

1 **(15) "Audit trail information" means information submitted or**
 2 **produced regarding requests for prescription monitoring program data that the**
 3 **board or other individual as specified by this Part uses to help monitor**
 4 **compliance with this Part and other applicable statutes, rules, or regulations.**

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6 §1007. Access to prescription monitoring information **and audit trail information**

7 A. Except as provided in Subsections C, D, E, F, G, H, and I of this Section,
 8 prescription monitoring information submitted to the board **and audit trail**
 9 **information** shall be protected health information, not subject to public or open
 10 records law, including but not limited to R.S. 44:1 et seq., and not subject to
 11 disclosure. Prescription monitoring information **and audit trail information** shall
 12 not be available for civil subpoena from the board nor shall such information be
 13 disclosed, discoverable, or compelled to be produced in any civil proceeding nor
 14 shall such records be deemed admissible as evidence in any civil proceeding for any
 15 reason. Notwithstanding this provision, law enforcement and professional licensing,
 16 certification, or regulatory agencies may utilize prescription monitoring information
 17 **and audit trail information** in the course of any investigation and subsequent
 18 criminal and administrative proceedings, but only in accordance with federal and
 19 state law and the requirements of this Part.

20 B. The board shall maintain procedures to ensure that the privacy and
 21 confidentiality of patients and patient information collected, recorded, transmitted,
 22 and maintained, **as well as audit trail information,** is not disclosed to persons or
 23 entities except as in Subsections C, D, E, F, G, H, **and I, and J** of this Section.

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25 E. The following persons, ~~after successful completion of the educational~~
 26 ~~courses identified in R.S. 40:1008,~~ may access prescription monitoring information
 27 at no cost and in the same or similar manner, and for the same or similar purposes,
 28 as those persons are authorized to access similar protected health information under
 29 federal and state law and regulation:

* * *

(5) A medical examiner or coroner, or a delegate thereof, for the purpose of investigating an individual's death.

(6) A licensed substance abuse addiction counselor providing services as part of a state licensed substance abuse addiction treatment program.

(7) A probation or parole officer for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.

F. The board may provide a report containing prescription monitoring information upon application of local, state, out-of-state, and federal law enforcement or prosecutorial officials, including judicially supervised drug courts, engaged in the administration, investigation, or enforcement of the laws governing controlled substances or other drugs of concern in compliance with and as limited by the relevant requirements of any of the following:

* * *

I. The board may provide prescription monitoring information to ~~an individual who requests his personal prescription monitoring information in accordance with procedures established by board regulation.~~ the following in accordance with procedures established by board regulation:

(1) An individual who requests his personal prescription monitoring information.

(2) A parent, legal guardian, or legal health care agent, for the purpose of reviewing the history of dispensed monitored drugs to a child or an individual for whom the agent makes health care decisions, to the extent consistent with federal and state confidentiality laws and regulations.

(3) An executor of a will, or a court-appointed executor of an estate, for the purpose of reviewing the history of dispensed monitored drugs to a deceased individual.

~~J. The board and the advisory council shall be immune from civil liability~~

1 ~~arising from inaccuracy of any of the information submitted to the board pursuant~~
2 ~~to this Part. The board may disclose audit trail information to individuals~~
3 ~~identified in Subsection (E)(2), (F), and (I) for use in an active investigation of~~
4 ~~an individual who submitted requests for prescription monitoring information.~~

5 K.(1) The board and advisory council shall not be subject to civil
6 liability, administrative action, or other legal or equitable relief for the:

7 (a) Failure to possess prescription monitoring information that was not
8 reported to the board.

9 (b) Release of prescription monitoring information or audit trail
10 information that was factually incorrect.

11 (c) Release of prescription monitoring information or audit trail
12 information to the wrong person or entity.

13 (d) Unlawful access to prescription monitoring information by an
14 individual, or unlawful disclosure or use of prescription monitoring information
15 by an individual who requested and received prescription monitoring
16 information pursuant to this Section.

17 (2) A dispenser or reporting agent shall not be subject to civil liability,
18 administrative action, or other legal or equitable relief for reporting
19 prescription monitoring information to the board.

