

# Supreme Court of Arizona

MEDICIS PHARMACEUTICAL CORPORATION,  
an Arizona corporation,

Defendant/Petitioner,

v.

AMANDA WATTS, an adult individual,

Plaintiff/Respondent.

No. CV-15-0065-PR

No. 1 CA-CV 13-0358

Maricopa County  
Superior Court No.  
CV2012-008081

APPENDIX A TO BRIEF OF AMICI CURIAE THE PHARMACEUTICAL  
RESEARCH AND MANUFACTURERS OF AMERICA, THE U.S. CHAMBER  
OF COMMERCE, THE U.S. CHAMBER LITIGATION CENTER, THE  
ARIZONA CHAMBER OF COMMERCE & INDUSTRY, AND THE ARIZONA  
MANUFACTURERS COUNCIL IN SUPPORT OF PETITIONER

## United States Jurisdictions Endorsing the Learned Intermediary Doctrine

State/Territory	State or Federal Authority	Key Opinion(s) and Relevant Language
Alabama	State courts	<ul style="list-style-type: none"> <li>• <i>Wyeth, Inc. v. Weeks</i>, 159 So. 3d 649, 674 (Ala. 2014) (“This Court has adopted the learned-intermediary doctrine, which provides that a prescription-drug manufacturer fulfills its duty to warn users of the risk associated with its product by providing adequate warnings to the learned intermediaries who prescribe the drug and that, once that duty is fulfilled, the manufacturer owes no further duty to the ultimate consumer.”).</li> </ul>

		<ul style="list-style-type: none"> <li>• <i>Nail v. Publix Super Markets, Inc.</i>, 72 So. 3d 608, 614 (Ala. 2011) (“In <i>Stone v. Smith, Kline &amp; French Laboratories</i>, 447 So. 2d 1301 (Ala. 1984), this Court adopted the learned-intermediary doctrine in a case addressing whether a manufacturer’s duty to warn extends beyond the prescribing physician to the physician’s patient who would ultimately use the drugs.”).</li> <li>• <i>Walls v. Alparma USPD, Inc.</i>, 887 So. 2d 881, 884-86 (Ala. 2004) (“[W]here prescription drugs are concerned, the manufacturer’s duty to warn is limited to an obligation to advise the prescribing physician of any potential dangers that may result from the drug’s use.”) (quoting <i>Stone v. Smith, Kline &amp; French Labs.</i>, 447 So. 2d 1301, 1304-05 (Ala. 1984)).</li> <li>• <i>Morguson v. 3M Corp.</i>, 857 So.2d 796. 801-2 &amp; n.1 (Ala. 2003) (finding that “[p]ursuant to the learned-intermediary doctrine,” manufacturer had duty only to warn physician, and observing that “[c]ourts rely on the expertise of physicians to ‘bridge the gap’ in cases where the medical product and its related warning are too complex to be fully appreciated by the patient.”).</li> </ul>
Alaska	State courts	<ul style="list-style-type: none"> <li>• <i>Shanks v. Upjohn Co.</i>, 835 P.2d 1189, 1194-95 &amp; n.6 (Alaska 1992) (“A prescription drug’s performance safety depends on many variables, including the nature of the drug itself, the patient’s medical history, dosage, and combination with other medications, whose complex interplay is beyond the comprehension of the ordinary consumer. . . . In a sense, prescribing doctors are the</li> </ul>

		<p>consumers of prescription drugs. It is the doctor’s evaluation of the patient’s condition and consideration of the available treatment alternatives which leads to the choice of a specific prescription drug product.”).</p>
Arizona	State courts	<ul style="list-style-type: none"> <li>• <i>Myers v. Hoffman-La Roche, Inc.</i>, 217 Ariz. 5 ¶ 36, 170 P.3d 254, 263 (Ariz. Ct. App. 2008), <i>review denied and ordered depublished</i>, 218 Ariz. 293, 183 P.3d 544 (2008) (“The learned-intermediary doctrine provides that the manufacturer or supplier of a prescription drug has no legal duty to warn a consumer of the dangerous propensities of its drug, as long as adequate warnings are provided to the prescribing physician.”) (internal quotation marks omitted).</li> <li>• <i>Dole Food Co. v. N.C. Foam Indus.</i>, 935 P.2d 876, 880 (Ariz. Ct. App. 1996) (“[U]nder the learned intermediary doctrine, the manufacturer’s duty to warn is ordinarily satisfied if a proper warning is given to the specialized class of people that may prescribe or administer the product.”) (internal quotation marks omitted).</li> <li>• <i>Piper v. Bear Med. Sys., Inc.</i>, 180 Ariz. 170, 178 &amp; n.3, 883 P.2d 407, 415 (Ariz. Ct. App. 1993) (explaining that the learned intermediary doctrine, which applied to medical device at issue, “means the manufacturer’s duty to warn is ordinarily satisfied if a proper warning is given to the specialized class of people that may prescribe or administer the product.”).</li> <li>• <i>Dyer v. Best Pharmacal</i>, 118 Ariz. 465, 468, 577 P.2d 1084, 1087 (Ariz. Ct. App. 1978) (“A</li> </ul>

		<p>drug manufacturer has discharged his duty to the public if he has properly warned the administering physician of the contraindications and possible side effects of the drug.”).</p> <ul style="list-style-type: none"> <li>• <i>Gaston v. Hunter</i>, 121 Ariz. 33, 47, 588 P.2d 326, 340 (Ariz. Ct. App. 1978) (“In the case of prescription drugs . . . the manufacturer’s duty to warn is ordinarily satisfied if a proper warning is given to the prescribing physician.”).</li> </ul>
Arkansas	State courts	<ul style="list-style-type: none"> <li>• <i>Kowalski v. Rose Drugs of Dardanelle, Inc.</i>, 378 S.W.3d 109, 120 (Ark. 2011) (“Arkansas adopted the learned-intermediary doctrine in <i>West v. Searle &amp; Co.</i> That doctrine provides an exception to the general rule that a manufacturer has a duty to warn the ultimate user of the risks of its products.”) (internal citation omitted).</li> <li>• <i>West v. Searle &amp; Co.</i>, 806 S.W.2d 608, 613 (Ark. 1991) (stating that the learned intermediary doctrine applies for three reasons: “First, a physician must prescribe the drug, the patient relies upon the physician’s judgment in selecting the drug, and the patient relies upon the physician’s advice in using the drug. That is to say that there is an independent medical decision by the learned intermediary that the drug is appropriate. Second, it is virtually impossible in many cases for a manufacturer to directly warn each patient. Third, imposition of a duty to warn the user directly would interfere with the relationship between the doctor and the patient.”).</li> </ul>

