

The Wisconsin ePDMP:

Frequently Asked Questions

Pursuant to 2015 Wisconsin Act 266, effective April 1, 2017, Wisconsin-licensed physicians and other prescribers must review a patient's records from Wisconsin's Enhanced Prescription Drug Monitoring Program (ePDMP) before issuing a prescription order for a monitored prescription drug. The requirement, part of the Wisconsin legislature's Heroin, Opioid Prevention and Education (HOPE) Agenda, applies to each prescription order for a controlled substance unless one of the following exceptions applies:

- 1) The patient is receiving hospice care.
- 2) The prescription is for a three-day or less supply with no refills.
- 3) The drug is lawfully administered to the patient.
- 4) Due to an emergency, it is not possible to review the ePDMP before issuing the prescription.
- 5) The practitioner is unable to review the ePDMP data because either the ePDMP or the means to access it are not operational.

The following FAQs discuss the details and some common questions regarding this requirement. They are for informational purposes only and are not intended to constitute legal advice. Please consult your legal counsel for answers to specific questions, including whether a given course of action complies with this requirement. Nothing in these FAQs is intended to take the place of legal advice provided by your own legal counsel as well as your internal policies, procedures and directions. Additional information regarding the ePDMP, including training materials and contact information, is available on the ePDMP website: <http://dsps.wi.gov/pdmp/>

Who must comply with this requirement?

The requirement applies to all "practitioners"—any person licensed to prescribe and administer drugs in Wisconsin or licensed in another state and authorized to do so in Wisconsin. This includes physicians, physician assistants (PA), advanced practice nurse practitioners (APNP), optometrists, dentists and podiatrists.

What drugs or substances are subject to this requirement?

A practitioner must review a patient's records from the ePDMP before issuing a prescription order for a "monitored prescription drug" unless one of five exceptions apply. A monitored prescription drug is any Schedule II, III, IV and V controlled substance as well as any other drug identified by the Wisconsin Controlled Substances Board (CSB) as having a substantial potential for abuse. As of April 3, 2017, there were no monitored prescription drugs other than Schedule II–V controlled substances.

The requirement to review patient records from the ePDMP before issuing a prescription order applies to all controlled substances, not just opioids or Schedule II drugs. While Wisconsin's list of controlled substances closely parallels its federal counterpart, they are not identical. For a complete list of controlled substances subject to the requirement see Subchapter II of the [Wisconsin Uniform Controlled Substances Act](#) (Chapter 961). Prescribers should always know whether a drug is a controlled substance under state or federal law before prescribing it, as well as any requirements or limitations that may apply to that drug.

When does the requirement take effect?

Starting April 1, 2017, practitioners must review a patient's records from the ePDMP before issuing a prescription order for a controlled substance. The requirement is scheduled to sunset (end) three years after taking effect.



Are there any exceptions to this requirement?

Yes. A practitioner is not required to review a patient's records from the ePDMP before issuing a prescription order for a controlled substance if one or more of the following exceptions apply:

- The patient is receiving hospice care.
- The prescription order is for an amount intended to be a three-day supply or less,
- The drug is administered directly to the patient.
- Due to an emergency, it is not possible to review the patient's ePDMP records before issuing the prescription.
- The ePDMP is not operational or a technological failure prevents the practitioner from accessing the ePDMP, provided the practitioner reports the failure to the Controlled Substances Board.

In addition, a practitioner is not required, but is permitted, to review a patient's records from the ePDMP before prescribing a non-controlled substance.

Does the requirement apply to repeat orders for the same drug and/or dosage?

Yes. Unless one of the above exceptions applies, a practitioner is required to review a patient's records from the ePDMP before each issuance of a prescription order for a controlled substance. This includes re-orders or renewal prescriptions for ongoing therapy, including for the same dosage.

Should review of ePDMP records be documented in the patient's medical record?

The Society recommends that each review of ePDMP records for a patient be documented in the patient's medical record. The manner and contents of such documentation should be determined by practitioners in consultation with legal counsel.

What are the penalties for failure to review a patient's ePDMP records where required by law?

Though the Controlled Substances Board has indicated that its priority is to promote educate and train practitioners about the benefits and requirements of the ePDMP, it also has discretion to refer matters of noncompliance to a practitioner's licensing board for investigation. Failure by a physician to review a patient's records from the ePDMP before issuing a prescription order where required by law is a form of unprofessional conduct that may result in discipline by the Medical Examining Board.

Can I access the ePDMP if I am not prescribing a controlled substance?

Yes. Practitioners may access an individual's records from the ePDMP if the individual is a current patient or the practitioner is consulting with another practitioner regarding that patient and access of the individual's records is for purposes of the patient's care or treatment.

How close in time must a required review be to the prescription order?

