



Louisiana Board of Pharmacy

5615 Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808-2537

Telephone (225) 925-6496 ~ Facsimile (225) 925-6499

www.labp.com email: labp@labp.com

Report to the 2006 Louisiana Legislature

As requested by HCR 98 of the Regular Session of the 2005 Louisiana Legislature

Prescription Monitoring Program Task Force

Chair

Carl W. Aron

President, Louisiana Board of Pharmacy

Vice Chair

Capt. G. David Staton

Commander – Narcotics Division, Louisiana State Police

January 24, 2006

Executive Summary

HCR 98 of the Regular Session of the 2005 Louisiana Legislature requested the Board of Pharmacy to study the feasibility and effectiveness of developing a prescription monitoring program in Louisiana. The resolution appointed a task force of 25 organizations to assist the Board in the project. The roster of the task force includes representatives from the law enforcement and regulatory agency communities, the prescribers and dispensers, and the public drug abuse treatment programs.

The task force collected baseline information concerning the prevalence of illicit drug use, utilization of controlled substances, health outcomes related to the abuse of controlled substances, and the impact of illicit drug use on law enforcement resources. The data reflects a significant widespread prescription drug abuse problem in the state.

The report describes current law enforcement strategies and limitations relative to the reduction of diversion of controlled substances. Further, the report enumerates the benefits of an electronic database of prescription information to five separate communities – law enforcement agencies, health professional regulatory agencies, drug abuse treatment professionals, prescribers, and dispensers. Relevant federal legislation, including the federal privacy law for protected health information, is also reviewed.

The Board proposes to establish and administer an electronic prescription monitoring program, where all dispensers of all prescriptions for all controlled substances would report those transactions to a secure database housed and maintained by the Board. The Board proposes to establish a web portal to enable authorized users to access relevant data for legitimate purposes.

The activities to date and the implementation plan are described, along with a timeline for the project. Presuming legislative and gubernatorial approvals, as well as receipt of federal grant funds (for which application has been made), the Board anticipates the availability of responses to web-enabled inquiries of the database by the beginning of July 2007.

How will the state know if the program is effective? The report describes the quality indicators and performance measures to be monitored by the program. The program will be required to make annual reports to the appropriate legislative oversight committee.

Finally, the report describes the fiscal planning for the program. It details the provisions for addressing both non-recurring implementation costs, as well as the ongoing administrative and operational costs.

Table of Contents

Executive Summary	2
Prescription Drug Abuse – Scope and Impact	4
Prevalence of Illicit Drug Use	4
Utilization of Controlled Substances	5
Health Outcomes Related to Abuse of Controlled Substances	5
Impact of Illicit Drug Use on Law Enforcement Resources	7
Strategic Perspectives	8
Proposal	9
Development and Implementation of Prescription Monitoring Program	10
Activities to Date	10
Implementation Plan	11
Program Effectiveness	12
Fiscal Planning	14
Acknowledgements	15

Appendices

A	HCR 98 of Regular Session of 2005 Louisiana Legislature
B	Roster of Prescription Monitoring Program Task Force
C	Comparative Utilization of Selected Controlled Substances in Louisiana
D	Deaths Attributable to Drug Induced Mortality, by Parish of Residence
E	Admissions to Treatment Programs
F	Local Law Enforcement Activities
G	Map of States with Prescription Monitoring Programs
H	Legislative Proposal

Prescription Drug Abuse – Scope and Impact

To illustrate the scope of the prescription drug abuse problem, this analysis will focus on the prevalence of nonmedical use of certain prescription drugs in the general population, the utilization of certain prescription drugs known as controlled substances, a review of the health outcomes associated with the abuse of certain controlled substances, and a review of the impact of illicit drug use on law enforcement resources.

Prevalence of Illicit Drug Use

The Substance Abuse and Mental Health Services Administration (SAMHSA) of the U. S. Department of Health and Human Services conducts the *National Survey on Drug Use and Health (NSDUH)*, previously known as the *National Household Survey on Drug Abuse (NHSDA)*. Instituted in 1971, this survey is generally accepted as the primary source of information on the use of illicit drugs, alcohol, and tobacco by the civilian, noninstitutionalized population of the United States aged 12 years and older. In addition to illicit drugs, participants are also queried on their nonmedical use of psychotherapeutic prescription drugs, consisting of medications in four categories – pain relievers, tranquilizers, stimulants, and sedatives. They are not queried on their legitimate use of prescription drug products.

