



Public Health Law

Office for State, Tribal, Local and Territorial Support
Centers for Disease Control and Prevention

Menu of State Prescription Drug Identification Laws

The United States is in the midst of an unprecedented epidemic of prescription drug overdose deaths.¹ More than 38,000 people died of drug overdoses in 2010, and most of these deaths (22,134) were caused by overdoses involving prescription drugs.² Three-quarters of prescription drug overdose deaths in 2010 (16,651) involved a prescription opioid pain reliever (OPR), which is a drug derived from the opium poppy or synthetic versions of it such as oxycodone, hydrocodone, or methadone.³ The prescription drug overdose epidemic has not affected all states equally, and overdose death rates vary widely across states.

States have the primary responsibility to regulate and enforce prescription drug practices. Although state laws are commonly used to prevent injuries and their benefits have been demonstrated for a variety of injury types,⁴ there is little information on the effectiveness of state statutes and regulations designed to prevent prescription drug abuse and diversion.⁵

By creating an inventory of state legal strategies, this assessment accomplishes the first step in evaluating the effectiveness of prescription drug identification laws. Laws that require patients to show personal identification to pharmacists before receiving prescription drugs were included in this assessment because of their potential role in decreasing the diversion of controlled substances.⁶ Statutes and regulations were included as

¹ For the purpose of this document, “overdose death” refers to death resulting from either intentional overdose or accidental overdose, which could be caused by a patient being given the wrong drug, taking the wrong drug in error, or taking too much of a drug inadvertently. The CDC’s Injury Center also refers to overdose as a drug poisoning, which may or may not result in death.

² Wide-ranging Online Data for Epidemiologic Research (WONDER) Database, Centers for Disease Control and Prevention, <http://wonder.cdc.gov> [hereinafter *WONDER Database 2012*].

³ *Id.*

⁴ See, e.g., R.A. Schieber, J. Gilchrist & D.A. Sleet, *Legislative and Regulatory Strategies to Reduce Childhood Injuries*, 10 FUTURE CHILD. 1, 111–36 (2000).

⁵ For the purposes of this document, “prescription drug abuse” refers to the use of prescription drugs such as opioid analgesics, sedatives, and stimulants either without a prescription or for the feeling the drugs can cause. “Diversion” occurs when prescription drugs are dispensed, stolen, sold, or given to people who use them for nonmedical reasons.

⁶ See, e.g., D. Brushwood, *Maximizing the Value of Electronic Prescription Monitoring Programs*, 31 J. LAW, MED. & ETHICS 1, 41–54 (2003) (noting that the potential for widespread use of forged identification may undermine prescription drug monitoring programs and the need for stronger methods to ensure the accuracy of identification information used in these

identification laws only if they expressly state that a pharmacist must or may request identification before dispensing prescription drugs.⁷

Introduction

Twenty-five states⁸ have laws either mandating or allowing pharmacists to request identification before dispensing prescription drugs. All but one of these states has at least one law mandating that the pharmacist request identification generally or under specific circumstances before dispensing prescriptions. Oregon is the sole state with one identification law that is entirely discretionary.⁹ By contrast, five states have separate mandatory and discretionary identification requirements that apply in different situations or to different controlled substances.¹⁰ The permissive laws in these five states grant pharmacists at least some discretion in requesting identification from patients. The mandatory identification laws may specify the circumstances under which identification is required or the drugs to which the requirements apply, the type of identification required, or whether the pharmacist must record the identifying information.

programs). Further note that although this assessment did not examine prescription monitoring programs because of the related research being done by partner organizations, identification laws were included because of their potential value in reducing diversion independent of, and beyond, drug monitoring programs.

⁷ This section includes laws that were enacted prior to June 30, 2013. The first effective dates of the specific provisions referenced are cited as “[legal citation] (eff. [year]).” Where dates were either not provided within the laws or were unclear due to multiple revisions, this fact is cited as “[legal citation] (eff. date unclear, [estimated year]).”