California	State courts	<ul style="list-style-type: none"> <li>• <i>Brown v. Superior Court</i>, 751 P.2d 470, 477 n.9 (Cal. 1988) (“It is well established that a manufacturer fulfills its duty to warn if it provides adequate warning to the physician.”).</li> <li>• <i>Carlin v. Superior Court</i>, 920 P.2d 1347, 1354 (Cal. 1996) (“Moreover, in the case of prescription drugs, the duty to warn runs <i>to the physician</i>, not to the patient.”).</li> <li>• <i>Stevens v. Parke, Davis &amp; Co.</i>, 507 P.2d 653, 661 (Cal. 1973) (“In the case of medical prescriptions, if adequate warning of potential dangers of a drug has been given to doctors, there is no duty by the drug manufacturer to insure that the warning reaches the doctor's patient for whom the drug is prescribed.”) (internal quotation marks omitted).</li> </ul>
Colorado	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Caveny v. Ciba-Geigy Corp.</i>, 818 F. Supp. 1404, 1406 (D. Colo. 1992) (“A warning is adequate when it explains to the physician the risk which the plaintiff is asserting to be associated with the drug and which caused the death. It is the responsibility of the physician as a learned intermediary to assess the risks and benefits of a particular course of treatment.”).</li> <li>• <i>O’Connell v. Biomet, Inc.</i>, 250 P.3d 1278, 1281-82 (Colo. App. 2010) (“Based on the above authorities, we are persuaded that the learned intermediary doctrine should apply to failure to warn claims in the context of a medical device installed operatively when it is available only to physicians and obtained by prescription, and the doctor is in a position to reduce the risks of harm in accordance with the instructions or warnings.”).</li> </ul>

		<ul style="list-style-type: none"> <li>• <i>Peterson v. Parke Davis &amp; Co.</i>, 705 P.2d 1001, 1003 (Colo. Ct. App. 1985) (“Where, as here, an attending physician, in prescribing and in supervising the use of the drug, disregards the manufacturer’s warnings and instructions, it is that conduct which renders the product unreasonably dangerous, and thus defective, and the adequacy of the warnings and instructions are not relevant.”).</li> </ul>
Connecticut	State courts	<ul style="list-style-type: none"> <li>• <i>Hurley v. Heart Physicians, P.C.</i>, 898 A.2d 777, 783-84 (Conn. 2006) (“The learned intermediary doctrine provides that adequate warnings to prescribing physicians obviate the need for manufacturers of prescription products to warn ultimate consumers directly. The doctrine is based on the principle that prescribing physicians act as learned intermediaries between a manufacturer and consumer and, therefore, stand in the best position to evaluate a patient's needs and assess [the] risks and benefits of a particular course of treatment. ...”) (internal quotation marks omitted) (alteration in original).</li> <li>• <i>Vitanza v. Upjohn Co.</i>, 778 A.2d 829, 836-38 (Conn. 2001) (“[P]rescribing physicians act as ‘learned intermediaries’ between a manufacturer and consumer and, therefore, stand in the best position to evaluate a patient’s needs and assess [the] risks and benefits of a particular course of treatment.”) (internal quotation mark omitted) (alteration in original).</li> <li>• <i>Id.</i> at 841 (“The learned intermediary doctrine stands for the proposition that, as a matter of law, the prescribing physician of a prescription drug is the person best able to</li> </ul>

		take or recommend precautions against the harm.”).
Delaware	State courts	<ul style="list-style-type: none"> <li>• <i>Lacy v. G.D. Searle &amp; Co.</i>, 567 A.2d 398, 400 (Del. 1989) (“In the final analysis it is the physician who ultimately prescribes the drug or device. Thus, if the manufacturer of prescription products provides the physician with the legally appropriate information, it has satisfied its duty to warn.”).</li> </ul>
District of Columbia	N/A	<ul style="list-style-type: none"> <li>• <i>Mampe v. Ayerst Labs.</i>, 548 A.2d 798, 801-02 n.6 (D.C. 1988) (the prescribing physician is “the user” of a prescription medication; “[w]hen the purchase of the product is recommended or prescribed ‘by an intermediary who is a professional, the adequacy of the instructions must be judged in relationship to that professional.’”) (quoting <i>Payne v. Soft Sheen Prods., Inc.</i>, 486 A.2d 712, 722 n.10 (D.C. 1985)).</li> </ul>
Florida	State courts	<ul style="list-style-type: none"> <li>• <i>E.R. Squibb &amp; Sons, Inc. v. Farnes</i>, 697 So.2d 825, 827 (Fla. 1997) (approving lower court’s statement that “Florida law requires that the manufacturer provide an adequate warning only the physician, or ‘learned intermediary.’ ... Pharmaceutical manufacturers discharge their duty to warn the learned intermediary by way of a package insert which accompanies each vial of vaccine.”).</li> <li>• <i>Upjohn Co. v. MacMurdo</i>, 562 So.2d 680, 683 (Fla. 1990) (“The manufacturer’s duty to warn of the drug’s dangerous side effects is directed to the physician rather than the patient.”).</li> <li>• <i>Felix v. Hoffmann-La Roche Inc.</i>, 540 So. 2d 102, 104 (Fla. 1989) (“[I]t is clear that the</li> </ul>

		<p>manufacturer’s duty to warn of [the drug’s] dangerous side effects was directed to the physician rather than the patient” because “the prescribing physician, acting as a ‘learned intermediary’ between the manufacturer and the consumer, weighs the potential benefits against the dangers in deciding whether to recommend the drug to meet the patient’s needs.”).</p>
Georgia	State courts	<ul style="list-style-type: none"> <li>• <i>McCombs v. Synthes (U.S.A.)</i>, 587 S.E.2d 594, 595 (Ga. 2003) (“Under the learned intermediary doctrine, the manufacturer of a prescription drug or medical device does not have a duty to warn the patient of the dangers involved with the product, but instead has a duty to warn the patient’s doctor, who acts as a learned intermediary between the patient and the manufacturer. The rationale for the doctrine is that the treating physician is in a better position to warn the patient than the manufacturer, in that the decision to employ prescription medication [or medical devices] involves professional assessment of medical risks in light of the physician’s knowledge of a patient’s particular need and susceptibilities.”) (footnotes and quotation marks omitted) (alteration in original).</li> </ul>
Hawaii	State courts	<ul style="list-style-type: none"> <li>• <i>Craft v. Peebles</i>, 893 P.2d 138, 155 (Haw. 1995) (applying the learned intermediary doctrine and stating that it applies to prescription pharmaceutical products because “physicians are in a better position [than manufacturers] to assess risks and determine when a particular patient reasonably should be informed about a risk.”) (internal quotation marks omitted).</li> </ul>



