

Governor's Task Force on Prescription Drug and Heroin Abuse

Data and Monitoring Workgroup

Meeting Seven, Minutes (FINAL)

April 29, 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

Enrique Cancel, Group Supervisor, DEA Diversion Richmond Office (representing Greg Cherundolo)

Timothy Coyne, Public Defender

Delegate Charniele Herring, Virginia House of Delegates

Brian Heatt, Sherriff, Tazewell County

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

Major Rick Jenkins, Deputy Director, BCI, Virginia State Police

Rusty Maney, RPh, Richmond District Pharmacy Supervisor, Walgreens

Marty Mooradian, Impacted Family Member

Lisa Miller, DVM

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

Members Absent:

Greg Cherundolo, ASAC, Richmond DEA-US DOJ

Marissa Levine, M.D., State Health Commissioner,

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

Amanda Wahnich, MPH, Enhanced Surveillance Analyst, VDH

Deborah Waite, Ops Manager, Virginia Health Information

Anne Zehner, MPH, Epidemiologist, VDH

Meeting Agenda

Welcome and Introductions

Review Minutes from April 14, 2015 meeting

Discussion:

- Discuss possible recommendation to support placement of PMP report in the medical or prescription record of the patient
- Discuss outstanding item from December 2014 Task Force meeting: *“expand mandatory requests to include acute treatment”*
- Discuss area of concern from December 2014 Task Force Meeting: *“Send “Unsolicited” reports indicating indiscriminate prescribing or dispensing (i.e. geographic distribution)”*
- Discuss implementation plan for recommendations:

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 14, 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.

Discuss possible recommendation to support placement of PMP report in the medical or prescription record of the patient

Mr. Orr reminded the members that this topic had been brought up at the last meeting as a possible recommendation for the Workgroup to consider. Mr. Orr pointed out that, on page 9 of the agenda packet, there is information that Ohio now makes it clear that prescribers may place reports in the medical record. Mr. Orr indicated that, although the Virginia PMP previously has advised that PMP reports may be placed in the medical record, existing statutory language creates uncertainty and the information is not generally kept in the record. There is precedent for legislation being drafted to clarify existing PMP statutory language. For instance, because healthcare providers did not feel that there was clear authority allowing a healthcare provider to discuss PMP report information to another healthcare provider providing treatment to that patient, legislation was passed to clarify that this type of communication is authorized. Mr. Orr explained that the Workgroup could recommend either a legislative or a regulatory change to clarify that placing the PMP report in the medical record is an acceptable practice to back up notes or comments made based on review of the report. The Workgroup approved a motion to recommend legislative action to amend §54.1-2525 to specify that reports received from the PMP may be placed in the medical record of the patient.

Discuss outstanding item from December 2014 Task Force meeting: “expand mandatory requests to include acute treatment”

The Workgroup continued the discussion on this topic from the last meeting. Mr. Orr advised that, beginning April 1, 2015, Ohio prescribers must request, assess, and document receipt of a history report from the Ohio PMP for every patient before initially prescribing an opioid analgesic or benzodiazepine. Further, the prescriber must request periodic updates at intervals not exceeding 90 days if the prescription is for more than 90 days (pages 8-9 of Agenda Packet). Ohio is just one of 24 states with some form of mandatory use requirement for their PMPs (page 18 of Agenda Packet). A March 25, 2015 Issue Brief from the Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the U.S. Department of Health and Human Services (HHS), which was distributed as part of the meeting materials and discussed by the Workgroup, referenced data showing a positive impact of laws mandating the use of PMPs.

Ms. Hobron pointed out that, in 2013, drug/poison deaths outpaced gun and motor vehicle deaths for the first time (page 11 of Agenda Packet). She also noted that, while the data is not yet complete, it appears that 2014 drug/poison death totals will be higher than 2013.

Mr. Orr pointed out that the current mandatory use language does not cover prescribers working in emergency departments, urgent care centers or dental practices, or any type of prescribing of an opiate for acute pain. There is data that shows that general practitioners, family medicine, and Doctors of Osteopathy were the top prescribers of opioid analgesics in 2012 followed by internal medicine, dentistry, and orthopedic surgery (page 12 of Agenda Packet). Many of these prescribers are likely prescribing to treat acute pain and not chronic pain.

