

# Governor's Task Force on Prescription Drug and Heroin Abuse

## Data and Monitoring Workgroup

### Meeting Eight, Minutes (DRAFT)

July 28, 2015

#### Members/Staff Present:

Co-Chair: Carol Forster, M.D., Mid-Atlantic Permanente Medical Group

Co-Chair: Katya Herndon, Chief Deputy Director, Department of Forensic Science

Staff: Ralph Orr, Director, Virginia Prescription Monitoring Program

Baron Blakley, Research Analyst, Department of Criminal Justice Services

Greg Cherundolo, ASAC, Richmond DEA-US DOJ

Delegate Charniele Herring, Virginia House of Delegates

Brian Heatt, Sheriff, Tazewell County

Rosie Hobron, MPH, Statewide Forensic Epidemiologist, VDH-OCME

Lt. Colonel Rick Jenkins, Director, BCI, Virginia State Police

Marty Mooradian, Impacted Family Member

Lisa Miller, DVM

David Trump, M.D., Chief Deputy Commissioner, Virginia Department of Health (representing Dr. Marissa Levine)

Deborah Waite, Operations Manager, Virginia Health Information

#### Members Absent:

Timothy Coyne, Public Defender

Marissa Levine, M.D., State Health Commissioner

Rusty Maney, RPh, Richmond District Pharmacy Supervisor, Walgreens

David Sarrett, DMD, MS, Dean, VCU School of Dentistry

Amanda Wahnich, MPH, Enhanced Surveillance Analyst, VDH

Anne Zehner, MPH, Epidemiologist, VDH

#### Meeting Agenda

Welcome and Introductions

Review Minutes from April 29, 2015 meeting

Review of Task Force Action on Workgroup Recommendations

Discussion:

Discuss outstanding recommendation adopted by Task Force at May 2015 meeting: expand mandatory PMP requests to include the initial prescribing of an opiate or benzodiazepine and periodic reports thereafter, not to exceed 90 days, with limited exemptions

Discuss outstanding recommendation deferred by Task Force at May 2015 meeting: authorize "unsolicited" reports on outlier prescribing and dispensing to be sent to law enforcement and licensing boards

**Workgroup mission:** To advance solutions to share and integrate data among relevant licensing boards, state and local agencies, law enforcement, courts, health care providers and organizations, and programs such as the PMP, in order to clarify and address public safety and public health concerns, understand emerging trends, and utilize data-driven decision-making to mitigate harm.

### **Welcome and Introductions**

The meeting was called to order at 10:10 a.m.

### **Review of Minutes from April 29, 2015 Meeting**

Ms. Herndon asked Workgroup members if there were any suggested changes to or comments about the draft minutes from the previous meeting, which had been distributed. Being none, the minutes were approved as presented.

### **Review of Task Force Action on Workgroup Recommendations**

Ms. Herndon provided an update on the status of all Workgroup recommendations referred to the Task Force (see meeting materials). Addressing the now completed recommendation to add the Morphine Equivalent Doses per Day (MEDD) score to PMP reports, Mr. Orr showed the Work Group the notice disseminated to PMP users as well as a sample PMP report explaining that a cumulative score is only displayed if there are active opioid prescriptions. Ms. Herndon reported that recommendations to enhance/change the criteria for unsolicited reports to prescribers on specific patients and to develop prescriber feedback reports are being reviewed by the PMP Advisory Panel. The Workgroup was reminded that the Data Subcommittee would meet after the Workgroup meeting adjourns to determine the initial membership for the Health and Criminal Justice Data Committee, which the Task Force directed it to determine by August 1, 2015.

### **Discuss outstanding recommendation adopted by Task Force at May 2015 meeting: expand mandatory PMP requests to include the initial prescribing of an opiate or benzodiazepine and periodic reports thereafter, not to exceed 90 days, with limited exemptions**

Ms. Herndon explained to the Workgroup that the Task Force accepted this recommendation with the expectation that exemptions to the mandatory request requirement would be developed by the Workgroup. Mr. Orr discussed the current language in the Code requiring mandatory requests to the PMP, as well as model language and sample language from Kentucky and Ohio. Dr. Forster explained that use of the PMP when considering prescribing to treat acute pain is crucial to preventing misuse and abuse. The Workgroup agreed on three situations in which a prescriber or dispenser should be exempt from the requirement to check the PMP before prescribing an opiate or benzodiazepine:

1. The opiate or benzodiazepine is prescribed to a patient currently receiving hospice or palliative care;
2. The opiate or benzodiazepine is prescribed to a patient as part of treatment for a surgical procedure and such prescription is not refillable; and
3. The PMP is not operational or available due to temporary technological or electrical failure or natural disaster.