Idaho	State courts	<ul style="list-style-type: none"> <li>• <i>Sliman v. Aluminum Co. of Am.</i>, 731 P.2d 1267, 1270-71 (Idaho 1986) (holding that “a supplier positioned on the commercial chain remote from the ultimate consumer may fulfill its duty to warn by adequately warning an intermediary” such as “when a drug manufacturer properly warns a prescribing physician of the dangerous propensities of its product”) (internal quotation mark omitted).</li> </ul>
Illinois	State courts	<ul style="list-style-type: none"> <li>• <i>Hansen v. Baxter Healthcare Corp.</i>, 764 N.E.2d 35, 42 (Ill. 2002) (“Generally, the manufacturer of a prescription medical device has a duty to warn prescribing physicians or other health professionals who may prescribe the device of the product's known dangerous propensities. ... The duty to warn the health-care professional, rather than the ultimate consumer or patient, is an expression of the “learned intermediary” doctrine.”) (internal citations omitted).</li> <li>• <i>Kirk v. Michael Reese Hosp. &amp; Med. Ctr.</i>, 513 N.E.2d 387, 393 (Ill. 1987) (“The doctor, functioning as a learned intermediary between the prescription drug manufacturer and the patient, decides which available drug best fits the patient’s needs and chooses which facts from the various warnings should be conveyed to the patient, and the extent of disclosure is a matter of medical judgment. As such, we believe the learned intermediary doctrine is applicable here and that there is no duty on the part of manufacturers of prescription drugs to directly warn patients.”) (internal citations omitted).</li> <li>• <i>Martin by Martin v. Ortho Pharm. Corp.</i>, 661 N.E.2d 352, 354 (Ill. 1996) (“[M]anufacturers</li> </ul>

		<p>of prescription drugs have a duty to warn prescribing physicians of a drug’s known dangerous propensities and that physicians, in turn, using their medical judgment, have a duty to convey any relevant warnings to their patients.”).</p> <ul style="list-style-type: none"> <li>• <i>Happel v. Wal-Mart Stores, Inc.</i>, 766 N.E.2d 1118, 1125 (Ill. 2002) (noting that in <i>Kirk</i> “this court adopted the learned intermediary doctrine.”).</li> </ul>
Indiana	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Ziliak v. AstraZeneca LP</i>, 324 F.3d 518, 521 (7th Cir. 2003) (“The duty to provide adequate warning arises only when the manufacturer knows or should know of a risk posed by the product, and, in cases involving drugs available only by prescription, extends only to the medical profession, not the consumer.”)</li> <li>• <i>Ortho Pharm. Corp. v. Chapman</i>, 388 N.E.2d 541, 553 (Ind. Ct. App. 1979) (“In the case of ethical drugs, the manufacturer’s duty is discharged if adequate warning is given to doctors, who act as ‘learned intermediaries’ between the manufacturer and the ultimate user.”).</li> </ul>
Iowa	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>McCormick v. Nikkel &amp; Assocs., Inc.</i>, 819 N.W. 2d 368, 375 (Iowa 2012) (observing that “we recognize various ‘no duty’ rules in the warning area” and citing the “learned intermediary rule” as one such “no duty” rule the court recognizes).</li> <li>• <i>Madsen v. Am. Home Prods. Corp.</i>, 477 F. Supp. 2d 1025, 1033 (E.D. Mo. 2007) (“Iowa would adopt the [learned intermediary] doctrine. . . .”).</li> </ul>

		<ul style="list-style-type: none"> <li>• <i>Petty v. United States</i>, 740 F.2d 1428, 1440 (8th Cir. 1984) (learned intermediary doctrine did not apply in case involving swine flu vaccine because “in a mass immunization context, <i>where there is no learned intermediary</i>, the duty extends to the ultimate recipient of the vaccine”) (emphasis added).</li> <li>• <i>Brazzell v. United States</i>, 788 F.2d 1352, 1358 (8th Cir. 1986) (“We hold that the doctor’s intervention is not enough to dispel the manufacturer’s duty to warn the ultimate consumer in view of the swine flu program’s exigent circumstances. . . . We have little trouble in viewing doctors in the program, rather than learned intermediaries, as distributors of a defective product. As stated above, the emergency nature of the program forced this role on them.”).</li> </ul>
Kansas	State courts	<ul style="list-style-type: none"> <li>• <i>Humes v. Clinton</i>, 792 P.2d 1032, 1039-41 (Kan. 1990) (“Since prescription drugs are available only to a physician, it is the physician’s duty to inform himself or herself of the characteristics of the drugs prescribed and to exercise his or her judgment of which drug to administer in light of the drug’s propensities and the patient’s susceptibilities. . . . [W]e have adopted the learned intermediary rule, which relieves the manufacturers of the duty to warn consumers directly, in IUD cases.”) (internal citations omitted).</li> <li>• <i>Wooderson v. Ortho Pharm. Corp.</i>, 681 P.2d 1038, 1052 (Kan. 1984) (“A second important limitation on liability ... applies to manufacturers of ethical [prescription] drugs. Since such drugs are available only by prescription, a manufacturer's duty to warn</li> </ul>

		extends only to the medical profession, and not the ultimate users.”) (internal quotation marks omitted) (alterations in original).
Kentucky	State courts	<ul style="list-style-type: none"> <li>• <i>Hyman &amp; Armstrong, P.S.C. v. Gunderson</i>, 279 S.W.3d 93, 109 (Ky. 2008) (“Approximately three months after the trial in the case at bar, this Court rendered its decision in <i>Larkin</i>, wherein we adopted the learned intermediary doctrine from the <i>Restatement (Third) of Torts</i>. This doctrine, which is an exception to the general rule that a manufacturer’s duty to warn of any risks or dangers inherent in the product runs to the ultimate consumer, relieves the prescription drug manufacturer from liability to the ultimate consumer if it provides an adequate warning about the drug to the prescribing physician.”) (internal citations omitted).</li> <li>• <i>Larkin v. Pfizer, Inc.</i>, 153 S.W.3d 758, 765, 770 (Ky. 2004) (“[P]roviding an adequate warning to the prescribing physician relieves the manufacturer of its duty to warn the patient regardless of how or if the physician warns the patient.”); <i>id.</i> (“[W]e now adopt <i>Restatement (Third) of Torts: Products Liability</i> § 6(d) (duty to warn of possible side effects satisfied if adequate warning given to patient’s health care provider . . . ).”).</li> </ul>
Louisiana	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Stahl v. Novartis Pharms. Corp.</i>, 283 F.3d 254, 265 (5th Cir. 2002) (“Louisiana applies the ‘learned intermediary doctrine’ to products liability claims involving prescription drugs.”).</li> <li>• <i>Kampmann v. Mason</i>, 921 So. 2d 1093, 1094 (La. Ct. App. 2006) (“In an inadequate warning claim against a drug manufacturer, a</li> </ul>

