



Public Health Law

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

Prescription Drug Physical Examination Requirements

The United States is in the midst of an unprecedented epidemic of prescription drug overdose deaths.¹ More than 41,000 people died of drug overdoses in 2011, and most of these deaths (22,810) were caused by overdoses involving prescription drugs.² Three-quarters of prescription drug overdose deaths in 2011 (16,917) 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 practice. Although state laws are commonly used to prevent injuries, and their benefits have been demonstrated for a variety of injury types,⁴ little information is available on the effectiveness of state statutes and regulations designed to prevent prescription drug abuse and diversion. This menu is a first step in assessing laws on physical exam requirements by creating an inventory of state legal strategies in this domain.

Introduction

This resource includes physical examination laws if they require a licensed practitioner to examine the patient before prescribing a medication. In this menu, “practitioner” refers to a physician, dentist, pharmacist, physician’s assistant, nurse practitioner, or any other person licensed, registered, or permitted to prescribe, dispense, distribute, or administer a controlled substance. Laws are included

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. CDC’s National Center for Injury Prevention and Control also refers to overdose as a drug poisoning, which may or may not result in death.

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

³ *Id.*

⁴ Schieber RA, Gilchrist J, & Sleet DA. *Legislative and Regulatory Strategies to Reduce Childhood Injuries*, 10 FUTURE CHILD. 1, 111–36 (2000).



only if they expressly require an examination or evaluation. Laws requiring a practitioner-patient relationship or use of a valid prescription are included only if the definition of practitioner-patient relationship or valid prescription expressly requires a physician examination.⁵ Forty-one states⁶ and the District of Columbia have one or more laws that require a prescriber or dispenser to ensure that prescriptions for medications are based on an examination of the patient.⁷ States with these laws may require a physical examination as part of *prescribing* regulations, or may prohibit pharmacists and physicians from *dispensing* certain types of drugs if there is doubt the drugs were prescribed following a physical exam. Some states limit the applicability of the laws to certain drug types, apply laws only in certain circumstances, or contain exceptions to examination requirements.⁸ Most states⁹ and the District of Columbia have multiple physical examination laws and thus fall under multiple categories.

Type of Examination Required

Most examination laws¹⁰ require a “physical examination” as the basis for prescribing and dispensing a controlled substance.

⁵ Some states, such as Missouri, have come to define the patient-practitioner relationship to include a physical examination through judicial interpretation. *See State v. Kane*, 586 S.W.2d 812 (App. E.D. 1979) (defining “patient-practitioner” as used in MO. ANN. STAT. § 195.204 to mean “first making some attempt to determine physical condition or health needs of person for whom he writes the prescription.” *Id.* Those statutes are not included in this report.

⁶ Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, and Washington.

⁷ The nine states (Colorado, Illinois, Kansas, Michigan, New York, South Dakota, West Virginia, Wisconsin, and Wyoming) that do not have physical examination requirements according to this assessment likely have a physical examination requirement that may be incorporated into state law through a general provision requiring adherence to medical professional and ethical standards. The research on which this menu is based was limited to express provisions in statute or regulation.

⁸ In this menu, 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]).”

⁹ Thirty-seven states: Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, and Washington.

¹⁰ Thirty-four states and the District of Columbia. *See, e.g.*, ALA. ADMIN. CODE r. 540-X-9-.11 (eff. 2000); ALASKA ADMIN. CODE tit. 12, § 40.967 (eff. 2000); ARIZ. REV. STAT. ANN. §§ 32-1401(27)(ss) (eff. 2000), -1501(31)(ww) (eff. 2003), 1854(48) (eff. 2000); 060.00.1 ARK. CODE R. § 2 (eff. date unclear); CONN. GEN. STAT. ANN. § 20-613a (eff. 2005); D.C. MUN. REGS. tit. 17, § 4616 (eff. 2012); DEL. CODE ANN. tit. 16, § 4744(c)(1) (eff. 2008); FLA. STAT. § 458.3265 (eff. 2011); GA. COMP. R. & REGS. 360-3-.02 (eff. date unclear); HAW. REV. STAT. ANN. § 329-1 (eff. 2008); 844 IND. ADMIN. CODE 5-4-1 (eff. 2003); IOWA ADMIN. CODE r.653-13.2(148,272C) (eff. date unclear); 201 KY. ADMIN. REGS. 8:540 (eff. 2012); LA. ADMIN. CODE tit. 46, pt. XLV, § 6921 (eff. 1997); 02-313 ME. CODE R.Ch. 21, § III (eff. 2010); MINN. R. 6500.0600 (eff. 1988); 30-17-2635 MISS. CODE R. §7.1 (eff. 2012); MO. REV. STAT. § 334.108 (eff. 2011); NEB. ADMIN. CODE § 172, Ch. 90, § 008 (eff. date unclear); NEV. ADMIN. CODE § 639.945 (eff. date unclear); N.H. REV. STAT. ANN. §318-B:1 (eff. 2011); N.J. ADMIN. CODE § 13:35-7.6(a) (eff. 2003); N.M. CODE R. § 16.10.8 (eff. 2003); 21 N.C. ADMIN. CODE § 46.1801(b) (eff. 2003); N.D. CENT. CODE § 19-02.1-15.1 (eff. 2009); OHIO ADMIN. CODE 4731-11-03 (eff. date

