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OFFICE OF
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FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)

AGENCY **Pharmacy**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, July 17, 2017 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
West Virginia Board of Pharmacy
Series 8 Rules Comments
2310 Kanawha Boulevard East
Charleston, WV 25311

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
David E Potters -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 15-08 Rule Id: 16501 Document: 49446

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FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 2)

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RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

SB 333 (2017) made changes to the West Virginia Controlled Substances Monitoring Program (the CSMP), including creation of new Section 60A-9-9 which grants emergency rulemaking authority for the Board to designate substances as drugs of concern to be tracked by the CSMP. Data in West Virginia indicates that the drug Gabapentin has been involved in numerous overdose deaths in this State in the past several years, including 89 in 2014, 110 in 2015, and 104 in 2016. As such, the Board has designated Gabapentin a drug of concern to be reported to the CSMP. The Bill also made several other revisions, including allowing access to the CSMP by representatives of the Office of Health Facility Licensure and Certification; a dean of any medical school or his or her designee located in West Virginia to monitor prescribing practices of faculty, prescribers, and residents of the school; a physician reviewer designated by an employer of medical providers to monitor prescriber level data of their employees; and a chief medical officer of a hospital or a physician designated by the chief executive officer of a hospital that does not have a chief medical officer to review prescribers with admitting privileges to the hospital. Therefore, the Board made rules revisions to account for the new categories of individuals granted access to the CSMP. Further, the Bill made a minor change to the ... (truncated text, see detail for full text)

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Pharmacy**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

PRIMARY CONTACT
David E. Potters
2310 Kanawha Boulevard East

Chalreston, West Virginia 25311

David E Potters -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

This should have no impact on costs or revenue of State Government. The rules revisions place a reporting requirement on dispensers of Gabapentin, clarify who has access to data, and clarify how certain data is to be reported.

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY **Pharmacy**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

AGENCY **Pharmacy**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

There are no increased costs or revenues generated by these rules changes.

David E Potters -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 15-08 Rule Id: 16501 Document: 49446

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

AGENCY **Pharmacy**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Pharmacy**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **15-08**
RULE NAME **Controlled Substances Monitoring Program**

CITE AUTHORITY **30-5-7; 60A-9-6; and 60A-9-9**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

SB 333 (2017) made changes to the West Virginia Controlled Substances Monitoring Program (the CSMP), including creation of new Section 60A-9-9 which grants emergency rulemaking authority for the Board to designate substances as drugs of concern to be tracked by the CSMP. Data in West Virginia indicates that the drug Gabapentin has been involved in numerous overdose deaths in this State in the past several years, including 89 deaths in 2014, 110 deaths in 2015, and 104 deaths in 2016. As such, the Board has by this rule change designated Gabapentin a drug of concern to be reported to the CSMP. Because it is a drug that is used in concert with opioids and benzodiazepines by drug abusers around the country, the State of Ohio has also similarly designated Gabapentin, and is tracking its dispensings in Ohios prescription monitoring program as well.

The Bill also made several other revisions, including allowing access to the CSMP by representatives of the Office of Health Facility Licensure and Certification; a dean of any medical school or his or her designee located in West Virginia to monitor prescribing practices of faculty, prescribers, and residents of the school; a physician reviewer designated by an employer of medical providers to monitor

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Yes
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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 2)

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SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

prescriber level data of their employees; and a chief medical officer of a hospital or a physician designated by the chief executive officer of a hospital that does not have a chief medical officer to review prescribers with admitting privileges to the hospital. Therefore, the Board made rules revisions to account for the new categories of individuals granted access to the CSMP. Further, the Bill made a minor change to the information to be reported on a person picking up a prescription on behalf of a patient so that the CSMP could require data as set forth in national formatting standards for prescription monitoring programs in this category, and the rule change adopts the national data standard.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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Title-Series: 15-08 Rule Id: 16501 Document: 49446

TITLE 15
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF PHARMACY

SERIES 8
CONTROLLED SUBSTANCES MONITORING PROGRAM

§15-8-1. General.

1.1. Scope. -- This rule establishes requirements for the recordation and retention in a single repository of information regarding the prescribing, dispensing and consumption of certain controlled substances, drugs of concern, and opioid antagonists.