		<p>plaintiff must show that the manufacturer failed to warn the physician of a potential risk of taking the drug and, second that this failure to warn the doctor was the proximate cause of his injury.”).</p> <ul style="list-style-type: none"> <li>• <i>Calhoun v. Hoffmann-La Roche, Inc.</i>, 768 So. 2d 57, 61 (La. Ct. App. 2000) (“The manufacturer has no duty to warn the consumer directly of any risks or contraindications associated with the drug. The manufacturer of the drug has fulfilled its obligation when it has informed the prescribing and treating physicians of the risks of harm from the drug so that they may intelligently decide on its use and advise the patient.”) (quoting <i>Cobb v. Syntex Labs., Inc.</i>, 444 So. 2d 203, 205 (La. Ct. App. 1983)).</li> </ul>
Maine	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Doe v. Solvay Pharms., Inc.</i>, 153 F. App’x 1, 2 (1st Cir. 2005) (“We also reject Doe’s contention that the court should not have applied the learned intermediary rule to her defective warning claim. This court already has decided that Maine courts would adopt that rule.”).</li> <li>• <i>Tardy v. Eli Lilly &amp; Co.</i>, No. CV-03-538, 2004 WL 1925536, at *2 (Me. Super. Ct. Aug. 3, 2004) (holding that the learned intermediary doctrine shields pharmacists from liability for failure to warn and noting that “[i]f the doctor is properly warned [by the manufacturer] of the possibility of a side effect in some patients, and is advised [by the manufacturer] of the symptoms normally accompanying the side effect, there is an excellent chance that injury to the patient can</li> </ul>

		<p>be avoided.”) (quotation omitted).</p> <ul style="list-style-type: none"> <li>• <i>Violette v. Smith &amp; Nephew Dyonics, Inc.</i>, 62 F.3d 8, 13 (1st Cir. 1995) (applying Maine law) (“[T]he general rule regarding medical devices (and, more frequently and by analogy, prescription drugs) is that the manufacturer must warn the physician—the so-called ‘learned intermediary’—and not the patient directly.”).</li> </ul>
Maryland	State courts	<ul style="list-style-type: none"> <li>• <i>Rite Aid Corp. v. Levy-Gray</i>, 894 A.2d 563, 631 (Md. 2006) (“The obligation of a manufacturer to warn about risks attendant to the use of drugs and medical devices that may be sold only pursuant to a health-care provider’s prescription traditionally has required warnings directed to health-care providers and not to patients. The rationale supporting this ‘learned intermediary’ rule is that only health-care professionals are in a position to understand the significance of the risks involved and to assess the relative advantages and disadvantages of a given form of prescription-based therapy. The duty then devolves on the health-care provider to supply to the patient such information as is deemed appropriate under the circumstances so that the patient can make an informed choice as to therapy.”) (quoting <i>Restatement (Third) of Torts: Products Liability</i> § 6 cmt. b).</li> <li>• <i>Nolan v. Dillon</i>, 276 A.2d 36, 40 (Md. 1971) (holding, without specifically addressing whether the learned intermediary doctrine applied, that “[manufacturer’s] package insert and the label on the 50 milligram concentration fully discharged its duty to</li> </ul>

		warn”).
Massachusetts	State courts	<ul style="list-style-type: none"> <li>• <i>Cottam v. CVS Pharmacy</i>, 764 N.E.2d 814, 821 (Mass. 2002) (“This court has already recognized the learned intermediary doctrine in the context of prescription drug manufacturers. Because the physician is the appropriate person to perform the duty of warning a patient of the possible side effects of prescription drugs, we now extend [the learned intermediary doctrine] to pharmacies.”) (internal citation omitted).</li> </ul>
Michigan	State courts	<ul style="list-style-type: none"> <li>• <i>Smith v. E.R. Squibb &amp; Sons, Inc.</i>, 273 N.W. 2d 476, 479 (Mich. 1979) (“A manufacturer of a prescription drug has a legal duty to warn the medical profession, not the patient, of any risks inherent in the use of the drug which the manufacturer knows or should know to exist.”).</li> </ul>
Minnesota	State courts	<ul style="list-style-type: none"> <li>• <i>Mulder v. Parke Davis &amp; Co.</i>, 181 N.W.2d 882, 885 n.1 (Minn. 1970) (“The manufacturer has no duty to warn the lay public regarding prescription drugs.”) (citations omitted).</li> </ul>
Mississippi	State statute and courts	<ul style="list-style-type: none"> <li>• Miss. Code Ann. § 11-1-63(c)(ii) (“An adequate product warning or instruction is one that a reasonably prudent person in the same or similar circumstances would have provided with respect to the danger and that communicates sufficient information on the dangers and safe use of the product, taking into account the characteristics of, and the ordinary knowledge common to an ordinary consumer who purchases the product; or in the case of a prescription drug, medical device or other product that is intended to be</li> </ul>