- The results of the 2002 survey revealed that 19.5 million Americans over the age of twelve (8.2% of the population) admitted to the use of illicit drugs in the month prior to the survey. Moreover, 3% of Americans admitted a dependence on illicit drugs. The same survey indicated that Louisiana ranked tenth in the nation for illicit drug use other than marijuana, and further, that 2% of the state's population admitted a dependence on illicit drugs.
- The results of the 2003 survey indicated the same general prevalence of use on a national level; however, there were significant increases in the abuse of certain target drugs: 20% for hydrocodone, 33% for methadone, 47% for OxyContin[®], and 258% for tramadol.
- The results of the 2004 survey reflected the same general prevalence of the illicit drug use: 19.1 million Americans, or 7.9% of the population. Of that number, approximately 6 million (2.5% of population) used psychotherapeutic drugs nonmedically. An estimated 4.4 million used pain relievers, 1.6 million used tranquilizers, 1.2 million use stimulants, and 0.3 million used sedatives. These numbers were very similar to the 2003 estimates.

Among all the age groups, the 18-20 year old group reflects the highest usage of illicit drugs, at 19.4%. Of that number, 6.1% admit to the nonmedical use of prescription drugs, compared to 6.0% in 2003 and 5.4% in 2002. State level data in the 2004 report were not available at press time.

All of these reports are available on the SAMHSA website at <http://oas.samhsa.gov>.

Utilization of Controlled Substances

The Drug Enforcement Administration (DEA) of the U. S. Department of Justice is charged with enforcement of the Controlled Substances Act of 1970. That federal law, specifically at 21 USC 801 et seq, established a classification scheme for certain prescription drugs based on their potential for abuse and utility for medical practice. Furthermore, the act also established a closed system of manufacture, distribution, and dispensation of controlled substances; all entities and practitioners are required to register with the DEA. As part of that system, manufacturers and distributors are required to report to the DEA all of their distributions to pharmacies and practitioners. The Automation of Reports and Consolidated Orders System (ARCOS) provides insight into the utilization of controlled substances at the wholesale level, and indirectly, at the retail level. To enable comparisons among states with variable populations, the system denominates the utilization data in grams of the target drug per 100,000 persons. A review of these reports for the past four years indicates that Louisiana has steadily increased the utilization of certain narcotics and stimulants. The report for the first six months of 2004 ranks Louisiana in the top six states for at least four different drugs: amphetamine (3rd), methadone (4th), meperidine (5th), and hydrocodone (6th). A compilation of all ARCOS data for Louisiana is provided in [Appendix C](#). All of the Retail Drug Summary Reports, which are based on ARCOS data, may be found on the DEA website at <http://www.deadiversion.usdoj.gov>.

Health Outcomes Related to Abuse of Controlled Substances

The Drug Abuse Warning Network (DAWN) is managed by SAMHSA. It collects data on two types of drug-related events in twenty one strategically selected metropolitan areas around the country: drug-related hospital emergency department (ED) visits, and drug-related deaths investigated by medical examiners and coroners (ME/C). The New Orleans metropolitan area (including the parishes of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, and St. Tammany) is the only area in Louisiana represented in the DAWN database. Though SAMHSA has operated DAWN since 1972, the network was reconfigured in 2003. One of the outcomes of that reconfiguration is that trend analysis from prior to 2002 through 2003 is

not possible. Although data from prior to 2003 is available from DAWN, this report will focus on 2003 and then only on the mortality data, to establish baseline data for the proposed program in this state; this will enable trend analysis going forward. With respect to the ME/C mortality data, only 122 metropolitan areas reported to the network; enrollment continued thereafter, so we should observe more robust reporting in future years.

