



Louisiana Board of Pharmacy

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EXECUTIVE COMMITTEE MEETING

January 12, 2005

MINUTES

The Executive Committee of the Louisiana Board of Pharmacy, scheduled to meet on January 12, 2005, convened at 9:10 a.m., at the Louisiana Board of Pharmacy office, 5615 Corporate Blvd., Suite 8-E, Baton Rouge, Louisiana, to consider and discuss the following agenda:

A G E N D A

1. Call to Order
2. Opportunity for Public Comment
3. Prescription Monitoring Program
4. Adjourn

Those Executive Committee members in attendance were: Carl W. Aron (President), Joe Adams, Reuben Dixon, Marty McKay, and T. Morris Rabb.

Other Board of Pharmacy representatives present were: Lois Anderson (Board Member), Malcolm Broussard (Executive Director), Carlos Finalet (General Counsel), and Kathleen Gaudet (Chief Compliance Officer).

Invited guests or designees present were: Alfred Gaudet as designee for John Bobear, M.D. (LA Board of Medical Examiners), C. Barry Ogden (LA Board of Dentistry), Peggy Griener as designee for Barbara Morvant, RN (LA Board of Nursing), Brenda Ward (LA Board of Psychologists), Captain David Staton (LA State Police), Donald Hickman (DEA), Brenda Lands (DHH – Office of Addictive Disorders), Donna Mayeaux (LPA), Annette Droddy as designee for Ward Blackwell (LA Dentists Association), Tommy Manino (LSHP President/OLOL), and Joni Nickens (LA Association of Nurse Practitioners).

Invited guests not present: Dave Tarver (LA State Medical Society), Steve Erwin (DHH – Bureau of Health Standards), and Bud Courson (Courson, Nickel, LLC).

Public Observers were: Cardiece Sylvan (Med Vance Institute), Trena A. Jones (DEA), Quinetta Rowley (DHH-OAD), Laura Eiekhart (Medco), and Erica Leilu.

Mr. Aron called the meeting to order and recognized Mr. Broussard for his presentation on prescription monitoring programs.

Prescription Monitoring Program (“PMP”)

Mr. Broussard gave an overview of the nationwide status of the programs. Twenty-one (21) other states currently have a program in place and several states are in the process of developing one. Also, there is proposed federal legislation on the issue that may be considered by Congress this year.

One requirement in any state program scenario is authorizing legislation. Without legislation in place, no state's program would qualify for federal implementation grants. Mr. Broussard's desire is to develop proposed legislation for the Louisiana Legislature's 2006 Regular Session with implementation by the end of 2006. He clarified that legislation is not required for planning grants but in order to qualify for implementation grants, a state must at a minimum have proposed legislation filed with its legislature.

Mr. Broussard stated that federal grants do exist for these programs. 'Planning Grants' are available to the states for research and development in anticipation of executing a program in their state. 'Implementation Grants' are available for start-up and continued maintenance of a program.

In addition to this source, another option is the assessment of an annual fee in some form to prescribers. For example, Alabama reviewed how many state CDS licenses were issued, did a break down on the costs necessary to conduct a program and determined that an annual \$10.00 assessment each CDS license would be appropriate.

One of the primary difficulties investigators currently have in investigating prescription drug diversion is the access and accumulation of prescription information in the course of an investigation. This information is also valuable for governmental research and statistics. Some states accumulate the data themselves. Others contract out with private companies like 'Atlantic Associates' to do this.

The National Association of State Controlled Substance Authorities (NASCSA) has been a vital source of information. Other states' efforts should be reviewed so Louisiana avoids similar pitfalls.

Mr. Broussard suggested the focus of any program should be the extent of drug abuse and drug diversion. The former requires solid contacts with hospitals, treatment centers and other licensing boards. The latter requires a good flow of discussion with federal and state law enforcement.

A good software system is equally vital to the success of a program. Confidentiality also needs to be addressed especially with regard to HIPAA.

Once planning is complete, implementation is the next step. Implementation grant application must be timed right.

Mr. Ogden (Executive Director to the LA Board of Dentistry) asked if this program would be a solo-board function. Mr. Broussard said the Board is willing to be lead entity if everyone is in agreement. Mr. Ogden suggested that each board handle its own licensees but the Louisiana Board of Pharmacy centrally house the necessary information. Mr. Broussard

confirmed that each health care provider licensing board would have access to this information.

Captain Staton (LA State Police) stated the majority of the states place the program under the supervision of the board of pharmacy. Kentucky's department of public safety is running its program but the Louisiana Department of Safety and Corrections does not want that duty. He also recommends the Louisiana Board of Pharmacy shoulder the program in this state.

Mr. Aron suggested that practitioners want real-time access to better utilize the information in the program during the course of their practice. Some other states have up to 3 weeks lag time to get the information; that is not practical. Mr. Broussard said there exists a system that provides information within one hour of receipt. While that program software is expensive (\$200,000.00), he would expect the cost to be covered by any implementation grant the Board receives. Real time access would be an even more expensive system and is currently not available on the market. However, that can be a goal of the program.

Mr. McKay asked if implementation grants are available beyond the first year. Mr. Broussard asserted they are available beyond the first grant depending on funding. He also clarified that another option exists called 'enhancement grants' under the federal system that are used to supplement implementation grant funding.