1.2. Authority. -- W. Va. Code §§ 30-5-7, ~~and~~ 60A-9-6, and 60A-9-9.

1.3. Filing Date. -- ~~April 28, 2017~~ _____.

1.4. Effective Date. -- ~~April 28, 2017~~ _____.

1.5. Sunset Date. -- ~~This rule shall terminate and have no further force or effect on April 28, 2027.~~ This rule shall terminate and have no further force or effect upon the expiration of 10 years from its effective date.

§15-8-2. Definitions.

2.1. The definitions applicable to the Uniform Controlled Substances Act set forth in West Virginia Code § 60A-1-101 apply to this Series.

2.2. The following words and phrases have the following meanings:

2.2.a. "Central repository" means the repository designated by the board for the collection of the transmitted information, which may be a vendor designated by the board and under contract with the board to act as the central repository.

2.2.b. "Controlled Substances Monitoring Program" or "CSMP" means the database maintained through the central repository for the information required to be transmitted by this rule.

2.2.c. "Date sold" means, for purposes of American Society for Automation in Pharmacy (ASAP) standard prescription drug monitoring program reporting formats, the date a prescription is delivered to the patient or the patient's caregiver or agent on behalf of the patient, Provided that, for prescriptions delivered by mail or other common carrier, it is the date placed in the mail or for delivery.

2.2.d. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of: (1) A controlled substance, whether or not there is an agency relationship; (2) a counterfeit substance; or (3) an imitation controlled substance.

2.2.e. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. Dispensing has not occurred for purposes of this definition until the controlled substance is actually delivered to the recipient

or recipient representative.

2.2.f. "Drugs of concern" means the following list of prescription drugs which are not controlled substances but which have a high potential for abuse:

2.2.f.1 all prescription drug products containing gabapentin.

2.2.~~f~~g. "Duly authorized agent" means an individual, who is an employee of any of the covered persons or entities permitted to have access to the central repository pursuant to Rule 15-8-7.3 of this rule, who is specifically designated by the covered person or duly authorized representative of the covered entity to access the central repository on behalf of the covered person or entity.

2.2.~~g~~h. "Electronic access" means the ability to connect with and view the information in the central repository maintained by the board using the Internet or some other electronic means, such as an Intranet or satellite connection which permits real-time connectivity to the central repository the same as if connected through the Internet.

2.2.~~h~~i. "Government-issued photo identification card" means an identification card of an individual that provides a photograph of him or her and is issued by a State or the Federal Government of the Unites States of America, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations.

2.2~~.i~~j. "Internet" means an interconnected system of networks that connects computers around the world via the Transmission Control Protocol (TCP) and the Internet Protocol (IP) established by the Internet Society (ISOC).

2.2~~.j~~k. "Intranet" means a privately maintained computer network that can be accessed only by authorized persons, especially members or employees of the organization that owns it.

2.2.~~k~~l. "Medical Services Provider" means a licensed practitioner with the legal authority to dispense controlled substances.

2.2.~~l~~m. "Opioid antagonist or opiate antagonist" means drugs approved by the federal Food and Drug Administration for treatment of drug overdose which have a high affinity for opiate receptors but do not activate these receptors, and which block the effects of exogenously administered opioids such as morphine, heroin, meperidine, and methadone, or of endogenously released endorphins and enkephalins.

2.2.~~m~~n. "Patient", for purposes of access to the CSMP, means an individual who:

2.2.~~m~~n.1. has a valid ongoing practitioner-patient relationship; or

2.2.~~m~~n.2. has not yet established an ongoing practitioner-patient relationship, but:

2.2.~~m~~n.2.A. has requested to establish such a relationship with the practitioner; or

2.2.~~m~~n.2.B. has been referred to that practitioner for evaluation or care by another practitioner.

2.2.~~n~~o. "Recipient" means the patient, ultimate user or research subject for whom a controlled substance is dispensed or filled.

2.2.~~o~~p. "Recipient representative" means an individual to whom a controlled substance is dispensed or filled if the recipient is either less than 18 years of age or unavailable to receive the controlled substance.

2.2.~~p~~q. "Reporter" means a medical services provider, health care facility, pharmacist, or pharmacy that is required to submit the information outlined in section 4 of this rule.

2.2.~~q~~r. "Schedule II, III, or IV Controlled Substance" means a controlled substance classified in those categories under W. Va. Code §§60A-2-206, 208 and 210.