⁸ Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Vermont, Virginia, and West Virginia. See CONN. GEN. STAT. ANN. § 20-612a (eff. 2006); 24 DEL. ADMIN. CODE CSA § 4.0 (2009); FLA. STAT. ANN. § 893.04 (eff. 2007); FLA. ADMIN. CODE ANN. r. 64B16-27.831 (eff. 2002); GA. CODE ANN. § 26-4-80 (eff. 2011); HAW. REV. STAT. ANN. § 329-1 (eff. 1996); HAW. REV. STAT. ANN. § 329-41 (eff. 1998); IDAHO ADMIN. CODE. r. 27.01.01.200 (eff. 2008); 720 ILL. COMP. STAT. ANN. 570/312 (eff. 1989); IND. CODE ANN. § 35-48-7-8.1(b) (eff. 2006); LA. REV. STAT. ANN. § 40:971(E) (eff. 2006); ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B) (eff. 2003); ME. REV. STAT. ANN. tit. 32, § 13795 (eff. 1995); 105 MASS. CODE REGS. 700.001 (eff. 2010); 105 MASS. CODE REGS. 700.004 (eff. 2010); 105 MASS. CODE REGS. 700.012 (eff. 2010); MICH. ADMIN. CODE r. 338.3102 (eff. 2007); MICH. ADMIN. CODE r. 338.3162 (eff. 2007); MINN. STAT. ANN. § 152.11 (eff. 2007); NEV. REV. STAT. ANN. § 453.431 (eff. 2003); NEV. ADMIN. CODE § 639.748 (eff. 2004); N.M. CODE R. § 16.19.20 (eff. 2002); N.Y. COMP. CODE. R. & REGS. tit.10 § 80.73 (eff. 2006); N.Y. COMP. CODE. R. & REGS. tit.10 § 80.74 (eff. 2006); N.C. GEN. STAT. ANN. § 90-106.1 (eff. 2012); 21 N.C. ADMIN. CODE. 46.1817 (eff. 2002); N.D. ADMIN. CODE. 61-04-03.1-01 (eff. 2011); OKLA. STAT. ANN. tit. 63 § 2-309B (eff. 1990); OKLA. STAT. ANN. tit. 63 § 2-309C (eff. 1990); OR. ADMIN. R. 855-019-0210 (eff. 2008); S.C. CODE ANN. § 44-53-360 (eff. 2007); TEX. HEALTH & SAFETY CODE ANN. § 481.074 (eff. 1989); VT. STAT. ANN. tit. 18 § 4215b (eff. 2013); VA. CODE ANN. § 54.1-3420.1 (eff. 1905); W. VA. CODE ANN. § 60A-3-308 (eff. 2005). Note that reporting requirements (for prescription monitoring programs or other record requirements) were not included as identification laws if they contained only indirect language implying that a pharmacist may check a patient’s identification in order to meet the reporting or recording requirement. Laws were also not included if the identification requirement applies only to non-prescription controlled substances.

⁹ See OR. ADMIN. R. 855-019-0210.

¹⁰ Florida, Maine, Nevada, North Carolina, and Virginia. See FLA. ADMIN. CODE ANN. r. 64B16-27.831(2)–(3) (eff. 2002); FLA. STAT. ANN. § 893.04(2)(d) (eff. 2009); ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B); ME. REV. STAT. ANN. tit. 32, § 13795(1); NEV. REV. STAT. ANN. § 453.431(2); NEV. ADMIN. CODE § 639.748(1); N.C. GEN. STAT. ANN. § 90-106.1(a); 21 N.C. ADMIN. CODE. 46.1817(a); VA. CODE ANN. § 54.1-3420.1(A), (B). Florida, e.g., specifies five circumstances under which identity verification is mandatory, but leaves it discretionary otherwise.^[1] See FLA. ADMIN. CODE ANN. r. 64B16-27.831(2)–(3) (eff. 2002) (requiring identification under five circumstances); FLA. STAT. ANN. § 893.04(2)(d) (eff. 2009) (permitting identification verification).

