

The following excerpt is reprinted from the Nebraska Revised Statutes 71-2454 and 71-2455.
Available online at <https://www.nebraskalegislature.gov/laws/statutes.php?statute=71-2454>.

NEBRASKA REVISED STATUTE 71-2454

Prescription drug monitoring; system established; provisions included; not public records.

- (1) An entity described in section 71-2455 shall establish a system of prescription drug monitoring for the purposes of (a) preventing the misuse of controlled substances that are prescribed, (b) allowing prescribers and dispensers to monitor the care and treatment of patients for whom such a prescription drug is prescribed to ensure that such prescription drugs are used for medically appropriate purposes, (c) providing information to improve the health and safety of patients, and (d) ensuring that the State of Nebraska remains on the cutting edge of medical information technology.
- (2) Such system of prescription drug monitoring shall be implemented as follows: Except as provided in subsection (4) of this section, all prescription drug information shall be reported to the prescription drug monitoring system. The prescription drug monitoring system shall include, but not be limited to, provisions that:
 - (a) Prohibit any patient from opting out of the prescription drug monitoring system;
 - (b) Require any prescription drug that is dispensed in this state or to an address in this state to be entered into the system by the dispenser or his or her delegate no less frequently than daily after such prescription drug is sold, including prescription drugs for patients paying cash or otherwise not relying on a third-party payor for payment;
 - (c) Allow all prescribers or dispensers of prescription drugs to access the system at no cost to such prescriber or dispenser;
 - (d) Ensure that such system includes information relating to all payors, including, but not limited to, the medical assistance program established pursuant to the Medical Assistance Act; and
 - (e) Make the prescription drug information available to the statewide health information exchange described in section 71-2455 for access by its participants if such access is in compliance with the privacy and security protections set forth in the provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, except that if a patient opts out of the statewide health information exchange, the prescription drug information regarding that patient shall not be accessible by the participants in the statewide health information exchange.
- (3) Except as provided in subsection (4) of this section, prescription drug information that shall be submitted electronically to the prescription drug monitoring system shall be determined by the entity described in section 71-2455 and shall include, but not be limited to:
 - (a) The patient's name, address, telephone number, if a telephone number is available, gender, and date of birth;
 - (b) A patient identifier such as a military identification number, driver's license number, state identification card number, or other valid government-issued identification number, insurance identification number, pharmacy software-generated patient-specific identifier, or other identifier associated specifically with the patient;
 - (c) The name and address of the pharmacy dispensing the prescription drug;
 - (d) The date the prescription is issued;
 - (e) The date the prescription is filled;
 - (f) The date the prescription is sold to the patient;
 - (g) The number of refills authorized;
 - (h) The prescription number of the prescription drug;
 - (i) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug;
 - (j) The strength of the prescription drug prescribed;
 - (k) The quantity of the prescription drug prescribed and the number of days' supply;

#95500 Opioid Safety: Balancing Benefits and Risks

- (l) The prescriber's name and National Provider Identifier number or Drug Enforcement Administration number when reporting a controlled substance; and
 - (m) Additional information as determined by the Health Information Technology Board and as published in the submitter guide for the prescription drug monitoring system.
- (4) Beginning July 1, 2018, a veterinarian licensed under the Veterinary Medicine and Surgery Practice Act shall be required to report the dispensing of prescription drugs which are controlled substances listed on Schedule II, Schedule III, Schedule IV, or Schedule V pursuant to section 28-405. Each such veterinarian shall indicate that the prescription is an animal prescription and shall include the following information in such report:
- (a) The first and last name and address, including city, state, and zip code, of the individual to whom the prescription drug is dispensed in accordance with a valid veterinarian-client-patient relationship;
 - (b) Reporting status;
 - (c) The first and last name of the prescribing veterinarian and his or her federal Drug Enforcement Administration number;
 - (d) The National Drug Code number as published by the federal Food and Drug Administration of the prescription drug and the prescription number;
 - (e) The date the prescription is written and the date the prescription is filled;
 - (f) The number of refills authorized, if any; and
 - (g) The quantity of the prescription drug and the number of days' supply.
- (5) (a) All prescription drug information submitted pursuant to this section, all data contained in the prescription drug monitoring system, and any report obtained from data contained in the prescription drug monitoring system are confidential, are privileged, are not public records, and may be withheld pursuant to section 84-712.05 except for information released as provided in subsection (9) or (10) of this section.
- (b) No patient-identifying data as defined in section 81-664, including the data collected under subsection (3) of this section, shall be disclosed, made public, or released to any public or private person or entity except to the statewide health information exchange described in section 71-2455 and its participants, to prescribers and dispensers as provided in subsection (2) of this section, or as provided in subsection (7), (9), or (10) of this section.
- (c) All other data is for the confidential use of the department and the statewide health information exchange described in section 71-2455 and its participants. The department, or the statewide health information exchange in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release such information in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, as Class I, Class II, or Class IV data in accordance with section 81-667, except for purposes in accordance with subsection (9) or (10) of this section, to the private or public persons or entities that the department or the statewide health information exchange, in accordance with policies adopted by the Health Information Technology Board, determines may view such records as provided in sections 81-663 to 81-675. In addition, the department, or the statewide health information exchange in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release such information as provided in subsection (9) or (10) of this section.
- (6) The statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, shall establish the minimum administrative, physical, and technical safeguards necessary to protect the confidentiality, integrity, and availability of prescription drug information.
- (7) If the entity receiving the prescription drug information has privacy protections at least as restrictive as those set forth in this section and has implemented and maintains the minimum safeguards required by subsection (6) of this section, the statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release the prescription drug information and any other data collected pursuant to this section to:
- (a) Other state prescription drug monitoring programs;
 - (b) State and regional health information exchanges;