2.2.~~r~~s. "Security prescription blank" means a prescription blank that complies with the requirements of Section 15-1-27 of the West Virginia Code of State Rules.

2.2.~~s~~t. "Universal Claim Form" means a nationally recognized standard form developed by the National Council for Prescription Drug Programs used for billing drug claims to insurance plans.

§15-8-3. Prescription Monitoring Program.

3.1. Each time a Schedule II, III, or IV Controlled Substance, drug of concern, or opioid antagonist is dispensed for out-patient use, the medical services provider, health care facility, or pharmacy that dispensed the controlled substance, drug of concern, or opioid antagonist shall transmit to the central repository the information required by West Virginia Code § 60A-9-4 in the appropriate American Society for Automation in Pharmacy format used by the central repository for reporting to it. This includes the following:

3.1.a. The name, address, pharmacy prescription number and Drug Enforcement Administration controlled substance registration number of the dispensing pharmacy or the dispensing medical services provider;

3.1.b. The full legal name, address and birth date of the recipient. When reporting the full legal name, address, and date of birth of the recipient, the reporter shall include any middle name or initial and any suffix (e.g., Jr., II, III) as listed on the patient's government-issued photo identification card, Provided that, if the patient does not have such an identification card, such as a minor, then the reporter shall obtain and input the information to the best of its knowledge and ability based upon the information available to it from the prescription, the patient profile or record, and any other information known to the reporter. Examples of acceptable forms of ID include, but are not limited to: driver's licenses, non-driver identification cards, passports, and military IDs;

3.1.c. The Drug Enforcement Administration controlled substances registration number of the practitioner writing the prescription. By providing this registration number, the Controlled Substances Monitoring Program database will extract the prescriber's name and address required by statute; therefore, the reporters do not need to additionally supply the prescriber's name and address in addition to the prescriber's DEA number;

3.1.d. The national drug code number of the Schedule II, III and IV controlled substance, drug of concern, or opioid antagonist dispensed. By providing this NDC number, the Controlled Substances Monitoring Program database will extract the name and dosage or (strength) of the controlled substance required by the statute such that the reporters do not need to additionally supply the name and dosage;

3.1.e. The quantity of the Schedule II, III and IV controlled substance, drug of concern, or opioid

antagonist dispensed;

3.1.f. The date the prescription was written and the date filled;

3.1.g. The number of refills, if any, authorized by the prescription;

3.1.h. If the prescription being dispensed is being picked up by a recipient representative on behalf of the recipient, the ~~full legal~~ first and last name~~, address and birth date~~ of the recipient representative as set forth on the person's government-issued photo identification card, the appropriate code for the type of ID, the ID number, the appropriate code indicating the relationship of the recipient representative to the patient, and the appropriate code for the issuing jurisdiction of the ID. ~~When reporting the full legal name, address, and date of birth of the person picking up the prescription on behalf of the patient, the reporter shall include any middle name or initial and any suffix (e.g., Jr., II, III) as listed on the person's government-issued photo identification card~~; and

3.1.i. The source of payment for the controlled substance, drug of concern, or opioid antagonist dispensed.

3.2 The board and the central repository shall provide for the electronic transmission of the information required to be provided by and through the use of a toll-free telephone line or other Internet connection.

§15-8-4. Information To Be Transmitted Within 24 Hours.

4.1. The information may be transmitted at any time, but shall be transmitted at least within twenty-four (24) hours of the dispensing. If the dispensing is done by mail or other postal, courier, or logistics services such as United Parcel Service or Federal Express, then the information shall be submitted at least within forty-eight (48) hours of the time the dispensing is placed in the mail for delivery. If a reporter is closed for a holiday, or week-end day, the reporter shall make the required report as soon as is practicable upon reopening, or within forty-eight (48) hours, whichever occurs first. If there are no dispensings of any Schedule II, III, or IV controlled substances, drug of concern, or opioid antagonists, then the reporter shall submit a daily "zero" report, Provided that if there are no such dispensings within up to seven days of the last report, the reporter may submit a weekly "zero" report no later than seven days after the last date and time reported on the previous report. If a reporter is unable to make the required reporting in a timely manner due to an emergency, the reporter shall inform the board of the emergency and provide the board with information on when the reporter believes it will return to full compliance. Such notification may be taken into consideration by any agency, licensing board, or court, when determining if the reporter is in compliance with reporting requirements of West Virginia Code Section 60A-9-3 and Section 3 of this Series, and any penalties that may attach for any violation thereof.

