National Association of State
Controlled Substances Authorities

NASCSA Resolutions – Statement of Purpose
October 2024
Greenville, South Carolina

NASCSA Resolution 2024-01
A Resolution In Support of Prescription Monitoring Programs (PMPs)

Statement of Purpose: Prescription Monitoring Programs (PMPs) remain important in providing critical prescription information to healthcare providers, including health systems, individual and group practices, dental practitioners, pharmacy chains, and independent pharmacies. Additionally, PMPs provide critical support to law enforcement and regulatory agencies. With the increasing prevalence of various healthcare technology systems integrating with PMPs and a push for a universal standard for data exchange, it is important to ensure that states remain in control of how their data is provided and displayed to end users.

This resolution seeks to ensure that individual states, territories and districts remain in control of how their PMP data is displayed.

NASCSA Resolution 2024-02
A Resolution Encouraging the Sharing of Certain Data with the United States Drug Enforcement Administration (DEA) by Prescription Monitoring Programs (PMPs)

Statement of Purpose: Since 2021, NASCSA has assisted the Drug Enforcement Administration (DEA) in facilitating communication to Prescription Monitoring Programs (PMPs) requesting annual, de-identified controlled substance metrics to aid in establishing aggregate production quotas (APQs). PMPs collect data of dispensed controlled substances in Schedules II through V, and other monitored drugs, as determined by state statutes and regulations, and provide critical information to healthcare providers, law enforcement, and regulatory agencies.

NASCSA Resolution 2024-03
A Resolution in Support of the Adequate Control of Certain Substances of Misuse and Abuse

Statement of Purpose: The resolution is being put forth to address the growing problem of the misuse and abuse of certain substances and to support legislation and/or regulations federally and in the states, commonwealths, districts or territories mandating adequate control of the following substances of misuse and abuse for legitimate medical, scientific or industrial use. The purpose will be to add additional substances to this resolution in subsequent years as deemed necessary.

NASCSA Resolution 2024-04
A Resolution In Support of Updating the Model Prescription Monitoring Program (PMP) Act

Statement of Purpose: In 2019, the NASCSA PMP Committee created an outline for future review of the NASCSA Model PMP Act, and majority of the Committee voted in favor to conduct a thorough review of the Model PMP Act every three years. In 2020, a task force was formed to consider and recommend updates to the existing Model PMP Act, voted in favor in 2021 by the NASCSA PMP and Executive Committees, and further the NASCSA membership. The review cycle of the 2021 approved Model PMP Act was set to occur this year (2024), and a workgroup comprising of eight NASCSA PMP Committee members reviewed and met to discuss updates and revisions to the 2021 Model PMP Act, resulting in a 2024 updated version of the Model PMP Act.

NASCSA Resolution 2024-05
A Resolution Recognizing Kari Shanard-Koenders

Statement of Purpose: The resolution is being put forth to recognize Kari Shanard-Koenders for her many contributions to the mission and success of NASCSA by making her an honorary member of the association.

NASCSA Resolution 2024-06
A Resolution Recognizing Kevin Borcher

Statement of Purpose: The resolution is being put forth to recognize Kevin Borcher for his many contributions to the mission and success of NASCSA by making him an honorary member of the association.

National Association of State Controlled Substances Authorities

NASCSA Resolution 2024-01
October 2024
Greenville, South Carolina

A Resolution In Support of Prescription Monitoring Programs (PMPs)

WHEREAS, PMPs are being encouraged to adopt various data interoperability standards; and

WHEREAS, healthcare professionals may be held legally responsible for viewing the PMP data as presented by individual states, territories and districts; and

WHEREAS, PMP data is protected by specific confidentiality laws that may prohibit data from being ingested or manipulated; and

WHEREAS, the data collected and shared from individual states, commonwealths, territories and districts can vary based on rule or statute; and

WHEREAS, PMP records are not official prescription records and are subject to change; and

THEREFORE BE IT RESOLVED, that NASCSA supports individual states, territories and districts maintaining control over the display of PMP data.

ATTEST:_____

DATE: ____

National Association of State Controlled Substances Authorities

NASCSA Resolution 2024-02
October 2024
Greenville, South Carolina

A Resolution Encouraging the Sharing of Certain Data With the United States Drug Enforcement Administration (DEA) by Prescription Monitoring Programs (PMPs)

WHEREAS, the DEA is required under the Controlled Substances Act (CSA) with establishing aggregate production quotas (APQ) for each basic class of controlled substance in Schedules I and II, and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, to be manufactured to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks; and

WHEREAS, fifty-four jurisdictions, states, commonwealths, districts, territories, and the Military Health System, currently have an operational PMP; and

WHEREAS, PMPs collect data of dispensed controlled substances in Schedules II through V, and other monitored drugs as required by state statute(s) and regulation(s); and

WHEREAS, since 2021, there has been a strengthened partnership between NASCSA and its members with PMPs and the DEA, and PMPs have played a pivotal role in DEA's ability to comply with its statutory requirements;

THEREFORE BE IT RESOLVED, that NASCSA strongly encourage and supports PMPs providing the DEA with annual metrics to aid in establishing aggregate production quotas (APQ).

