

Prescription Monitoring in Texas

by Krista R. Crockett, Executive Director, Texas Pain Society

The idea and implementation of a prescription monitoring program is not new to Texas, in fact the Texas Prescription Program (TPP) was created by the Texas Legislature in 1982 to monitor Schedule II controlled substance prescriptions.

The need for a prescription monitoring program has increased dramatically in recent years due to what is being dubbed “generation Rx”. According to the DEA (http://www.justice.gov/dea/concern/prescription_drug_fact_sheet.html) nearly 1 in 10 high school seniors admits to abusing powerful prescription painkillers. A shocking 40 percent of teens and an almost equal number of their parents think abusing prescription painkillers is safer than abusing "street" drugs. Prescription pain relievers are new drug users’ drug of choice, vs. marijuana or cocaine.

Effective September 1, 2008, the Texas Legislature expanded the Program to include the monitoring of Schedule III through Schedule V controlled substance prescriptions. Knowing that diversion of prescription drugs is a significant abuse problem, this program was created to be an efficient, cost effective tool for investigating and preventing drug diversion.

Federal controls monitor the substances from manufacture through distribution to retail facilities; however, most pharmaceutical drug diversion occurs at the retail/consumer level. The Program seeks to control misuse by following controlled substances to the point of ultimate use. The Texas Prescription Program can be used by practitioners and pharmacists to verify their own records and inquire about patients. In addition, the program can be used to generate and disseminate information regarding prescription trends.

Access to information is statutorily restricted, and is available to practitioners and pharmacists who are inquiring about their patients, and to various regulatory and law enforcement personnel. Practitioners and pharmacists who wish to access information can complete the required form that is found on the DPS website (<http://www.txdps.state.tx.us/InternetForms/Forms/TP-11.pdf>) and send in via fax or postal mail. Once received the DPS verifies your authority to request the information, pulls the requested data and returns to you via postal mail.

Physicians, pharmacists, legislators, regulating agencies, industry and just about everyone in-between are intensely aware of the time delay for receiving critical information from this process, and associated the risk that the prescribing doctor and dispensing pharmacist take when issuing a controlled substance to patients without real time data. Currently multiple other states have a web based system that allows users instant access to data.

In 2009 Article 22 of H.B. 2730 created an interagency Council composed of the Director of the Department of Public Safety and the Executive Directors of the Texas State Board of Pharmacy and the Texas Medical Board or their designees. The Interagency Council was charged to develop a transition plan for the orderly transfer from the Department of Public Safety to the Texas State Board of Pharmacy of certain records and regulatory functions relating to dispensing controlled substances by prescription under Chapter 481, Health and Safety Code.

In developing the transition plan, the council shall:

- (1) consult with the Health and Human Services Commission, the Department of State Health Services, and other health and human services agencies that contract with a third party for data collection;
- (2) specify the records and regulatory functions to be transferred;
- (3) create a time frame within which the specified records and functions will be transferred;
- (4) ensure the Department of Public Safety's continued access for law enforcement purposes to prescription drug information obtained under Chapter 481, Health and Safety Code;
- (5) develop a plan for the transfer of relevant database information;
- (6) make recommendations for improvements to data transmission, including examining the feasibility of implementing an electronic data transmission system for use by registrants and the Department of Public Safety or the Texas State Board of Pharmacy;
- (7) estimate the fiscal impact of the transfer, including an estimate of the costs associated with any necessary staff increase;
- (8) minimize disruptions to the professions affected by the transfer;
- (9) identify any obstacles to the transfer and make recommendations to address those obstacles; and
- (10) address any other consideration the council determines is appropriate.

The council met numerous times throughout the year in 2010 and in January 2011 submitted their findings to the legislature for consideration. The recommendations from the council were as follows:

(1) Improvements to the Texas Prescription Monitoring Program

(A) A secure Web Site should be established to allow practitioners and other authorized users easy and quick access to the data in the prescription monitoring system so that:

- prescribers and pharmacies can make better decision when prescribing and dispensing controlled substances; and
- regulatory agencies and law enforcement can identify licensees and individuals who are attempting to prescribe, dispense, or obtain controlled substances for illegal use.

(B) To make the data more useful and up to date, pharmacies should be required to submit prescription data to the program at least every seven days rather than the current requirement to submit no more than the 15th day after the end of the month in which the prescription was dispensed or up to 45-days after the prescription was dispensed so that the data is more up to date and useful to all who access the system.

(C) The Texas PMP should adopt those requirements in the National All Schedules Prescription Electronic Reporting Act of 2005 (NASPER) that will allow the Texas PMP to share data with other states that operate a prescription monitoring program.

(D) The portion of the Texas Controlled Substances Act that deals with the PMP should be amended based on certain agreed upon provisions of the Prescription Monitoring Program Model Act developed by the Alliance of States with Prescription Monitoring Programs.

(E) The current requirement for a practitioner's DPS and DEA controlled substance registration numbers to be on all prescriptions for controlled substances in Texas should be modified to require only the DEA controlled substance registration number.

(F) All licensing boards for health care professionals allowed to prescribe controlled substances should be allowed to access to data collected by the PMP.

Changes to the prescription monitoring program in Texas are underway. On February 21, 2011, DPS Executive Director, Steve McCraw, testified at the Senate Finance Hearing that the online portion of the Controlled Substance Registration Program is on target to be completed late this fiscal year and that it was funded by the current fiscal budget.

In addition, there is current legislation filed to remove the DPS number from prescriptions for controlled substances (SB1273 by Senator Tommy Williams). This legislation also requires the submission of electronic records from the dispensing pharmacist no later than the 7th day after the prescription was filled (currently it is no later than the 15th day after the last day of the month in which the prescription is completely filled). The goal is to have the timeliest information possible for the prescription monitoring program.

Having a web based system by the end of the year will coincided perfectly with legislation (SB158 by Senator Tommy Williams) for a doctor shopping law that should help stop patients from fraudulently obtaining prescriptions for controlled substances.

Senator Tommy Williams has been a champion for stopping the illicit prescribing and diversion of controlled substances in Texas. In 2009 he passed legislation that required a certification process and outlined standards for pain clinics. He is dedicated to stopping prescription overdose deaths in Texas and has been extremely helpful to the Texas Pain Society.

Additional Information & Resources:

DEA Information on Prescription Monitoring Programs:

http://www.deadiversion.usdoj.gov/faq/rx_monitor.htm#4

Texas DPS Information on Prescription Monitoring Program:

<http://www.txdps.state.tx.us/RegulatoryServices/narcotics/narccsr.htm>

Texas Medical Board Pain Clinic Registration:

<http://www.tmb.state.tx.us/professionals/physicians/licensed/painManagementClinicRegistration.php>

Proposed Legislation: Doctor Shopping:

<http://www.legis.state.tx.us/tlodocs/82R/billtext/pdf/SB00158I.pdf#navpanes=0>