- **Indiana**
“[A] physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.”¹¹
- **South Carolina**
Prior to prescribing a drug to an individual, a practitioner must “personally perform and document an appropriate history and physical examination”¹²

Sixteen states¹³ and the District of Columbia¹⁴ have laws that require an examination or evaluation that is deemed “appropriate” or some approximation of “sufficient,” instead of or in addition to the physical examination laws.

- **California**
Requires an “appropriate prior examination.”¹⁵
- **Minnesota**
Requires an “in-person examination” that is “adequate to establish a diagnosis and identify underlying conditions and contraindications to treatment.”¹⁶
- **New Jersey**
When a practitioner prescribes a controlled substance, he or she must perform a physical examination “including an assessment of physical and psychological function, underlying or coexisting diseases or conditions, any history of substance abuse and the nature, frequency and severity of any pain.”¹⁷

In some states dispensers are allowed to dispense prescriptions only if the prescription is prescribed by a practitioner who previously performed an adequate examination.

unclear); OKLA. ADMIN. CODE § 435:10-7-11 (eff. 2005); 49 PA. CODE § 16.92(b)(1) (eff. 1986); R.I. GEN. LAWS § 21-28-3.24 (eff. 1974); S.C. CODE ANN. §§ 40-47-113 (eff. 1976); TENN. COMP. R. & REGS. 0880-02-.14(6)(e)(3)(i) (eff. 2001); 22 TEX. ADMIN. CODE § 170.3(a)(1), (7) (eff. 2007); UTAH ADMIN. CODE r. 156-37 (eff. date unclear); 18 VA. ADMIN. CODE § 85-20-25 (eff. date unclear); WASH. ADMIN. CODE §246-817-915 (eff. 2011).

¹¹ 844 IND. ADMIN. CODE 5-4-1 (eff. 2003).

¹² S.C. CODE ANN. §§ 40-47-113 (eff. 1976).

¹³ See, e.g., CAL. BUS. & PROF. CODE § 2242 (eff. 2000); CONN. AGENCIES REGS. § 21a-326-1 (eff. 1984); IDAHO CODE ANN. § 54-1733; IOWA ADMIN. CODE r.650-16.2(153) (eff. date unclear); LA. REV. STAT. ANN. § 40:1238.4 (eff. 2007); MD. CODE REGS. 10.32.05.05 (eff. 2009); 234 MASS. CODE REGS. 9.05 (eff. date unclear); MINN. STAT. § 151.37 (eff. date unclear); 30-17-2635 MISS. CODE R. § 7.1 (eff. 2012); MO. CODE REGS. ANN. tit. 19§ 30-1.068 (eff. 2000); NEB. ADMIN. CODE § 172, Ch. 56, § 007 (eff. date unclear); NEV. ADMIN. CODE § 635.390 (eff. date unclear); N.J. ADMIN. CODE § 13:35-7.6 (eff. date unclear); N.M. CODE R. §16.5.57 (eff. date 2013); 22 TEX. ADMIN. CODE §§ 291.29 (eff. 2001); VT. STAT. ANN. tit. 18, § 9361 (eff. 2012).

¹⁴ D.C. MUN. REGS. tit. 22-B, § 1300.7 (eff. 1986).

¹⁵ CAL. BUS. & PROF. CODE § 2242 (eff. 2000).

¹⁶ MINN. STAT. ANN. §§ 151.37 Subd. 2(d), (e) (eff. date unclear).

¹⁷ N.J. ADMIN. CODE § 13:35-7.6 (eff. date unclear).

- **Missouri**

“[p]rescriptions processed by any . . . pharmacy must be provided by a practitioner . . . who has performed a *sufficient physical examination* and clinical assessment of the patient.”¹⁸

A few states simply require an examination before prescribing or dispensing controlled substances without giving specific standards for that examination.¹⁹

- **Montana**

“[p]rescribing, dispensing or furnishing any prescription drug without a prior examination and a medical indication therefor,” is unprofessional conduct.²⁰

Applicability of Examination Requirement

Regardless of whether a state’s physical examination law applies to prescribers or dispensers, and whether it requires a physical examination or more general examination or evaluation, the law might apply only to prescriptions for certain types of drugs or in specific circumstances.

Thirty-six states²¹ and the District of Columbia²² have physical examination laws that apply to prescriptions of all drug types or any prescription (includes controlled substances).