ATTEST:_____

DATE: ____

National Association of State Controlled Substances Authorities

NASCSA Resolution 2024-03
October 2024
Greenville, South Carolina

A Resolution in Support of the Adequate Control of Certain Substances of Misuse and Abuse

WHEREAS, prompt action is necessary to adequately regulate certain substances to help limit misuse and abuse, protect the public health and safety, and save lives; and

WHEREAS, certain federal, state and/or local regulatory and law enforcement authorities have expressed concern about these substances;

BE IT RESOLVED, that the National Association of State Controlled Substances Authorities (NASCSA) supports legislation and/or regulations federally and in the states, commonwealths, districts or territories mandating adequate control of the following substances of misuse and abuse for legitimate medical, scientific or industrial use:

1. Tianeptine

NASCSA Resolution 2024-03
October 2024
Greenville, South Carolina

WHEREAS, the use of tianeptine, nicknamed "gas station heroin" for its marketing at filling stations and convenience stores, presents an urgent threat to public health and safety; and

WHEREAS, tianeptine is being misused for euphoric properties similar to heroin and other opioids; and

WHEREAS, tianeptine is not approved for any use by the Food and Drug Administration (FDA) and has no legitimate commercial use in the U.S.;

WHEREAS, tianeptine is being marketed illegally as a food product and dietary supplement falsely claiming to improve brain function and treat anxiety, depression, pain, opioid use disorder and other conditions; and

WHEREAS, the physical effects of tianeptine can include adverse respiratory depression, severe sedation and death and neurological, cardiovascular, gastrointestinal, and withdrawal effects; and

WHEREAS, the escalation of tianeptine use has led to an increase in calls to poison control centers, including 391 incidents in 2023, and severe adverse effects requiring visits to emergency rooms nationwide; and

WHEREAS, FDA has warned consumers not to purchase tianeptine products due to serious health risks;

WHEREAS, tianeptine products have been subject to a nationwide recall; and

WHEREAS, eleven states to date have designated tianeptine a schedule I or II controlled substance; and

WHEREAS, there are efforts underway by federal agencies and Congress to address the growing crisis; and

THEREFORE BE IT RESOLVED THAT, NASCSA supports passage of those bills currently before Congress.

ATTEST: _____

Date: _____

National Association of State Controlled Substances Authorities

NASCSA Resolution 2024-04
October 2024
Greenville, South Carolina

A Resolution in Support of Updating the Model Prescription Monitoring Program (PMP) Act

WHEREAS, in 2019 and 2021 the membership of the National Association of State Controlled Substances Authorities (NASCSA) voted to approve an updated Model PMP Act; and

WHEREAS, in 2024, a workgroup, comprised of NASCSA's PMP Committee members, conducted a review and made necessary updates and revisions to the 2021 revised version of Model PMP Act;

THEREFORE BE IT RESOLVED, that NASCSA's membership approve the updated Model PMP Act; and

BE IT FURTHER RESOLVED, that the updated Model PMP Act 2024 (rev.) be disseminated to the membership.

ATTEST: _____

Date: _____

NATIONAL ASSOCIATION OF STATE CONTROLLED SUBSTANCES AUTHORITIES (NASCSA)
MODEL PRESCRIPTION MONITORING PROGRAM (PMP) ACT 2024 (rev.)

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SECTION 1. SHORT TITLE.

This Act shall be known and may be cited as the "Model Prescription Monitoring Program Act."

COMMENT

NASCSA provides this Model Act to support state prescription drug monitoring programs (PMPs) to optimize PMPs into public health and safety tools. The Model Act language reflects the collective body of in-depth knowledge and expertise of state PMP administrators developed over the past 80 years.

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Some bracketed language is optional language that NASCSA does not specifically endorse for all states. However, NASCSA makes the language available for state officials who believe the language, and underlying policies, serve a particular need of their states.

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The Task Force felt that it was important to define that a Prescription Drug Monitoring Program (PDMP) is used interchangeably and synonymously with Prescription Monitoring Program (PMP).¶

SECTION 2. LEGISLATIVE FINDINGS.

[insert state-specific findings]

SECTION 3. PURPOSE.

[insert state-specific purposes of improving patient care and safety through reducing abuse and diversion of monitored drugs, promoting appropriate professional practice, and public health surveillance.]

SECTION 4. DEFINITIONS.

For the purpose of this Act, unless the context clearly indicates otherwise, the following words and phrases shall have the meanings given to them in this Section.

A. "Act" means the NASCSA Model PMP Act.

B. "Advisory Committee" means the committee established under Section 6 of the Act.

C. “Audit trail information” means information produced regarding requests for PMP dispensation data that the [designated state agency] or others specified by this Act use to help monitor compliance with this Act and other applicable statutes, rules or regulations.

D. “Controlled substance” means a drug, substance, or immediate precursor in Schedules I through V of [insert citations of state controlled substances law provisions].

E. “De-identified data” means PMP information as determined by the [designated state agency] after removal of information that identifies, or could reasonably be used to identify, the patient, the owner if the PMP information is for a veterinary patient, prescriber, and pharmacy or other dispenser.

F. “Delegate” means a person who acts as an agent, pursuant to requirements of the [designated state agency], to request PMP information on behalf of an individual in Section 9 who is authorized to request and receive PMP information. A delegate shall not include:

1. an individual who is an employee or representative of a software or other vendor or contractor of the PMP,

2. an automated system, or

3. a facility or other entity.