		<p>used only under the supervision of a physician or other licensed professional person, taking into account the characteristics of, and the ordinary knowledge common to, a physician or other licensed professional who prescribes the drug, device or other product.”).</p> <ul style="list-style-type: none"> <li>• <i>Janssen Pharmaceutica, Inc. v. Bailey</i>, 878 So. 2d 31, 58 (Miss. 2004) (“When the product in question is a prescription drug, Mississippi follows the learned intermediary doctrine. Under this doctrine, the manufacturer’s failure to warn the patient of the product’s risks does not render the product defective or unreasonably dangerous so long as the manufacturer adequately warns the learned intermediary.”).</li> <li>• <i>Moore v. Memorial Hosp. of Gulfport</i>, 825 So.2d 658, 664 (Miss. 2002) (“We affirm the circuit court’s findings and extend the learned intermediary doctrine to pharmacists. As one court has stated, the cornerstone of the learned intermediary doctrine is the ability of the physician to intervene between the drug and the patient, and to make an informed decision as to the course of treatment based on the physician’s knowledge of the drug as well as the propensities of the patient. The physician is best situated to know the propensities of a drug and to know the needs and characteristics of his patient.”) (internal citations and quotation marks omitted).</li> <li>• <i>Bennett v. Madakasira</i>, 821 So.2d 794, 804 (Miss. 2002) (“Under Mississippi law, <i>as in virtually every jurisdiction in a prescription drug case</i>, a manufacturer of a prescription drug has no duty to warn the patient, consumer, or general public of adverse</li> </ul>
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		<p>effects. Under the learned intermediary doctrine, manufacturers do have a duty, however, to adequately warn the treating physician.”) (emphasis added) (citing <i>Wyeth Labs., Inc. v. Fortenberry</i>, 530 So.2d 688, 691 (Miss. 1988)).</p>
Missouri	State courts	<ul style="list-style-type: none"> <li>• <i>Krug v. Sterling Drug, Inc.</i>, 416 S.W.2d 143, 151-52 (Mo. 1967) (“[I]n this case we are dealing with a prescription drug rather than a normal consumer item. In such a case the purchaser’s doctor is a learned intermediary between the purchaser and the manufacturer. If the doctor is properly warned of the possibility of a side effect in some patients, and is advised of the symptoms normally accompanying the side effect, there is an excellent chance that injury to the patient can be avoided.”) (internal quotation marks omitted)</li> <li>• <i>Doe v. Alpha Therapeutic Corp.</i>, 3 S.W.3d 404, 419 (Mo. Ct. App. 1999) (“Missouri courts adhere to the learned intermediary doctrine.”).</li> </ul>
Montana	State courts	<ul style="list-style-type: none"> <li>• <i>Hill v. Squibb &amp; Sons, E.R.</i>, 592 P.2d 1383, 1387-88 (Mont. 1979) (“As a general rule, the duty of a drug manufacturer to warn of the dangers inherent in a prescription drug is satisfied if adequate warning is given to the physician who prescribes it.”).</li> </ul>
Nebraska	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Tyler v. Bristol-Meyer Squibb</i>, 8:10CV107, 2010 U.S. Dist. LEXIS 40268, at *3 (D. Neb. Apr. 23, 2010) (“To determine whether a manufacturer may be liable for a warning or a defect in a prescription drug case, Nebraska uses the learned intermediary doctrine . . .”).</li> </ul>

		<ul style="list-style-type: none"> <li>• <i>Freeman v. Hoffmann-La Roche Inc.</i>, 618 N.W.2d 827, 841-42 (Neb. 2000) (“Pharmaceutical products have historically been treated differently in regard to a duty to warn. . . . [I]n cases involving prescription drugs, it is widely held that the duty to warn extends only to members of the medical profession and not to the consumer. This concept, known as the learned intermediary doctrine, is based upon the premise that, as a medical expert, a patient’s prescribing or treating physician is in the best position to evaluate the often complex information provided by the manufacturer concerning the risks and benefits of its drug or product and to make an individualized medical judgment, based on the patient’s particular needs and susceptibilities, as to whether the patient should use the product. . . . We adopt § 6(d) of the <i>Third Restatement</i>.”) (internal quotation marks omitted).</li> </ul>
Nevada	State courts	<ul style="list-style-type: none"> <li>• <i>Kerns v. Hoppe</i>, No. 55615, 2012 Nev. Unpub. LEXIS 425, at *20 (Nev. Mar. 21, 2012) (“Moreover, in <i>Klasch v. Walgreen Co.</i>, this court adopted the learned-intermediary doctrine . . . . It is up to the doctor who has knowledge of the patient’s particular situation to convey any relevant safety information to that patient.”) (internal citation omitted).</li> <li>• <i>Klasch v. Walgreen Co.</i>, 264 P.3d 1155, 1159 (Nev. 2011) (“Because we believe that these public-policy considerations are sound, we adopt the learned-intermediary doctrine in the context of pharmacist/customer tort litigation.”).</li> </ul>

New Hampshire	Federal courts	<ul style="list-style-type: none"> <li>• <i>Brochu v. Ortho Pharm. Corp.</i>, 642 F.2d 652, 656 (1st Cir. 1981) (“In cases involving ethical drugs, the manufacturer must warn the physician, not the patient.”).</li> <li>• <i>Nelson v. Dalkon Shield Claimants Trust</i>, No. 84-276-SD, 1994 WL 255392, at *4 (D.N.H. June 8, 1994) (“[I]t is generally accepted that in a case involving medical products prescribed or used by a physician or trained medical personnel, the warning runs to the physician not the patient.” (quoting <i>Knowlton v. Deseret Med., Inc.</i>, 930 F.2d 116, 120 n.2 (1st Cir. 1991))).</li> </ul>
New Jersey	State courts	<ul style="list-style-type: none"> <li>• <i>Perez v. Wyeth Labs., Inc.</i>, 734 A.2d 1245, 1257 (N.J. 1999) (“In New Jersey, as elsewhere, we accept the proposition that a pharmaceutical manufacturer generally discharges its duty to warn the ultimate users of prescription drugs by supplying physicians with information about the drug’s dangerous propensities.”) (quoting <i>Niemiera v. Schneider</i>, 555 A.2d 1112, 1117 (N.J. 1989)).</li> </ul>
New Mexico	State courts	<ul style="list-style-type: none"> <li>• <i>Serna v. Roche Labs., Div. of Hoffmann-La Roche, Inc.</i>, 684 P.2d 1187, 1189 (N.M. Ct. App. 1984) (“Where the product is a prescription drug, the manufacturer’s duty to warn is fulfilled if it warns the physician, not the patient.”)</li> <li>• <i>Silva v. Smithkline Beecham Corp.</i>, No. 31,276, 2013 N.M. App. Unpub. LEXIS 46 (N.M. Ct. App. Feb. 7, 2013) (assuming applicability of learned intermediary doctrine in rejecting innovator liability).</li> </ul>
New York	State	<ul style="list-style-type: none"> <li>• <i>Martin v. Hacker</i>, 628 <u>N.E.2d</u> 1308, 1311</li> </ul>