With respect to the New Orleans metropolitan area, only three of the seven parishes participated in the network in 2003: Jefferson, Orleans, and St. John the Baptist. With the limitations noted, DAWN reported that seven of the 122 reporting jurisdictions across the country had rates of drug misuse/abuse deaths that exceeded 200 per 1,000,000 population, including Jefferson Parish. Across all reporting jurisdictions, more drug misuse/abuse deaths involved opiates and other pain relievers than any other drug; moreover, many of these deaths involved multiple opiates or other drugs. Jefferson Parish reported 108 deaths due to drug misuse/abuse, for a death rate of 238.7 per 1,000,000 population. Opiates were involved in 86 of the deaths, benzodiazepines in 51, cocaine in 46, and alcohol in 23. Among the opiates involved, methadone was associated with 35 deaths, and hydrocodone and other opiates were found in 68 cases. No heroin was reported. Orleans Parish reported 71 deaths due to drug misuse/abuse, for a death rate of 151.4 per 1,000,000 population. Opiates were involved in 45 of the deaths, cocaine in 35, alcohol in 32, and benzodiazepines in 15. Among the opiates involved, methadone was associated with 17 deaths, heroin in 5 deaths, and hydrocodone and all other opiates were found in 35 cases. St. John the Baptist Parish reported 3 deaths due to drug misuse/abuse, for a death rate of 66.9 per 1,000,000 population. Policies relative to protection of confidentiality prevents detailed reporting of parameters with 4 or less units; therefore, no detailed information is available in the DAWN report for this parish. The complete ED and ME/C reports for 2003 from DAWN, as well as their prior reports dating back to 1994, can be found on their website at <http://dawninfo.samhsa.gov>.

Since the only portion of Louisiana that contributes data to DAWN is the New Orleans metropolitan area, the task force sought additional mortality data for the State of Louisiana. A representative from the St. Bernard Parish Sheriff's Office coordinated the collection and reporting of drug induced deaths for every parish in the state for 2001, 2002, and 2003. That compilation of data – *Deaths Attributable to Drug Induced Mortality, by Parish of Residence* – is found in [Appendix D](#), along with the coding rules. A review of the bottom line reveals that the state experienced a 33% increase in drug induced mortality from 2001 to 2002, and then a 34%

increase the following year. Ten of the parishes experienced at least a doubling of their drug-induced death rates from 2001 to 2003: Acadia, Ascension, Bossier, Caddo, Calcasieu, Lafayette, Livingston, St. Bernard, St. Charles, and Terrebonne. Other parishes sustaining a dramatic growth in these death rates include East Baton Rouge, Jefferson, Orleans, St. Landry, and St. Tammany.

Since the reports cited above, as well as many other similar studies, consistently report that 2-3% of Americans admit to dependence on illicit drugs, the task force sought to establish baseline data in this state relative to the utilization of treatment programs. A representative from the Office of Addictive Disorders in the Dept. of Health and Hospitals provided a compilation of the admissions data to all of the treatment programs, including detoxification programs, inpatient and outpatient programs, and halfway homes in the state. The report includes data related to age and gender, and can be found in [Appendix E](#).

Impact of Illicit Drug Use on Law Enforcement Resources

The widespread prescription drug abuse presents challenges to the law enforcement community on federal, state, and local levels. A major limitation in the investigative phase is the requirement to dispatch multiple agents to multiple pharmacies to survey and audit prescription file data onsite. As a result of the Health Information Portability and Accountability Act of 1996 (HIPAA), some retail pharmacies routinely refer such requests for records to their corporate counsel. While this practice may be understandable, it also adds additional delays to the investigative phase at all levels of law enforcement.

As part of our research efforts during our planning phase, we attempted to collect information concerning not only the numbers of persons investigated, arrested, and prosecuted for diversionary activities, but also the amount of time necessary to investigate and prosecute a single case. A representative of the U. S. Drug Enforcement Agency (DEA) provided the following summary data for Louisiana in 2003 and 2004: in 2003 they opened 103 cases, made 55 arrests, and prosecuted 36 of those cases. In 2004, they opened 116 cases, made 89 arrests, and prosecuted 39 of those cases. A representative of the Louisiana State Police collected data for the 2004 calendar year from the seven major metropolitan areas around the state, and more specifically, the city police departments and the district attorney offices in those areas. During 2004, these city police departments investigated 728 persons and arrested 688 of them, confiscating almost 114,000 dosage units of diverted controlled substances. They averaged 51 hours of investigative time per case. The district attorneys prosecuted 451 persons, reporting an

average of 21 hours of investigative time per case. The detailed report on local law enforcement activities can be found in [Appendix F](#).

Strategic Perspectives

Current efforts to reduce the diversion of controlled substances are vested in local law enforcement agencies (which may or may not have sufficient resources dedicated to diversionary activities), the state police (which does have a narcotic division), the health professional licensing agencies, and the DEA. Even though these agencies have engaged in collaborative investigations, the rate limiting factor is the time required to search prescription records at multiple pharmacies to collect data from relevant prescriptions.