G. “Deliver” means the sale or other actual transfer of a monitored drug from an individual or entity to another individual or entity.

H. “Designee” shall have the same meaning as Delegate.

I. “Dispense” means to deliver in this state or to an address in this state a monitored drug to the patient by or pursuant to the lawful order of a prescriber.

J. “Dispenser” means an individual or entity authorized to dispense a monitored drug, but does not include:

1. an individual or entity employed by or an agent of a federal agency or who is prohibited from reporting under federal law or regulation;

2. a licensed hospital pharmacy that dispenses monitored drugs for the purposes of inpatient hospital care or emergency department care for the immediate use of a monitored drug, or when dispensing no more than [insert specified hours or days] supply of a monitored drug at the time of discharge from such a facility;

3. an individual who is authorized to administer a monitored drug upon the lawful order of a prescriber, [except for an individual who is responsible for the direct administration of a controlled substance for substance use disorder treatment];

Deleted: [, health care facility or entity]

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4. a long-term care, inpatient hospice, or correctional facility that dispenses monitored drugs to patients of the facility;

COMMENT

[Even though the facility is exempt from reporting, the pharmacy which provides dispensed prescription medication to the patients of the facility may not be exempt from reporting based on state law]

5. a wholesale distributor of a monitored drug; or

6. a veterinarian. [Some states may opt to require reporting by a veterinarian who dispenses monitored drugs.]

K. "Drug of concern" [OPTION 1] means a non-scheduled drug or a non-prescribed drug or substance listed in Schedules I, II, III, IV or V as determined by the [insert appropriate state agency] to be monitored because it has a potential for abuse or diversion or is required to be reported.

OR

"Drug of concern" [OPTION 2] means a non-prescribed drug as determined by the [insert appropriate state agency] to be monitored because it has a potential for abuse or diversion or is required to be reported.

COMMENT

[There are two available options that the agency can select. Option 1 allows for the agency to use the definition in alignment with Monitored Drug [OPTION 1]. Option 2 allows for the agency to use if the agency chooses to monitor all prescribed drugs, both controlled and non-controlled substances. "Drug of concern" may include cannabidiol, marijuana, or other drug or substance which is not prescribed].

L. "Fill" means the constructive preparation of the prescription and when that is complete.

M."Monitored drug" [OPTION 1] means a prescribed drug or substance listed in Schedules II, III, IV or V of [insert citations to state controlled substances statutes and regulations], or a drug or substance deemed a drug of concern.

OR

"Monitored drug" [OPTION 2] means a prescribed drug or substance, or a non-prescribed drug or substance deemed as a drug of concern.

COMMENT

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[There are two available options that the agency can select. Option 1 allows for the agency to use the definition for prescribed controlled substances only as well as drugs of concern. Option 2 allows for the agency to use if the agency chooses to monitor all prescribed drugs, both controlled and non-controlled substances as well as drugs of concern]

N. "Opioid Treatment Program" (OTP) means a federally certified program or practitioner administering and/or dispensing medication assisted treatment for patients diagnosed with opioid use disorder.

O. "Owner" means the owner, client, or person who is responsible for the care of the animal or who arranges for the animal's veterinary care when the prescription is dispensed.

P. "Patient" means an individual [or animal] for whom a prescription is issued or for whom a prescriber directly dispenses a monitored drug.

Q. "Pharmacist" means an individual authorized by any U.S. state to engage in the practice of pharmacy and includes an individual who is employed by or an agent of a federal agency.

R. "Pharmacist-patient relationship" means a consensual relationship in which an individual seeks pharmaceutical care from a pharmacist, and the pharmacist affirmatively acts to provide pharmaceutical care, or agrees to do so. The pharmacist-patient relationship exists when such agreement is entered into explicitly unless state law allows for an implied consent if the patient is unable to provide consent.

S. "Prescribe" means to direct, designate, or order the use of a drug product or formula for the preparation of a monitored drug for a disease or illness and the manner of using the monitored drug.

T. "Prescriber" means an individual authorized by any lawful jurisdiction to prescribe a monitored drug and includes an individual who is employed by or an agent of a federal agency.

U. "Prescriber-patient relationship" means a consensual relationship in which an individual seeks medical care from a prescriber, and the prescriber affirmatively acts to provide medical care, or agrees to do so. The prescriber-patient relationship exists when such agreement is entered into explicitly unless state law allows for an implied consent if the patient is unable to provide consent.

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COMMENT

[Additional information relating to provider-patient relationship is referenced in The AMA Code of Medical Ethics Opinion which can be found at https://www.ama-assn.org/delivering-care/ethics/patient-physician-relationships#:~:text=The%20relationship%20between%20a%20patient,advocate%20for%20their%20patients'%20welfare.]

V. "Prescription monitoring program" or "PMP" means a program established under Section 5 of this Act. Prescription Drug Monitoring Program (PDMP) is used interchangeably and synonymously with Prescription Monitoring Program (PMP).

W. "PMP Information" means PMP dispensation data, PMP-generated analytical data, supplemental data, and audit trail information.

X. "PMP dispensation data" means dispensed prescription data submitted to the [designated state agency] pursuant to Section 7.B that is maintained, managed, and disclosed pursuant to this Act.

Y. "PMP-generated analytical data" means the statistical or analytical results of dispensed prescription data generated or produced by the [designated state agency] that is maintained, managed, and disclosed pursuant to this Act.

