SJR 20: Prescription-Drug Abuse

State Prescription Drug Monitoring Program Practices

Prepared by Sue O'Connell, Research Analyst
for the Children, Families, Health, and Human Services Interim Committee
January 2013

<u>Background</u>

All states except Missouri have created prescription drug monitoring programs that collect information on prescription drugs dispensed in their states. However, the programs vary in scope. Requirements differ on elements ranging from how frequently pharmacies must report data to whether physicians and others who prescribe drugs must check the registry before writing prescriptions and the types of prescription information that must be reported.

As more states began creating prescription drug registries and national attention focused on prescription drug abuse in recent years, the Prescription Drug Monitoring Program Center of Excellence at Brandeis University was established in 2010. The center provides information, evaluation and expertise to state monitoring programs and their stakeholders. In April 2012,the center released a study of best practices for prescription drug monitoring programs.

This briefing paper summarizes the best practices advocated by the PDMP Center of Excellence and compares selected elements of state prescription drug registry laws.

<u>Suggested Best Practices</u>

The PDMP Center of Excellence reviewed research, case studies and documents developed by experts in the field to come up with eight recommended "best practices" for state prescription drug monitoring programs. The Bureau of Justice Assistance in the U.S. Department of Justice has used those standards when reviewing applications for grants to plan for, establish and enhance state programs. The best practices are outlined below, along with information about whether the practice is in place in Montana.

- **Unsolicited Reporting**: The center supports the practice of alerting health care providers when their patients meet certain criteria for "questionable activity." For example, a doctor would receive a report — without asking — for a patient who obtained a prescription for the same drug from multiple prescribers in a specified period of time. The alert would encourage the doctor to use the prescription drug registry to review the patient's prescription history. Similar reports on prescribers could be provided to professional licensing boards or peer review groups. Thirty state programs allowed for unsolicited reports in 2011, but only 16 states were making the reports. *Montana law and related administrative rules allow the Board of Pharmacy to provide unsolicited reports, but the board doesn't yet do so. The Montana Prescription Drug Registry must be enhanced before the reports can be generated.*

- **Interstate Data Sharing**: Because so-called "doctor shopping" and diversion of drugs may cross state lines, the center suggests that states share their registry data to better identify potentially illegal or fraudulent activities. The Alliance of States with Prescription Drug Monitoring Programs has developed a national software architecture to allow state prescription drug monitoring programs to "talk" with each other. Interstate sharing of data requires states to establish a regulatory framework to allow for the sharing, as well as to use uniform standards in entering and transmitting data. *Montana law and administrative rule allow interstate data sharing but the registry is not yet capable of doing so. Enhancing the system to allow data sharing is a top priority.*

- **Data Use for Research and Public Health Activities**: The center encourages states to allow public health officials and other researchers to use registry data to identify trends related to opioid use, such as areas of high use or prescribing. The center suggests that state programs partner with government agencies, universities and research organizations to allow for such use of the data. *Montana law and administrative rules allow public and private groups to access data for research, policy or education reasons, as long as the data does not contain individual identifying information.*

- **Include All Controlled Substances**: Drugs, substances and certain chemicals are "scheduled" by the federal government and the state according to their potential medical benefit and their risk of misuse or abuse. Schedule I drugs cannot be prescribed or dispensed and include drugs such as heroin, LSD and marijuana. Drugs in Schedule II through Schedule V are regulated by the federal and state governments. The center says that because all of the drugs could be abused, collecting data for all scheduled prescription drugs would allow prescribers and pharmacists to make better clinical decisions. *Montana law requires the reporting of information for all drugs in Schedules II through V.*

- **Use Most Recent ASAP Standard**: The American Society for Automation in Pharmacy (ASAP) sets standards for pharmacy data fields and formats, including those used for prescription drug monitoring programs. The center says that using the most recent ASAP standards would increase the effectiveness of state programs by making it easier to share data among states and to analyze multi-state data. *The Board of Pharmacy has adopted administrative rules requiring the use of the ASAP 4.1 standard, which was adopted in 2009 and is not the most recent standard.*

- **Expand Access to Program Data**: State laws vary widely on the individuals and organizations that can obtain information from prescription drug registries. The center suggests that states allow access to "all legitimate users," including law enforcement agencies, medical examiners, drug treatment programs, criminal justice diversion programs, drug courts, state licensing boards, medical peer review committees, researchers, state Medicaid agencies and workers' compensation boards. *In addition to prescribers and pharmacists, Montana law allows registry access to: state health care licensing boards that regulate individuals allowed to prescribe, administer or dispense drugs; county coroners and federal, state, tribal, or local law enforcement officers who have obtained investigative subpoenas; the Department of Public Health and Human Services for reviewing and enforcing public health, Medicaid or Medicare laws; or a prescription drug registry in another state. De-identified data also may be released for educational, research or public information purposes.*