An electronic prescription monitoring program, where dispensers of prescriptions for controlled substances would report all such transactions to a centralized database, would be a valuable resource for the law enforcement community, as well as the health professional licensing agencies. An inquiry to the database, instead of visiting multiple pharmacies, would permit investigations to be completed in much less time, and would also reduce the amount of time necessary to close a case. The types of cases directly impacted by an electronic monitoring program include those persons commonly referred to as ‘doctor shoppers’, as well as prescribers and dispensers engaged in fraudulent and diversionary activities.

In addition to the retrospective use of the electronic database described above, prescribers and dispensers would also benefit from legitimate access to the database. A prospective inquiry by a prescriber or dispenser relative to a new patient may reveal information requiring additional inquiry and could prevent perpetuation of existing problematic behavior. Further, ongoing inquiries may reveal persons who are suitable candidates for addiction treatment, as well as those persons who may exhibit symptoms of pseudo-addiction, i.e., behaviors that may superficially indicate addiction or other inappropriate activities, but may actually reflect the suboptimal management of pain. In both cases, appropriate referrals would be in order.

Prescription information is personal health information, and is therefore subject to the protection and provisions of the Health Information Portability and Accountability Act of 1996, commonly referred to as HIPAA [42 USC 1301 et seq]. This federal law, and its accompanying regulations, requires health care providers, including dispensers of prescription drugs, to adhere to federal privacy and security standards for the collection, maintenance, use, and disclosure of

all protected health information. Law enforcement and regulatory investigations of fraud and abuse, public health interventions, and use for treatment are all recognized exemptions from the restrictions on disclosure of protected health information by health care providers.

Prescription monitoring programs have operated in other states since 1939. At least 25 states have enacted enabling legislation, and at least 20 states are currently operating their programs. The National Alliance of Model State Drug Laws (NAMSDL) has compiled a map of states with programs operating as of October 2005 ([Appendix G](#)). Alabama has announced implementation plans for January 2006, and Ohio is scheduled to begin their program in June 2006. Another 20 states are in various stages of preparing, proposing, or considering their enabling legislation, developing or implementing their programs.

Although initially intended to establish a single national database, the National All Schedules Prescription Electronic Reporting Act of 2005, commonly referred to as NASPER [42 USC 280g et seq], was passed by Congress to foster the establishment of state level programs, and further, to establish a set of best practices to guide the establishment of new programs as well as the improvement of existing programs. To facilitate the implementation of the new law, Congress appropriated \$60 million through 2010; these funds are intended to be disbursed through the federal grant process.

Proposal

The Louisiana Board of Pharmacy proposes to establish and administer an electronic prescription monitoring program. The Board proposes to house the database and staff the associated offices within its office complex in Baton Rouge. The database will receive electronic prescription information from all dispensers of controlled substances, in all schedules, to all Louisiana residents, including pharmacies located in or out of the state, as well as those practitioners who dispense controlled substances to their patients.

The Board proposes to establish a web-enabled portal to the database; the portal will enable inquiries from authorized users of the database and the timely response to those inquiries. Authorized users would include qualified individuals from five separate communities: law enforcement agencies, health professional regulatory agencies for prescribers and dispensers, prescribers monitoring their own patients, dispensers monitoring their own patients, and addiction treatment professionals.

The remainder of this report is dedicated to a description of the development and

implementation of an electronic prescription monitoring program, a review of the quality indicators and performance measures to be monitored by the program, and a discussion of the financial resources necessary to implement and maintain the program.

Development & Implementation of Prescription Monitoring Program (PMP)

Activities to Date

During the third calendar quarter of 2004, Board staff initiated a review of prescription monitoring programs in other states as well as the collection of preliminary data to substantiate the need for such a program in this state. During its November 2004 meeting, the Board considered the staff report and then voted to take a leadership role in the formation of a task force of a dozen interested stakeholders. The Board convened the first meeting of its task force in January 2005 to introduce the concept and present results of preliminary research. At the conclusion of the meeting, the group agreed to pursue an action plan designed to implement a prescription monitoring program. Data collection efforts continued, and the Board's task force continued to meet through the spring of 2005.