Z. "Reporting agent" means an individual who acts as an agent, pursuant to requirements of the [designated state agency], to report data to the PMP on behalf of a dispenser.

AA. "Supplemental data" means non-PMP dispensation data that may include, but is not limited to pain management agreements, laboratory results, and information related to fatal and nonfatal overdoses.

SECTION 5. ESTABLISHMENT OF A PRESCRIPTION MONITORING PROGRAM (PMP).

A. The [designated state agency] shall establish and operate, in consultation with the advisory committee established in Section 6, an electronic system to track the dispensing of monitored drugs.

B. The [designated state agency] may contract with another state agency or a private vendor to establish and operate the PMP pursuant to guidelines issued by the [designated state agency]. A contractor shall comply with the provisions regarding confidentiality of PMP information in this Act, and is subject to the penalties specified in this Act for unlawful acts.

SECTION 6. ADVISORY COMMITTEE.

A. The [designated state agency] may establish a multidisciplinary advisory committee to provide input and guidance regarding the establishment and operation of the PMP. Committee members shall possess the necessary expertise and experience to assist the [designated state agency] with specified tasks, which shall include, but not be limited to:

1. proper analysis and interpretation of PMP information,

2. identification of patterns of behavior for the review of PMP data pursuant to subsection 9.K,

3. evaluation of the PMP,

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4. identification of technological safeguards to protect the security of the PMP information,

5. identification of technological standards for the reporting of PMP dispensation data and supplemental data pursuant to Section 7, and

6. input for reporting specific data elements or information to the PMP.

B. The [designated state agency] shall appoint committee members who may include:

1. a prescriber in active practice and in good standing with the applicable state licensing board or agency,

2. a pharmacist in active practice and in good standing with the state board of pharmacy,

3. a licensed substance abuse addiction counselor providing services for a state licensed substance abuse addiction treatment program,

4. a health care provider with a pain management credential, and

5. a law enforcement official whose duties include the investigation and enforcement of state controlled substances or prescription drug laws.

COMMENT

[The Task Force acknowledged that other individuals or organizations may be appropriate committee members, such as medical examiners, coroners, members of state professional associations, and employees of the state licensing boards, Department of Human Services, Department of Health and Human Services, etc.]

SECTION 7. REPORTING AND RETENTION OF PMP DATA.

A. Unless a waiver is granted under subsection E, each dispenser, or reporting agent, shall electronically submit the data listed in subsection B or a zero-report to the [designated state agency] as frequently as required by the [designated state agency], but no later than the next business day after the dispensation of a monitored drug.

B. For each dispensation of a monitored drug, the following data shall be submitted to the [designated state agency]:

1. Patient

   a. [For human patients,] legal first name; middle name, if applicable; last name; and suffix, if applicable.

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b. Date of birth.

c. Physical address, including postal code.

d. Telephone number.

e. [Species code.]

f. [For non-human patients, Name of animal, if applicable.]

g. If the patient is an animal, the name, date of birth, and gender should be the information of the owner.

2. Prescriber

a. DEA number.

b. National Provider Identification (NPI) number.

c. State license number if DEA and NPI numbers are unavailable.

3. Dispenser

a. DEA number.

b. NPI number.

c. [State license number if DEA and NPI numbers are unavailable.]

4. Drug

a. Date filled or prepared by the dispenser.

b. Date dispensed, sold, or otherwise delivered, if the information is available.

c. Date prescription is issued by prescriber.

d. Prescription number assigned by dispenser.

e. National Drug Code (NDC) number.

f. Quantity.

g. Days' supply.

h. Number of refills authorized.

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[National Council for Prescription Drug Programs (NCPDP) number if DEA and NPI numbers are unavailable.]¶

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i. The refill number.

j. Method of payment.

COMMENT

[States may determine to modify language for subparagraphs 4.c, 4.d, and 4.e. for data elements on what is reported to the PMP for products such as non-prescribed items (e.g., medical marijuana)]

[Where feasible, NASCSA encourages dispensers to use the most effective commercially available technology, e.g., scanning technology, to collect the data that they submit to the PMP pursuant to this section. Use of such technology helps minimize data collection errors and increases the quality of the data maintained by the PMP.]

5. Additional Data

Such additional data as required by the [designated state agency] to effectuate the purposes of this Act.

C. The requirements of Section 7. Reporting and Retention of PMP Data apply to Opioid Treatment Programs if the following are met:

1. Written patient consent is obtained by the OTP prior to submission of the patient's prescription information.

2. OTP prescription information (or data) obtained by the PMP or (contained in the PMP) disclosures must comply with 42 CFR Part 2 confidentiality regulations.

COMMENT

PMPs may want to require submissions of administrations, dispensations, or both.

D. The [designated state agency] shall maintain the data collected under subsection B in a readily retrievable format for a minimum of [insert time frame, e.g., three] years from the date of submission to the [designated state agency], and may establish a procedure for removing the data from the PMP. The [designated state agency] may use removed data for research or analysis purposes after de-identifying the removed data. The [designated state agency] shall retain the de-identified data for a minimum of [insert time frame, e.g., ten years] from the date the data has been de-identified. Removed data that is not used for research or analysis purposes shall be destroyed, except for data the [designated state agency] has authorized a law enforcement or health professionals' licensing or registration agency to retain for use in a specific criminal or administrative investigation.