Mandatory Identification Laws

Of the twenty-four states that have laws mandating that pharmacists check identification before dispensing, all but one specify the circumstances under which the requirement applies.¹¹ Delaware's mandatory identification law is the only one that applies universally, stating that "The pharmacist and/or an employee under his/her direct supervision must verify the identification of the receiver of the controlled substance prescription by reference to valid photographic identification,"¹² without specifying circumstances under which pharmacists should request identification.¹³ Most of the mandatory identification laws require a dispensing pharmacist to ask for identification if the person picking up the prescription is unknown to him or her.¹⁴ A **North Dakota** regulation, for example, states, "Pharmacists, pharmacy interns, pharmacy technicians, and clerical personnel are required to obtain positive identification if they are unsure of the identity of the person picking up a prescription for any controlled substance . . ."¹⁵ Similarly, an **Oklahoma** regulation requires identification when the pharmacist is "unsure" of the identity of the person picking up the prescription.¹⁶ An **Idaho** law reverses the standard, making an exception to the identification requirement "if the individual receiving the controlled substance is personally and positively known by a pharmac[ist]."¹⁷

Some mandatory identification laws require dispensers to request identification under more specific circumstances.¹⁸ One **Maine** law, for example, requires pharmacists to request identification when the

¹¹ Connecticut, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, South Carolina, Texas, Vermont, Virginia, and West Virginia. See CONN. GEN. STAT. ANN. § 20-612a (eff. 2006); FLA. STAT. ANN. § 893.04 (eff. 2007); FLA. ADMIN. CODE ANN. r. 64B16-27.831 (eff. 2002); GA. CODE ANN. § 26-4-80 (eff. 2011); HAW. REV. STAT. ANN. § 329-1 (eff. 1996); HAW. REV. STAT. ANN. § 329-41 (eff. 1998); IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008); 720 ILL. COMP. STAT. ANN. 570/312 (eff. 1989); IND. CODE ANN. § 35-48-7-8.1(b) (eff. 2006); LA. REV. STAT. ANN. § 40:971(E) (eff. 2006); ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B) (eff. 2003); ME. REV. STAT. ANN. tit. 32, § 13795 (eff. 1995); 105 MASS. CODE REGS. 700.001 (eff. 2010); 105 MASS. CODE REGS. 700.004 (eff. 2010); 105 MASS. CODE REGS. 700.012 (eff. 2010); MICH. ADMIN. CODE r. 338.3102 (eff. 2007); MICH. ADMIN. CODE r. 338.3162 (eff. 2007); MINN. STAT. ANN. § 152.11 (eff. 2007); NEV. REV. STAT. ANN. § 453.431 (eff. 2003); NEV. ADMIN. CODE § 639.748 (eff. 2004); N.M. CODE R. § 16.19.20 (eff. 2002); N.Y. COMP. CODE R. & REGS. tit.10 § 80.73 (eff. 2006); N.Y. COMP. CODE R. & REGS. tit.10 § 80.74 (eff. 2006); N.C. GEN. STAT. ANN. § 90-106.1 (eff. 2012); 21 N.C. ADMIN. CODE. 46.1817 (eff. 2002); N.D. ADMIN. CODE. 61-04-03.1-01 (eff. 2011); OKLA. STAT. ANN. tit. 63 § 2-309B (eff. 1990); OKLA. STAT. ANN. tit. 63 § 2-309C (eff. 1990); S.C. CODE ANN. § 44-53-360 (eff. 2007); TEX. HEALTH & SAFETY CODE ANN. § 481.074 (eff. 1989); VT. STAT. ANN. tit. 18 § 4215b (eff. 2013); VA. CODE ANN. § 54.1-3420.1 (eff. 1905); W. VA. CODE ANN. § 60A-3-308 (eff. 2005).

¹² 24 DEL. ADMIN. CODE § 4.0 (eff. 2009).

¹³ The Delaware law does, however, list the types of photo identification that may be accepted, and adds other identification-related requirements for dispensing Schedule II controlled substances through drive-through windows. See *Id.*

¹⁴ Fifteen states: Connecticut, Hawaii, Idaho, Indiana, Louisiana, Maine, Michigan, Minnesota, New Mexico, New York, North Dakota, Oklahoma, South Carolina, Texas, and Virginia, See, e.g., CONN. GEN. STAT. ANN. § 20-612a; HAW. REV. STAT. § 329-41; IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008); IND. CODE ANN. § 35-48-7-8.1(b) (eff. 2010); LA. REV. STAT. ANN. § 40:971(E); ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B); MICH. ADMIN. CODE r. 338.3162; MINN. STAT. ANN. § 152.11; N.M. CODE R. § 16.19.20; N.Y. COMP. CODES R. & REGS. tit. 10, § 80.73 (requiring identification for Schedule II drugs); N.Y. COMP. CODES R. & REGS. tit. 10, § 80.74 (requiring identification for Schedule III-V drugs); N.D. ADMIN. CODE. 61-04-03.1-01; OKLA. ADMIN. CODE § 475:30-1-15; S.C. CODE ANN. § 44-53-360; TEX. HEALTH & SAFETY CODE ANN. § 481.074; VA. CODE ANN. § 54.1-3420.1(B).