¹⁸ MO. CODE REGS. ANN. tit. 20, § 2220-2.020(11) (emphasis added) (eff. 2005).

¹⁹ Ten states. *See, e.g.*, CAL. BUS. & PROF. CODE § 805.01 (eff. 2010); IDAHO ADMIN. CODE r. 23.01.01.315 (eff. 1999); IOWA ADMIN. CODE r. 650-16.3(153) (eff. date unclear); 201 KY. ADMIN. REGS. 20:057 (eff. 2012); MONT. ADMIN.R. 24.213.2301 (eff. 1998); NEB. ADMIN. CODE § 172, Ch. 120, § 010 (eff. date unclear); NEV. ADMIN. CODE §. 639.235 (eff. date unclear); N.J. ADMIN. CODE § 13:35-7.4 (eff. 2003); OR. REV. STAT. §677.190 (eff. date unclear); S.C. CODE ANN. § 40-47-965 (eff. date unclear).

²⁰ MONT. ADMIN .R. 24.213.2301(34) (eff. date unclear, prior to 1998).

²¹ *See, e.g.*, ALA. ADMIN. CODE r. 540-X-9-.11 (eff. 2000); ALA. ADMIN. CODE r. 680-X-2-.33 (eff. 2006); ALASKA ADMIN. CODE tit. 12, § 40.967 (eff. date unclear); ARIZ. REV. STAT. ANN. §§ 32-1401(27)(ss), 32-1501(31)(ww), 32-1854(48) (eff. 2000); ARIZ. ADMIN. CODE § R4-23-110 (eff. 2000); ARK. CODE ANN. 17-92-1004(c) (eff. 2007); 070.00.7 ARK. CODE R. § 07-00-0009 (eff. 2007); CAL. BUS. & PROF. CODE § 805.01 (eff. 2010); CONN. GEN. STAT. ANN. § 20-613a (eff. 2005); CONN. AGENCIES REGS. § 21a-326-1(c) (eff. 1984); DEL. CODE ANN. tit. 16, § 4744(c)(1) (eff. 2008); FLA. STAT. ANN. § 465.023(1)(h) (eff. 2009); GA. CODE ANN. § 43-34-25 (eff date. unclear); HAW. REV. STAT. § 329-41 (eff. 2008); IDAHO CODE ANN. § 54-1733(1) (eff. 2006); 844 IND. ADMIN. CODE 5-4-1 (eff. 2003); IOWA CODE ANN. §§ 155A.27, 155A.13B (eff. 2009); KY. REV. STAT. ANN. § 218A.140(3) (eff. 2007); LA. ADMIN CODE. tit. 46, PT. XLVII, § 4513 (eff. date unclear); MD. CODE REGS.10.32.05.05 (eff. 2009); 234 MASS. CODE REGS. 9.05 (eff. date unclear); MINN. STAT. ANN. § 151.34 (eff. date unclear); 30-17-2635 MISS. CODE R. § 7.1 (eff. 2012); MO. CODE REGS. ANN. tit. 20, §§ 2220-2.020(9)(K), (11) (eff. 2005); NEB. ADMIN. CODE § 172, Ch. 56, § 007 (eff. date unclear); NEV. ADMIN. CODE § 639.945 (eff. 2001); N.H. REV. STAT. ANN. §§ 318-B:1(XXVI-a) (eff. 2011), -B:2(V)(e), -B:2(XII-b), -B:2(XII-c), -B:2(XII-e)(eff.2013), 329:1-c (eff. 2009), 329:17(VI)(I) (eff. 2009); N.J. ADMIN. CODE § 13:35-7.6(a) (eff. 2003); N.M. CODE R. § 16.10.8.8(L) (eff. 2001); 21 N.C. ADMIN. CODE 46.1806 (eff. 2003); N.D. CENT. CODE § 19-03.1-22.4 (eff. 2009); OHIO ADMIN. CODE 4730-2-07(B) (eff. 2007); OHIO ADMIN. CODE 4731-11-09(A) (eff. 1999); OKLA. ADMIN. CODE § 535:15-3-13(d) (eff. 2005); OR. REV. STAT. § 677.190 (eff. date unclear); 49 PA. CODE § 16.92(b)(1) (eff. 1986); S.C. CODE ANN. § 40-47-113 (eff. 2006); S.C. CODE ANN. § 44-117-340 (eff. 2007); TENN. COMP. R. & REGS. 1050-02-.13 (eff. 2001); 22 TEX. ADMIN. CODE § 190.8(1)(L) (eff. date unclear, 2003 or later); VT. STAT. ANN. tit. 18, § 9361 (eff. 2012); VA. CODE ANN. § 54.1-3303 (eff. 2000).

²² D.C. MUN. REGS. tit. 22-B, § 1300.7 (eff. 1986).

