



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

4/18/2024 10:34:55 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Dentistry WV Board of TITLE-SERIES: 5-10  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Practitioner Requirements For Accessing The  
West Virginia Controlled Substances Monitoring  
Program DataBase  
CITE STATUTORY AUTHORITY: 60A-9-5a(c)

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB4110

Section 64-9-6 Passed On 3/9/2024 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

May 1, 2024

This rule shall terminate and have no further force or effect from the following date:

August 01, 2034

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Susan Combs -- 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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TITLE 5  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF DENTISTRY

SERIES 10

PRACTITIONER REQUIREMENTS FOR ACCESSING THE  
WEST VIRGINIA CONTROLLED SUBSTANCES MONITORING PROGRAM DATABASE

**§5-10-1. General.**

1.1. Scope. – This rule sets forth the requirements for licensees of the West Virginia Board of Dentistry regarding accessing the West Virginia Controlled Substance Monitoring Program database.

1.2. Authority. – W.Va. Code § 60A-9-5a(c)

1.3. Filing date. – April 18, 2024

1.4. Effective date. – May 1, 2024

1.5. Sunset Provision - This rule shall terminate and have no further force or effect upon August 1, 2034.

**§5-10-2. Definitions.**

2.1. As used in this rule, the following words and terms have the following meaning:

2.1.a. “Administering” means the direct application of a drug to the body of a patient by injection, inhalation, ingestion or any other means.

2.1.b. “Authorized Agent” means an individual who is an employee of the practitioner permitted to have access to the CSMP repository and database who is specifically designated by the practitioner to access the database on his/her behalf.

2.1.c. “Benzodiazepine” means a class of controlled substance medications that produce sedation, induce sleep, relieve anxiety and prevent seizures and which are generally approved to treat anxiety disorder, insomnia, seizures, social phobia, and panic disorder.

2.1.d. “Board” means the West Virginia Board of Dentistry.

2.1.e. “Controlled substance” means a drug that is classified by federal or state law in Schedules I, II, III, IV, V as defined in W. Va. Code § 60A-2-204 through 212.

2.1.f. “CSMP” means the West Virginia Controlled Substances Monitoring Program repository and database.

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2.1.g. “DEA registration identification number” means the federal Drug Enforcement Administration registration identification number issued to a practitioner.

2.1.h. “Dispensing” means the preparation and delivery of a drug to an ultimate user by or pursuant to a lawful order of a practitioner, including the prescribing, packaging, labeling, administering or compounding necessary to prepare the drug for that delivery.

2.1.i. “Medical records” means records including the medical history and physical examination; diagnostic, therapeutic and laboratory results; evaluations and consultations; treatment objectives; discussion of risks and benefits; informed consent; treatments; medications (including date, type, dosage and quantity provided); instructions and agreements; and periodic reviews.

2.1.j. “Opioid” means natural and semi-synthetic derivatives of the opium poppy, as well as similar synthetic compounds that have analgesic or pain relieving properties because of their effects in the central nervous system. These include, but are not limited to, codeine, morphine, hydromorphone, hydrocodone, oxycodone, methadone, and fentanyl.

2.1.k. “Patient” means a person presenting himself or herself for treatment who is not considered by the practitioner as suffering from a terminal illness.

2.1.l. “Practitioner” means a dentist licensed pursuant to the provisions of the West Virginia Dental Practice Act, W. Va. Code § 30-4-1 et seq. who possesses a valid DEA registration identification number.

2.1.m. “Providing” means prescribing, dispensing or administering medication.

2.1.n. “Terminal illness” means an incurable or irreversible condition as diagnosed by the attending physician or a qualified physician for which the administration of life-prolonging intervention will serve only to prolong the dying process.

### **§5-10-3. Practitioner Requirements for Obtaining and Maintaining Access to the CSMP.**

3.1. Practitioners who prescribe or dispense Schedule II, III, IV or V controlled substances to West Virginia patients shall register with the CSMP and obtain and maintain online or other electronic access to the program database. Compliance with the provisions of this section must be accomplished within 30 days of the practitioner obtaining a new license or within 30 days of reinstatement of licensure.

3.2. Licensees shall be required to certify compliance with the provisions of this section when renewing a license. The Board may conduct an audit to verify compliance therewith.

### **§5-10-4. General Rules for Practitioners for Patients Not Suffering from a Terminal Illness.**

4.1. The provisions of this section only apply to a practitioner’s prescribing, administering, or dispensing of Schedule II controlled substances, opioids, or benzodiazepines to a patient that the practitioner does not consider to be suffering from a terminal illness.

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4.2 A practitioner shall apply for and receive capability to access the CSMP before providing a patient any Schedule II controlled substance, any opioid, or any benzodiazepine.

4.3. Before initially providing any Schedule II controlled substance, any opioid, or any benzodiazepine to a patient a current practitioner, or the practitioner's authorized agent, shall access the CSMP to determine whether the patient has obtained any controlled substance reported to the CSMP from any source other than the current practitioner within the 12 month period immediately preceding the current practitioner's encounter with the patient.

4.4. The practitioner shall promptly document the initial CSMP data review in the patient's medical record. Documentation must include the date the practitioner accessed the patient's CSMP record, a dated copy of the CSMP report or a list of all controlled substances reported to the CSMP as dispensed to the patient within the preceding 12 months, and the practitioner's rationale for providing the patient Schedule II controlled substance(s), Opioid(s), and/or benzodiazepine(s).

4.5. If a practitioner-patient relationship continues and the course of treatment includes the continued prescribing, dispensing or administering of any controlled substances, the practitioner shall access the CSMP at least annually to determine whether the patient has obtained any controlled substances reported to the CSMP from any source other than the current practitioner within the 12 month period immediately preceding the access. The access and any controlled substances from any other source other than the current practitioner reported to the CSMP within such 12 month immediately preceding the access shall be then promptly documented in the patient's medical record, with rationale for continuing to provide controlled substance by the current practitioner, with a copy of the CSMP accessed report signed and dated by the current practitioner.

4.6. A practitioner may review a patient's CSMP data more frequently than annually. However, a practitioner must document each CSMP data review in the patient medical record. Documentation must include the date the practitioner accessed the patient's CSMP record, a dated copy of the CSMP report or a list of all controlled substances reported to the CSMP for the patient from any source other than the practitioner, and the practitioner's rationale for discontinuing or continuing to provide controlled substances to the patient.

4.7. A practitioner who is providing a patient controlled substance medication shall review a patient's CSMP data whenever the provider has a specific concern regarding controlled substance abuse, misuse, or diversion of controlled substances by the patient.

### **§5-10-5. Other legal authority.**

5.1. Practitioners must comply with all other applicable federal and state laws.

### **§5-10-6. Discipline and Administrative Penalties.**

6.1. A practitioner who fails to comply with this rule is subject to board disciplinary proceedings for failing to perform any statutory or legal obligation placed upon the practitioner and unprofessional, unethical, and dishonorable conduct, pursuant to W. Va. Code § 30-4-19 and/or rules of the Board.

6.2. A practitioner who fails to comply with the requirements described in W. Va. Code § 60A-9-7(f)

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or (g) shall be subject to the respective administrative penalties set forth in those subsections. All fines collected pursuant to those subsections shall be transferred by the Board to the Fight Substance Abuse Fund created under W. Va. Code § 60A-9-8.