- (c) The medical director and pharmacy director of the Division of Medicaid and Long-Term Care of the department, or their designees;
 - (d) The medical directors and pharmacy directors of Medicaid-managed care entities, the state's Medicaid drug utilization review board, and any other state-administered health insurance program or its designee if any such entities have a current data-sharing agreement with the statewide health information exchange described in section 71-2455, and if such release is in accordance with the privacy and security provisions of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and all regulations promulgated thereunder;
 - (e) Organizations which facilitate the interoperability and mutual exchange of information among state prescription drug monitoring programs or state or regional health information exchanges; or
 - (f) Electronic health record systems or pharmacy-dispensing software systems for the purpose of integrating prescription drug information into a patient's medical record.
- (8) The department, or the statewide health information exchange described in section 71-2455, in accordance with policies adopted by the Health Information Technology Board and in collaboration with the department, may release to patients their prescription drug information collected pursuant to this section. Upon request of the patient, such information may be released directly to the patient or a personal health record system designated by the patient which has privacy protections at least as restrictive as those set forth in this section and that has implemented and maintains the minimum safeguards required by subsection (6) of this section.
- (9) In accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, the department, or the statewide health information exchange described in section 71-2455 under policies adopted by the Health Information Technology Board, may release data collected pursuant to this section for statistical, public research, public policy, or educational purposes after removing information which identifies or could reasonably be used to identify the patient, prescriber, dispenser, or other person who is the subject of the information, except as otherwise provided in subsection (10) of this section.
- (10) In accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder, the department, or statewide health information exchange described in section [HYPERLINK "https://www.nebraskalegislature.gov/laws/statutes.php?statute=71-2455"](https://www.nebraskalegislature.gov/laws/statutes.php?statute=71-2455) 71-2455 under policies adopted by the Health Information Technology Board, may release data collected pursuant to this section for quality measures as approved or regulated by state or federal agencies or for patient quality improvement or research initiatives approved by the Health Information Technology Board.
- (11) The statewide health information exchange described in section 71-2455, entities described in subsection (7) of this section, or the department may request and receive program information from other prescription drug monitoring programs for use in the prescription drug monitoring system in this state in accordance with the privacy and security provisions set forth in the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and regulations promulgated thereunder.
- (12) The statewide health information exchange described in section 71-2455, in collaboration with the department, shall implement technological improvements to facilitate the secure collection of, and access to, prescription drug information in accordance with this section.
- (13) Before accessing the prescription drug monitoring system, any user shall undergo training on the purpose of the system, access to and proper usage of the system, and the law relating to the system, including confidentiality and security of the prescription drug monitoring system. Such training shall be administered by the statewide health information exchange described in section 71-2455 or the department. The statewide health information exchange described in section 71-2455 shall have access to the prescription drug monitoring system for training, operations, maintenance, and administrative purposes. Users who have been trained prior to May 10, 2017, or who are granted access by an entity receiving prescription drug information pursuant to subsection (7) of this section, are deemed to be in compliance with the training requirement of this subsection.

NEBRASKA REVISED STATUTE 71-2455

Prescription drug monitoring; Department of Health and Human Services; powers and duties; Health Information Technology Board; administration.

Subject to sections 81-6,127 and 81-6,128, the Department of Health and Human Services, in collaboration with the Nebraska Health Information Initiative or any successor public-private statewide health information exchange, shall enhance or establish technology for prescription drug monitoring to carry out the purposes of section 71-2454. The department may use state funds and accept grants, gifts, or other funds in order to implement and operate the technology. The department may adopt and promulgate rules and regulations to authorize use of electronic health information, if necessary to carry out the purposes of sections 71-2454 and 71-2455. The department shall contract with the statewide health information exchange for the administration of the Health Information Technology Board, and such contract shall specify that the health information exchange is responsible for the administration of the Health Information Technology Board, including, but not limited to, providing meeting notices, recording and distributing meeting minutes, administrative tasks related to the same, and funding such activities. The contract shall also include provisions for the statewide health information exchange to reimburse the expenses of the members of the board pursuant to subsection (5) of section 81-6,127. Such reimbursement shall be paid using a process essentially similar to sections 81-1174 to 81-1177. No state funds, including General Funds, cash funds, and federal funds, shall be used to carry out the administrative duties of the Health Information Technology Board nor for reimbursement of the expenses of the board members.