



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
PRESCRIPTION DRUG MONITORING PROGRAM

Lori A. Shibinette
Commissioner

Patricia M. Tilley
Director

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4501 1-800-852-3345 Ext. 4501
Fax: 603-271-6827 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

Approved

PRESCRIPTION DRUG MONITORING PROGRAM ADVISORY COUNCIL
PUBLIC MEETING MINUTES

The June 20, 2022, meeting of the PDMP Advisory Council (the “AC” or “Council”) convened at 3:02 p.m. at the Department of Health and Human Services, 29 Hazen Drive, Concord, New Hampshire as well as via ZOOM with the following members present and eligible to vote:

Council Members in Attendance:

Chairman David Strang, MD, NH Medical Society
Stephen Crawford, DVM, NH Board of Veterinary Medicine
Sarah Garland, DVM, NH Veterinary Medical Association
Gene Harkless, APRN, NH Board of Nursing (BON)
Nicole Harrington, RPH, Commissioner, NH Board of Pharmacy (BOP)
Gary Merchant, NH House of Representatives
Bradley Osgood, NH Police Chiefs’ Association
Tom Ploszaj, NH House of Representatives (via Zoom)
Michael Viggiano, RPH, NH State Pharmacy Associations
Kelly Whelan, MD, NH Dental Society
Thomas Worboys, NH Attorney General’s Office

Council Members Absent:

Tonya Carlton, RPH, Wentworth Douglas Hospital
Robert Giuda, NH Senate
Joseph Harding, NH Department of Health and Human Services
Jay Patel, DDS, NH Board of Dental Examiners
Annika Stanley-Smith, Governor’s Commission on Alcohol & Other Drugs
VACANT, NH APRN Society
VACANT, Governor’s Commission on Alcohol & Other Drugs (public)
VACANT, NH Board of Medicine (BOM)

Staff in Attendance:

Michael Holt, DHHS Administrator
Shawn Jackson, Program Administrator, NH PDMP
Joanie Foss, Administrative Assistant, NH PDMP
Mark Cioffi, Program Analyst, NH PDMP
Leslie Pond, Auditor, NH PDMP

Others in Attendance:

Haley Alder, Bamboo Health (via Zoom)

*The Department of Health and Human Services’ Mission is to join communities and families
in providing opportunities for citizens to achieve health and independence.*

Kathy Bizarro-Thunberg, NH Hospital Association (via Zoom)
Jacob Cooper, Bamboo Health (via Zoom)

I. Welcome – Introductions

II. Review of December 13, 2021, January 18, 2022, and March 21, 2022 Meeting Minutes

- N. Harrington made a motion to accept the December 13, 2021 meeting minutes. S. Crawford seconded. The Council voted unanimously to approve these minutes. G. Merchant, S. Crawford, T. Ploszaj, and K. Whelan abstained.
- G. Harkless made a motion to accept the January 18, 2022 meeting minutes. T. Worboys seconded. The Council voted unanimously to approve these minutes. G. Merchant, S. Crawford, and T. Ploszaj abstained.
- M. Viggiano made a motion to accept the March 21, 2022 meeting minutes. N. Harrington seconded. The Council voted unanimously to approve these minutes. G. Merchant, S. Crawford, and T. Ploszaj abstained.

S. Crawford asked about term limits. D. Strang responded there is now a 5-year term limit per legislation passed in 2019. He stated a chart containing members' term start/end dates exists and will be provided to the AC members at the next quarterly meeting.

M. Holt mentioned that the Program does not have everyone's appointment letters. These letters would help DHHS to be able to verify those term start/end dates. Those Council members who have not sent in their appointment letter were asked to do so.

G. Merchant requested the list of members and their term limits be added to the Program website.

III. New Business

1) NarxCare - Review and Approval of Features (M. Holt, DHHS Administrator)

M. Holt explained that the PDMP started a new contract with Bamboo Health effective January 1, 2022. One of the new enhancements is NarxCare which is an updated platform for patient reports. The PDMP is looking for input from the Council before NarxCare is launched. H. Alder and J. Cooper from Bamboo Health presented the new module. H. Alder shared a screenshot of a NarxCare report and gave a brief overview of the major sections. She explained that "Narx Scores" is meant to raise a discussion, not make a decision. The score alone can't be used to determine appropriateness or misuse. This report is not meant to replace or supersede clinical judgement, it is merely a tool in a provider's toolbox. J. Cooper continued the presentation by reviewing each of the NarxCare tiles, beginning with Narx Scores. Narx Scores provides a narcotic, sedative, and stimulant score, and is based on the number of providers, pharmacies, milligram equivalents (ME), and overlapping prescriptions. Using those primary factors, a score is generated based on how much of an outlier that patient is compared to other patients within the PDMP. Around 75% of patients' scores are under 200. J. Cooper went on to explain the "Overdose Risk Score." It is a relative scoring system that ranges from 000-990. It is also a predictive score for unintentional overdose death and often correlates with Narx Scores. When differences exist, it is often because of different weighting associated with those elements that contribute to overdose risk. The Overdose Risk Score is currently based on PDMP data. As additional data becomes available, this score will be revised with the goal of providing comprehensive risk assessment. After a quick overview of the other tiles, J. Cooper asked for questions from the Council. Some included: What is NarxCare's timeline view? – two years; Can providers be aggregated by facility? – No; What are Overdose Risk Scores based on? – patient outcomes; Is there a liability issue for the prescriber/dispenser?

