

**NH PDMP Advisory Council Meeting
December 19, 2016
OPLC/NH Board of Pharmacy**

Meeting Minutes

Advisory Council Members Present:

David Strang, MD, Chair, NH Medical Society (NHMS)
Charles Albee, DMD, NH Board of Dental Examiners
David DePiero, NH Hospital Association (NHHA)
Kate Frey, New Futures
Joseph Harding, NH Dept. of Health and Human Services (DHHS)
Eric Hirschfeld, D.D.S, NH Dental Society (via phone)
Gary Merchant, NH Board of Pharmacy (via Phone)
Denise Nies, Executive Director, NH Board of Nursing (BON)
Melissa St. Cyr, NH Attorney General's Office
Jonathan Stewart, Community Health Institute (CHI)
David Stowe, DVM, NH Board of Veterinary Medicine
Michael Viggiano, RPh, State Pharmacy Associations
John Wheeler, MD, Board of Medicine (BOM)

Advisory Council Members Absent:

Richard Crate, NH Police Chiefs' Association

Also Attending:

Michelle Ricco Jonas, Manager, NH PDMP
Joanie Foss, Admin Assistant, NH PDMP
Kathy Bizarro-Thunberg, NH Hospital Association (NHHA)
Jim Giglio, TTAC (via phone)
Patrick Knue, TTAC (via phone)
Joseph Shoemaker, Medical Board Director (OPLC)
Abbott Willard, Institute of Health Policy & Practice (IHPP), UNH

The meeting began at 3:13 pm

- **Introductions**
- **Review & Approve Minutes**
 - September 19, 2016 – Motion to accept by C. Albee. Second by D. DePiero. Comments: C. Albee stated it would be helpful to get the minutes in a more timely manner. All in favor without amendment.
 - October 17, 2016 – Motion to accept by C. Albee. Second by D. Nies. All in favor.
 - November 14, 2016 – Motion to accept by D. DePiero. Second by D. Stowe. All in favor (J. Hirschfeld abstaining).
- **Sub Committee Reports**
 - **Implementation**

a. General Update (M. Ricco Jonas):

Interstate Operability

Reviewed Nov. 2016 data – see handout

Registration

Reviewed Oct. & Nov. 2106 registration data – see handout

Revised Waiver

M. Ricco Jonas explained the revision that included the legislative exemptions (mostly used by hospitals). Some discussion regarding edits took place. Suggestions for changes were provided, however it was explained that there have been no concerns with the form with the exception that pharmacies did not know what to provide for substantiating documentation.

- **PDMP Rules (M. Ricco Jonas):**

Atty. B. Lamberti is working on a fiscal impact statement as a result of the new PDMP rules. Once received, the Board can begin thinking of having a public hearing and taking comments.

- **Evaluation: (J. Stewart):**

Abbott Willard from the Institute of Health Policy and Practice (IHPP) at UNH was introduced to the Advisory Council. Mr. Willard is becoming familiar with the database and assisted with the data that was presented in the Annual Report.

- **Old Business**

The issue of accessing the PDMP data of the parents of pediatric patients (raised at the Sept. 2016 meeting) will be discussed at another time given the fullness of today's agenda.

- **New Business**

- a) **Data Compliance Plan**

A draft worksheet of the plan was handed out and reviewed briefly. M. Ricco Jonas asked the Advisory Council to review this prior to a discussion at a later date, to solicit feedback.

- b) **Legislation and Rule Clarification – Discussion**

Four items were reviewed with the Advisory Council to elicit input, as to whether there was a need for clarity (i.e. legal review) or possibly a change in legislative language and/or rule on some elements of the PDMP (see handout). Questions reviewed included:

1. Can a pharmacist performing medication reconciliation, query the PDMP for patient admission and/or discharge planning?

YES, because of the statutory definition of a practitioner (which includes pharmacists) and the access that a practitioner has to the database.