During the regular session of the 2005 Louisiana Legislature, a number of measures were introduced to address various aspects of inappropriate pain management activities, including legislation authorizing the licensure of pain management clinics by the Dept. of Health and Hospitals. Representative Austin J. Badon, Jr. (D-100) introduced HCR 98, which requested the Board of Pharmacy to study the feasibility and effectiveness of implementing a prescription monitoring program in Louisiana. The full text of the resolution can be viewed in [Appendix A](#). The resolution appointed and authorized the Prescription Monitoring Program Task Force to assist the Board, and it included representatives from the following organizations:

- *Practitioner organizations* – Louisiana State Medical Society, Louisiana Dental Association, Louisiana Veterinary Medical Association, Louisiana Association of Nurse Practitioners, and the Optometry Association of Louisiana.
- *Pharmacy organizations* – Louisiana Pharmacists Association, Louisiana Independent Pharmacies Association, National Association of Chain Drug Stores, and the Pharmaceutical Research Manufacturers of America.
- *Regulatory agencies* – Louisiana State Board of Medical Examiners, Louisiana State Board of Dentistry, Louisiana Board of Veterinary Medicine, Louisiana State Board of Nursing, Louisiana Board of Optometry Examiners, Louisiana Board of Examiners of

Psychologists, and the Louisiana Board of Pharmacy

- *Law enforcement organizations* – U. S. Drug Enforcement Administration, Louisiana State Police, Louisiana Sheriffs Association, Louisiana District Attorneys Association.
- *Public drug abuse treatment programs* – Office of Addictive Disorders in the La. Dept. of Health and Hospitals.
- *Legislative representatives* – President of the Louisiana Senate, Speaker of the Louisiana House of Representatives, Chair of the Senate Health & Welfare Committee, and Chair of the House Health & Welfare Committee.

A complete roster of task force members can be found in [Appendix B](#). Since the legislative task force included all of the organizations in the Board’s original task force, those activities were transferred to the legislative task force.

The legislative task force held its initial meeting in August 2005, and the members continued to meet through the remainder of the year, holding their final meeting in January 2006. During that time, task force representatives expanded their data collection efforts. They also attended regional and national educational conferences to network with other states operating programs, and they visited existing PMP operations in two states widely acknowledged to be exemplary operations – Kentucky and Nevada. Finally, the task force reviewed national model PMP legislation and then drafted proposed legislation for consideration in the 2006 Louisiana Legislature. The full text of that proposal may be viewed in [Appendix H](#).

Implementation Plan

The Board of Pharmacy proposes to obtain the appropriate legislative and regulatory authority necessary to administer the program, develop the administrative and operational components of the program, and then implement the data collection and dissemination processes.

Stage I – Authorization

The 2006 Louisiana Legislature will consider the proposed legislation during its Regular Session, which will convene on March 27 and must adjourn no later than June 19. The proposed legislation contains a requested effective date of July 1, 2006, to coincide with the beginning of the state fiscal year.

The proposed legislation directs the Board to promulgate the rules and regulations necessary to implement the statutory mandates. The Louisiana Administrative Procedure Act governs that process, and the shortest possible time frame for the promulgation of a rule is four months. We anticipate completion of the rule-making process by the end of calendar year 2006.

Stage II - Development

Following legislative and gubernatorial approval, as well as receipt of the federal grant award announcement, we will begin the process of developing the administrative team. We will engage the program staff, secure the office space, and then furnish it with appropriate furniture and supplies. We anticipate completion of this stage by the end of September 2006.

During that same time frame, we will begin to develop the operational components of the program, by procuring the major equipment and establishing the contractual relationships for the data collection and dissemination processes. We anticipate completion of this stage by the end of December 2006.

Stage III – Implementation

We anticipate the initiation of data collection from the dispensers at the beginning of January 2007. To provide program personnel with an opportunity to gain experience with system operations, as well as to provide an opportunity for limited usage of the system for debugging purposes, we propose a six month delay between data collection and data dissemination. Finally, we anticipate the availability of responses to web-enabled inquiries of the database at the beginning of July 2007.

Program Effectiveness

The state will know the program is effective to the extent the program is able to demonstrate a reduction in the diversion and inappropriate utilization of controlled substances, as well as the associated mortality. As described at the outset of this report, we have baseline data relative to the drug-induced mortality rate for the parishes and the state as a whole, admissions data to drug addiction treatment centers, and the utilization of controlled substances as reflected in the ARCOS reports. We also have baseline data relative to the numbers of individuals investigated, arrested, and prosecuted for diversion, the total number of dosage units involved with those cases, as well as the amount of time involved with the manual collection of evidence for those investigations.

The specific program objectives and performance measures are presented here:

<u>Program Objective</u>		<u>Performance Measures</u>	
1.	Reduce the adverse health outcomes of drug abuse and diversion	A.	Number of drug-induced deaths.
		B.	Number of admissions to addiction treatment centers for prescription drug abuse.
		C.	State ranking in ARCOS reports.