– NarxCare is a common tool in many states and this data is already available even without NarxCare. G. Merchant asked if this (liability question) could be presented to any professional liability companies to alleviate any concerns? It was stated that everything in the PDMP is role-based so it would be an easy fix to limit access to law enforcement or investigators. It was decided to address this topic offline.

M. Holt stated that the PDMP is interested in launching NarxCare soon and if there are elements that the Council is uncomfortable with, then those elements can be left off for further assessment. It was decided that NarxCare would initially be released without the Overdose Risk Score. J. Cooper will provide S. Jackson with a list of the other states that are using NarxCare so he can discuss with them how their states are handling Overdose Risk Score issues. This info will be presented at the next Council meeting. D. Strang requested H. Alder and J. Cooper be in attendance at that meeting.

2) Rules Committee – Explain Need and Propose Formation (M. Holt, DHHS Administrator and D. Strang, AC Chair)

M. Holt explained that since the NH PDMP moved to DHHS, the rule making authority has changed. The rules that are currently on the books are old, NH BOP rules. These rules should have been re-adopted when the hosting agency of the program transferred from the NH BOP to OPLC. It is now DHHS's responsibility to redo these rules. M. Holt asked the Council for an ad hoc Rules Sub-committee to be formed so that (primarily) licensing board members could advise on certain rule making matters and policy decisions. M. Holt stressed we really need input from the licensing boards, particularly the NH BOM. D. Strang said he agreed as this board licenses the vast majority of prescribers in the State. After Dr. Ballard declined his appointment earlier this year, he has already reached out (again) to the NH BOM about a representative to the Council and is waiting to hear back. In the interim, D. Strang, M. Viggiano, G. Harkless, and N. Harrington volunteered for this sub-committee.

3) Legislation Committee - Explain Need and Propose Formation (M. Holt, DHHS Administrator and D. Strang, AC Chair)

M. Holt explained that when the PDMP was transferred via HB2 from OPLC to DHHS, there was a change in the law under the confidentiality section that now invokes a specific HIPAA standard with respect to the release of aggregated, de-identified data. He stated this restriction has never been in the NH PDMP statutory language before and asked if anyone knew where this came from. D. Strang stated that this language was drafted by Sen. Cindy Rosenwald because of privacy concerns and the known desire of DHHS to use PDMP data for research. Prior to the implementation of HB2 on July 1, 2021, the PDMP could release aggregated, de-identified data by county or other State, geographical boundaries. Now this data cannot be released unless it complies with the Safe Harbor standard of HIPAA. S. Jackson explained what the Safe Harbor standard is. This HIPAA standard only allows de-identification of aggregated data down to either the full State level or the first 3 digits of the zip code (aka "Zip-3"), as long as the Zip-3 area does not create a group of less than 20,000 persons. There are only about 17 Zip-3 areas in the United States with less than 20,000 persons and one of them is in NH. Additionally, the Zip-3 areas do not line up with any of our State counties. M. Holt stated the PDMP would like the Council to consider a legislative change to remove the reference to the HIPAA Safe Harbor standard and allow either aggregating de-identified data by county or employ what's called the "expert determination method," which would allow DHHS to use an in-house expert to decide whether it could drill down on data "to be in line with other state agencies." Currently the Privacy Officer within the DHHS Legal Dept. is Kathy Bernhart. M. Holt stated the Program would like feedback from the Council on this issue. D. Strang, G. Merchant, M. Viggiano, and T. Ploszaj volunteered to be on a committee

to address the legislation issues. D. Strang urged M. Holt to speak with Sen. Rosenwald to see where the standard came from, as she was the primary drafter of this part of HB2. Sept. 6-14 is the filing period for House sponsored legislation.