4.2. If a reporter does not possess for the purpose of dispensing any Schedule II, III, or IV controlled substances, drug of concern, or opioid antagonists, the dispenser may notify the board in writing by requesting a waiver from reporting on a form supplied by the board. If the waiver is granted by the board, the reporter is not required to submit a zero report unless and until the reporter possesses a Schedule II, III, or IV controlled substance or opioid antagonist for the purpose of dispensing.

§15-8-5. Accuracy of Information Transmitted.

Information shall be reported accurately. If the reporting individual or entity discovers that information contained in the central repository is not accurate, he or she shall make the necessary corrections and resubmit the correct information as soon as possible, but in no event longer than 7 days after the discovery of the inaccurate reporting.

§15-8-6. Central Repository; Designation; Powers and Duties.

6.1. The central repository shall maintain a database for the information required to be transmitted by this rule. This database shall be referred to as the "Controlled Substances Monitoring Program", or the "CSMP".

6.2. The central repository shall provide the board with continuous 24-hour a day, on-line access to the database maintained by the central repository.

6.3. The central repository shall secure the information collected by the central repository and the database maintained by the central repository against access by unauthorized persons.

6.4. If the relationship between the board and the central repository is terminated by statute, the central repository shall provide to the board within a reasonable time, all collected information and the database maintained by the central repository.

6.5. The board may accept a designated grant, public and private financial assistance, and licensure fees to provide funding for the central repository.

§15-8-7. Confidentiality.

7.1. The board shall carry out a program to protect the confidentiality of the information received by the central repository.

7.2. The board may disclose confidential information received by the central repository to any person who is engaged in receiving, processing, or storing the information.

7.3. The board may release confidential information received by the central repository to the following persons:

7.3.a. A duly authorized agent of a board in this state or another state that licenses practitioners authorized to prescribe Schedules II, III, and IV controlled substances who is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance;

7.3.b. Members of the West Virginia State Police expressly authorized by the superintendent of the West Virginia State Police to have access to the information;

7.3.c. An authorized agent of a local law-enforcement agency who is acting as a member of a Federally affiliated drug task force who is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance;

7.3.d. Authorized agents of the federal Drug Enforcement Administration who is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance;

7.3.e. Authorized agents of the West Virginia Bureau for Medical Services;

7.3.~~e~~f. The Chief Medical Examiner for the State of West Virginia or his or her duly authorized agent for use in post-mortem examinations;

7.3.g. Authorized agents of the West Virginia Office of Health Facility Licensure and Certification for use in certification, licensure and regulation of health facilities;

7.3.h. a dean of any medical school located in this State or his or her designee to access prescriber level data to monitor prescribing practices of faculty members, prescribers and residents enrolled in a degree program at the school where he or she serves as dean;

7.3.i. a physician reviewer designated by an employer of medical providers to monitor prescriber level information of prescribing practices of physicians, advance practice registered nurses, or physician assistants in their employ;

7.3.j. a chief medical officer of a hospital, or a physician designated by the chief executive officer of a hospital which does not have a chief medical officer, to monitor prescriber level information of prescribing practices of prescribers who have admitting privileges to the hospital;

7.3.~~f~~k. A person with an enforceable court order or regulatory agency administrative subpoena;

7.3.~~g~~l. Inspectors and agents of the board to carry out the lawful purposes of the CSMP program, for purposes of a pharmacy inspection or drug inventory, or who are engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance;

7.3.~~h~~m. Prescribing practitioners or their duly authorized agents for purpose of treating a patient;

7.3.~~i~~n. Pharmacists or a registered pharmacy technician as the agent of the pharmacist for purpose of treating a patient; and

7.3.~~j~~o. A person using the data for compilation of educational, scholarly, or statistical purposes so long as the individually identifiable data of the persons or entities stored in the central repository remains confidential.

7.4. All information released by the board shall be related to a specific patient or a specific individual or entity under investigation by any of the persons set forth in subsection 7.3 (a) through (~~i~~n) of this section except that practitioners who prescribe or dispense controlled substances may also request specific data related to any and all dispensings reported to the database as prescribed and/or dispensed under their drug enforcement administration controlled substance registration number or for the purpose of providing treatment to a patient.