	courts	<p>(N.Y. 1993) (“Warnings for prescription drugs are intended for the physician, whose duty it is to balance the risks against the benefits of various drugs and treatments and to prescribe them and supervise their effects. The physician acts as an ‘informed intermediary’ between the manufacturer and the patient; and, thus, the manufacturer’s duty to caution against a drug’s side effects is fulfilled by giving adequate warning through the prescribing physician, not directly to the patient.”) (internal citations omitted).</p> <ul style="list-style-type: none"> <li>• <i>Spensieri v. Lasky</i>, 723 N.E.2d 544, 549 (N.Y. 1999) (“The learned intermediary doctrine focuses on the scope of a drug manufacturer’s duty to warn of the dangers of using the drug in question. That duty is fulfilled by giving adequate warning to the prescribing physician. The physician must then balance the risks and benefits of various drugs and treatments and act as an ‘informed intermediary’ between manufacturer and patient.”) (internal citations omitted).</li> </ul>
North Carolina	Federal courts, State statute and courts	<ul style="list-style-type: none"> <li>• N.C. Gen. Stat. Ann. § 99B-5(c) (“[N]o manufacturer or seller of a prescription drug shall be liable in a products liability action for failing to provide a warning or instruction directly to a consumer if an adequate warning or instruction has been provided to the physician or other legally authorized person who prescribes or dispenses that prescription drug for the claimant unless the United States Food and Drug Administration requires such direct consumer warning or instruction to accompany the product.”).</li> <li>• <i>Foyle v. Lederle Labs.</i>, 674 F. Supp. 530, 536 (E.D.N.C. 1987) (holding that “when</li> </ul>

		<p>prescription drugs are used, the manufacturer’s duty to warn does not extend to the patient” because “[t]he doctor is responsible for gathering the information, weighing the dangers and benefits, and making a decision in the best interest of the patient”).</p> <ul style="list-style-type: none"> <li>• <i>Holley v. Burroughs Welcome Co.</i>, 330 S.E.2d 228, 235 (N.C. Ct. App. 1985) (holding that “a pharmaceutical company [is] required to provide adequate warnings regarding its products to [those members of] the ‘medical profession’” who are “responsible for the patient’s care”) (quoting <i>Whitley v. Cubberly</i>, 210 S.E.2d 289, 292 (N.C. Ct. App. 1974)).</li> </ul>
North Dakota	Federal courts	<ul style="list-style-type: none"> <li>• <i>Ehlis v. Shire Richwood, Inc.</i>, 367 F.3d 1013, 1016 (8th Cir. 2004) (“[P]rescribing physicians act as ‘learned intermediaries’ between a manufacturer and consumer and, therefore, stand in the best position to evaluate a patient’s needs and assess risks and benefits of a particular course of treatment.”) (quotation marks omitted).</li> </ul>
Ohio	State statute and courts	<ul style="list-style-type: none"> <li>• Ohio Rev. Code Ann. § 2307.76(C) (“An ethical drug is not defective due to inadequate warning or instruction if its manufacturer provides otherwise adequate warning and instruction to the physician or other legally authorized person who prescribes or dispenses that ethical drug for a claimant in question and if the federal food and drug administration has not provided that warning or instruction relative to that ethical drug is to be given directly to the ultimate user of it.”).</li> <li>• <i>Howland v. Purdue Pharma, L.P.</i>, 821 N.E.2d</li> </ul>

		<p>141, 146 (Ohio 2004) (“The [] learned-intermediary doctrine has been adopted and applied by this court. . . . The doctrine is an exception to the rule that a manufacturer has a duty to warn the ultimate consumer. It precludes manufacturer liability for failure to warn the consumer when an adequate warning has been given to a ‘learned intermediary,’ e.g., the consumer’s physician.”) (citing <i>Seley v. G.D. Searle &amp; Co.</i>, 423 N.E.2d 831, 834, 836-37 (Ohio 1981)).</p> <ul style="list-style-type: none"> <li>• <i>Vaccariello v. Smith &amp; Nephew Richards, Inc.</i>, 763 N.E.2d 160, 164 (Ohio 2002) (“[T]he rationale behind [the learned intermediary doctrine] is that the physician stands between the manufacturer and the patient as a learned intermediary. The physician has the duty to know the patient’s condition as well as the qualities and characteristics of the drugs or products to be prescribed for the patient’s use. The physician is in the best position, therefore, to balance the needs of patients against the risks and benefits of a particular drug or therapy, and then supervise its use. . . . The learned intermediary doctrine achieves a proper allocation of responsibility, since not all patients are alike and it is the physician who best knows the patient.”) (quoting <i>Tracy v. Merrell Dow Pharm., Inc.</i>, 569 N.E.2d 875, 878 (Ohio 1991) (omission in original)).</li> </ul>
Oklahoma	State courts	<ul style="list-style-type: none"> <li>• <i>Edwards v. Basel Pharm.</i>, 933 P.2d 298, 300 (Okla. 1997) (“The [learned intermediary] doctrine operates as an exception to the manufacturer’s duty to warn the ultimate consumer, and shields manufacturers of prescription drugs from liability if the manufacturer adequately warns the</li> </ul>

		<p>prescribing physicians of the dangers of the drug.”).</p> <ul style="list-style-type: none"> <li>• <i>McKee v. Moore</i>, 648 P.2d 21, 24 (Okla. 1982) (“In the absence of FDA regulations to the contrary, the manufacturer has no obligation to warn a consumer if the prescribing physician has been adequately warned of any adverse side effects. The manufacturer’s duty is to warn the physician, who acts as a learned intermediary between the manufacturer and the consumer, because he is in the best position to evaluate the patient’s needs, assess the benefits and risks of a particular therapy, and to supervise its use.”).</li> <li>• <i>Tansy v. Dacomed Corp.</i>, 890 P.2d 881, 886 (Okla. 1982) (noting that “Oklahoma has adopted the learned intermediary doctrine,” which “permits a manufacturer to warn the physician, rather than the ultimate consumer, of the problems associated with the product.”).</li> <li>• <i>Cunningham v. Charles Pfizer &amp; Co.</i>, 532 P.2d 1377, 1381 (Okla. 1974) (“As a general rule it has been held that in cases involving prescription drugs the drug manufacturer has only a duty to warn the prescribing physician.”).</li> </ul>
Oregon	State courts	<ul style="list-style-type: none"> <li>• <i>McEwen v. Ortho Pharm. Corp.</i>, 528 P.2d 522, 528-29 (Or. 1974) (stating, in a case where the plaintiff’s “sole theory of recovery” was “the alleged failure of defendants to adequately warn the medical profession” and where the plaintiff thus did not assert that the manufacturer had a duty to warn her directly,</li> </ul>