- **Mississippi**

“[P]roper prescribing and legitimate medical practice require . . . an appropriate physical . . . before prescribing any medication for the first time.”²³

- **Arkansas**

An in-person physical examination “prior to the issuance of any prescription is required in order to establish a valid prior patient-practitioner relationship for purposes.”²⁴

A smaller number of states²⁵ and the District of Columbia²⁶ have laws that apply when using drugs or controlled substances for pain management treatment.

- **Oklahoma**

Requires a physical examination where a physician prescribes medication to “treat a patient's intractable pain.”²⁷

- **Tennessee**

Requires the physical examination prior to prescribing to include “an assessment and consideration of the pain” for which the controlled substance is being prescribed.²⁸

Florida not only has physical examination laws for the prescribing and dispensing of all drugs, but also has physical examination laws specifically for pain management drugs.²⁹

Fourteen states³⁰ have laws that apply only to specific controlled substances, schedules, or treatment of specific conditions.

- **Washington**

A nurse practitioner must “obtain, evaluate, and document the patient's health history and physical examination in the health record prior to treating for chronic noncancer pain.”³¹

²³ 30-17-2635 MISS. CODE R. §7.1 (eff. 2012).

²⁴ 070.00.7 ARK. CODE R. § 07-00-0009 (eff. 2007).

²⁵ Thirteen states. *See, e.g.*, ALA. ADMIN. CODE r. 540-X-4-.08 (eff. 2000); FLA. STAT. § 458.3265 (eff. 2011); FLA. STAT. § 459.0137 (eff. 2011); FLA. ADMIN. CODE r. 64B8-9.013 (eff. 2010); IOWA ADMIN. CODE r. 653-13.2(148,272C) (eff. date unclear); 201 KY. ADMIN. REGS. 5:130 (eff. 2012); LA. REV. STAT. ANN. § 40:2198.12 (eff. 2005); LA. ADMIN. CODE tit. 46, pt. XLV, § 6921(A)(1) (eff. 1997); 02-313 ME. CODE R. Ch. 21, § III (eff. 2010); N.J. ADMIN. CODE § 13:35-7.6 (eff. date unclear); N.M. ADMIN. CODE 16.5.57 (eff. date unclear); OHIO ADMIN. CODE 4731-21-02 (eff. 2008); OKLA. CODE 435:10-7-11 (eff. 2005); OKLA. CODE 510:5-9-2 (eff. 1999); TENN. COMP. R. & REGS. 0880-02-.14 (eff. date unclear); 22 TEX. ADMIN. CODE § 170.3 (eff. 2001); WASH. ADMIN. CODE § 246-817-915 (eff. 2011).

²⁶ D.C. MUN. REGS. tit. 17, § 4616 (eff. 2012).

²⁷ OKLA. ADMIN. CODE § 510:5-9-2 (eff. 1999).

²⁸ TENN. COMP. R. & REGS. 0880-02-.14 (eff. date unclear).

²⁹ FLA. STAT. § 458.3265 (eff. 2010); FLA. STAT. § 459.0137 (eff. 2011); FLA. ADMIN. CODE r. 64B8-9.013 (eff. 2010).

³⁰ *See, e.g.*, 060.00.1 ARK. CODE R. § 2 (eff. date unclear); IOWA ADMIN. CODE r. 650-16.7(153) (eff. date unclear); IOWA ADMIN. CODE r. 653-23.1(272C) (eff. date unclear); 201 KY. ADMIN. REGS. 25:090 (eff. 2012); 201 KY. ADMIN. REGS. 9:260 (eff. 2012); LA. ADMIN. CODE. tit. 46, pt. XLV, § 6921 (eff. 1997); MINN. STAT. §151.37 (eff. date unclear); MISS. CODE ANN. § 41-29-137 (eff. 2009)); NEV. ADMIN. CODE § 636.2882 (eff. date unclear); N.J. ADMIN. CODE § 13:35-7.4 (eff. 2003); OHIO ADMIN. CODE 4731-11-03 (eff. date unclear); OKLA. ADMIN. CODE § 510:5-9-2 (eff. 1999); R.I. GEN. LAWS §21-28-3.24 (eff. 1956); S.C. CODE ANN. § 44-53-360 (eff. date unclear); UTAH ADMIN. CODE r.156-37 (eff. date unclear); WASH. ADMIN. CODE § 246-840-467 (eff. 2011).

³¹ WASH. ADMIN. CODE § 246-840-467 (eff. 2011).

- **Minnesota**
Provides a list of substances, including certain schedules, for which “[a] prescription or drug order . . . is not valid, unless it can be established that the prescription or order was based on a documented patient evaluation, including an examination.”³²
- **Iowa**
In addition to having regulations that concern pain management and prescribing controlled substances for any condition, sets an exam requirement for dentists to renew or refill emergency prescriptions for Schedule II controlled substances.³³

Application with Reference to a Patient-Practitioner Relationship

Many states and the District of Columbia³⁴ have laws that require a physical examination by reference to a practitioner-patient relationship.³⁵ Some states do this by requiring a relationship between the practitioner and the patient, and then provide a definition of “practitioner-patient” or “physician-patient” (or some other similar combination) that includes a physical examination requirement elsewhere in statute or regulation.

