-1203, Annotated Code of Maryland, on request from the Program; and
    d. a medical review committee described in Health Occupations Article, §1-401(b)(3), Annotated Code of Maryland, upon request from the committee.

If a subpoena is required as part of the request, the subpoena for prescription monitoring data must:

1. Include information sufficient to identify the unique individual (patient, prescriber, or dispenser) about whom data is requested;

2. Specify the time frame for which prescription monitoring data is requested, including the day, month, and year the report is to begin and end;

3. Include an agency case number or other identifier sufficient to identify an existing, bona fide, individual investigation;

4. Include an attestation that the subpoena was approved by a quorum of the board of the

licensing entity;

5. Bear the name, title, and original signature of the official under whose authority the subpoena or request is issued.

If a signed Request Form is required as part of the request, the form must be completed in full by the requesting entity and signed by the Maryland Department of Health (MDH) Secretary, or an authorized designee.

RxGov has been configured to process data requests that meet the requirements of statute and regulation. **Requests that do not contain all required elements or request information that is inconsistent with the subpoena or Request Form will be denied by the PDMP administrator.**

Requests for PDMP data may be submitted to the Program's Technical Advisory Committee (TAC) for review. The TAC shall provide their clinical guidance and interpretation of the data requested within 10 business days of submission of the request to the TAC for review. If the TAC does not review and respond within 10 business days, the Program may respond to the request as if the TAC does not have clinical guidance or interpretation to provide. When disclosure of PDMP data is authorized following TAC review, the data requester will receive both the PDMP data report and the TAC report. Please be advised that notwithstanding the TAC report, the Department makes the final determination regarding the Program's response to the subpoena.

Prescription Monitoring Data and Technical Advisory Committee (TAC) Reports are Protected Information

Prescription monitoring data are confidential, privileged, not subject to discovery, subpoena, or other means of legal compulsion in civil litigation, and are not public records. Prescription monitoring data received from the Program may be re-disclosed only:

1. In a manner consistent with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §1320d et seq., as amended, and all other State and federal laws and regulations governing the security and confidentiality of protected health information and personal medical records;

2. For entities to which the Program has disclosed data as listed at top of Terms of Use, to another agency cooperating with or providing support for the original data recipient’s existing, bona fide, individual investigation.

For all purposes, including but not limited to confidentiality, security, re-disclosure, and admissibility as evidence, the reports of the TAC shall be considered as one and the same with the PDMP data upon which the Committee's reports are based. A person who knowingly discloses, uses, obtains, or attempts to obtain by fraud or deceit prescription monitoring data in violation of in Health-General Article, §21-2A, Annotated Code of Maryland, shall be guilty of a

misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $10,000 or both.

Investigator Attestation

Law Enforcement Investigators: I certify that I am an investigator authorized by the supervisor of a federal, state or local law enforcement agency and registered with the Maryland PDMP to request prescription monitoring data. I certify that my request for prescription monitoring data is pursuant to a subpoena, for the purpose of furthering an existing, bona fide, individual investigation.

Board Investigators: I certify that I am an investigator authorized by the executive director of a licensing entity and duly registered with the Maryland PDMP to request prescription monitoring data. I certify that my request for prescription monitoring data is pursuant to an administrative subpoena, voted on by a quorum of the board of the licensing entity, for the purpose of furthering an existing, bona fide, individual investigation.

MDH Investigators: I certify that I am an employee of an aforementioned unit of the Department, duly authorized by the unit's director and registered with the Maryland PDMP to request prescription monitoring data. I certify that my request for prescription monitoring data has been approved by the MDH Secretary, or designee, and is submitted for the purpose of furthering an existing, bona fide, individual investigation.

Case Review Entities: I certify that I am a representative of an aforementioned case review entity, duly authorized by the entity's director and registered with the Maryland PDMP to request prescription monitoring data. I certify that my request for prescription monitoring data has been approved by the MDH Secretary, or designee, and is submitted for the purpose of furthering an existing, bona fide, individual case review.

I understand and agree to comply with the statutory and regulatory requirements for use of prescription monitoring data enumerated in Health General Article, Section 21-2A, Annotated Code of Maryland, and Code of Maryland Regulations (COMAR) 10.47.07.

I understand that prescription monitoring data are only reports of dispensing activity submitted to the PDMP by pharmacies and healthcare practitioners and are not an official record of controlled substance dispensing. The data may be incomplete or contain errors. The accuracy of prescription monitoring data must be confirmed through inspection of the original prescription records.