The amount of time between when a patient's records from the ePDMP are reviewed and when a prescription for a controlled substance for that patient is issued must be reasonable under the circumstances—i.e. would a reasonable physician under the same or similar circumstances consider the review sufficiently close in time to the prescription order to serve its intended purpose. The Society recommends practitioners review a patient's ePDMP records contemporaneous with the issuance of a prescription order for a controlled substance where possible.

Information regarding each dispensing of a controlled substance must be submitted to the ePDMP by pharmacies and dispensing physicians by the end of the next business day after the substance is dispensed. As such, limiting the amount of time between the review of a patient's ePDMP records and the issuance of a prescription order to one business day should generally provide practitioners with current information regarding a patient's prescription history. Practitioners should consult their legal counsel and/or compliance team for specific guidance as more or less time may be permissible or advised in certain settings or circumstances.

Can practitioners utilize staff to assist in performing the required review?

Yes; although there remains a need for greater clarity regarding the extent to which staff may be utilized. Practitioners may authorize licensed and unlicensed individuals to act on their behalf or at their direction (“agents”), including authorizing such individuals to access the ePDMP for them (“practitioner delegates”). However, the responsibility to review a patient’s records from the ePDMP before issuing a prescription order for a controlled substance rests with the practitioner. The responsibility cannot be assumed by the practitioner’s employer or facility and cannot be delegated completely to agents or staff of the practitioner. The Society recommends practitioners consult their legal counsel and/or compliance team for specific guidance regarding how and to what extent staff may be utilized to comply with this requirement.

The Society recommends that practitioners directly view patients’ ePDMP records before issuing each prescription order for a controlled substance whenever possible. Practitioners may use agents to assist in this task by, for example, retrieving the relevant patient records from the ePDMP. Practitioners also have the general authority to delegate medical acts to certain licensed and unlicensed individuals depending on the delegate’s scope of practice, license, education, knowledge, experience and other factors. To what extent this may allow a delegate to provide assistance to practitioners in complying with this requirement beyond accessing the ePDMP and providing the patient’s ePDMP records to the practitioner for review remains an open question. The Society is working with the state legislature and the Department of Safety and Professional Services to seek greater clarity and necessary flexibility for practitioners. However, practitioners remain ultimately responsible for reviewing a patient’s records from the ePDMP before issuing a prescription order for a controlled substance.

Is ePDMP data confidential?

ePDMP data contains patient health information subject to HIPAA and Wisconsin’s patient health care records confidentiality law. Therefore, ePDMP information should be treated similarly to other forms of patient health care records received from another provider or source. This includes protecting its confidentiality, limiting access and taking required measures to prevent the disclosure of such records unless authorized by the patient or for which patient authorization is not required (such as disclosure for purposes of health care treatment, payment and operations).

Can ePDMP data be shared with patients?

Practitioners may show a patient his or her own ePDMP records as part of treating or rendering assistance to the patient. Practitioners should be prepared to discuss the ePDMP with patients, including its purpose and how the information is used. The Society recommends practitioners consult their risk manager and/or legal counsel to determine under what circumstances to disclose ePDMP information to patients and how to do so in the most effective manner. Patients also can request a copy of their ePDMP records directly from the Department of Safety and Professional Services in person or by mail. If ePDMP records are incorporated into a patient’s medical record, those records should be included in a production in response to a lawful request for the patient’s records.

What is the penalty for improper access or disclosure of ePDMP records?

A person who improperly accesses or discloses ePDMP records in violation of the law, including HIPAA and Wisconsin’s health care records confidentiality law, may be referred to the appropriate licensing or regulatory board for discipline, or the appropriate law enforcement agency for investigation and possible prosecution.

Who has access to the ePDMP and its data?

The following individuals are permitted access to ePDMP data for purposes of directly treating or rendering assistance to a patient or participating in a consult for a provider directly treating a patient:

- Practitioners (physicians, PAs, APNPs, dentists, optometrists, podiatrists)
- Pharmacists
- The agent of a practitioner or pharmacist
- Registered nurses

- Substance abuse counselors
- Individuals licensed to treat alcohol or substance dependency or abuse as a specialty

Will the ePDMP record each time a patient's records are accessed?

Yes. The ePDMP contains audit trails that log each access of the ePDMP, by whom and for what patient. This information will be available to practitioners (including audit trails of any delegate), certain other individuals, and to regulatory boards and law enforcement under limited circumstances. (See below for more information.)

Practitioners should periodically review their audit trails to ensure they accurately reflect the practitioner's activity.

Can a Chief Medical Officer, Quality Improvement Officer or other individuals who supervise or work with practitioners access prescribing information about a practitioner from the ePDMP?

A person who medically coordinates, directs, supervises or establishes standard operating procedures for the above individuals may access ePDMP records if the person is evaluating the job performance of the above individuals or is performing quality assessment and improvement activities, including outcomes evaluations or development of clinical guidelines. Such access is limited to information about the prescribing of the above individuals and will not contain patient-identifying information.