- **Hawaii**
“It shall be unlawful for any person . . . [to] prescribe . . . any controlled substance without a bona fide physician-patient relationship,” and the definition of bona fide physician-patient relationship may be found in the definition section of the statute, including reference to a physical examination.³⁶

³² MINN. STAT. § 151.37 (eff. date unclear).

³³ IOWA ADMIN. CODE r. 650-16.7(153) (eff. date unclear). “Emergency” here does not refer to a state of emergency declared by the government, but refers to circumstances wherein the prescriber is unable to provide a written prescription form immediately to the pharmacist so the pharmacist accepts an emergency oral prescription to avoid delay in providing necessary medications.

³⁴ D.C. MUN. REGS. tit. 22-B, § 1399 (eff. 2009).

³⁵ Twenty-three states. *See, e.g.*, ALASKA STAT. § 08.72.272 (eff. 2007); ALASKA ADMIN. CODE tit. 12, § 48.990 (eff. date unclear); ARIZ. ADMIN. CODE § R4-23-110 (eff. 2000); ARK. CODE ANN. 17-92-1004(c) (eff. 2007); CONN. GEN. STAT. ANN. § 20-613a (eff. 2005); DEL. CODE ANN. tit 16, § 4701 (eff. date unclear); FLA. STAT. ANN. § 465.023(1)(h) (eff. 2009); HAW. REV. STAT. § 329-1 (eff. 2008); HAW. REV. STAT. § 329-41 (eff. 2008); IDAHO ADMIN. CODE r. 23.01.01.315 (eff. 1999); KY. REV. STAT. ANN. § 218A.140; LA. ADMIN CODE. tit. 46, pt. XLV, § 7509 (eff. 2009); MO. REV. STAT. § 334.108 (eff. 2011); NEB. ADMIN. CODE § 172, Ch. 56, § 007 (eff. date unclear); NEV. ADMIN. CODE § 635.390 (eff. date unclear); N.H. REV. STAT. ANN. § 318-B:2 (eff. 2013); N.H. REV. STAT. § 318:52-a (eff. 2011); N.M. STAT. ANN. § 26-1-16(B) (eff. date unclear, 1987 or prior); N.M. CODE R. § 16.10.8 (eff. 2003); 21 N.C. ADMIN. CODE § 46.1801(b) (eff. 2003); N.D. CENT. CODE § 19-02.1-15.1 (eff. 2009); N.D. CENT. CODE § 19-03.1-22.4; OHIO ADMIN. CODE 4723-9-09 (eff. date unclear); OHIO ADMIN. CODE 4730-2-07 (eff. 2007); S.C. CODE ANN. § 40-47-113 (eff. 1976); S.C. CODE ANN. §§ 40-43-86; TENN. COMP. R. & REGS. 1050-02-.13 (eff. 2001); 22 TEX. ADMIN. CODE § 291.34 (eff. 2001); VT. ADMIN. CODE 20-4-1400:9.2 (eff. 2009); VA. CODE ANN. § 54.1-3434.1 (eff. 2008); 18 VA. ADMIN. CODE §§ 85-20-25.A, 85-50-176 (eff. 2005); 18 VA. ADMIN. CODE § 90-40-121 (eff. 2008); 18 VA. ADMIN. CODE §105-20-40 (eff. date unclear).

³⁶ HAW. REV. STAT. § 329-41; HAW. REV. STAT. § 329-1.

- **Kentucky**
Requires “a valid practitioner-patient relationship” in one provision³⁷ and defines that to include a “good faith prior examination” in another provision, which is then further defined to include a physical examination.³⁸
- **South Carolina**
Requires a “proper physician-patient relationship,” which it defines within the same provision to include “at a minimum . . . personally perform[ing] and document[ing] an appropriate history and physical examination.”³⁹

Application with Reference to a Valid Prescription

Several states⁴⁰ have physical examination laws stating that a *prescription is not valid* unless it is based on a physical examination or a valid practitioner-patient relationship.

- **Vermont**
A prescription or order for a “legend drug is not valid unless it is issued for a legitimate medical purpose . . . which includes a documented patient evaluation.”⁴¹

Application Specific to Prescriber or Dispenser

Thirty-eight states⁴² and the District of Columbia⁴³ have physical examination laws that apply specifically to prescribers.⁴⁴

³⁷ KY. REV. STAT. ANN. § 218A.140.

³⁸ *Id.* §§ 218A.010 (14), (34).

³⁹ S.C. CODE ANN. § 40-47-113.