¹⁵ N.D. ADMIN. CODE 61-04-03.1-01.

¹⁶ OKLA. ADMIN. CODE § 475:30-1-15.

¹⁷ IDAHO ADMIN. CODE r. 27.01.01.200.

¹⁸ Seven states have mandatory identification laws that specify circumstances under which pharmacists are required to request identification, other than when the patient is not known to the dispenser: Florida, Idaho, Maine, Minnesota, Nevada, Virginia, and West Virginia. See FLA. ADMIN. CODE ANN. r. 64B16-27.831 (eff. 2002); IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008); ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B) (eff. 2003); MINN. STAT. ANN. § 152.11 (eff. 2007); NEV. ADMIN. CODE § 639.748 (eff. 2004); VA. CODE ANN. § 54.1-3420.1 (eff. 1905); W. VA. CODE ANN. § 60A-3-308 (eff. 2005).

prescription is from an “out-of-state practitioner” for a Schedule II controlled substance that is not written on a tamper-resistant prescription pad, and “may be filled by a pharmacist only if . . . [t]he pharmacist demands, inspects and records a valid photographic identification from any person presenting [the] prescription or receiving [the] filled prescription.”¹⁹ A **Florida** law requires dispensers to demand identification if certain identified factors would lead them to question whether a prescription was issued for a legitimate medical purpose.²⁰ Minnesota, Nevada, and Idaho have laws requiring a dispenser to ask for identification if the prescription is not covered at least in part by a health plan. The **Minnesota** law specifies that the identification requirement “applies only to purchases of controlled substances that are not covered, in whole or in part, by a health plan company or other third-party payor.”²¹ A **Nevada** law provides the reverse language, stating that identification is *not* required when “[t]he prescription is paid for, in whole or in part, by an insurer.”²² Similarly, an **Idaho** law states that “identification is presumed and presentation of identification is not required if [the pharmacist is] dispensing directly to the patient and if . . . [t]he controlled substance will be paid for, in whole or in part, by an insurer”²³

Ten states apply identification laws to the dispensing of prescriptions for specific controlled substances or schedules, either generally or under particular circumstances.²⁴ A **Georgia** law, for example, requires pharmacists to demand, inspect, and document a government-issued or similar identification from individuals picking up prescriptions for Schedule-II controlled substances only.²⁵ A **New Mexico** regulation requires dispensers to verify identification of individuals receiving new prescriptions for prescriptions for controlled substances in Schedules II through IV.²⁶ And an **Illinois** statute requires individuals to identify themselves with two forms of identification before pharmacists may dispense Schedule-V controlled substances.²⁷

Discretionary Identification Laws

Five states have at least one discretionary identification law that allows the dispenser to demand patient identification rather than mandating that he or she do so.²⁸ Some of these states further specify the circumstances under which dispensers may request identification. Maine, North Carolina, and Oregon have laws with broad language giving pharmacists general discretion to ask for identification. One **Maine** statute says that “[A] pharmacist or person acting at the direction of a pharmacist may demand, inspect, and record proof of

¹⁹ ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B). Note that other states may have specific regulations for out-of-state prescriptions that were not captured within the scope of this research.

²⁰ See FLA. ADMIN. CODE ANN. r. 64B16-27.831.

²¹ MINN. STAT. ANN. § 152.11.

²² NEV. ADMIN. CODE § 639.748.

²³ IDAHO ADMIN. CODE r. 27.01.01.200.