		<p>that “the duty of the ethical drug manufacturer is to warn the doctor, rather than the patient”).</p> <ul style="list-style-type: none"> <li>• <i>Oksenholt v. Lederle Labs.</i>, 625 P.2d 1357, 1362 (Or. Ct. App. 1981) (stating, in a case where a physician sued a manufacturer for misrepresenting the risks of a drug that he prescribed, that “[a] drug manufacturer’s duty, as described in <i>McEwen</i>, is a duty to adequately inform doctors of the harm associated with prescription drugs”).</li> <li>• <i>Griffith v. Blatt</i>, 51 P.3d 1256, 1261-62 (Or. 2002) (holding that Or. Rev. Stat. § 30.920 “does not create a defense to strict liability based on the learned intermediary doctrine,” in a case where a pharmacist placed in a generically labeled bottle a lotion that could be used no more than twice and had to be washed off within 12 hours, and the plaintiff suffered severe injury as a result).</li> </ul>
Pennsylvania	State courts	<ul style="list-style-type: none"> <li>• <i>Coyle ex rel. Coyle v. Richardson-Merrell, Inc.</i>, 584 A.2d 1383, 1385 (Pa. 1991) (“[W]hen a drug ‘is available only upon prescription of a duly licensed physician, the warning required is not to the general public or to the patient, but to the prescribing doctor.’ . . . We formulated this rule with reference to comment k and the policies expressed therein.”) (quoting <i>Incollingo v. Ewing</i>, 282 A.2d 206, 220 (Pa. 1971)).</li> <li>• <i>Balding v. Castagna</i>, 478 A.2d 807, 812 (Pa. 1984) (citing <i>Incollingo</i>, and stating that “we held that where such drugs are available by prescription only, ‘the warning required is not to the general public or to the patient, but to the prescribing doctor.’”).</li> </ul>



Puerto Rico	Federal courts	<ul style="list-style-type: none"> <li>• <i>Guevara v. Dorsey Labs.</i>, 845 F.2d 364, 366 (1st Cir. 1988) (“It is generally accepted, and the parties do not contest, that a prescription drug manufacturer has a duty to adequately warn prescribing physicians of hazards posed by the use of its drugs. The warning is directed not to the ultimate user but to the doctor prescribing the drug, who must then take into account the propensities of the drug and the susceptibilities of the patient and make an informed decision regarding the advisability of its use.”) (internal citations and quotation marks omitted).</li> </ul>
Rhode Island	Federal courts	<ul style="list-style-type: none"> <li>• <i>Greaves v. Eli Lilly &amp; Co.</i>, 503 F. App’x 70, 71 (2d Cir. 2012) (“[T]he Rhode Island Supreme Court would likely adopt the learned intermediary doctrine. . .”).</li> </ul>
South Carolina	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Odom v. G.D. Searle &amp; Co.</i>, 979 F.2d 1001, 1003 (4th Cir. 1992) (“Under [the learned intermediary doctrine], the manufacturer’s duty to warn extends only to the prescribing physician, who then assumes responsibility for advising the individual patient of risks associated with the drug or device.”).</li> <li>• <i>Madison v. Am. Home Prods. Corp.</i>, 595 S.E.2d 493, 496 (S.C. 2004) (“[S]trict liability is inconsistent with the learned intermediary doctrine, which places the duty to warn on the prescribing physicians . . .”).</li> </ul>
South Dakota	Federal courts	<ul style="list-style-type: none"> <li>• <i>McElhaney v. Eli Lilly &amp; Co.</i>, 575 F. Supp. 228, 231 (D.S.D. 1983) (“In cases involving prescription drugs ‘the manufacturer must warn the physician, not the patient.’ The prescribing physician acts as a learned intermediary between the patient and manufacturer.”) (quoting <i>Brochu v. Ortho</i></li> </ul>

		<p><i>Pharm. Corp.</i>, 642 F.2d 652, 656 (1st Cir. 1981)).</p> <ul style="list-style-type: none"> <li>• <i>Schilf v. Eli Lilly &amp; Co.</i>, 687 F.3d 947, 952 (Gruender, J., concurring in part, dissenting in part) (8th Cir. 2012) (“South Dakota likely would adopt the learned intermediary doctrine and the heeding presumption . . .”).</li> </ul>
Tennessee	State courts	<ul style="list-style-type: none"> <li>• <i>Nye v. Bayer Cropscience, Inc.</i>, No. E2008-01596-COA-R3-CV, 2009 Tenn. App. LEXIS 697, at *33 (Tenn. App. Oct. 14, 2009) (“The learned intermediary doctrine is well established in Tennessee in relation to product liability claims against manufacturers and distributors of prescription drugs and medical devices.”).</li> <li>• <i>Pittman v. Upjohn Co.</i>, 890 S.W.2d 425, 429 (Tenn. 1994) (“Under the ‘learned intermediary doctrine,’ makers of unavoidably unsafe products who have a duty to give warnings may reasonably rely on intermediaries to transmit their warnings and instructions. Physicians are such intermediaries because of the pivotal role they play in the unique system used to distribute prescription drugs. . . . [T]he manufacturer of an unavoidably unsafe prescription drug can discharge its duty to warn by providing the physician with adequate warnings of the risks associated with the use of its drug.”) (internal citations omitted).</li> </ul>
Texas	State courts	<ul style="list-style-type: none"> <li>• <i>Centocor, Inc. v. Hamilton</i>, 372 S.W.3d 140, 157 (Tex. 2012) (“We hold that a prescription drug manufacturer fulfills its duty to warn end users of its product’s risks by providing adequate warnings to the intermediaries who prescribe the drug and, once fulfilled, it has</li> </ul>

		<p>no further duty to warn the end users directly”).</p> <ul style="list-style-type: none"> <li>• <i>Wyeth-Ayerst Labs. Co. v. Medrano</i>, 28 S.W.3d 87, 91 (Tex. App. - Texarkana 2000) (“In prescription drug cases, the courts have found that it is reasonable for the manufacturer to rely on the health care provider to pass on its warnings. This is reasonable because the learned intermediary understands the propensities and dangers involved in the use of a given drug, and as the prescriber, he stands between this drug and the ultimate consumer.”).</li> </ul>
Utah	State courts	<ul style="list-style-type: none"> <li>• <i>Schaerrer v. Stewart’s Plaza Pharmacy, Inc.</i>, 79 P.3d 922, 928 (Utah 2003) (holding that “[u]nder [the learned intermediary doctrine], manufacturers of prescription drugs have a duty to warn only the physician prescribing the drug, not the end user or patient,” and thus pharmacist had no duty to warn patient about prescription medication’s risks).</li> <li>• <i>Barson v. E.R. Squibb &amp; Sons, Inc.</i>, 682 P.2d 832, 835 (Utah 1984) (“The manufacturer of ethical drugs has the duty of making timely and adequate warnings to the medical profession of any dangerous side effects produced by its drugs of which it knows or has reason to know.”).</li> </ul>
Vermont	State courts	<ul style="list-style-type: none"> <li>• <i>Estate of Baker v. Univ. of Vt.</i>, No. 233-10-03, 2005 Vt. Super. LEXIS 102, at *26 (Vt. Super. May 5, 2005) (“While apparently never explicitly treated by our Supreme Court, we consider the so-called ‘learned intermediary doctrine’ adopted in a majority of jurisdictions to be of significant dispositive</li> </ul>

