What is the Tennessee Controlled Substance Monitoring Database (CSMD)?

In accordance with the Controlled Substance Monitoring Act of 2002, the Tennessee Department of Health established a database to monitor the dispensing of Schedule II, III, and IV & V controlled substances. The CSMD (Controlled Substance Monitoring Database) was created by an act of the legislature, to be administratively attached to the Tennessee Board of Pharmacy. Data collection began for all dispensers on December 1, 2006. The database provides patient-specific data of a patient’s history of prescriptions over time. It should be used to supplement a patient evaluation, to confirm a patient’s drug history, or document compliance with a therapeutic regimen. The database tracks the identification of each person who requests or receives information from the database. The 2012 Tennessee Prescription Safety Act enhances the monitoring capabilities of the database. The Board of Pharmacy and the CSMD Advisory Committee establish, administer, maintain and direct the functioning of the database in accordance with the law.

Am I required to register with the Controlled Substance Monitoring Database (CSMD)?

As of January 1, 2013 all prescribers with DEA numbers who prescribe controlled substances and dispensers in practice providing direct care to patients in Tennessee for more than fifteen (15) calendar days per year must be registered. Register at www.tncsmd.com. Once registration is complete and approved, you will receive an email with your user name and temporary password.

When is a practitioner required to check the database before prescribing a controlled substance?

It is mandatory that the prescriber or designated “healthcare practitioner extender” check the database (1) before prescribing an opioid or benzodiazepine as a new course of treatment lasting more than seven days and (2) at least annually when that controlled substance remains part of the patient’s treatment plan. A “healthcare practitioner extender” is any licensed or registered healthcare professional (unlimited) and up to two (2) unlicensed staff members, who act as agents of the prescriber. Each authorized individual must have a separate identifiable authentication for access. The prescriber is responsible for all actions taken by their designated extenders.

Are there exceptions for checking the database before issuing a prescription for an opioid or benzodiazepine?

Yes. Generally prescribers are not required to check the CSMD if one or more of the following conditions is met:

- Only a 7-day supply is prescribed with no refill;
- The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;
- Prescribers in a particular medical specialty are exempt (no specialties have been exempted);
- The controlled substance is prescribed as a non-refillable prescription as part of treatment for a surgical procedure that occurred in a licensed healthcare facility.
The controlled substance is prescribed for administration directly to a patient during the course of inpatient or residential treatment in a hospital or nursing home licensed under title 68 or mental health hospital licensed under title 33.

Even though mandatory querying of the database is only required before prescribing opioids and benzodiazepines, the Tennessee Prescription Safety Act states “Before dispensing, a dispenser shall have the professional responsibility to check the database or have a health care practitioner extender check the database if the dispenser is aware or reasonably certain that a person is attempting to obtain a Schedule II-V controlled substance, identified by the committee as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of T.C.A. § 53-11-402” (doctor shopping law). The investigators with the Department of Health and law enforcement may interpret this recommendation to require practitioners to check the database in the course of appropriately prescribing any medication with the potential for abuse.

**Who can check the database?**

Any prescriber registered with the CSMD, having authority to prescribe or dispense controlled substances, to the extent the information relates specifically to a current or bona fide prospective patient of the prescriber, to whom the prescriber has prescribed or dispensed, is prescribing or dispensing, or considering prescribing or dispensing any controlled substance.

To ease the burden on prescribers, the Act allows the prescriber to designate any licensed or registered healthcare professional (unlimited) and up to two (2) unlicensed staff members, who act as agents of the prescriber to apply for a CSMD subscriber login. Each authorized individual must have a separate identifiable authentication for access. Effective October 1, 2013, a prescriber may authorize a healthcare practitioner extender to check the CSMD for other prescribers in the same practice.

If an employee leaves your practice, you should immediately log into the CSMD to revoke access. Once you log in, click on “My Account” at the top of the page. Once opened you should see a list of all “Delegate Relationships” near the bottom of the page (Last Name, First Name, Address, etc.) and an option to “Revoke.” Once you click on revoke, you should see a message “The Delegate account has been revoked successfully” but the delegate still appears in the list with an option to reapprove. Register for access to the CSMD by visiting [www.tncsmd.com](http://www.tncsmd.com).