²⁴ Florida, Georgia, Illinois, Maine, Minnesota, New Mexico, North Carolina, Vermont, Virginia, and West Virginia. See also, e.g., a Virginia statute that mandates identification verification before dispensing Schedule-II prescription drugs but makes it discretionary for Schedule-III-V controlled substances.²⁴ See FLA. STAT. ANN. § 893.04 (eff. 2007); FLA. ADMIN. CODE ANN. r. 64B16-27.831 (eff. 2002); GA. CODE ANN. § 26-4-80 (eff. 2011); 720 ILL. COMP. STAT. ANN. 570/312 (eff. 1989); ME. REV. STAT. ANN. tit. 32, § 13795 (eff. 1995); MINN. STAT. ANN. § 152.11 (eff. 2007); N.M. CODE R. § 16.19.20 (eff. 2002); N.C. GEN. STAT. ANN. § 90-106.1 (eff. 2012); VT. STAT. ANN. tit. 18 § 4215b (eff. 2013); VA. CODE ANN. § 54.1-3420.1 (eff. 1905); W. VA. CODE ANN. § 60A-3-308 (eff. 2005).

²⁵ See GA. CODE ANN. § 26-4-80.

²⁶ See N.M. CODE R. § 16.19.20.

²⁷ 720 ILL. COMP. STAT. ANN. 570/312.

²⁸ Maine, Nevada, North Carolina, Oregon, and Virginia. See ME. REV. STAT. ANN. tit. 32, § 13795(1)(eff. 1995); NEV. REV. STAT. ANN. § 453.431(2)(eff. 2003); 21 N.C. ADMIN. CODE. 46.1817(a)(eff. 2002); OR. ADMIN. R. 855-019-0210 (eff. 2008); VA. CODE ANN. § 54.1-3420.1.

identification, including valid photographic identification, from any patient presenting a prescription”²⁹ Similarly, a **North Carolina** law provides that “[a]s a precondition to filling any prescription . . . a pharmacist . . . may demand, inspect and record proof of identification . . . from any patient presenting a prescription”³⁰ An **Oregon** regulation contains broad language as well, but in the reverse, stating that a pharmacist “may refuse to dispense a prescription to any person who lacks proper identification.”³¹

In contrast to the broad language in North Carolina’s and Oregon’s permissive identification laws, Virginia’s discretionary identification provision targets specific drug types. While the Virginia statute mandates that identification be checked before dispensing Schedule II prescription drugs, it permits dispensers to request identification for Schedule III through V prescriptions, stating that “a pharmacist may require proof of identity” for the latter.³²

Types of Identification Required

States with identification laws vary in the extent to which their laws specify the form, or elements, of the identification required, or whether they leave it general. Most states that have identification laws specify at least some of the features the required identification must contain.³³ A few require only that the identification include a photograph.³⁴ For example, a **Louisiana** law requires a “photo identification card”³⁵ and a **Connecticut** statute requires “valid photographic identification.”³⁶ Others require only that the identification be government-issued. A **Massachusetts** regulation, for instance, requires a “valid government issued identification.”³⁷ **Oklahoma’s** law is similarly written.³⁸ The laws in several of these states³⁹ require some combination of photographic and

²⁹ ME. REV. STAT. ANN. tit. 32, § 13795 (eff. 1995). Note that a separate Maine law requires pharmacists to request identification when certain conditions are present, such as when a prescription is from an out-of-state provider. See ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B)(2003).

³⁰ 21 N.C. ADMIN. CODE 46.1817 (eff. 2002). Another North Carolina identification law is mandatory for Schedule II and certain Schedule II controlled substances. See N.C. GEN. STAT. ANN. § 90-106.1 (eff. 2012).

³¹ OR. ADMIN. R. 855-019-0210 (eff. 2008).

³² VA. CODE ANN. § 54.1-3420.1(A) (eff. 2010).

