

California

California Stem Cell Law Requires Patient Warnings

On October 2, 2017, California Governor Jerry Brown signed Senate Bill 512, which requires California health care practitioners to post a specified notice in a prominent location in their offices to inform patients if they are performing one or more stem cell therapies that are not approved by the U.S. Food and Drug Administration (FDA).

The notice must be at least 8.5 X 11 inches and written in no less than 40-point type, with specific language that reads: “This notice must be provided to you under California law. This health care practitioner performs one or more stem cell therapies that have not been approved by the United States Food and Drug Administration. You are encouraged to consult your primary care physician prior to undergoing a stem cell therapy.”

Prior to performing the initial stem cell therapy, the law requires a health care practitioner to provide the patient with the same notice — using the prescribed size and type specifications — in writing. The new law is in effect as of January 1, 2018.

After the first violation, the Medical Board of California may cite and fine the physician up to \$1,000 for each violation of the law—for not posting the information or not providing it to patients.

Source: *Medical Board of California Newsletter*, Fall 2017

Illinois

Illinois Adopts New PDMP Requirements

Legislation has been adopted in Illinois aimed at fighting fraudulent opioid prescriptions by requiring drug prescribers to use the state’s prescription drug monitoring program (PDMP).

The new law, signed in December by Illinois Governor Bruce Rauner, requires prescribers with an Illinois Controlled Substance License to register for and use the state’s PDMP, formally known as the Illinois Prescription Monitoring Program.

Lt. Gov. Evelyn Sanguinetti, chair of Governor Rauner’s Opioid Overdose Prevention Task Force, said the law gives prescribers “the tools they need to ensure patients aren’t manipulating the system to support their addiction.”

The Illinois Department of Human Services will maintain the PDMP database. Physicians who don’t comply with the new law may be subject to disciplinary action.

Source: Associated Press, Dec. 13, 2017

Nevada

Nevada’s New Controlled Substance Prescriber Law Now in Effect

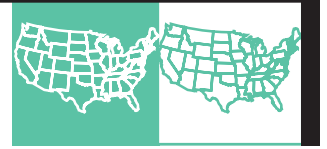
Nevada’s new Prescription Drug Abuse Prevention Act, passed unanimously by its legislature, went into effect on January 1, 2018. The law impacts all prescriptions for controlled substances, although most of its provisions uniquely apply to controlled substances used to treat pain.

The five key provisions impacting all prescribers in Nevada are:

- Providers will be required to report cases of overdose.
- Providers are required to obtain two units of continuing medical education on the topic of misuse and abuse of controlled substances, the prescribing of opioids or addiction.
- Providers with licenses to prescribe must register for and query Nevada’s prescription drug monitoring program (PDMP).
- To be valid, prescriptions must contain the patient’s date of birth, ICD-10 code, the fewest number of days necessary to consume the medication, and the prescriber’s name and Drug Enforcement Administration license number.
- All prescribers of controlled substances must follow new prescribing guidelines adopted by the state that seek to reduce overprescribing.

Source: *Nevada State Board Of Medical Examiners Newsletter*, December 2017

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North Carolina

Policy on Use of AV Recordings in Patient Care Now in Effect in North Carolina

The North Carolina Medical Board recently adopted a position statement on the use of audio or visual recordings in patient care after seeking input from its members to help determine the statement's scope and parameters.

The decision to establish new policy originated from the Board's review of an enforcement case that involved a medical practice's use of video cameras for security, both in patient examination rooms and in public spaces, such as the waiting and parking areas. A patient complained to the Board about this practice, stating specific concerns that no private area had been provided for undressing and dressing.

The Board's primary goals in drafting the position statement were to ensure that patients have a private area in which to disrobe or dress and that files of AV recordings are stored in a secure manner, compliant with HIPAA privacy rules.

The Board's Policy Committee developed a draft position statement in 2017 that included guidance on obtaining informed consent from patients before capturing still or video images. The text of the draft position was published in the Board's newsletter, with an invitation to readers to submit feedback to the Board on the proposed text. The Board received several comments from licensees and professional organizations representing specialists who regularly use photography for clinical purposes – and noted that this feedback influenced its decisions in shaping the language for informed consent as it finalized the new policy.

The full text of the Board's new position statement is included here:

Policy for the Use of Audio or Visual Recordings in Patient Care

The Board recognizes that there may be valid reasons for licensees to make audio or visual recordings of patients during a healthcare encounter. However, such recordings must be made for appropriate professional reasons and should employ safeguards that protect a

patient's autonomy, privacy, confidentiality, and dignity. In instances where a patient may be asked to disrobe, the patient should be provided an opportunity to disrobe beyond the view of any camera.

Recordings that could lead to disclosure of the patient's identity constitute protected health information and must be managed and transmitted in a manner that complies with HIPAA requirements.

Prior to an audio or visual recording being made of a patient, licensees should ensure that they have obtained the patient's informed consent. The informed consent should be documented in the medical record and should allow the patient an opportunity to discuss any concerns before and after the recording.

Source: *North Carolina Medical Board Forum*, Fall 2017

West Virginia

Criminal History Record Check Required for all Applicants Seeking Initial Licensure in West Virginia

Applicants seeking initial licensure by the West Virginia Board of Medicine are now required to request and submit to the board the results of a fingerprint-based state and national criminal history record check. The criminal history record check must be requested no earlier than 12 months prior to the board's receipt of an application for licensure.

The West Virginia State Police has contracted with a vendor to provide fingerprinting services. Applicants can schedule an appointment at any of 26 fingerprinting sites in West Virginia. The current cost of obtaining a state and federal background check is \$44.50.

Once physicians have completed the fingerprint process, they may inquire about the status of their fingerprint results via a customer service center hotline. Should criminal history offenses be reported on an applicant's criminal history record check, the Board will consider the nature, severity and time frame of offenses, as well as rehabilitation and other factors on a case-by-case basis.

Source: *West Virginia Board of Medicine Newsletter*, June 2017