

## **MEMORANDUM**

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Date: March 1, 2016

To: Controlled Substances Prescription Monitoring Program Stakeholders

From: Pete Wertheim, Executive Director  
Arizona Osteopathic Medical Association

Re: SB 1283 controlled substances prescription monitoring program

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This memo explains the provisions and background of SB 1283 controlled substances prescription monitoring program to mandate the use of Arizona's prescription drug monitoring program (PDMP) by prescribers.

This is a politically challenging policy issue. We have been working closely with the Governor's office and the bill's sponsor Senator John Kavanagh to address concerns about imposing a mandate without first making substantial improvements to the PDMP. We explained to them issues about the quality of the data and complaints from prescribers about the length of time it takes to log in, search, and analyze the information. Furthermore, we need time and resources to work to integrate the PDMP data into electronic health records for more seamless use of the data in practice. Through two stakeholder meetings and multiple emails exchanges, we are much more comfortable with the legislation as amended.

There is the bill and two pending floor amendments (one adopted and one being proposed) which are attached; however, it may be easier to follow the summary of the provisions in this memo. There is an opportunity amend the legislation in the House of Representatives if additional improvements are necessary.

The collective goals of SB 1283 are the following:

- Mandate clinically appropriate use of the PDMP
- Ensure that the PDMP is functioning at its peak level once the mandate goes into effect
- Accelerate the integration and use of PDMP with electronic health records

### **SB 1283 Provisions**

#### **Applicability**

SB 1283 would apply to "medical practitioners" as defined by A.R.S. 32-2601, which includes allopathic and osteopathic physicians, podiatrists, dentists, naturopaths, nurse practitioners, physician assistants, and homeopaths.

#### **Effective Date**

The mandate and many of the other provisions in the legislation would become effective October 1, 2017, and 60 days after the Arizona Health-e Connection has integrated the PDMP data into the state health information exchange. It will be advantageous for medical practitioners if their electronic health record vendors can access the data

through the exchange. According to Arizona Health-e Connection, this could take approximately 12 to 18 months to complete.

### **Mandate to Check the PDMP**

The legislation would require all medical practitioners to obtain a patient utilization PDMP report for the preceding 12 months before prescribing an opioid analgesic or benzodiazepine to a patient at the beginning of each new course of treatment and at least quarterly while that prescription remains part of the treatment, with some exceptions. Medical practitioners would not be required to check the PDMP if any of the following apply:

- The medical practitioner is prescribing the controlled substance to the patient for no more than ten days for invasive medical procedure or medical procedure which results in severe acute pain to the patient.
- Patient is receiving hospice or palliative care serious or chronic illnesses.
- Patient is receiving care for cancer or a cancer-related illness or dialysis treatment.
- A medical practitioner is administering the controlled substance.
- The patient is receiving the controlled substance during the course of inpatient or residential treatment in a hospital, nursing care facility, assisted living facility, mental health facility or a correctional facility.
- The medical practitioner is prescribing no more than a five-day prescription and has reviewed the PDMP patient data within the last thirty days and no other medical practitioner has prescribed to the patient in the preceding thirty day period.
- The prescription is a substitute for an initial prescription to which the patient had an adverse reaction.
- If the PDMP is not operational or available in a timely manner or the medical practitioner is experiencing equipment or technological problems (date and time must be documented.)

### **Electronic Health Records Integration of PDMP Data**

If a medical provider has the PDMP data integrated into their electronic health record, a review of the electronic health record is deemed compliant. The Board of Pharmacy will be required to promote and enter into data sharing agreements with EHR vendors for the purpose of integrating the PDMP into electronic health records.

### **Technological Limitation Waiver**

Medical practitioners may be granted a twelve-month waiver from the requirements by the Board of Pharmacy due to technological limitations not reasonably within their control.

### **Liability**

If a medical practitioner is compliant with the requirements to check the PDMP and is acting in good faith, the medical practitioner and his/her employer is not subject to liability or disciplinary action arising solely from either:

- Requesting or receiving, failing to request or receive PDMP data.
- Acting or failing to act on the basis of the PDMP data provided.

### **PDMP System Properties Analysis & Report**

The Board of Pharmacy will be required to contract with a third party to conduct an analysis of the PDMP system properties and report back to the Legislature by January 1, 2017. This will help to provide meaningful feedback necessary to identify deficiencies in the system properties and opportunities for improvement.

The scope of analysis and report will include the following:

- Usability and length of time to query data and recommendations to improve system properties for more efficient and effective clinical use by medical practitioners
- Strategies to increase and promote utilization by medical practitioners
- Quality of the data and recommendations to improve accuracy and validity
- Strategies to make it easier to integrate the PDMP database into electronic health records
- Analysis of available and necessary resources for the Board of Pharmacy to implement the requirements of SB 1283
- Best practices in Arizona and other states for using the PDMP

Based on the analysis and report, additional legislation can be introduced if necessary in 2017 to make additional changes as needed.

### **Electronic Health Record Integration Status Reporting**

The Board of Pharmacy will be required to include in its quarterly PDMP utilization report to the Legislature the electronic health record vendors which have integrated the PDMP data into their programs. This will help track the progress of integration efforts, and to identify and laud the companies which have successfully integrated the data.

### **Satisfaction Survey**

The Board of Pharmacy will be required to conduct an annual voluntary online survey of PDMP user satisfaction and provide the results to the President of the Senate, Speaker of the House of Representatives, and the Governor. A user survey will help identify areas for improvement and opportunities to encourage utilization of the PDMP.

## **Background**

SB 1283 is sponsored by Senator John Kavanagh and supported by the Governor Doug Ducey. During his State of the State Address, Governor Ducey spoke about the epidemic of opioid abuse in Arizona and announced his desire to see legislation introduced and signed into law mandating the use of the PDMP by physicians.

Last year physician associations worked hard to convince Senator John Kavanagh, Senator Kelli Ward, and others not to proceed with legislation, SB 1370, to mandate the use of Arizona's prescription drug monitoring program (PDMP) by physicians.

SB 1370 originally started as a bill which would have mandated a review of the PDMP before prescribing a patient controlled substances and mandating registration with the PDMP as a condition of licensure and renewal.

There were legitimate concerns about an onerous unfunded mandate to use the PDMP passing in Arizona similar to bills that passed in many other states. We made a convincing case at the time about the need to reform the registration process, access the database, and to improve the performance of the program. We were able to get SB 1370 amended and it ended being an acceptable bill which actually removed the requirement for physicians to register with the PDMP. As of January 1, 2016, registration automatically happens when physicians renew their licenses.

Last year Senator Kavanagh and others made it *extremely clear* that if utilization of the PDMP by physicians did not improve, a mandate to use the PDMP would be unavoidable. More states are now mandating use of the PDMP and it has become a popular policy option for many state governors and legislatures.

Despite numerous efforts to promote the PDMP and utilization to providers, utilization actually went down in the fourth quarter of last year from 17.66 to 15.84 percent. Due to the poor uptake in utilization, the Governor's office and Senator Kavanagh decided to proceed with legislation SB 1283 to impose a mandate on physicians to use the PDMP.