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E. Supplemental data, in addition to that listed in subsection B that a state statute, rule or regulation allows to be reported to the [designated state agency] may be maintained in the PMP database, and shall be accessed, used, or disclosed pursuant to the applicable statute, rule or regulation. Such information may include, but is not limited to reports of controlled substance poisonings or overdoses, convictions for violations of controlled substances or prescription drug laws, stolen controlled substance prescriptions, or blank prescription forms.

F. For documented good cause, the [designated state agency] may grant a dispenser a waiver of the reporting requirements in subsection A.

1. A dispenser shall submit an application for a waiver detailing the circumstances for which a waiver is requested. The application shall contain the signature of the individual in charge. A dispenser shall notify the [designated state agency] of any changes in the application information no later than [insert time frame, e.g., number of days] after the occurrence of such changes.

2. A waiver shall be valid for [insert applicable time period.] A waiver may be extended pursuant to a process specified by the [designated state agency.] Upon notification of changes to the application information, the [designated state agency] may deny, rescind or modify the waiver.

SECTION 8. CONFIDENTIALITY OF PMP INFORMATION.

A. PMP information submitted to the [designated state agency] shall be deemed confidential. Such data and information are excluded from public or open records laws, and the [designated state agency] shall disclose the data and information only in accordance with this Act.

B. The [designated state agency] shall not disclose PMP information in response to a subpoena or other method of discovery or compelled production in a civil proceeding. PMP information shall not be admissible as evidence in a civil proceeding.

C. The [designated state agency] shall maintain:

1. Standards and safeguards to protect the security of PMP information during the process of collection, maintenance, and disclosure pursuant to this Act; and

2. Policies and procedures to ensure that access, disclosure, and use of PMP information occurs in accordance with this Act.

D. PMP information received from an OTP must comply with 42 CFR Part 2 confidentiality regulations.

SECTION 9. ACCESS TO AND USE OF PMP INFORMATION.

A. The [designated state agency] may disclose PMP information as applicable, and in accordance with applicable state and federal confidentiality laws, to the individuals

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[Where feasible, NASCSA encourages dispensers to use the most effective¶
commercially available technology, e.g., scanning technology, to collect the data that they submit to the PMP pursuant to this section. Use of such technology helps minimize data collection errors and increases the quality of the data maintained by the PMP.]¶

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identified in paragraphs B.1-17 who have successfully completed all applicable credentialing, registration, education or other requirements regarding the PMP. Mandates in this section apply only to individuals who are subject to state jurisdiction.

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B. The [designated state agency] may disclose PMP dispensation data to:

1. A prescriber for the purposes of:

a. providing medical care to an individual with whom the prescriber has a prescriber-patient relationship [or who seeks medical care for the first time from the prescriber];

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[b. providing consultation regarding the medical care of an individual who has a prescriber-patient or pharmacist-patient relationship with another health care professional;]

c. reviewing the prescriber's own prescribing activity or history of PMP data requests; or

d. reviewing the history of PMP data requests made by the prescriber's delegate.

2. A pharmacist for the purposes of:

a. providing pharmaceutical care to an individual with whom the pharmacist has a pharmacist-patient relationship [or who seeks pharmaceutical care for the first time from the pharmacist];

[b. providing consultation regarding the pharmaceutical care of an individual who has a prescriber-patient or pharmacist-patient relationship with another health care professional;]

c. reviewing the pharmacist's own history of PMP data requests; or

d. reviewing the history of PMP data requests made by the pharmacist's delegate.

3. A delegate of a prescriber or pharmacist for the purposes of requesting PMP dispensation data on behalf of a prescriber or pharmacist.

a. A prescriber or pharmacist:

i. shall be legally and professionally responsible for a delegate's access, use, and disclosure of PMP dispensation data on behalf of the prescriber or pharmacist; and

ii. shall be responsible for making all medical and pharmaceutical care decisions based on aforementioned data requested by a delegate.

4. A designated representative of a licensing or registration agency that regulates prescribers, pharmacists or other dispensers for the purpose of conducting a good faith administrative investigation of a prescriber's, pharmacist's or other dispenser's professional practice that is or was regulated by that agency.

5.a. A local, state, out-of-state, or federal law enforcement official engaged in the administration, investigation, or enforcement of laws governing monitored drugs who submits:

i. a court order or warrant that relates to a criminal matter,

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ii. a subpoena or summons issued by a judicial officer that relates to a criminal matter,

iii. a grand jury subpoena, or

iv. an administrative request that satisfies the criteria outlined in subparagraph b.

b. A law enforcement official shall be appointed by the director or other highest ranking official of a law enforcement agency to request PMP dispensation data on behalf of the agency for an individual under active investigation. The appointed official shall submit to the [designated state agency] a signed request in which the official certifies that:

i. the information sought is relevant and material to a legitimate law enforcement inquiry.

ii. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

iii. de-identified data could not reasonably be used for the inquiry.

c. The director or other highest ranking official of a law enforcement agency shall submit to the [designated state agency] a notarized document identifying the officials appointed to request PMP dispensation data on behalf of the agency. Appointments in effect upon the expiration of the term of the director or other highest ranking official shall expire on the last day of the term. A new director or other highest ranking official shall submit a new notarized document.