7.4.a. A practitioner or practitioner's delegate may, prior to affirmatively accepting a patient into the practitioner's practice, obtain confidential information from the CSMP related to that patient for the purpose of determining whether or not to accept the patient and provide treatment.

7.4.b. If the patient is a newborn child or child being fed human breast milk, a practitioner or practitioner's delegate may obtain confidential information from the CSMP related to the child's mother, wet nurse, or other direct source of human breast milk, as the practitioner believes may be relevant for the purpose of providing treatment to that child-patient.

7.5. All access to the data collected by the central repository shall be limited to regular business hours of the board's office unless an individual authorized to receive the information proves that an immediate danger to the public exists and immediate access is necessary to prevent further harm, Provided That the board may permit access at any time to authorized users through the use of a secure

connection and through the use of proper security features designed to protect the integrity and confidentiality of the information from unauthorized access or disclosure.

7.6. Any person or entity having access to the central repository and who is permitted to designate a duly authorized agent to have access to the central repository pursuant to this rule shall make the designation on a form to be supplied by the board. It is the responsibility of the designating individual to insure that the designated agent maintains the confidentiality of the information in the central repository as required. Further, should the designating individual remove the authority of the designated agent to act as the duly authorized agent, or should the designated agent leave the employment of the designating individual or entity such that he or she is no longer eligible to act as the duly authorized agent, then the designating individual shall immediately notify the board, at which time the designee's access to the central repository shall be removed.

7.7. A practitioner may file or store copies of any patient-specific report obtained from the CSMP in the patient's confidential medical file or chart maintained by the practitioner. The practitioner may share the information contained in the report with other practitioners providing treatment to the patient, the patient, or the patient's properly authorized guardian or representative for the purpose of providing treatment. However, the information held in the patient file or chart is not subject to discovery in a civil or criminal matter absent a court order. The information is obtainable from the practitioner in a proper regulatory agency administrative matter through a regulatory agency administrative subpoena.

7.8. The board shall review records in the CSMP in accordance with parameters set by the Advisory Committee to identify abnormal or unusual practices of patients who exceed those parameters and are therefore outliers in the CSMP data. The board shall issue reports of the results of these searches to the Review Committee for its regular review and action. Further, the board shall communicate with prescribers and dispensers of the patients who exceed the parameters to inform them of each practitioner's patient's activities as demonstrated in the CSMP reports. All such reports and communications produced by the board shall be kept confidential by the board and the Review Committee, and are not open to inspection except as provided for confidential records and reports of the Review Committee.

7.9. The Review Committee may query the CSMP based on parameters established by the advisory committee to identify abnormal or unusual practices of patients who are outliers in the data according to their controlled substance prescribing, dispensing, or usage patterns or other indicators available in the system. The Review Committee may also query the CSMP based on parameters established by the advisory committee to identify abnormal prescribing and/or dispensing patterns of practitioners indicated by outliers in the system. The Review Committee may also query the CSMP for any relevant prescribing or dispensing records of involved patients or practitioners as it carries out its duty to review notices provided by the chief medical examiner pursuant to West Virginia Code § 61-12-10(h) and determine on a case-by-case basis whether a practitioner who prescribed or dispensed a controlled substance may have resulted in or contributed to the drug overdose, and, if so, if the practitioner may have breached professional or occupational standards or committed a criminal act when prescribing the controlled substance at issue to the decedent. The Review Committee, in accordance with parameters established by the Advisory Committee, may provide any pertinent information in its discretion from the CSMP to the relevant practitioner, the practitioner's licensing board, or law enforcement as permitted by West Virginia Code § 60A-9-5(b). The Review Committee, in accordance with parameters established by the Advisory Committee, may also communicate with pertinent practitioners or patients to make them aware of the practitioner's own prescribing or dispensing patterns or history, or the patient's own usage patterns or history as reflected in the CSMP in an effort to reduce inappropriate use of prescription drugs in accordance with West Virginia Code § 60A-9-5(a)(3)(C). The information obtained and developed by or on behalf of the Review Committee may not be shared except as provided in West Virginia Code § 60A-9-5(b) and as provided specifically in subsection 7.8 and this subsection of this section.