³³ Twenty states: Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, South Carolina, Vermont, Virginia, and West Virginia. See CONN. GEN. STAT. ANN. § 20-612a (eff. 2006); 24 DEL. ADMIN. CODE CSA § 4.0 (2009); FLA. ADMIN. CODE ANN. r. 64B16-27.831 (eff. 2002); GA. CODE ANN. § 26-4-80 (eff. 2011); HAW. REV. STAT. ANN. § 329-1 (eff. 1996); HAW. REV. STAT. ANN. § 329-41 (eff. 1998); IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008); LA. REV. STAT. ANN. § 40:971(E) (eff. 2006); ME. REV. STAT. ANN. tit. 32, § 13795 (eff. 1995); 105 MASS. CODE REGS. 700.001 (eff. 2010); MICH. ADMIN. CODE r. 338.3102(g) (eff. 2007); MINN. STAT. ANN. § 152.11 (eff. 2007); NEV. ADMIN. CODE § 639.748 (eff. 2004); N.M. CODE R. § 16.19.20 (eff. 2002); 21 N.C. ADMIN. CODE 46.1817 (eff. 2002); N.D. ADMIN. CODE 61-04-03.1-01 (eff. 2011); OKLA. STAT. ANN. tit. 63 § 2-309B (eff. 1990); S.C. CODE ANN. § 44-53-360 (eff. 2007); VT. STAT. ANN. tit. 18 § 4215b (eff. 2013); VA. CODE ANN. § 54.1-3420.1 (eff. 1905); W. VA. CODE ANN. § 60A-3-308 (eff. 2005).

³⁴ Four States: Connecticut, Florida, Louisiana, and Minnesota. See CONN. GEN. STAT. ANN. § 20-612a; FLA. ADMIN. CODE ANN. r. 64B16-27.831; LA. REV. STAT. ANN. § 40:971(E); MINN. STAT. ANN. § 152.11.

³⁵ LA. REV. STAT. ANN. § 40:971(E).

³⁶ CONN. GEN. STAT. ANN. § 20-612a.

³⁷ 105 MASS. CODE REGS. 700.001 (eff. 2010) (definition of “customer identifier”); 105 MASS. CODE REGS. 701.004 (eff. 2010) (express requirement to show customer identifier).

³⁸ See OKLA. STAT. ANN. tit. 63, § 2-309B (eff. 1990).

³⁹ Eleven states: Delaware, Hawaii, Idaho, Maine, Michigan, Nevada, New Mexico, North Carolina, South Carolina, Virginia, and West Virginia. See 24 DEL. CODE REGS. § 4.0 (eff. 2009); HAW. REV. STAT. § 329-1 (eff. 1998); HAW. REV. STAT. § 329-41 (eff. 1996); IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008); ME. REV. STAT. ANN. tit. 32, § 13786-A(3) (eff. 2003); MICH. ADMIN. CODE r. 338.3102 (eff. 2007); NEV. ADMIN. CODE § 639.748 (eff. 2004); N.M. CODE R. § 16.19.20 (eff. 2002); 21 N.C. ADMIN. CODE 46.1817

government-issued identification. For example, the laws in **Maine, Michigan, Virginia, and North Carolina** state that photographic identification is required, which may include government-issued identification. Other laws require an identification which is both photographic and government-issued.⁴⁰ A **West Virginia** law, for instance, requires “a photographic identification issued by a state or federal governmental entity.”⁴¹ **Delaware’s** law is similarly written.⁴²

A small group of states, by contrast,⁴³ set forth the type of identification required in broad language. For example, a **Texas** statute simply requires “identification.”⁴⁴ By comparison, **New York** regulations require “appropriate identification”⁴⁵ and an **Oregon** regulation requires “proper” Identification.⁴⁶ An **Indiana** identification law similarly requires “documented proof of the person’s identification.”⁴⁷

Exceptions to Identification Requirements

An additional subset of identification laws allow a pharmacist to dispense a prescription drug even if the patient does not present identification when it is otherwise required. Three states allow pharmacists to determine whether refusing to dispense a drug for lack of identification would be a detriment to the patient. A **Massachusetts** law allows a pharmacist to dispense without having verified the patient’s identification when “the pharmacy has reason to believe that the failure to dispense the controlled substance would result in a serious hardship for the ultimate user or agent of the ultimate user”⁴⁸ **Michigan** and **Texas** have similarly worded laws.⁴⁹

Four states provide exceptions to their identification laws under certain circumstances.⁵⁰ A **Vermont** statute, for example, provides that “If the individual does not have a valid, current government-issued photographic identification, the pharmacist may request alternative evidence of the individual’s identity”⁵¹ By comparison, a **Hawaii** law states that “[i]f the individual does not have any form of proper identification, the pharmacist shall verify the validity of the prescription and identity of the patient with the prescriber.”⁵² A **Florida** law allows a

(eff. 2002); S.C. CODE ANN. § 44-53-360 (eff. 2007); VA. CODE ANN. § 54.1-3420.1(B) (eff. 2010); W. VA. CODE ANN. § 60A-3-308 (eff. 2005).