Mr. Orr discussed information showing the percentage of prescribers as registered users with those prescribers at the highest level of prescribing most likely to be registered and those at the lowest level least likely to be registered (page 16 of Agenda Packet). This also applies to the query rate. As a group, those registered prescribers prescribing more than 1000 requests in the quarter queried at a rate of 12.74% while those who prescribed the least queried at a rate of 6.46%. Further review of this data found that, of the 397 registered prescribers writing 1000 or more controlled substance prescriptions in the reviewed quarter, 116 made no requests to the PMP (page 17 of Agenda packet). Mr Orr explained that a preliminary review of the same information for the prescribers in the 500-999 prescribing range showed that 435 of 1075 registered users made no requests.

The Workgroup discussed language used in other state statutes, such as Ohio and New York, which provide exceptions to mandatory use of the PMP. Dr. Forster proposed that some of the exceptions to making requests from the other states be recommended, such as when the PMP is not available, when the prescription period is very short (e.g., 48 -72 hours), and when a drug is prescribed to treat acute pain following surgery. Mr. Orr noted that there are some current exceptions in Virginia, including treatment of pain for patients on dialysis or patients receiving cancer treatment.

The Workgroup approved a motion to recommend legislative action to amend §54.1-2522.1 to expand mandatory requests to include the initial prescribing of an opiate or benzodiazepine and periodic reports thereafter, not to exceed 90 days and to include exceptions from mandatory requesting as described above.

Discuss area of concern from December 2014 Task Force Meeting: “Send “Unsolicited” reports indicating indiscriminate prescribing or dispensing (i.e. geographic distribution)”

Mr. Orr explained that 31 states currently have authority to send unsolicited reports to law enforcement, and 30 states have authority to send unsolicited reports to regulatory entities (page 28 of Agenda Packet). The group discussed several current state initiatives (pages 19-27 of Agenda Packet) that include Prescriber Report Cards (AZ), letters to top prescribers and reports to licensing boards (TN), reports to investigators on possible at-risk prescribers (KY), reports to licensing boards and law enforcement (TX), proactive reporting on risky prescribing and dispensing (NJ), and identifying and contacting at-risk prescribers (NY). Mr. Orr explained that the PMP currently has no authority to provide any information that may indicate indiscriminate prescribing or dispensing to licensing boards or to law enforcement. This includes information where the program may identify a prescriber in another state that is writing numerous prescriptions for Virginia or out-of-state residents that get filled in Virginia pharmacies. It could also be a case where a pharmacy is filling a majority of prescriptions for controlled substances written by prescribers located in another state or hundreds of miles away and the patients do not live in the local area. Dr. Forster recommended that, if such unsolicited reports were to be provided, there should be some notification made to the prescriber or dispenser that provides an opportunity to change prescribing or dispensing behavior prior to the information being given to a licensing board or to law enforcement. Mr. Orr pointed out that the PMP is not a regulatory entity nor does it have any investigative authority so it may be improper to place the PMP in the position of arbiter instead of its current role of providing information to authorized users based on criteria and existing authority.

Mr. Orr explained that the PMP only has current authority to send unsolicited reports on patients meeting or exceeding certain criteria to their specific prescribers (generally exhibiting doctor shopping behavior) and to law enforcement (doctor shopping behavior or forgeries).

The Workgroup approved a motion to recommend legislative action to amend §54.1-2523.1 to authorize Unsolicited Reports on outlier prescribing and dispensing. The PMP will provide notice to prescribers or dispensers when their prescribing or dispensing records meet certain criteria. The Workgroup discussed what entity should set the specified criteria for these unsolicited reports. Mr. Orr noted that, under the Code, the Director of DHP currently has the authority, in consultation with an

advisory panel, to develop criteria for unsolicited reports on specific patients. The Workgroup discussed the fact that the relevant licensing boards (e.g., Board of Medicine, Board of Pharmacy, and Board of Dentistry) may have an interest in providing input on the criteria. Notice will include information regarding the specified criteria and advise that if outlier prescribing or dispensing continues for a certain period of time, information may be forwarded for investigation to law enforcement and/or the appropriate licensing board.

Discuss implementation plan for recommendations

The Workgroup reviewed the updated Task Force Timetable calling for a draft implementation plan based on Workgroup recommendations to be sent for review by May 22, 2015. The Task Force will review Workgroup recommendations at the May 12 meeting and will review and finalize the Implementation Plan at the June 16 meeting. Workgroups may still meet during the summer to review new information, refine recommendations, or make new recommendations based on new information. Mr. Orr displayed the template that may be used for the May 12 meeting and went through the various slides, adding information as discussed during the meeting.

The meeting adjourned at 2:00 p.m.