2. Can an urgent care center, that is actually a separate department of a hospital that does not dispense, fall under the legislative exemption to report (like the hospital) or must they file for a waiver?

Send to legal counsel for review.

3. The requirement of "zero reporting" of controlled substances was discussed, particularly in light of the new requirement to submit data on the next business day. This particularly affects veterinarians who may only occasionally dispense a controlled substance and pharmacies who do not dispense controlled substances at all.

We will refer this to the BOP to ask if this can be fixed within the structure of their rules.

4. Can a provider put a copy of a patient's PDMP record in their medical chart?

Much discussion regarding this topic took place. D. Strang stated that providers would be referencing (sometimes with great detail) in a medical record what was contained in the PDMP in order to substantiate a diagnosis and create a treatment plan. If there truly is a legal reason why the PDMP printout cannot be placed in the patient's chart, then

how could providers reference what was contained in this report, without violating this ruling? Additionally, how could providers comply with the licensing boards' mandate to review the PDMP, if they cannot mention anything that is contained therein? Earlier this year, the BOP issued a letter stating that providers could not place a copy of the PDMP record within a patient's chart. If this belief is upheld by the AG's office, then this could create tremendous chaos vis-à-vis the licensing boards' mandate to review the PDMP data.

We will ask legal counsel (Atty. T. Broderick) to review. D. Strang to discuss with him.

a. Veterinarian LSR – Discussion

HB1423 (passed earlier this year) requires that veterinarians query both the patient (pet) and the legal owner. Many veterinarians are objecting to this double mandate and consequently, an LSR has been filed that may remove veterinarians from involvement in the PDMP altogether.

D. Stowe, D. Strang & M. Ricco Jonas discussed this issue last week, to review the pros/cons of veterinarians' participation in the PDMP and how this legislation might affect their practice and New Hampshire's opiate epidemic.

D. Stowe – There could many people involved in bringing a pet in for services, as well as managers overseeing the animal (e.g. the manager of a stable). Looking up the owner would, in those cases, not provide the veterinarian with any useful information

M. Viggiano – Phenobarbital and Tramadol are the controlled substances most commonly dispensed for animals. Most recipient are “regulars.” Thus far, he is not seeing a lot of diversion involving animals.

D. Stowe - There is difference between chronic and acute dispensing.

M. Viggiano - Veterinarians should look up their patients (the pets), but the human associated with the animal is too much of a moving target.

D. Strang – Perhaps we should look for a way to record the person who is picking up the prescription, not who the legal owner is. If there is diversion involving an animal, the person picking up the prescription is more likely to be the diverter (and may not be the owner).

P. Knue and J. Giglio (TTAC) were asked if other states record who picks up the Rx. They replied that ten states require the ID of the person picking up the Rx, which is then recorded in the PDMP. ASAP 4.2 (pharmacy software) provides a place to record the person on the Rx (owner), the person picking up the Rx, and the person paying for the Rx. Three of these 10 states are HID clients.

It was agreed that we should wait to see the wording in the LSR before forming an opinion. This should be available by the Jan. meeting.

There was a general consensus that veterinarians should be required to query the PDMP data for the patient (as human prescribers are required), but checking the PDMP data of the owner should be optional.

b. Non-Public Session

Motion at app. 5:25 p.m. by J. Harding to move to a non-public session.

• Items of Interest

The 21st Century Cures Act was briefly discussed.

- **Next Meeting:**

Date/Time: January 9, 2017; 3:00 p.m.

Note: This is the 2nd Monday of the month due to the State holiday on 1/16/17

Location: Office of Professional Licensure and Certification

Adjournment:

Motion at 5:40 pm by M. Viggiano. Second by C. Albee.

All in favor.

Respectfully submitted,

A handwritten signature in black ink that reads "David E. Strang MD". The signature is written in a cursive style with a large, sweeping initial 'D'.

David E. Strang, MD
Chairman