⁴⁰ Seven states. *See, e.g.*, CONN. GEN. STAT. ANN. § 20-613a (eff. 2005); IDAHO CODE ANN. § 54-1733 (eff. 2006); LA. ADMIN. CODE tit. 46, pt. LIII, § 2515(A) (eff. date unclear, 1989 or 2004); MINN. STAT. ANN. § 151.37 (eff. 2008); MISS. CODE ANN. § 41-29-137; N.D. CENT. CODE § 19-03.1-22.4; VT. ADMIN. CODE 20-4-1400:9.2 (eff. 2009).

⁴¹ VT. ADMIN. CODE 20-4-1400:9.2 (eff. 2009). “Legend drugs” refer to prescription-only drugs in the United States.

⁴² *See, e.g.*, ALA. ADMIN. CODE r. 540-X-9-.11 (eff. 2000); ALASKA ADMIN. CODE tit. 12, § 40.967 (eff. date unclear); ALASKA STAT. § 08.72.272 (eff. 2007); ARIZ. ADMIN. CODE § R4-19-511 (eff. 2005); 070.00.7 ARK. CODE R. § 07-00-0009 (eff. 2007); CAL. BUS. & PROF. CODE § 2242(a) (eff. 1981); CAL. BUS. & PROF. CODE § 2242.1(a) (eff. 2000); CAL. BUS. & PROF. CODE § 3110 (eff. 2005); CONN. AGENCIES REGS. § 21A-326-1 (eff. 1984); DEL. CODE ANN. tit. 16, § 4701 (eff. date unclear); FLA. STAT. § 456.44 (eff. 2011); GA COMP. R. & REGS. 360-3-.02 (eff. date unclear); HAW. REV. STAT. § 329-41(b) (eff. 2008); IDAHO ADMIN. CODE r.23.01.01.31 (eff. 1999); 844 IND. ADMIN. CODE 5-4-1 (eff. 2003); IOWA ADMIN. CODE r. 650-16.3(153) (eff. date unclear); 201 KY. ADMIN. REGS. 25:090 (eff. 2012); LA. ADMIN. CODE. tit. 46, pt. XLV, § 6921 (eff. 1997); MD. CODE REGS.10.40.11.04 (eff. 2012); 234 MASS. CODE REGS. 9.05 (eff. date unclear); MINN. R. 6500.0600 (eff. 1988); MISS. ADMIN. CODE 30-17-2635:7.1 (eff. date 2012); Mo. CODE REGS. ANN. tit. 19, § 30-1.068 (eff. 2000); MONT. ADMIN. R. 24.213.2301 (eff. 1998); NEB. ADMIN. CODE § 172, Ch. 56, § 007; NEV. ADMIN. CODE § 636.2882 (eff. date unclear); N.H. REV. STAT. ANN. §§ 318-B:1(XXVI-a) (eff. 2009); N.J. ADMIN. CODE § 13:35-7.2 (eff. date unclear); N.M. CODE R. § 16.10.16 (eff. date unclear); OHIO ADMIN. CODE 4730-2-07 (eff. 2007); OKLA. ADMIN. CODE § 510:5-9-2 (eff. date 1999); OR. ADMIN. R. 852-060-0025 (eff. date unclear); 49 PA. CODE § 16.92(b)(1) (eff. 1986); R.I. GEN. LAWS § 21-28-3.24 (eff. 1974); S.C. CODE ANN. § 40-47-965 (eff. date unclear); TENN. COMP. R. & REGS. 1000-04-.09 (eff. date unclear); 22 TEX. ADMIN. CODE § 190.8; UTAH ADMIN. CODE r.156-37 (eff. date unclear); VT. ADMIN. CODE 20-4-1400:9.2 (eff. 2009); VA. CODE ANN. § 54.1-3303(B) (eff. 2000); WASH. ADMIN. CODE § 246-817-915 (eff. 2011).

⁴³ D.C. MUN. REGS. tit. 17, § 4616 (eff. 2012).

- **Alabama**
Requires that “the physician personally perform an appropriate history and physical examination” prior to prescribing.⁴⁵
- **Alaska**
Applies physical examination requirements to optometrists who prescribe controlled substances in addition to other prescribers.⁴⁶

Twenty-seven states,⁴⁷ and the District of Columbia,⁴⁸ have physical examination laws that apply specifically to dispensers.

- **Delaware**
Applies a requirement to internet pharmacies who act to dispense any prescription drug, including controlled substances, stating that the pharmacy may only dispense if “the practitioner issuing the prescription drug order to be filled or dispensed by the Internet pharmacy is a licensed practitioner” who has examined a Delaware patient.”⁴⁹

Frequently, as in the New Jersey regulation, the physical examination requirement applies directly to the practitioner either dispensing or prescribing.

- **New Jersey**
“[A] practitioner shall not dispense drugs or issue prescriptions to an individual . . . without first having conducted an examination”⁵⁰

A few states⁵¹ and the District of Columbia⁵² also require the dispenser to have knowledge that the patient and prescriber have a valid practitioner–patient relationship prior to dispensing a controlled substance.