### **Discuss outstanding recommendation deferred by Task Force at May 2015 meeting: authorize “unsolicited” reports on outlier prescribing and dispensing to be sent to law enforcement and licensing boards**

Prior to discussing unsolicited reports on outlier prescribing and dispensing, Mr. Orr reviewed the current language in the Code authorizing the PMP to send unsolicited reports to prescribers on their

specific patients and to law enforcement on recipients of controlled substance prescriptions who meet or exceed criteria recommended by the PMP Advisory Panel and approved by the Director of the Department of Health Professions. Dr. Forster asked for a description of the criteria currently used by the PMP for unsolicited reports on specific patients and, specifically, whether there are different criteria used for the reports on specific patients sent to prescribers and those sent to law enforcement. Mr. Orr explained that the purpose of sending unsolicited reports on specific patients to prescribers is to encourage an intervention and, in appropriate cases, a referral to pain management, counseling, or substance abuse treatment. The reports to law enforcement, on the other hand, target only the most extreme indicators of doctor shopping so different criteria is used. Mr. Orr provided examples of the criteria used for the unsolicited reports on specific patients sent to prescribers and law enforcement.

To begin the discussion on the recommendation addressing sending unsolicited reports on prescribing and dispensing behavior to regulatory boards and law enforcement, Ms. Herndon asked Dr. Brown, Director of the Department of Health Professions, to share with the Workgroup the concerns about the recommendation that he expressed to the Task Force in May. Dr. Brown explained that the PMP is not a regulatory or law enforcement entity and, therefore, has no authority to decide if a licensee is compliant with law, regulation, or standards of practice. The PMP can, however, provide information to authorized users as provided for in the Code. The PMP cannot be put in the position of reviewing or investigating information from prescribers or dispensers as that authority and responsibility belongs to the regulatory boards and/or law enforcement.

Mr. Orr noted that the PMP already has a mechanism for prescribers to review their prescribing history for the past 90 days and that prescribing summary or feedback reports will serve to notify prescribers of possible needed adjustments to their prescribing habits. The unsolicited reports to law enforcement or regulatory boards contemplated by this recommendation are meant to identify egregious outlier behavior, possibly impacting on public health and safety, which may require investigation. Model language as well as sample language from other states and an excerpt from a report detailing options for unsolicited reporting was provided (see meeting materials).

As initially adopted by the Workgroup, the recommendation had the PMP providing notice to the prescriber or dispenser when certain criteria are met and then, if the outlier prescribing or dispensing continued for a specified period of time, the information may be forwarded by the PMP to law enforcement and/or the appropriate licensing board. After discussion, the Workgroup eliminated the notice component of the recommendation. Instead, the Workgroup recommended that the PMP, through the Director of the Department of Health Professions, be given the authority to send unsolicited reports on egregious outlier prescribing and dispensing behavior to the Enforcement Division of the Department of Health Professions or to law enforcement, based on criteria developed by the PMP Advisory Panel in consultation with applicable licensing boards. This type of unsolicited PMP report would be referred to the Enforcement Division of the Department of Health Professions or law enforcement for investigation as deemed appropriate. An investigation by the Enforcement Division may be referred to a committee of the applicable licensing board.

### **Other**

Mr. Cherundolo announced that DEA will sponsor the 10<sup>th</sup> National Drug Take Back Day on September 26, 2015.

Ms. Herndon pointed out that this would be the last meeting of the Workgroup and thanked the members for the tremendous time and effort they all dedicated to the Workgroup. She also reminded

the Workgroup of the date of the final Task Force meeting in September and encouraged their attendance.

The meeting adjourned at 12:45 p.m.