⁴⁰ Seven states: Delaware, Hawaii, Idaho, Nevada, New Mexico, South Carolina, and West Virginia. See 24 DEL. CODE REGS. § 4.0; HAW. REV. STAT. § 329-1; IDAHO ADMIN. CODE r. 27.01.01.200; NEV. ADMIN. CODE § 639.748; N.M. CODE R. § 16.19.20; S.C. CODE ANN. § 44-53-360; W. VA. CODE ANN. § 60A-3-308.

⁴¹ W. VA. CODE ANN. § 60A-3-308.

⁴² 24 DEL. CODE REGS. § 4.0.

⁴³ Five states: Illinois, Indiana, New York, Oregon, and Texas. See 720 ILL. COMP. STAT. ANN. 570/312 (eff. 1989); IND. CODE ANN. § 35-48-7-8.1(b)(eff. 2006); N.Y. COMP. CODES R. & REGS. tit. 10, § 80.73 (eff. 2006); OR. ADMIN. R. 855-019-0210 (eff. 2008); TEX. HEALTH & SAFETY CODE ANN. § 481.074 (eff. 1989).

⁴⁴ TEX. HEALTH & SAFETY CODE ANN. § 481.074.

⁴⁵ N.Y. COMP. CODES R. & REGS. tit. 10, § 80.73 (requiring identification for Schedule II drugs); N.Y. COMP. CODES R. & REGS. tit. 10, § 80.74 (requiring identification for Schedule III–V drugs).

⁴⁶ OR. ADMIN. R. 855-019-0210.

⁴⁷ 720 ILL. COMP. STAT. ANN. 570/312.

⁴⁸ 105 MASS. CODE REGS. 701.004 (eff. 2010).

⁴⁹ See MICH. ADMIN. CODE r. 338.3162 (eff. 2007); TEX. HEALTH & SAFETY CODE ANN. § 481.074 (eff. 1989).

⁵⁰ Florida, Hawaii, Massachusetts, and Vermont. FLA. STAT. ANN. § 893.04(2)(b) (eff. 2009); HAW. REV. STAT. § 329-41 (eff. 1998); 105 MASS. CODE REGS. 701.004(B); VT. STAT. ANN. tit. 18 § 4215b (eff. 2013).

⁵¹ VT. STAT. ANN. tit. 18 § 4215b.

⁵² HAW. REV. STAT. § 329-41.

pharmacist to dispense Schedule II through IV drugs “by mail if the pharmacist has obtained the patient's identification through the patient's prescription benefit plan.”⁵³

Documentation and Reporting Requirements for Pharmacists

The final attributes of identification laws are dispenser documentation and reporting requirements.⁵⁴ Half of the mandatory identification laws in the 24 states that have them require the pharmacist to record or report the patient’s identification information,⁵⁵ either for the pharmacy’s own records or for the state’s prescription drug monitoring program. Of the states mandating identification for the pharmacy’s own records, **Delaware, Maine, Massachusetts, and South Carolina** require the pharmacist to record only the identification number shown by the patient.⁵⁶ For example, **South Carolina** requires the “dispenser [to] note[] the identification source and number on the prescription, or in a readily retrievable log”⁵⁷ Laws in **Florida**⁵⁸ and **Virginia**⁵⁹ only require the pharmacist to photocopy the identification. A **Nevada** law requires the dispenser to either record the identification number or to photocopy the identification.⁶⁰ **Hawaii** and **Idaho** have laws requiring the dispenser to record the identification number, photocopy the identification, and get the recipient’s signature.⁶¹

Three states have mandatory identification laws that further require the pharmacist to report the patient’s information to the state’s prescription drug monitoring program at different time intervals.⁶² For example, an **Indiana** law requires dispensers to transmit patient information to the monitoring program each time a controlled substance is dispensed.⁶³ **Massachusetts** requires pharmacies to report patient information no more than 10 days after dispensing a controlled substance,⁶⁴ while an **Oklahoma** statute now requires the information to be reported on a real-time log.⁶⁵

⁵³ FLA. STAT. ANN. § 893.04(2)(b).

⁵⁴ Note that because this assessment does not examine prescription drug monitoring programs, it includes only those reporting laws that are located within, or are referenced by, identification requirement provisions.