⁴⁴ Many of these thirty-eight states and the District of Columbia also have physical examination laws that apply to dispensers.

⁴⁵ ALA. ADMIN. CODE r. 540-X-9-.11 (eff. 2000).

⁴⁶ ALASKA STAT. § 08.72.272 (eff. 2007).

⁴⁷ See, e.g., ALASKA ADMIN. CODE tit. 12, § 40.967 (eff. 2000); ARIZ. ADMIN. CODE § R4-19-511 (eff. 2005); CAL. BUS. & PROF. CODE § 2242 (eff. 2000); CONN. AGENCIES REGS. § 21a-326-1 (eff. 1984); DEL. CODE ANN. tit. 16, § 4744(a)(1) (eff. 2008); HAW. REV. STAT. § 329-41 (eff. 2008); HAW. REV. STAT. § 329-1 (eff. 2008); IDAHO ADMIN. CODE r. 23.01.01.315 (eff. 1999); 844 IND. ADMIN. CODE 5-3-2 (eff. 2003); IOWA ADMIN. CODE r. 650-16.3(153) (eff. date unclear); LA. REV. STAT. ANN. § 40:1238.4 (eff. 2007); MINN. STAT. § 151.34 (eff. 1988); MISS. CODE ANN. § 41-29-137 (eff. date unclear); MONT. ADMIN. R. 24.213.2301(34) (eff. 1998); NEV. ADMIN. CODE § 639.945(1)(n) (eff. 2001); N.H. REV. STAT. § 318-B:2 (eff. 2013); N.J. ADMIN. CODE § 13:35-7.1A (eff. 2003); N.M. STAT. ANN. § 26-1-16 (eff. 1978); 21 N.C. ADMIN. CODE 46.1801 (eff. date 2003); N.D. CENT. CODE § 19-02.1-15.1 (eff. 2009); OHIO ADMIN. CODE 4731-11-09 (eff. 1999); 49 PA. CODE § 16.92(b)(1) (eff. 1986); S.C. CODE ANN. § 40-43-86 (eff. date unclear); TEX. OCC. CODE ANN. § 562.056 (eff. 2005).

⁴⁸ D.C. MUN. REGS. tit. 22-B, § 1300 (eff. 1986).

⁴⁹ DEL. CODE ANN. tit. 16, § 4744(a)(1).

⁵⁰ N.J. ADMIN. CODE § 13:35-7.1A.

- **Nevada**

“Dispensing a drug as a dispensing practitioner to a patient with whom the dispensing practitioner does not have a bona fide therapeutic relationship” is unprofessional conduct.⁵³ In another provision, the law states that “a bona fide therapeutic relationship between the patient and practitioner shall be deemed to exist . . . [i]f the patient was physically examined by the practitioner within the [six] months immediately preceding the date the practitioner dispenses or prescribes a drug to the patient.”⁵⁴

- **Louisiana**

Applies a knowledge standard to dispensing pharmacists, stating that “[a] pharmacist who *knows* that a prescription has been authorized in the absence of a valid physician-patient relationship . . . shall not fill such prescription.”⁵⁵ Another provision defines that relationship to include “at least one medical evaluation with a person in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners.”⁵⁶

Electronic Questionnaires

Many states,⁵⁷ and the District of Columbia,⁵⁸ that require examinations before prescribing have also enacted provisions prohibiting practitioners from prescribing based solely on electronic patient questionnaires.

⁵¹ Five states. *See, e.g.*, DEL. CODE ANN. tit. 16, § 4744(a)(1); LA. REV. STAT. ANN. § 40:1238.4 (eff. 2007); NEV. ADMIN. CODE § 639.945(1)(n) (eff. 2001); N.H. REV. STAT. ANN. § 318-B:2 (eff. date 2013); N.H. REV. STAT. ANN. § 329:1-c (eff. date 2009); 21 N.C. ADMIN. CODE 46.1801 (eff. date 2003).

⁵² D.C. MUN. REGS. tit. 22-B, § 1300 (eff. 1986).

⁵³ NEV. ADMIN. CODE § 639.945(1)(n)

⁵⁴ *Id.* at § 639.945(3) (eff. 2001).

⁵⁵ LA. REV. STAT. ANN. § 40:1238.4(D) (emphasis added).

⁵⁶ *Id.* at § 40:1238.4(A)(2) (eff. 2007).