**How has the law changed for prescribing and dispensing opioids and benzodiazepines?**

No prescription for any opioid or benzodiazepine may be dispensed in quantities greater than a thirty (30) day supply. A physician may prescribe more than a 30 day supply but the pharmacy may not dispense more than 30 days at one time.

However, the law has changed for certain prescriptions issued by a midlevel provider. Midlevel providers may only prescribe or issue a Schedule II or III opioid listed on the approved formulary for a maximum of a non-refillable, 30 day course of treatment unless specifically approved by consultation with the supervising physician before initial issuance.

**Where can I find the Tennessee Clinical Practice Guidelines for Outpatient Management of Chronic Pain?**

The Addison Sharp Prescription Regulatory Act of 2013 required the Department of Health to develop “treatment guidelines” for prescribing of opioids, benzodiazepines, barbiturates and carisoprodol. The
guidelines may be found at https://health.state.tn.us/Downloads/ChronicPainGuidelines.pdf. The guidelines include statements to assist healthcare providers in making patient decisions concerning appropriate medical care for specific clinical circumstances. Each board will determine how the guidelines will be used by its licensees.

Can I check the database on a patient requesting to be accepted into the practice?

Yes. A licensed health care practitioner having authority to prescribe or dispense controlled substances or the healthcare practitioner extender, may access the database to the extent the information relates specifically to a current or bona fide prospective patient of the practitioner, to whom the practitioner has prescribed or dispensed or is prescribing or dispensing or considering prescribing or dispensing any controlled substance.

Am I required to perform urine drug screening on patients receiving controlled drugs?

There is NO REQUIREMENT for urine drug screening except for pain management clinics providing chronic therapy.

Urine drug screening (UDS) must be considered if prescribing any opioids, benzodiazepines, barbiturates or carisoprodol, either alone, concurrently or sequentially with any other opioids, benzodiazepines, barbiturates or carisoprodol to patients on therapy for ninety (90) days or longer.

What is the “doctor shopping” law?

The law in Tennessee makes it “unlawful for a person to knowingly or intentionally deceive or fail to disclose to a physician, nurse practitioner, ancillary staff or other health care provider from whom the person obtains a controlled substance or a prescription for a controlled substance that the person has received either the same controlled substance or a prescription for the same controlled substance or a controlled substance of similar therapeutic use or a prescription for a controlled substance of similar therapeutic use from another practitioner within the previous thirty (30) days.” T.C.A. § 53-11-402(a)(6)

What does the “doctor shopping” law require healthcare providers to do?

“Any physician, dentist, optometrist, podiatrist, veterinarian, advanced practice nurse with a certificate of fitness issued under title 63, chapter 7, or physician assistant (hereinafter referred to collectively as “health care providers”) who has actual knowledge that a person has knowingly, willfully and with intent to deceive, obtained or attempted to obtain controlled substances in the manner prohibited by § 53-11-402(a)(6) shall cause a report to be submitted regarding such activity within five (5) business days of obtaining such knowledge.” T.C.A. § 53-11-309(a) The report should be submitted to the local law enforcement agency where the health care provider is located or, where one exists, to a judicial district or multi-judicial district drug task force.

What if the patient does not disclose the prescription but it appears on the database report within the past 30 days?

The health care provider is deemed to have actual knowledge of illegal activity when the healthcare provider accesses the database and discovers the patient has received the same or similar controlled substance that the provider is about to prescribe within the prior 30 days and it is not disclosed by the patient. In the report to a law enforcement agency, the provider may only disclose the pertinent information from the database for
the thirty (30) days prior to the date of treatment leading to the alleged offense which ostensibly demonstrates noncompliance with the law. T.C.A. § 53-11-309(c)

Are there exceptions to the mandatory reporting requirement?

Yes. There is an exception for a healthcare provider who is providing treatment to a person with a mental illness. That provider may, but is not required to, report. Tennessee law defines mental illness as “a psychiatric disorder, alcohol dependence, or drug dependence, but does not include mental retardation or other developmental disabilities.” T.C.A. § 33-1-101(18) Even though alcohol or drug dependence are listed in Tennessee’s definition of mental illness, the federal substance abuse law prohibits doctors treating patients in a federally-assisted substance abuse program from disclosing their patient health information without their consent unless there is a court order.