6.a. An individual appointed by a judge overseeing a drug court to request PMP dispensation data on behalf of the court for an offender subject to the jurisdiction of the court. The appointed individual shall submit to the [designated state agency] an administrative request that satisfies the criteria outlined in subparagraph b.

b. An appointed individual under subparagraph a shall submit to the [designated state agency] a signed request in which the individual certifies that:

i. the information sought is relevant and material to a legitimate inquiry by the drug court.
ii. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

iii. de-identified data could not reasonably be used for the inquiry.

c. The judge overseeing a drug court shall submit to the [designated state agency] a notarized document identifying the individuals appointed to request

PMP dispensation data on behalf of the court. Appointments in effect upon the expiration of the judge's term overseeing the drug court shall expire on the last day of the term. A new judge overseeing a drug court shall submit a new notarized document.

7. A medical examiner or county coroner, or a delegate thereof, for the purpose of investigating an individual's death.

8. A designated representative, or a representative's delegate, of a state agency with oversight of the Medicaid program. [The medical director of a managed care organization may serve as a designated representative or representative's delegate if:

a. the managed care organization has entered into an agreement with the state agency,

b. the managed care organization has satisfied all data security requirements of the [designated state agency], and

c. the medical director only requests PMP dispensation data regarding a program recipient assigned to the managed care organization.]

9. A designated representative, or a representative's delegate, of the Medicare program. [The medical director of a managed care organization may serve as a designated representative or representative's delegate if:

a. the managed care organization has entered into an agreement with the state agency,

b. the managed care organization has satisfied all data security requirements of the [designated state agency], and

c. the medical director only requests PMP dispensation data regarding a program recipient assigned to the managed care organization.]

10. A probation or parole officer for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.

11. An individual, or a person with a notarized release form from the individual, for the purposes of reviewing the history of dispensed monitored drugs to the individual.

12. A parent, legal guardian, or legal health care agent, for the purposes of reviewing the history of dispensed monitored drugs to a child or an individual for whom the agent makes health care decisions, to the extent consistent with federal and state confidentiality laws and regulations.

13. A designated representative of the [the designated state agency] and a vendor or contractor for the purpose of operating the PMP.

[14. An executor of a will, or a court-appointed executor of an estate, for the purposes of reviewing the history of dispensed monitored drugs to a deceased individual.]

[15. A licensed substance abuse addiction counselor providing services to a state licensed substance abuse addiction treatment program.]

C. The [designated state agency] may disclose supplemental data or PMP-generated analytical data to individuals identified in paragraphs [B.1 through B.17, as applicable] in accordance with federal and state laws.

D. The [designated state agency] may disclose audit trail information to individuals:

1. identified in paragraphs B.4 and B.5 for use in an active investigation of an individual who submitted requests for PMP data;

2. responsible for monitoring compliance with PMP requirements under applicable federal and state laws; or

3. identified in paragraphs B.11 or B.12 for the purpose of determining suspected inappropriateness of the access and use of the PMP dispensation data.

E. Prescribers and pharmacists may access PMP dispensation data by means of health or pharmacy information technology that the [designated state agency] approves for requesting and receiving PMP data. The individuals and vendors of approved health or pharmacy information technology shall provide the [designated state agency] with audit trail information requested by the [designated state agency].

F. The [designated state agency] may disclose PMP-generated analytical data or supplemental data in accordance with federal and state law.

COMMENT

[Allows for states to have authority to determine what types of data may be released/disclosed in order to reduce incorrect interpretation of the data]

G. Prescribers and pharmacists, and their delegates, shall register to access the PMP. The [designated state agency] shall establish the process and timeline for any mandatory PMP registration.

H. [Option 1.

1. Prescribers and pharmacists, and their delegates, and vendors of health or pharmacy information technology approved pursuant to subsection E may store only the PMP dispensation data in the patient's legal health record or patient profile, unless other

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A designated prescription monitoring program official of another state, country, or political subdivision thereof, or territory, federal district, or federal jurisdiction with which this state or jurisdiction has an interoperability agreement for disclosure of this state's or jurisdiction's PMP dispensation data to individuals [, health care facilities or entities] located in the other state, country, or political subdivision thereof, or territory, federal district, or federal jurisdiction.¶
¶
PMP dispensation data made available pursuant to this subsection may be used only consistent with this section.¶

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¶
prescribers of the facility or entity have prescriber-patient relationships, or¶
¶
pharmacists of the facility or entity have pharmacist-patient relationships.]¶
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states authorize the storage of prescription data submitted to the other states' PMPs. PMP dispensation data stored within a patient's legal health record or patient profile shall be subject to, at a minimum, disclosure in accordance with applicable state and federal privacy and confidentiality laws. Such laws shall include the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191 (Aug. 21, 1996), 45 C.F.R. parts 160 and 164 (HIPAA Privacy and Security Rules).

2. Prescribers and pharmacists, and their delegates, and vendors of health or pharmacy information technology approved pursuant to subsection E:

a. shall store PMP dispensation data in a read only format;

b. shall not alter, edit or modify the data; and

c. shall not copy or incorporate the data into a searchable computer program or database except as authorized by the [designated state agency]].