⁵⁷ Twenty-five states. *See, e.g.*, ALA. ADMIN. CODE r. 540-X-9-.11(3) (eff. 2000); ALASKA ADMIN. CODE tit. 12, § 40.967 (eff. date unclear); ARIZ. REV. STAT. ANN. §§ 32-1401 (eff. 2000); ARK. CODE ANN. § 17-92-1004 (eff. 2007); CAL. BUS. & PROF. CODE § 2242.1 (eff. 2000); CAL. BUS. & PROF. CODE § 4067 (eff. 2000); CONN. GEN. STAT. ANN. § 20-613a (eff. 2005); DEL. CODE ANN. tit. 16, § 4744(c)(1) (eff. 2008); FLA. ADMIN. CODE r. 64B8-9.014 (eff. 2003); FLA. ADMIN. CODE r. 64B15-14.008 (eff. date unclear); GA. COMP. R. & REGS. 360-3-.02 (eff. date unclear); IDAHO CODE ANN. § 54-1733(1) (eff. 2006); 844 IND. ADMIN. CODE 5-3-2 (eff. 2003); LA. REV. STAT. ANN. § 40:1238.4 (eff. 2007); LA. ADMIN. CODE. tit. 46, pt. XLV, § 7505 (eff. 2009); LA. ADMIN. CODE. tit. 46, pt. XLV, § 7509 (eff. 2009); LA. ADMIN. CODE. tit. 46, pt. XLVII, § 4513 (eff. date unclear); MD. CODE REGS. 10.32.05.05 (eff. 2009); 234 MASS. CODE REGS. 9.05 (eff. 1995); MISS. CODE ANN. § 41-29-137 (eff. 2009); 30-17 MISS. CODE R. § 2635:7.1 (eff. 2012); MO. REV. STAT. § 334.108 (eff. 2011); NEB. ADMIN. CODE § 172, Ch. 56, § 007 (eff. date unclear); NEB. ADMIN. CODE § 172, Ch. 90, § 008 (eff. date unclear); NEV. ADMIN. CODE § 453.3643 (eff. date unclear); NEV. ADMIN. CODE § 630A.144 (eff. 2003); N.H. REV. STAT. § 318-B:2 (eff. 2013); N.D. CENT. CODE § 19-02.1-15.1 (eff. 2009); N.D. CENT. CODE § 19-03.1-22.4; 22 (eff. 2009); S.C. CODE ANN. § 40-47-113 (eff. 2006); TENN. COMP. R. & REGS. 1000-04-.09 (eff. date unclear); TEX. ADMIN. CODE § 190.8(1)(L)(i)(II) (eff. date unclear, 2003–12); 22 TEX. ADMIN. CODE 22, § 291.29 (eff. 2001); VT. STAT. ANN. tit. 18, § 9361 (eff. 2012); VA. CODE ANN. § 54.1-3434.1 (eff. 2008).

⁵⁸ D.C. MUN. REGS. tit. 22-B, § 1300.7 (eff. 1986).

- **Louisiana**
“A prescription issued solely upon the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, shall be considered issued outside the context of a valid physician-patient relationship and shall not be a valid prescription.”⁵⁹
- **Connecticut**
Declares a prescription that is not based on a physical examination and “issued solely on the results of answers to an electronic questionnaire shall be considered to be issued outside the context of a valid practitioner-patient relationship and not be a valid prescription.”⁶⁰
- **Nebraska**
Allows disciplinary action against a prescriber who issues “a prescription, via electronic or other means, unless the physician has obtained a history and physical evaluation of the patient.”⁶¹
- **New Hampshire**
Has a physical examination law that applies when controlled substances are delivered by mail and provides that “[i]t shall be unlawful for any pharmacy to ship finished prescription products . . . to patients . . . that w[ere] generated based upon the patient's submission of an electronic or online medical history form.”⁶² The law also states that “[s]uch electronic or online medical questionnaires, even if followed by telephonic communication between practitioner and patient, shall not be deemed to form the basis of a valid practitioner-patient relationship.”⁶³ This law is similar to other laws prohibiting prescribing and dispensing based on electronic questionnaires but applies only to the *shipping* of the drugs.

Conclusion

This inventory compiles state physical examination requirements for prescribing and dispensing controlled substances. This inventory does not contain a full assessment of all relevant prescription drug laws. 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 (PHLP), Office for State, Tribal, Local and Territorial Support, Centers for Disease Control and Prevention (CDC),⁶⁴ with assistance from the Division of Unintentional Injury Prevention in CDC’s National Center for Injury Prevention and Control.⁶⁵ For further technical assistance with this inventory or prescription drug laws, please contact

⁵⁹ LA. REV. STAT. ANN. § 40:1238.4(B) (eff. 2007);

⁶⁰ CONN. GEN. STAT. ANN. § 20-613a (eff. 2005).

⁶¹ NEB. ADMIN. CODE § 172, Ch. 90, § 008 (eff. date unclear).

⁶² N.H. REV. STAT. ANN. § 318-B:2(XII-d) (eff. 2013).

⁶³ *Id.* “Practitioner-patient” relationship is defined to require an in-person exam. See N.H. REV. STAT. § 318-B:1 (eff. 2011).

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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 CDC.

This menu includes laws enacted through December 4, 2013.

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