Who can make the report to a law enforcement agency?

T.C.A. § 53-11-309(d) states “a health care provider, or any person under the direction of the healthcare provider or any entity that assumes the responsibility of reporting for the provider who furnishes any information in good faith is immune from liability if a complaint, report, information, or record is furnished to a law enforcement agency.”

Are there penalties for failing to report to a law enforcement agency?

No. Presently, sanctions against a healthcare provider who fails to report shall be limited only to cases involving a pattern of willful failure to make such reports and, in those instances, the health care provider shall only be subject to a civil penalty assessed by the provider’s licensing board. T.C.A. § 53-11-401(a)(3)

Are there different penalties for failing to report “doctor shopping” by TennCare patients? If so, how?

Yes. The law applicable to TennCare patients is outlined in T.C.A. § 71-5-2603. (a) “...providers or any other person or entity shall advise the office of TennCare inspector general immediately when there is actual knowledge, not subject to a testimonial privilege, that an act of recipient, enrollee, or applicant fraud is being, or has been committed. (d) “Willful failure to report such fraud shall be subject to a civil penalty of not more than ten thousand dollars ($10,000) for each finding to be assessed by the office of TennCare inspector general.”

How do I contact law enforcement or the Tennessee Drug Task Force?

A reporting form is available on the Department of Health’s website and may be faxed to the state-wide reporting agency at 1-423-267-8983. The form is also available on the www.svmic.com website under the risk management tab, resources, pain management/prescribing page. You may also contact your local law enforcement agency. A list of Tennessee Judicial Task Forces can be found at: www.drugtaskforce.net/dtfdirectory.htm.

If I check the database and make a report, can I be held liable in a civil lawsuit?

No. Tennessee law provides immunity from civil liability for reporting unlawful activity as long as the disclosure is limited to the persons authorized in the statute and only activity within the prior 30 days from treatment is reported.
### Should I put the database printed report in the patient’s medical record?

NO. The database should be accessed according to applicable rules (See “Who Can Check the Database” above) and a printed report is not required as proof of access. Tennessee state law now allows the CSMD report to be placed in the medical record. However, the prescriber should be aware of potential inaccuracies because of similarities of patient names. The CSMD may also include data from neighboring states including those with criminal penalties for certain disclosures of their data. Because of this, SVMIC does not recommend placing the CSMD report in the medical record. Prescribers should document access to the CSMD including the initials of the person accessing, date and action taken by the prescriber.

### How should I document that I checked the database as required by law in the patient’s medical record?

The database monitors access, and unless you’re operating as a registered “pain management clinic”, you are not required to document access separately in the patient’s medical record. However, in order to manage prescription history and comply with the mandatory querying requirements for opioids and benzodiazepines, it’s important to document your access. If possible, it is recommended the practitioner check the database (without printing it), ask the patient about any other prescriptions for controlled substances within the prior 30 days and make a checkmark on the medication record noting the date of access and if a medication request was approved. If you prefer to include it in the chronological record, make a brief note such as: CSMD accessed by (name or initials) on (date) and (drug name and amount) was/was not prescribed/refilled.

### Can I give information from the database to another doctor requesting records?

Yes, you may treat the report as a medical record, but SVMIC cautions you to be aware of potential inaccuracies because of similarities of patient names. The CSMD may also include data from neighboring states including those with criminal penalties for certain disclosures of their data.

### Can I give my password to a trusted staff member (such as a nurse) to check the database?

No. Your password should never be shared with any other person, including other physicians or medical providers involved in the patient’s care. To ease the burden on prescribers, the Act allows the prescriber to designate any licensed or registered healthcare professional (unlimited) and up to two (2) unlicensed staff members, who act as agents of the prescriber to apply for a CSMD subscriber login. Each authorized individual must have a separate identifiable authentication for access. If a designated employee leaves your practice, you should contact the CSMD to immediately revoke access to the database. Register for access to the CSMD by visiting [www.tncsmd.com](http://www.tncsmd.com). If the database is accessed unlawfully, the practitioner may be guilty of a Class A misdemeanor.