Can the Wisconsin Medical Examining Board or other regulatory and licensing boards, law enforcement or criminal prosecutors review ePDMP data and who accessed the ePDMP?

Certain state boards and agencies, in Wisconsin or other states with which Wisconsin has a collaborative relationship, relevant law enforcement agencies and relevant prosecutorial units may have access to ePDMP under the following limited circumstances:

- The agency or unit makes a written request for a record reasonably related to a specific investigation or prosecution of violation of a state or federal law that involves a monitored prescription drug.
- The agency or unit makes a written request for the record and is monitoring the patient as part of a drug court.
- Circumstances indicate suspicious or crucially dangerous conduct or practices of a pharmacy, pharmacist, practitioner or patient.

The Controlled Substances Board also has authority to review audit trails, dispensing data and other ePDMP data to determine whether circumstances indicate suspicious or critically dangerous conduct or practices of a practitioner and may refer individuals associated with such conduct or practices to the appropriate licensing board or appropriate law enforcement agency for investigation and possible prosecution.

Does the requirement apply to prescriptions to residents of nursing homes or other inpatient or residential facilities?

There is no specific exception for inpatient settings or certain types of facilities. However, a practitioner is not required to review a patient's records from the ePDMP before issuing a prescription for a controlled substance if that substance is "lawfully administered to the patient." "Administer" means the direct application of a monitored prescription drug, whether by injection, ingestion, or any other means, to the body of a patient by a practitioner, an agent of the practitioner, a pharmacist, or a patient at the direction of a practitioner.

Whether a given process of providing a controlled substance to the resident of a nursing home or other facility constitutes administration depends on the individual facts and circumstances. The Society recommends practitioners review patients' records from the ePDMP before prescribing a controlled substance to patients in nursing homes and other facilities unless the practitioner has sufficient understanding of the procedures for medication distribution and administration in the facility to form a reasonable belief that the substance will be provided to the patient and taken in the presence of an agent of the facility qualified to administer that substance. Practitioners should consult legal counsel regarding whether review of the ePDMP is necessary for a given set of circumstances.

Does this requirement apply to retired physicians or physicians who do not prescribe controlled substances?

Yes. The requirement applies to a practitioner on each occasion he or she prescribes a controlled substance and none of the above five exceptions is met. There is no exception for retired physicians, physicians who do not routinely prescribe controlled substances or other specific classes of prescribers. ***The Society recommends that all physicians register with the ePDMP regardless of their practice or status so they have the ability to access the ePDMP if or when required or desired.***

Are Wisconsin-licensed practitioners required to check the ePDMP for patients they see in another state?

According to the [Controlled Substances Board](#), “if a practitioner licensed in Wisconsin does not practice in Wisconsin and therefore reasonably believes the patient has no records under the program, the practitioner would not be expected to review the patient’s ePDMP records before issuing a controlled substance prescription order.” However, Wisconsin licensing and regulatory boards, such as the Wisconsin Medical Examining Board (MEB), have jurisdiction over licensees for acts outside the state of Wisconsin as well. Therefore, the Society recommends that a Wisconsin-licensed practitioner review patient records from the ePDMP before issuing a controlled substance prescription order if any of the following apply:

- The patient is a resident of Wisconsin.
- The patient visit or treatment occurs in Wisconsin.
- There is other reason to believe that the Wisconsin ePDMP may contain records for that patient (such as if the patient recently moved from Wisconsin).

How do I report a technological failure that prevents me from checking the ePDMP?

Practitioners who are unable to access the ePDMP because the digital platform for the program is not operational or due to another technological failure are only relieved of the requirement to review patient records for that occasion, and only if they report that failure to the Controlled Substances Board. To report a technological failure that prevents access to the ePDMP, e-mail PDMP@wisconsin.gov with the subject line “WI ePDMP Tech Failure.” The Society recommends against including any patient information in such notifications as doing so may constitute a breach of confidentiality. Any inability to review a patient’s ePDMP records otherwise required by law also should be documented in the patient’s medical record.

Where can I find more information about the ePDMP, including how to register for and use the ePDMP?

Information regarding the ePDMP, including [training materials](#), tutorials, support documents and other information regarding registration, assigning delegates, using the ePDMP, submitting data, and other topics, is available on the ePDMP website: <http://dsps.wi.gov/pdmp/>

PDMP technical support:
Phone: 608.250.4606
E-mail: PDMPSupport@egov.com

PDMP administrative support:
Phone: 608.266.2112
E-mail: PDMP@wisconsin.gov

Contact Us

For more information, contact John Rather, JD, (john.rather@wismed.org) or Mark Grapentine, JD, (mark.grapentine@wismed.org). Visit www.wisconsinmedicalsociety.org for updates.