[Option 2. Prescribers and pharmacists, and their delegates, and vendors of health or pharmacy information technology approved pursuant to subsection E shall not store the PMP dispensation data in a patient's legal health record or patient profile. PMP data received pursuant to subsection E may be verbally disclosed to other authorized roles [per Section 9] for providing, or evaluating the need to provide, medical or pharmaceutical care to the patient.]

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I. [Option 1. PMP-generated analytical data and supplemental data may accompany the PMP dispensation data, but shall not be stored or used in lieu of the PMP dispensation data except as authorized by the [designated state agency]].

[Option 2. PMP-generated analytical data and supplemental data may accompany the PMP dispensation data, but shall not be used in lieu of the PMP dispensation data except as authorized by the [designated state agency].]

J. The [designated state agency] may provide de-identified PMP information for statistical, public research, public policy, or educational purposes.

K. The [designated state agency] shall review the PMP information.

1. If the review identifies:

    a. a pattern that indicates inappropriate patient behavior, the [designated agency] [insert shall or may] provide the relevant data to the appropriate prescribers and pharmacists.

    b. a pattern that indicates inappropriate prescriber or pharmacist behavior, the [designated state agency] [insert shall or may] provide the relevant data to the appropriate health professionals' licensing or registration agency.

2. The advisory committee, in consultation with health professionals' licensing or registration agencies and the [insert name of single state authority on drugs and alcohol], shall establish the patterns of behavior for subparagraph 1.a or 1.b, or both.

3. If the [designated state agency] has reason to believe from a review of the PMP information that a violation of laws governing monitored drugs has occurred, the [designated state agency] may notify the appropriate law enforcement agency in addition to the actions taken in paragraph 1.

COMMENT

Language for paragraphs B.5 and B.6 regarding access by law enforcement and drug court officials is drawn from LA. REV. STAT ANN. § 40:1007(F) (2021), and LA. ADMIN. CODE tit. 46, § 2921 (2019). For more information on the implementation history of the Louisiana statutory and regulatory language, please contact Joe Fontenot, Assistant Executive Director, Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, 70809-1700, (225) 922-0094, jfontenot@pharmacy.la.gov

SECTION 10. MANDATORY USE.

A. Beginning [insert date], before prescribing [or dispensing] to a patient a [insert drug schedules and/or drug class] controlled substance, a prescriber or a prescriber's delegate shall

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obtain [and the prescriber shall review] a patient's PMP Information. This subsection does not apply under any of the following circumstances:

1. If the controlled substance is administered to the patient or animal.

2. [Designated state agency] to enter state-specific exceptions.

COMMENT

Other exceptions to Section A that may be considered include, but are not limited to:

1. If the patient is on chronic therapy, the PMP Information shall be reviewed every 3 months.

2. If the patient is under hospice/palliative care.

3. At the time a prescription is refilled.

4. If the days supply is limited to less than [x days] and has no refills.

5. If a patient resides in a skilled nursing facility or long-term care facility.

6. In an emergency situation and the PMP is unavailable due to the technological issues.

SECTION 11. IMMUNITY.

A. The [designated state agency] is not subject to civil liability, administrative action, or other legal or equitable relief unless there is a finding of lack of good faith, reckless disregard, gross negligence, malice, or criminal intent for the:

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Deleted: <#>At the time a prescription is refilled.¶

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1. failure to possess PMP dispensation data or supplemental data that was not reported to the [designated state agency];

2. release of PMP information that was factually incorrect;

3. release of PMP information to the wrong person or entity; or

4. unlawful access to PMP information by an individual or unlawful disclosure or use of PMP information by an individual who requested and received PMP information pursuant to Section 9.

B. A dispenser or reporting agent is not subject to civil liability, administrative action, or other legal or equitable relief for reporting PMP dispensation data or supplemental data to the PMP pursuant to Section 7.

C. A prescriber, dispenser, pharmacist, or other individual, agency, or entity in proper possession of PMP information pursuant to this Act is not subject to civil liability, administrative action, or other legal or equitable relief for accessing, using, or disclosing PMP information pursuant to Section 9.

SECTION 12. UNLAWFUL ACTS AND PENALTIES.

A. Administrative Sanctions.

1. The [designated state agency] shall refer the following individuals to the appropriate health professionals' licensing or registration agency for appropriate administrative sanctions:

   a. A dispenser, who knowingly fails to report PMP dispensation data pursuant to Section 7, or who knowingly reports incorrect data.

   b. A dispenser who knowingly fails to correct or amend data after notification by the [designated state agency].

   c. A prescriber or pharmacist who knowingly fails to register with the PMP pursuant to Section 9.

   d. A person authorized to request and receive PMP information pursuant to Section 9 who knowingly requests, discloses, or uses such information in violation of this Act.

   e. A prescriber who knowingly fails to obtain and review PMP Information pursuant to Section 10.

B. Criminal Sanctions.

1. A person authorized to access PMP information pursuant to this Act who knowingly:

   a. requests such information in violation of this Act, upon criminal conviction, [may be

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fined not more than [ ] nor imprisoned more than [ ], or both.] [in addition to disciplinary actions as defined in the Act (or state law)].

b. discloses such information in violation of this Act, upon criminal conviction, [may be fined not more than [ ] nor imprisoned more than [ ], or both.] [in addition to disciplinary actions as defined in the Act (or state law)].

c. uses such information in violation of this Act, upon criminal conviction, [may be fined not more than [ ] nor imprisoned more than [ ], or both] [in addition to disciplinary actions as defined in the Act (or state law)]

2. A person listed above may also be subject to fines, penalties, or imprisonment in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. No. 104-191 (Aug. 21, 1996), 45 C.F.R. parts 160 and 164 (HIPAA Privacy and Security Rules).