⁵⁵ Twelve states: Connecticut, Delaware, Florida, Hawaii, Idaho, Indiana, Maine, Massachusetts, Nevada, Oklahoma, South Carolina, and Virginia. See CONN. GEN. STAT. ANN. § 21a-254 (eff. 2006); 24 DEL. CODE REGS. § 4.0 (eff. 2009); FLA. ADMIN. CODE ANN. r. 64B16-27.831 (eff. 2002); HAW. REV. STAT. § 329-41 (eff. 1998); IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008); IND. CODE ANN. § 35-48-7-8.1(a)(1)(B) (eff. 2006); ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B) (eff. 2003); 105 MASS. CODE REGS. 700.012 (eff. 2010); NEV. ADMIN. CODE § 639.748 (eff. 2004); OKLA. STAT. ANN. tit. 63, § 2-309C (eff. 1990); S.C. CODE ANN. § 44-53-360 (eff. 2007); VA. CODE ANN. § 54.1-3420.1(B) (eff. 2010).

⁵⁶ See 24 DEL. CODE REGS. § 4.0 ; ME. REV. STAT. ANN. tit. 32, § 13786-A(2)(B); 105 MASS. CODE REGS. 700.012; S.C. CODE ANN. § 44-53-360.

⁵⁷ S.C. CODE ANN. § 44-53-360.

⁵⁸ See FLA. ADMIN. CODE ANN. r. 64B16-27.831.

⁵⁹ See VA. CODE ANN. § 54.1-3420.1(B)

⁶⁰ NEV. ADMIN. CODE § 639.748

⁶¹ See HAW. REV. STAT. § 329-41 (eff. 1998); IDAHO ADMIN. CODE r. 27.01.01.200 (eff. 2008).

⁶² Indiana, Massachusetts, and Oklahoma. See IND. CODE ANN. § 35-48-7-8.1(a)(1)(B) (eff. 2006); 105 MASS. CODE REGS. 700.012 (eff. 2010); OKLA. STAT. ANN. tit. 63, § 2-309C (eff. 1990). Note on reporting requirements in discretionary ID laws. Note that the reporting requirement in these four states is located, or referenced, in the respective identification laws. Because this assessment did not research prescription drug monitoring programs, it does not include reporting laws that are located in provisions that not located in, or referenced in, the identification requirement provision.

⁶³ See IND. CODE ANN. § 35-48-7-8.1(a).

⁶⁴ 105 MASS. CODE REGS. 700.012.

⁶⁵ OKLA. STAT. ANN. tit. 63, § 2-309B

Conclusion

This inventory provides a collection of prescription drug identification laws along with statutory and regulatory language enacted across states. Additional related legal strategies, such as prescription drug monitoring programs,⁶⁶ fall outside of the scope of this research. This inventory does not contain a full assessment of all relevant prescription drug laws, which often include provisions setting forth professional licensing penalties or criminal sanctions. Practitioners should consult with legal counsel to become fully informed of the legal landscape concerning prescription drugs and how the laws are implemented and enforced in their state.

This document was written by researchers in the Public Health Law Program in the Office for State, Tribal, Local and Territorial Support,⁶⁷ with assistance from the Division of Unintentional Injury Prevention in the National Center for Injury Prevention and Control.⁶⁸ For further technical assistance with this inventory or prescription drug laws, please contact the Public Health Law Program.⁶⁹ For technical assistance on all other prescription drug topics, please contact the Division of Unintentional Injury Prevention.⁷⁰

PHLP provides technical assistance and public health law resources to advance the use of law as a public health tool. PHLP cannot provide legal advice on any issue and cannot represent any individual or entity in any matter. PHLP recommends seeking the advice of an attorney or other qualified professional with questions regarding the application of law to a specific circumstance. The findings and conclusions in this summary are those of the author and do not necessarily represent the official views of the Centers for Disease Control and Prevention.

This menu includes laws enacted through June 30, 2013.

⁶⁶ See generally Alliance of States with Prescription Monitoring Programs Home Page, <http://pmpalliance.org/>; PDMP Center of Excellence, Brandeis University, Home Page, <http://www.pdmpexcellence.org/content/coe-white-paper-pdmp-best-practices-released-0>.

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