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

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Approved

PRESCRIPTION DRUG MONITORING PROGRAM ADVISORY COUNCIL
PUBLIC MEETING MINUTES

The September 19, 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
Tonya Carlton, RPH, NH Hospital Association
Stephen Crawford, DVM, NH Board of Veterinary Medicine
Sarah Garland, DVM, NH Veterinary Medical Association
Joseph Harding, NH Department of Health and Human Services
Gene Harkless, APRN, NH Board of Nursing (BON)
Gary Merchant, NH House of Representatives
Kelly Whelan, MD, NH Dental Society
Thomas Worboys, NH Attorney General’s Office

Council Members Absent:

Robert Giuda, NH Senate
Nicole Harrington, RPH, Commissioner, NH Board of Pharmacy (BOP)
Bradley Osgood, NH Police Chiefs’ Association
Jay Patel, DDS, NH Board of Dental Examiners
Tom Ploszaj, NH House of Representatives
Annika Stanley-Smith, Governor’s Commission on Alcohol & Other Drugs
Michael Viggiano, RPH, NH State Pharmacy Associations
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
Kathy Bizarro-Thunberg, NH Hospital Association
Margaret Clifford, Pharmacy Director for NH Medicaid (via Zoom)
Jacob Cooper, Bamboo Health
Lise Farrand, Division of Medicaid Services (via Zoom)
Kim Mohan, Executive Director, NHNPA
Elizabeth Sargent, Sheehan Phinney Capitol Group (via Zoom)

I. Welcome – Introductions

II. Review of June 20, 2022 Meeting Minutes

S. Crawford made a motion to accept the June 20, 2022 meeting minutes with one minor edit (change NH Dept. of Veterinary Medicine to NH Board of Veterinary Medicine). Rep. Merchant seconded. The Council voted unanimously to approve these minutes. T. Carlton and J. Harding abstained as they were not present for the June 20, 2022 meeting.

III. Old Business

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

M. Cioffi stated that there are seventy specialties that prescribers can choose from when registering for the PDMP. There are three levels in these specialties which creates a challenge to aggregate them. M. Cioffi explained that he has been unable to make significant progress in identifying a baseline by specialty at this time. He will target the largest specialties and present a baseline on them at the December meeting.

2) Update on e-Prescribing and the NH BOP (N. Harrington, NH BOP)

As N. Harrington was not in attendance, this agenda item will be carried over to the December 19, 2022 meeting.

A discussion arose about communications around pain contracts. M. Holt explained that Aware has been enhanced with a new functionality called NarxCare. When a patient query is run, the provider is getting the NarxCare view. The NarxCare view contains the communications module which gives the provider the ability to view any communications from any provider that patient has seen. This tool also gives the querying provider the ability to communicate with a particular provider that the patient has seen. The communications module is an appropriate place to note a patient is under a pain contract. D. Strang suggested that the licensing boards communicate with their licensees that, at least once a year, if they have a patient under a pain contract, they should note that in the PDMP. This gives providers and dispensers who query a patient, the knowledge needed for treatment/dispensation.

3) Overdose Risk Scores in NarxCare – Liability Issue (S. Jackson, NH PDMP)

S. Jackson explained that he and M. Holt attended a recent regional meeting and had a chance to speak with other states and territories about the liability issue of the Overdose Risk Scores in NarxCare. A unanimous response was that any liability is on the practitioner. S. Jackson read New Jersey’s disclaimer which ends with “Healthcare professionals are encouraged to utilize their clinical expertise not relative scoring systems

to influence their treatment decisions and provide optimal patient care.” That being said, providers should not make a clinical decision based on a single indicator regardless of the transparency of that clinical indicator. As far as liability is concerned the regional PDMP group overwhelmingly said that that is something between the provider and their liability insurer. There are 34 states utilizing NarxCare Overdose Risk Scores and none of them have been sued. M. Holt stated that NH has drafted a disclaimer as well and this information is in the User Guide, hover text, etc., stating that these scores should not be used as a singular decision point. Att. Worboys stated he felt the risk is on the prescriber. With this additional information, Chmn. Strang asked the A.C. if they wanted to reconsider their recommendation from the June meeting not to turn on the Overdose Risk Score. J. Harding made a motion that the Council advise the PDMP to turn on the Overdose Risk Score in the PDMP system. T. Carlton seconded. The Council voted unanimously yes to do so.

4) Program Updates: (S. Jackson & M. Holt, NH PDMP)

a. Reverification Update

S. Jackson explained that reverification is an algorithm that checks data points between the licensing boards, Bamboo Health and the DEA. Reverification reports are received daily and contain disparities between those three data points. The PDMP administration is working on cleaning up many of the disparities on the reverification list before deactivation is turned on. When DHHS began hosting the PDMP last year, the disparities numbered in the thousands. Any provider on the reverification list received an email in September informing them to go into their account and check their profile for accuracy. A second, similar email will be sent out soon to those who have not addressed this necessary housekeeping function. If needed, deactivation will be done in a series of steps beginning in October.

b. Gateway Integration Update

H. Alder shared a PowerPoint presentation with the following updates:

User registration – There are currently 11,877 prescribers, 6296 prescriber delegates, 3464 dispensers and 126 dispenser delegates registered with the NH PDMP.

Interstate data sharing - NH is currently connected with 16 PDMP’s through PMP Interconnect including Military Health System.

