STATE OF WASHINGTON

DEPARTMENT OF HEALTH

PO Box 47890 • Olympia, Washington 98504-7890
Tel: 360-236-4030 • 711 Washington State Relay

July 20, 2026

Submitted via Regulations.gov (Federal eRulemaking Portal)

The Honorable Douglas A. Collins
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

RE: Request for Public Comment on Expanding Access to State Prescription Drug Monitoring Programs, published May 20, 2026 (RIN 2900-AS73)

Dear Secretary Collins:

The Washington State Department of Health (DOH) appreciates the opportunity to comment on the Department of Veterans Affairs' proposed regulation, Expanding Access to State Prescription Drug Monitoring Programs. DOH supports safe and appropriate controlled substance prescribing and dispensing through Washington's Prescription Monitoring Program (PMP), which collects controlled substance dispensing information and makes it available to authorized users for patient care, public health, and appropriate oversight.

DOH recognizes the importance of timely access to PDMP data for VA health care providers treating covered patients. PDMP access can support safer prescribing decisions, help identify medication risks, and improve coordination of care when patients receive controlled substances from multiple sources. However, DOH recommends that the final rule include clearer limits and safeguards to ensure that access remains tied to direct clinical care, delegated and automated access are accountable, and state PDMP confidentiality protections are preserved.

With this in mind, DOH offers the following comments for consideration:

- DOH supports VA disclosure of controlled substance prescription dispensing information to state PDMPs to help ensure more complete prescription histories for patients. Including VA-dispensed prescriptions in PDMP data can support safer prescribing and dispensing decisions, improve care coordination, and help providers identify potential medication risks when patients receive controlled substances from multiple sources.

- Consider narrowing the definition of "delegate." The proposed definition appears to include VA clinical staff, administrative staff, certain investigators or researchers, VA-contracted health care staff, and VA automated systems, as long as they are acting under the direction or supervision of a licensed VA health care provider. DOH is concerned that this definition may be broader than necessary for direct patient care and may create uncertainty for state PDMPs responsible for managing access, auditing use, and ensuring compliance with state confidentiality requirements.
- Remove automated systems from the definition of "delegate." DOH recognizes that integration of PDMP data into clinical workflows is occuring, but an automated system should not itself be treated as a delegate. PDMP access should be tied to an authorized individual whose identity, credentials, role, and purpose for access can be validated. Automated or integrated queries should occur on behalf of a licensed VA health care provider or authorized delegate, with auditable records identifying the responsible individual, patient, clinical purpose, and time and manner of access.
- Remove researchers, investigators, contractors, and automated systems from entities allowed access to PDMPs. Washington's PDMP is intended as a direct patient care and prescriber support tool. Entities such as researchers can obtain an IRB and data-sharing agreement (DSA) if they wish to use identifiable PDMP data for research. Aggregate and deidentified data can be requested without an IRB and DSA.
- Clarify how HIPAA and state privacy laws apply after VA receives PDMP data.[1] HIPAA generally permits covered entities to disclose protected health information for treatment, payment, and health care operations without patient authorization, but it does not automatically override more protective state laws. State laws may impose additional requirements for sensitive information, including substance use disorder treatment, mental health, HIV-related information, genetic information, and research-related uses. VA should clarify how it will comply with HIPAA, applicable federal confidentiality laws, and state privacy protections once PDMP data are received, stored, incorporated into VA records, accessed by researchers or contractors, linked with other data systems, or redisclosed.
- Clarify that the proposed rule applies to the necessary clinical data for direct patient care for individual patients during their clinical encounter.
- Clarify how PDMP data will be stored, retained, accessed, and redisclosed. Once PDMP query results are incorporated into VA records, it is unclear whether state PDMP redisclosure restrictions would continue to apply or whether the information would be governed only by federal confidentiality requirements. VA should explain how state PDMP data will be protected, how long it will be retained, who may access it, and under what circumstances it may be redisclosed. DOH recommends that use of state PDMP data be limited to direct clinical care of the covered patient for whom the query was made, unless another use is separately authorized under applicable federal and state law, state PDMP requirements, IRB review, and data-sharing agreements.

[1] U.S. Department of Health and Human Services, "How do I know if a state law is more stringent than HIPAA?" HIPAA FAQ 403. https://www.hhs.gov/hipaa/for-professionals/faq/403/how-do-i-know-if-a-state-law-is-more-stringent-than-hipaa/index.html (last accessed 07/08/26)

- Clarify and narrow the scope of federal preemption. DOH recognizes that 38 U.S.C. § 1730B authorizes VA licensed health care providers and delegates to query and receive PDMP data for covered patients and includes preemption language for state requirements that restrict such access. However, the final rule should make clear that preemption is limited to state laws that directly prevent VA providers or authorized delegates from querying and receiving PDMP data for direct clinical care of covered patients. The rule should not be interpreted to preempt state PDMP confidentiality, privacy, security, audit, redisclosure, data retention, research review, data-sharing agreement, or secondary-use requirements unless those requirements directly conflict with the access required by federal law. DOH recommends that VA expressly preserve state authority to enforce neutral privacy, security, audit, accountability, and secondary-use limitations that do not prevent VA clinical access to PDMP data.
- Remove or narrow the proposed definition of "interoperability." The proposed rule defines interoperability to include linking a PDMP to other data systems within the state, including Medicare and Medicaid programs, workers' compensation programs, medical examiners or coroners, and other relevant state, national, or regional databases. DOH is concerned that this definition is broader than necessary to support VA clinical access to PDMP data for "safe and effective prescribing of controlled substances for covered patients" and may create secondary uses beyond direct clinical treatment. DOH recommends that VA narrow the definition to clinical workflow integration, such as access through electronic health records, health information exchanges, e-prescribing systems, or pharmacy dispensing software. Any linkage of PDMP data to non-clinical data systems should remain subject to applicable federal and state law, state PDMP authority, data governance requirements, IRB review, and separate data-sharing processes.

DOH supports appropriate access to PDMP data for VA providers treating covered patients. However, the final rule should provide clearer limits to ensure that access remains tied to patient care, that delegated and automated access are accountable, and that state PDMP confidentiality protections are not unintentionally weakened.

Thank you for the opportunity to comment. If you have any questions, please contact DOH's Federal and Regulatory Affairs Director, Mike Ellsworth at Michael.Ellsworth@doh.wa.gov or the Director, Federal and Inter-State Affairs for Governor Ferguson's Washington, D.C. office Rose Minor at Rose.Minor@gov.wa.gov

Sincerely,

Carly Bartz-Overman
Center for Drug Systems, Data, and Science Director
Washington State Department of Health