4) ASAP Standards Committee – Explain Need and Propose Formation (M. Holt, DHHS Administrator and M. Viggiano, NHPA)

M. Holt explained that the PDMP is in the process of adopting the most recent ASAP standards (4.2B). The program is looking for Council input on the ASAP standards as to what portion should be situational/required/not required. Once SB289 passes (likely), “transmission type” will be a required field. We have the ability to accept the ASAP standards as a whole, but we can also make changes based on State law, State rules and policies. S. Jackson spoke about DSP24 (“treatment type”). Treatment type (if an opioid is prescribed) is one of the fields that is currently situational that could be a required field. ASAP standards have a number of delineators that are within that particular field. The new ASAP standards are recommending a change from a situational field to a required field. If it is an opioid then it becomes required. If it is not an opioid and it is not filled in, then it will become an upload/transmission error. We can adopt what ASAP has recommended except where NH State law conflicts. M. Holt asked if anyone is interested in being on a committee to address this. D. Strang, N. Harrington, and M. Viggiano volunteered to be on this committee.

5) Email Encryption

D. Strang brought up the recent pattern of DHHS encrypting all emails, making access to routine, public documents very difficult. He asked that before encrypting, all emails and attached documents be checked for triggers that might make an email need encryption. Otherwise, these communications should be sent without this additional security measure.

IV. Old Business

1) DEA Lawsuit Update (D. Strang, AC Chair)

D. Strang gave a brief overview of the DEA lawsuit for the new Council members. After losing their appeal to the 3-member First Circuit Court of Appeals panel, the AG’s office asked for an en banc review with the entire First Circuit Court. This was denied so they are planning on appealing the decision on this case to the Supreme Court of the United States. D. Strang asked Attorney Galdieri from the AG’s office when we may hear anything about the appeal and his expectation was in the fall. In the meantime, the NH PDMP was given a stay which means data does not have to be turned over, pending the response from the Supreme Court.

2) Advisory Council Member Orientation Packet – Review and Approval (D. Strang, AC Chair; Joe Harding, DHHS; M. Viggiano, NHPA)

D. Strang reintroduced the revised Council orientation packet from the Sub-Committee of himself, J. Harding and M. Viggiano. He asked if there was further input from the Council before approval. S. Crawford suggested changing “improve healthcare” to “improve public health and safety”. This suggested change was welcomed and M. Viggiano motioned to accept the document with this recommended change. S. Crawford seconded. All in favor.

3) E-Prescribing – Report on NH BOP Action (N. Harrington, NH BOP)

At the March AC meeting, D. Strang reported that Chris Senko from the NH BOM had informed him that she had received complaints that pharmacies were refusing to fill paper prescriptions for controlled substances. Some prescribers have a waiver on e-prescribing but there is no way for a pharmacy to know this. At that March meeting, N. Harrington volunteered to report this to the NH BOP and ask about reminding pharmacies that the mandatory date for

implementation is January 2023 and that it is illegal to turn away a valid prescription, even in written form. She wrote a proposed letter for the NH BOP summarizing RSA 318:47-c that reflects the language that is in the statute. She focused on the regulation containing the specific language under section III (b), but the Board rejected her letter. She also stated the Board asked her to go back and pull language from the statute on filling prescriptions, specifically controlled substance prescriptions, to include a more balanced picture. This will provide more context to the pharmacist, by articulating what specifically the statute says and not an interpretation of the statute. G. Merchant asked that when the respective Boards issue a waiver, that a copy goes to the NH BOP or gets posted somewhere so that the pharmacist can go to a website and confirm they have a waiver. G. Harkless stated that most all the NH BON waivers are listed in their Board meeting minutes. G. Merchant stated that a provider can get a waiver from their state licensing board, but they cannot get a waiver from CMS.

4) Baseline Trends in Prescriber's Reports by Specialty (M. Cioffi, NH PDMP)

M. Cioffi explained this is a work in progress. This will be kept on the agenda as old business for the next meeting.

5) Annual Report Update (M. Holt, DHHS Administrator)

M. Holt stated the Annual Report is being presented at the Legislature's HHS Oversight Committee meeting this Friday, June 24th.

6) Medical Examiner's Study (M. Cioffi, NH PDMP)

M. Cioffi explained that this study has been closed and there will be no further activity.

7) NH BOM Report Requests (J. Foss, NH PDMP)

D. Strang stated that at the Jan. NH BOM meeting, several Board members asked if they could receive regular reports from the NH PDMP. J. Foss stated that the NH PDMP has made the offer to provide regular reports to the NH BOM in the past, but there were no requests made. D. Strang is waiting to hear from the NH BOM as to what type of information they would like to receive and their preferred frequency.

V. Next Meeting Date

September 19, 2022

VI. Adjournment

The meeting was adjourned at 5:21 p.m.