



SB 470 Prescription Drug Monitoring Program (PDMP) ACLU Fact Sheet

Until we know whether the federal government will have unchecked access to Oregonians' information, this is the wrong time to undertake *any* expansion of the PDMP.

Federal Drug Enforcement Agency is Trying to Circumvent PDMP Privacy Protections

The PDMP is not and never should be a law enforcement tool. In setting up the PDMP in 2009, the Legislature made this commitment with a provision that makes it unlawful for any law enforcement agency to access private patient or prescriber data without a warrant based on probable cause.¹ Despite this safeguard, **our fears of warrantless release of private medical information have come true**, as the federal Drug Enforcement Agency (DEA) has made repeated requests to PDMP for records, using only an administrative subpoena, which does not require a showing of cause or approval from a judge.

In at least one case of which we are aware, records were released to DEA. In other instances, the PDMP has declined to hand over the records, citing the state law warrant requirement. DEA and the State of Oregon are now in court battling over whether DEA can get the records. The ACLU of Oregon has filed a motion to intervene in the case, asserting that the DEA's use of administrative subpoenas to access patient and prescriber records is an unlawful invasion of privacy.

In Uncertain Times, SB 470 Significantly Expands PDMP to Collect and Share Too Much

- Threatens federal and state privacy laws by providing to the Board of Pharmacy the authority to add *any* prescription drug to the list of those monitored through the PDMP²
- Deploys an alert system to notify a patient's doctors or pharmacists of multiple prescriptions triggered by a vague standard of "potentially dangerous"³
- Overrules current law, which allows for inter-state sharing of data only if "the confidentiality, security and privacy standards of the requesting state are determined by the authority to be equivalent to those of the authority."⁴ SB 470 allows for access by practitioners licensed in CA, ID, and WA.⁵
- Adds new data points to the list of information collected about patients and their prescriptions, including "sex" and "source of income," each seemingly unrelated to effective health care delivery
- Opens access to unlimited numbers of staff in a doctor or pharmacist office with no additional accountability mechanism for staff misuse of the database or the records.
- Compromises original intent of the program, which is not meant to be a tool for law enforcement against patients or to "evaluate a practitioner's professional practice,"⁶ by providing for the program to query all prescriptions entered under one prescriber number ("DEA number")

¹ ORS 431.966(2)(a)(C)

² Dash 1 amendment

³ Dash 3 amendment

⁴ ORS 431.966(2)(a)(E)

⁵ Dash 7 amendment

⁶ ORS 431.966(1)(b)