3. A person not authorized to access PMP information pursuant to this Act who knowingly:

a. accesses such information in violation of this Act, upon criminal conviction, [may be fined not more than [ ] nor imprisoned more than [ ], or both.]

b. discloses such information in violation of this Act, upon criminal conviction, may [be fined not more than [ ] nor imprisoned more than [ ], or both.]

c. uses such information in violation of this Act, upon criminal conviction, [may be fined not more than [ ] nor imprisoned more than [ ], or both.]

SECTION 13. RULES AND REGULATIONS.

The [designated state agency] shall promulgate rules and regulations necessary to implement the provisions of this Act.

SECTION 14. SEVERABILITY.

If any provision of this Act or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Act are severable.

SECTION 15. EFFECTIVE DATE.

This Act shall be effective on [insert specific date or reference to normal state method of determination of the effective date].

COMMENT

Where feasible, NASCSA encourages state legislators to consider the time pharmacies need to make programming changes when determining the effective date of this Act.

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SECTION 12. EVALUATION, DATA ANALYSIS, AND REPORTING.¶
¶
The [designated state agency] shall, in consultation or collaboration with the advisory committee, design and implement an evaluation component to identify:¶
¶
costs of PMP operations;¶
¶
any impacts on the misuse, abuse, diversion of, or addiction to, monitored drugs;¶
¶
any impacts on the prescribing or dispensing of monitored drugs, including legitimate prescribing;¶
¶
the availability of PMP dispensation data or supplemental data to prescribers and pharmacists, and any barriers to access by prescribers and pharmacists for every patient; and¶
¶
other information relevant to policy, research, and education involving monitored drugs.¶
¶
B. The [designated state agency] shall annually [or other designated period] report the information specified in subsection A to the advisory committee members, [insert appropriate state decision makers, e.g., appropriate professional licensing agencies, appropriate state¶
legislative committees and the Governor]. Additionally, the [designated state agency] shall make the annual report available to the public.¶

National Association of State Controlled Substances Authorities

NASCSA Resolution 2024-05
October 2024
Greenville, South Carolina

A Resolution Recognizing Kari Shanard-Koenders

WHEREAS, the purpose of the National Association of State Controlled Substances Authorities (NASCSA) is to provide a continuing mechanism through which states, federal agencies and others can work to increase the effectiveness and efficiency of state and national efforts to prevent prescription drug abuse;

WHEREAS, Kari Shanard-Koenders during her distinguished career at the South Dakota Board of Pharmacy as both the Prescription Drug Monitoring Program Director and later its Executive Director/Secretary devoted many years to public service and was instrumental in initiating many positive enhancements to that state's controlled substances issues including the state's Prescription Drug Monitoring Program and working on various regulations/policies aimed at reducing prescription drug abuse and diversion;

WHEREAS, Kari Shanard-Koenders was extremely active in NASCSA, serving in a variety of leadership roles for many years including serving as Chair of the Education Committee during her distinguished career;

WHEREAS, Kari Shanard-Koenders provided ongoing support and assistance to NASCSA in meeting its goals, including hosting NASCSA's webinars and working to identify educational opportunities for NASCSA's membership and sharing her vast expertise;

THEREFORE BE IT RESOLVED, that NASCSA during its 40th annual meeting hereby expresses its appreciation to Kari Shanard-Koenders for her efforts;

BE IT FURTHER RESOLVED, that Kari Shanard-Koenders be made an honorary member of NASCSA; and

BE IT FURTHER RESOLVED, that the resolution be included in the official minutes of NASCSA and a copy presented to Kari Shanard-Koenders.

ATTEST:_____

DATE: ____

National Association of State Controlled Substances Authorities

NASCSA Resolution 2024-06
October 2024
Greenville, South Carolina

A Resolution Recognizing Kevin Borcher

WHEREAS, the purpose of the National Association of State Controlled Substances Authorities (NASCSA) is to provide a continuing mechanism through which states, federal agencies and others can work to increase the effectiveness and efficiency of state and national efforts to prevent prescription drug abuse;

WHEREAS, Kevin Borcher during his distinguished career as Vice President of Pharmacy Informatics at CyncHealth for the state of Nebraska running the state's Prescription Drug Monitoring Program;

WHEREAS, Kevin Borcher was extremely active in NASCSA, serving in as chair of the Prescription Monitoring Committee of NASCSA for many years and also facilitated NASCSA's Model Prescription Monitoring Program (PMP) Model Act of 2021 and continued to provide ongoing support and assistance to NASCSA in meeting its goals;

THEREFORE BE IT RESOLVED, that NASCSA during its 40th annual meeting hereby expresses its appreciation to Kevin Borcher for his efforts;

BE IT FURTHER RESOLVED, that Kevin Borcher be made an honorary member of NASCSA; and

BE IT FURTHER RESOLVED, that the resolution be included in the official minutes of NASCSA and a copy presented to Kevin Borcher.

ATTEST:_____

DATE: ____