20 (3) A prescriber, dispenser, or other individual, agency, or entity in
21 proper possession of prescription monitoring information or audit trail
22 information pursuant to this Part shall not be subject to civil liability,
23 administrative action, or other legal or equitable relief for accessing, using, or
24 disclosing prescription monitoring information or audit trail information
25 pursuant to the provisions of this Section.

26 §1008. Education and treatment

27 A. The board shall, in consultation with and upon the recommendation of the
28 advisory council, implement the following education courses:

29 (1) ~~An orientation course during the implementation phase of the prescription~~

1 monitoring program.

2 ~~(2) A course for persons who are authorized to access the prescription~~
3 ~~monitoring information, but who did not participate in the orientation course.~~

4 ~~(3)~~ A course for persons who are authorized to access the prescription
5 monitoring information, but who have violated the laws or breached occupational
6 standards involving the prescribing, dispensing, or use of any controlled substances
7 or drugs monitored by the prescription monitoring program.

8 ~~(4)~~(2) A continuing education course for health care providers or
9 professionals on prescribing practices, pharmacology, and the identification,
10 treatment, and referral of a patient addicted to or abusing controlled substances or
11 drugs monitored by the prescription monitoring program.

12 * * *

13 §1009. Unlawful acts and penalties

14 A. A dispenser who fails to submit prescription monitoring information to the
15 board as required by this Part, or who fails to correct or amend data after
16 notification by the board, shall be referred to the appropriate professional licensing,
17 certification, or regulatory agency for administrative sanctions as deemed
18 appropriate by that agency.

19 B. A person or entity authorized to possess prescription monitoring
20 information pursuant to this Part who knowingly accesses or discloses such
21 information in violation of this Part shall be referred to the appropriate professional
22 licensing, certification, or regulatory agency for administrative sanctions as deemed
23 appropriate by that agency and may, upon criminal conviction, be imprisoned, with
24 or without hard labor, for not more than five years, and in addition, may be fined not
25 more than five thousand dollars.

26 * * *

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 96 Original

2017 Regular Session

Johns

Present law provides for access to prescription monitoring information.

Proposed law establishes a definition for "audit trail information".

Proposed law provides for access to prescription monitoring information and audit trail information.

Present law provides statutory authority for certain specific individuals to have access to prescription monitoring program information including persons authorized to prescribe or dispense controlled dangerous substances, designated representatives from health professional licensing boards that regulate prescribers and dispensers, designated representatives from Louisiana Medicaid, and the designated vendor managing the prescription monitoring program for the Board of Pharmacy.

Proposed law adds medical examiners, coroners, licensed substance abuse addiction counselors, and probation and parole officers to those who may access prescription monitoring program information in certain circumstances.

Proposed law adds judicially supervised drug courts to the list of law enforcement and judicial entities that may obtain limited data in report form from the prescription monitoring program.

Proposed law provides that the board may provide prescription monitoring program information in limited circumstances to individuals, parents, legal guardians, legal health care agents, and executors of a will or estate.

Proposed law provides that audit trail information may be disclosed to certain individuals in the course of an investigation.

Present law provides a limitation of liability to the board and advisory council arising from inaccuracy of any information submitted to the board.

Proposed law expands and clarifies the limitation of liability to include failure to possess prescription monitoring information that was not reported to the board, release of information that was factually incorrect and release of information to the wrong person.

Present law provides for an orientation course during implementation of the prescription monitoring program and a course for those who missed orientation.

Proposed law repeals references to orientation training but retains other trainings on prescribing practices.

Present law provides penalties for a dispenser who fails to submit prescription monitoring information to the board and who knowingly discloses prescription monitoring information in violation of the law.

Proposed law expands the penalties to also include instances where a dispenser fails to

correct or amend data after notification by the board and where he knowingly accesses prescription monitoring information in violation of the law.

Effective upon signature of the governor or upon lapse of gubernatorial action.

(Amends R.S. 40:1007(A), (B), (E)(intro para), (F)(intro para), (I), and (J), 1008(A), and 1009(A) and (B); adds R.S. 40:1003(15) and 1007(E)(5), (6), and (7), and (K))