- **Data Confidentiality**: Because registry data contains personal health information, the center recommends that states protect confidentiality and security of the data — particularly if they expand access to additional users. *Montana law makes the registry information subject to federal and state privacy laws, as well as the individual privacy provisions of the Montana Constitution. Violators may be sanctioned by their licensing boards and also may be fined up to $10,000 per violation.*

- **Education and Outreach**: The center suggests that states use both broad-based and targeted efforts to make medical providers, licensing boards and investigative agencies aware of their monitoring programs and of the value of the information the programs contain. *Montana has active, ongoing education efforts. State law also created an advisory group that, among other things, makes recommendations on design and implementation of educational courses.*

Comparison of Selected Elements of State Laws

The table below provides more details on how states carry out selected elements of their monitoring programs. Bold-faced type indicates where Montana stands in the various categories.

General Element	Specifics of Element	# of States	States
Frequency of Data Collection	At time prescription is dispensed ("Real Time")	2	NY, OK
	Daily	6	DE, KS, KY, MN, ND, WV
	Every three days	2	MD, NC
	Weekly	31	AL, AR, AZ, CA, CT, GA, FL, HI, ID, IA, IL, IN, LA, **MT**, MS, MA, ME, NV, NH, NM, OH, OR, SD, TN, TX, UT, VA, VT, WA, WI, WY
	Twice a month	3	CO, MI, NJ
	Monthly	4	AK, PA, RI, SC
Entities Required to Report	In-state pharmacies	49	**All**
	Out-of-state pharmacies	44	**All** except CA, HI, NE, PA, and TX
	Veterinarians	19	AK, AL, AR, AZ, CA, CT, IL, IN, LA, MI, MS, NH, NY, ND, OK, SC, TN, WA, WV
Authorized Recipients Other Than Prescribers	Coroners, medical examiners, or state toxicologists	21	AR, DE, IN, KS, KY, MD, ME, MN, MS, **MT**, NC, ND, NM, NY, OR, TN, VA, VT, WA, WV, WI
	Designated agents of prescribers	28	AL, DE, ID, IA, IN, KS, KY, LA, MD, ME, MA, MN, **MT**, NC, ND, NM, NY, OH, OR, SD, TN, TX, UT, VA, VT, WA, WV, WI
	Law enforcement*	48	**All** except NE
	Probation and parole	2	WA and WI
	Judicial and prosecutorial officials	36	All except AK, AL, CT, ME, MD, MN, **MT**, NE, NH, OR, RI, VT, WY
	Licensing boards	47	**All** except NE and PA
	Patients, parents or guardians	37	**All** except AL, CA, CT, HI, IN, MI, NE, NJ, OK, PA, TX, WV

General Element	Specifics of Element	# of States	States
Use of Registry	Prescribers and dispensers required to register*	12	AL, AZ, CT, DE, KY, ME, MA, MS, NM, TN, UT, VT
	Prescribers or dispensers required to use registry in certain instances	15	CO, KY, LA, MA, MN, NM, NY, NV, NC, OH, OK, RI, TN, WV, VT
Unsolicited Reporting Allowed	To prescribers and pharmacists	5	AL, AR, CT, ME, **MT**
	To prescribers, pharmacists, law enforcement	4	CA, HI, OK, UT
	To prescribers, pharmacists, licensing boards	2	WA and VT
	To prescribers, pharmacists, licensing boards, and law enforcement	20	AK, AZ, DE, FL, ID, IN, KS, LA, MA, MS, NM, NY, NV, ND, RI, SC, SD, TX, WI, WY
	To law enforcement and licensing boards only	3	NJ, OH, WV
	To prescribers only	2	IL, MI
	To prescribers and law enforcement only	1	VA
	Licensing boards only	2	KY, TN
	Practitioners and licensing boards only	1	NH
	To law enforcement only	2	NC, PA
	No unsolicited reporting	7	CO, GA, IA, MD, MN, NE, OR

Source: National Association of State Model Drug Laws

* States have established different thresholds for law enforcement access to registry information. **Montana** requires officers to obtain an investigative subpoena before obtaining registry data.
** The states listed here require all prescribers to sign up to use the database. Most states make use of the database voluntary and require a prescriber to register only if they want to access the data.