		<p>effect in determining the present claims. The learned intermediary doctrine, first recognized in 1966, initially stood for the proposition that a prescription drug manufacturer had a duty to warn of possible side effects in some patients only to a purchasing doctor, the learned intermediary between the manufacturer and patient, and not directly to the patient.”).</p>
Virginia	State courts	<ul style="list-style-type: none"> <li>• <i>Pfizer, Inc. v. Jones</i>, 272 S.E.2d 43, 44 (Va. 1980) (“[I]n the case of prescription drugs, it is the general rule that the duty of the drug manufacturer is to warn the physician who prescribes the drug in question.”) (internal quotation marks omitted).</li> </ul>
Washington	State courts	<ul style="list-style-type: none"> <li>• <i>Wash. State Physicians Ins. Exch. &amp; Ass’n v. Fisons Corp.</i>, 858 P.2d 1054, 1061 (Wash. 1993) (“Under the learned intermediary doctrine, a drug company fulfills its duty by giving warnings regarding prescription drugs to the physician rather than to the patient.”).</li> <li>• <i>Rogers v. Miles Labs., Inc.</i>, 802 P.2d 1346, 1353 (Wash. 1991) (“In <i>Terhune v. A.H. Robins Co.</i>, 90 Wash.2d 9, 577 P.2d 975 (1978), we said that ‘it has become a well-established rule that in [cases involving prescription drugs], the duty of the manufacturer to warn of dangers involved in use of a product is satisfied if he gives adequate warning to the physician who prescribes it.’”)</li> <li>• <i>McKee v. Am. Home Prods. Corp.</i>, 782 P.2d 1045, 1149 (Wash. 1989) (“This court has addressed a closely related issue—the manufacturer’s duty to warn. Adopting the ‘learned intermediary’ doctrine, we held in</li> </ul>

		<p><i>Terhune v. A.H. Robins Co.</i>, 90 Wash.2d 9, 577 P.2d 975 (1978) that a prescription drug manufacturer's duty to warn of dangers associated with its product runs only to the physician; it is the physician's duty to warn the ultimate consumer.”)</p> <ul style="list-style-type: none"> <li>• <i>Terhune v. A.H. Robins Co.</i>, 577 P.2d 975, 978 (Wash. 1978) (“Where a product is available only on prescription or through the services of a physician, the physician acts as a ‘learned intermediary’ between the manufacturer or seller and the patient. It is his duty to inform himself of the qualities and characteristics of those products which he prescribes for or administers to or uses on his patients, and to exercise an independent judgment, taking into account his knowledge of the patient as well as the product. The patient is expected to and, it can be presumed, does place primary reliance upon that judgment. The physician decides what facts should be told to the patient. Thus, if the product is properly labeled and carries the necessary instructions and warnings to fully apprise the physician of the proper procedures for use and the dangers involved, the manufacturer may reasonably assume that the physician will exercise the informed judgment thereby gained in conjunction with his own independent learning, in the best interest of the patient.”) (internal footnote omitted).</li> </ul>
Wisconsin	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Monson v. Acromed Corp.</i>, No. 96-C-1336, 1999 WL 1133273, at *20 (E.D. Wis. May 12, 1999) (manufacturer had no duty to warn plaintiff because “[t]he general rule regarding medical devices is that the manufacturer must warn the physician — the so-called ‘learned</li> </ul>

		<p>intermediary’ — and not the patient directly”).</p> <ul style="list-style-type: none"> <li>• <i>Stupak v. Hoffman-La Roche, Inc.</i>, No. 8:05-CV-926T30TBM, 2007 WL 2350561, at *2 (M.D. Fla. Aug. 17, 2007), <i>aff’d</i> 326 Fed. App’x. 553 (11th Cir. 2009) (applying Wisconsin law and holding that “in the case of prescription drugs, the provision of proper warnings to a physician will satisfy the manufacturer’s duty to warn since the patient cannot obtain the drug but through the physician”) (internal quotation marks omitted).</li> <li>• <i>Menges v. Depuy Motech, Inc.</i>, 61 F. Supp. 2d 817, 830 (N.D. Ind. 1999) (stating, in a case governed by Wisconsin law, that “under the learned intermediary doctrine, manufacturers of prescription medical products have a duty only to warn physicians, rather than patients, of the risks associated with the use of the product”).</li> <li>• <i>Kurer v. Parke, Davis &amp; Co.</i>, 679 N.W.2d 867, 879 (Wis. Ct. App. 2004) (“We reject Kurer’s assertion . . . that ‘Warner-Lambert asks the Court to immunize it from any liability . . . because it allegedly provided adequate warnings to [her] prescribing physician, Dr. Lalich.’ That is not what Warner-Lamber has asked, and that is not what this court has done. If the patient insert in this case had said nothing about the very symptoms Kurer suffered, and instead simply placed all the warnings in her doctor’s hands, this could have been a very different case.”).</li> <li>• <i>But see Maynard v. Abbott Labs</i>, No. 12-C-0939, 2013 WL 695817, at *5 (E.D. Wis. Feb.</li> </ul>
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		26, 2013) (asserting, without citation or explanation, and without reference to prior precedent to the contrary, that “Wisconsin does not apply the learned intermediary doctrine”).
Wyoming	Federal and State courts	<ul style="list-style-type: none"> <li>• <i>Thom v. Bristol-Myers Squibb Co.</i>, 353 F.3d 848, 851-52 (10th Cir. 2003) (following <i>Jacobs v. Dista Prods. Co.</i>, 693 F. Supp. 1029, 1030-31 (D. Wyo. 1988), and holding that the learned intermediary doctrine applies under Wyoming law because it “derives from § 402A of the <i>Restatement (Second) of Torts</i>, which the Wyoming Supreme Court has adopted in its entirety.”) (internal citation omitted).</li> <li>• <i>Rohde v. Smiths Med.</i>, 165 P.3d 433, 436 n.5 (Wyo. 2007) (“The ‘learned intermediary’ principle generally states that a manufacturer has a duty to adequately warn medical professionals about risks associated with use of healthcare products. So long as it complies with that obligation, the manufacturer may rely on medical professionals, as learned intermediaries, to properly warn their patients of the risks.”).</li> </ul>