### What information can I access about my practitioner profile?

As a practitioner, you may review your own report of prescriptions dispensed to patients using your DEA number. This may be helpful in alerting you to fraudulent activity such as a stolen prescription pad. If you suspect someone is abusing your DEA number, report that to local law enforcement immediately.

### I am the supervising physician for a midlevel provider. Am I able to access the database to review all controlled substances written by the midlevel provider as required by law?

Yes. The law allows access to a prescriber or supervising physician of the prescriber conducting a review of all medications dispensed by prescription attributed to that prescriber.
Tennessee now requires “pain management clinics” to be registered with the State and follow specific rules. How do I know if I should register?

Tennessee state law defines a “Pain management clinic” as a privately-owned clinic, facility or office in which any health care provider licensed under this title provides chronic non-malignant pain treatment to a majority of its patients for ninety (90) days or more in a twelve (12) month period. For purposes of determining if a clinic, facility, or office qualifies as a pain management clinic the entire clinic, facility, or office caseload of patients who received medical care services from all medical doctors, osteopathic physicians, advanced practice nurses and physician assistants who serve in the clinic, facility or office shall be counted;

"Pain management clinic" also means a privately-owned clinic, facility or office which advertises in any medium for pain management services of any type. A pain management clinic shall not include any clinic, facility, or office which provides interventional pain management and whose clinic, facility or office does not provide chronic non-malignant pain treatment to a majority of the patients of a clinic, facility or office for ninety (90) days or more in a twelve (12) month period;

"Pain management clinic" does not mean a clinic, facility or office that is wholly owned and operated by a physician multispecialty practice in which one or more board-eligible or board-certified medical specialists who have also completed fellowships in pain medicine approved by the Accreditation Council for Graduate Medical Education, or who are also board-certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties, the American Association of Physician Specialists, or the American Osteopathic Association perform the pain management services for chronic pain patients.

Other requirements for pain management practices are included in the laws relating to pain management clinics. The rules may be found at the Tennessee Department of Health’s Pain Management Clinic Registry page at [http://health.state.tn.us/Boards/PainClinicRegistry.shtml](http://health.state.tn.us/Boards/PainClinicRegistry.shtml).

What happens if a prescriber or dispenser does not have electronic access to the database?

The law requires that each person or entity operating a practice site where a controlled substance is prescribed or dispensed to a human patient shall provide for electronic access to the database at all times when a prescriber or dispenser provides healthcare services to a human patient potentially receiving a controlled substance. A violation of this requirement is punishable by a civil penalty not to exceed one hundred dollars per day assessed against the person or entity operating the practice site; the penalty shall only be imposed when there is a continued pattern or practice of not providing electronic access to the database.

Who monitors the prescription drug database and how is that monitoring conducted?

The monitoring is conducted by the Tennessee Department of Health staff and overseen by the Controlled Substance Monitoring Database Advisory Committee. The committee seeks to identify unusual patterns of prescribing and dispensing controlled substances that appear to be higher than normal, taking into account the particular specialty, circumstances, patient-type or location of the prescriber or dispenser. The committee may then request more information and also request a board investigation in some circumstances.

How do I contact the Board of Pharmacy about the CSMD?
Website: http://health.state.tn.us/Boards/Pharmacy/index.shtml
Email the CSMD Administrator at CSMD.admin@tn.gov
Phone: (615) 253-1305.

Some questions and answers adapted from the Department of Health’s FAQ which may be found at https://health.state.tn.us/boards/Controlledsubstance/faq.shtml. Applicable laws may be found in the Tennessee Code at http://www.lexisnexis.com/hottopics/tncode/. Additional resources may be found on the SVMIC website at www.svmic.com.

DISCLAIMER: The information provided is intended for general guidance only and does not supersede the law. It does not constitute legal advice. Policyholders who are or may be subject to this regulation are strongly urged to review the applicable laws and rules and consult their personal attorney if necessary. For general guidance, you may contact Julie Loomis at 1-800-342-2239 or 615-377-1999.