Mr. Aron asked if all scheduled drugs would be covered in the program. Mr. Broussard said some states only include Schedule II's while other do all schedules. Still others include not only scheduled drugs but also 'drugs of concern'. Mr. Broussard suggested Louisiana be scrupulous by including all scheduled drugs, both under federal and state laws, and drugs of concern in our state such as Soma, Fiorecet, and Ultram.

Donald Hickman (DEA) spoke from his experience that Texas and Indiana (which only include Schedule II under their programs) have had a dramatic drop in the number of Schedule II prescriptions issued in that state. Mr. Hickman also explained the systems as generally operating where the dispenser enters the prescription information which then goes to housing for monitoring needs.

Mr. Broussard suggested enabling legislation identify the following: (1) the identity of prescriber and dispenser, (2) the drug and parameters of order (date, quantity, etc.), and (3) payment type (cash, credit, insurance, etc.).

Mr. Broussard also discussed the periodic transmission of information from each source to the program's database. Some states require transmission every two weeks, others one week. While it would be optimal to have real time transmission for every relevant prescription at the time of dispensation, this is practically difficult and would be cost-prohibitive due to transmission costs.

Ms. Griener (LA Board of Nursing), asked how the system would work relative to collaborative practice where the names of both the physician and the nurse appear on the prescription but only the physician's name appears in the dispensing pharmacy's database. With physicians' assistants now having prescriptive authority this will continue to be a problem. Mr. Broussard agreed that this is one of many issues to be addressed in developing

a program. Education on what is essential as well as the need for accuracy in accumulating information is vital to the program's effectiveness.

Mr. Aron asked how a system would address prescriptions written by prescribers in other states. Mr. Broussard said the enabling legislation would need to identify that issue and allow for information sharing with other states.

Ms. Gaudet asked how the system would address non-computerized prescription information (i.e. when a prescriber is not operating with technology but strictly hardcopies). Mr. Broussard said this, too, would have to be addressed in legislation and we may want to require the electronic transmission of data. However, as a practical matter, the legislation would have to make allowances for paper-only prescribers, especially in rural areas.

Mr. Aron asked if the Board of Pharmacy would have to hire a pharmacist to coordinate the system's operation. Mr. Broussard answered that the coordinator need not necessarily be a pharmacist but he suggested a medical specialist of some sort with the proper skills would be ideal.

Captain Staton suggested the Alliance of States with Prescription Monitoring Program ("Alliance") is the best source for related information. The Alliance will pay for training, education, travel, etc., in assisting a state in getting a program up and running.

Mr. Aron speculated about difficulties in enacting enabling legislation. Captain Staton outlined Florida's recent difficulties in legislating a program. After three years in attempts, that state has yet to have a program. Captain Staton suggested the players in Florida did not get all interested parties together at the front end. As a result, there is a lot of misinformation in that state about the program. If we can address concerns early rather than later, we'll avoid the same problem. Consensus development conferences like today's meeting are the key to any program's success.

Mr. Broussard discussed the three handouts before the attendees:

- (1) *Prescription Monitoring Program Model Act* (prepared by the Alliance and NASCSA);
- (2) *The Goals of Prescription Monitoring* (The Alliance); and
- (3) *Proposed Louisiana Controlled Substances Utilization Review* (LACSUR) – as prepared by Mr. Broussard.

Mr. Broussard asked for feedback from each invitee/organization on the issue of PMPs.

Joni Nickens (President of LA Association of Nurse Practitioners) stressed that HIPAA concerns should be addressed.

Mr. Ogden asked what deterrents to abuse from access would be in place to prevent practitioners from accessing the information for improper purposes. (Example: prescriber in a bad divorce accessing spouse's prescription information). Mr. Broussard suggested these abuses and accompanying penalties should be in authorizing legislation. Additionally, Mr. Ogden suggested any violation of the program's enabling legislation also be a violation of each health care provider's Practice Act.

Tommy Mannino, President of the Louisiana Society of Hospital Pharmacists) gave LSHP's support for the program.

Mr. Aron asked if an advisory board would be appropriate if a program is established. Mr. Broussard answered that, while most states do not currently have such an oversight board, our state might consider that. However, whether or not an advisory board is established, steady cooperation and constant input from all interested parties is vital.

Ms. Griener asked about persons prosecuted for diversion. The LA Nursing Board allows for licensees to enter its impairment program without fear of prosecution or reporting. Her concern is that the PMP could deter the impairment program's effectiveness. Mr. Broussard suggested an added field in the program so it can collect data without designating it an arrest or other disciplinary action.

On behalf of the Board of Psychology, Ms. Ward stated full support. However, she would need time to accumulate data as a result of psychologists recently receiving prescriptive authority by the Legislature.

Mr. Aron suggested all parties report to their boards and associations with this information for feedback. Once all parties have done so, Mr. Aron recommended this body meet again to flesh out any other issues raised.

On behalf of the Louisiana Board of Pharmacy, Mr. Aron thanked all parties for their attendance and input. He suggested the group meet again in March to review further information. He also asked staff to invite a representative from The Alliance at that meeting.

Action Items

- A. The Chair directs staff to apply for grant.
- B. The Task Force will meet again in March.

Adjournment: The Committee adjourned at approximately 11:45 a.m.

I certify that the foregoing are true and accurate minutes of a meeting of the Executive Committee of the Louisiana Board of Pharmacy, held on the above noted date.

Malcolm Broussard
Malcolm J. Broussard
Executive Director

Prepared by: Carlos M. Finalet, III, General Counsel