Gateway Integration – We are working with 205 facilities as of August 2022. There were 883,862 Gateway requests from NH providers, and there have been over two million requests made to the NH PDMP system in August alone. H. Alder went on to showcase the 2022 successes which included: Implemented Gateway integration and implemented NarxCare. We will be implementing the Controlled Substance Reporting Waiver in November and Reverification/Deactivation will be happening in October. Looking ahead for next year, the NH PDMP will be transitioning to ASAP 4.2B and will also be working on mandatory use compliance with providers.

5) Legislative Sub-Committee (D. Strang & S. Jackson)

S. Jackson stated that part of what the Legislative Sub-committee was tasked with looking into was what the Dept. would like to put forth as far as legislative changes. This is still in the works through the DHHS Commissioner’s office. The Sub-committee is looking for guidance from the AG’s office about a legislative language change, changing “Program Administrator’s responsibility” to “the Department’s responsibility” which would imply that the Department has possession of the data when in fact the program within the

Department has possession of the data. This agenda item will be brought back to the December 19, 2022 meeting.

6) Rules Sub-Committee (D. Strang & S. Jackson)

S. Jackson explained that the Rules Sub-committee is working on how to formalize a referral to the regulatory boards and is looking to the Council's clinical expertise as to what should be referred. S. Jackson will reach out to the committee members to set up another meeting.

7) ASAP Standards Sub-Committee (D. Strang & S. Jackson)

S. Jackson explained that the PDMP is in the process of adopting the most recent ASAP standards (4.2B). There are three fields that are in question. S. Jackson spoke about DSP12 ("transmission type") of the prescription and explained that now with e-prescribing being mandatory, this field is now required. The other issue was requiring identification for when picking up a prescription, S. Jackson found that the NH BOP amended their rule to require identification at the time of pick up for a controlled substance, so that question was answered through rule making by the NH BOP. Further discussion is needed with the NH BOP because they want the identification type documented in the patient's record. The PDMP's intention with the roll out of ASAP (4.2B), is to maintain the recommended setting by the ASAP standard, except for those cases where it is required by NH law. K. Bizarro-Thunberg recommended that the Council meet with the NH BOP rule-making committee.

8) Membership

D. Strang will be attending the October 5 NH BOM meeting to stress the fact that the NH BOM licenses the largest number of prescribers in the state, so they have a tremendous stake in what happens with the Council. D. Strang will also ask the NH BOM what type of regular PDMP data reports they want. S. Jackson thanked Kim Mohan for attending today's meeting. K. Mohan stated that there are a number of interested parties for the vacant NH APRN Society position. S. Crawford stated that his Council membership will be ending this year due to term limits and the Board of Veterinary Medicine has not found a replacement because of how small it is. Due to their small size, the five-year term limit has become an issue. M. Holt stated that it doesn't need to be a five year commitment as a member can resign at any time. G. Harkless stated she may not be at the next Council meeting because of a clerical problem with her reappointment.

IV. New Business

Rep. Merchant submitted a request to OLS for an LSR to better define the role of the Council. Specifically, his LSR states "the department, with the advice and consent of the advisory council established under RSA 126-A:96 shall adopt rules." He stated the intent of his LSR is so that when making rules, whatever is being recommended will come back to the Council for review and DHHS will seek the Council's consent before bringing any rules recommendations to JLCAR. Rep. Merchant sent this LSR to the Council members via email and asked for comments/concerns by Friday, September 23. K. Bizzaro-Thunberg asked if there has been a problem in the past with the Council not being able to provide feedback to the Department therefore requiring such legislation. Rep. Merchant stated that he has heard this a couple of times, including at an Advisory Council meeting earlier this year, that DHHS does not need the approval of the Council (when it comes to rulemaking), which was concerning to him. M. Holt stated that it is currently a charge of the Advisory Council to make recommendations to the Department relative to PDMP rulemaking. He stated that no other "advisory" entity in the

state has veto authority over any executive branch agency's rulemaking authority, and that this would be a precedent-setting change to what he considers are settled conventions of an advisory entity's functions and authority. He offered his concerns and suggested that the Department could consider supporting strengthening the process of rulemaking to require the Department to consult or collaborate with the Council on rulemaking, though he feels this is already current practice. D. Strang stated that this topic needs further discussion and asked Rep. Merchant if it would still work within the legislative calendar if the Council were to revisit this at their December 19, 2022 meeting. Rep. Merchant stated he would still put the LSR in to get the process started but would bring this back to the December meeting. Att. Worboys offered that the only reason to consider such legislation would be if there had been some instance where the Department did not seek the advice of the Advisory Council with regard to rulemaking. Att. Worboys asked if there had been any such instance, and no one present could offer such a case. Rep. Merchant stated once again his concerns about hearing that "the Department does not need the Advisory Council's approval" to take rulemaking action. J. Harding made a motion to see if the Council thinks this legislation change has sufficient merit for consideration. Rep. Merchant seconded. D. Strang conducted a non-roll call vote and the results were: 4 in favor; 2 not in favor; and 3 abstaining. M. Holt agreed to set up a meeting between DHHS Attorney John Williams, Rep. Merchant and himself to review the proposed language.

V. Next Meeting Date/Time

December 19, 2022, 3:00 p.m.

VI. Adjournment

The meeting was adjourned at 5:28 p.m.