- | | | |
|----|--|---|
| 2. | Identify and adjudicate individuals (doctor shoppers, indiscriminate prescribers and dispensers, prescription forgers) engaged in the diversion of pharmaceutical controlled substances. | A. Number of individuals <i>investigated</i> for the diversion of pharmaceutical controlled substances before and after implementation of the program.
B. Number of individuals <i>arrested</i> for the diversion of pharmaceutical controlled substances before and after implementation of the program.
C. Number of individuals <i>prosecuted</i> for the diversion of pharmaceutical controlled substances before and after implementation of the program.
D. Number of dosage units of pharmaceutical controlled substances diverted by individuals who have been prosecuted. |
| 3. | Develop and/or increase the efficiency of investigational efforts. | A. Number of investigations completed per investigator per year before and after implementation of the program.
B. Average number of work hours/days spent per case before and after implementation of the program. |
| 4. | Increase cooperative efforts between state/local agencies and federal agencies. | A. Number of joint investigations conducted. |
| 5. | Increase coordination among regulatory or law enforcement agencies across state lines. | A. Number of reports disseminated to out-of-state regulatory or law enforcement agencies regarding filled prescriptions written by practitioners from another state. |
| 6. | Reduce the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit, i.e., “doctor shopping.” | A. Number of excessive prescriptions for controlled substances from multiple prescribers obtained by “doctor shoppers” (individuals identified as receiving an excessive number of prescriptions) before and after implementation of the program.
B. Number of unsolicited notices sent to practitioners by the program.
C. Number of reports requested by practitioners. |
| 7. | Increase the efficiency of data between the collection and reporting. | A. Average number of days

date a prescription is filled and the date the data is available in the system.
B. Length of time required to provide reports pertaining to suspect activity to requestor (practitioner, pharmacist, regulatory or law enforcement agency). |

The health department agencies will continue to collect the data related to health outcomes; the program will use that data to measure its progress with Program Objective 1. The law enforcement organizations will continue to collect the data related to their efforts, which will be

used in the assessment of Program Objectives 2, 3, and 4. Finally, program personnel will use system information to assess progress with Program Objectives 5, 6, and 7.

The proposed legislation will require the program to report to the appropriate legislative oversight committee on an annual basis concerning the benefits of the program.

Fiscal Planning

The Board envisions the use of federal grants to defray a portion of the implementation costs, and then fee surcharges on the holders of certain credentials to fund the ongoing administrative and operational costs of the program.

Federal Grants

Since 2002, Congress has appropriated federal grant funds under the Harold Rogers Prescription Drug Monitoring Program. This program has been administered under the auspices of the Bureau of Justice Assistance (BJA), which is housed within the Office of Justice Programs in the U. S. Dept. of Justice (DOJ). BJA established the *Developing and Enhancing Prescription Drug Monitoring Programs* initiative, as well as the three categories of competitive grant applications: a planning grant for up to \$50,000, an implementation grant for up to \$350,000, and an enhancement grant for up to \$350,000. As described earlier in this report, Congress passed the federal legislation known as NASPER in 2005. This new law has assigned the associated appropriations to the U. S. Dept. of Health & Human Services (HHS), instead of the Dept. of Justice. Since HHS had not yet established any funding opportunities by the beginning of the grant cycle, DOJ modified its allocation parameters such that the next implementation grant will have a funding limit of \$400,000 for a two year period. Although their programs are similar, the requirements of the DOJ and HHS programs are different; the agencies are currently in discussions to determine the future of both programs.

The Board was successful in its application for a planning grant from DOJ for Fiscal Year 2005-2006, and we have filed an application for an implementation grant from DOJ for Fiscal Years 2006-2008. Grant award announcements are expected during the summer months. The Board anticipates using the implementation grant funds to defray the implementation costs related primarily to database servers and associated information technology costs.

Fee Surcharges

The U. S. Drug Enforcement Administration (DEA) requires any person who intends to procure, possess, prescribe, administer, or dispense any controlled substance to obtain a DEA

registration number prior to engaging in those activities. The DEA will issue a registration to any qualified applicant demonstrating state legislative authority to engage in those activities. The manifestation of state legislative authority varies across the states; in Louisiana, that authority is evident in a Controlled Dangerous Substance (CDS) permit. The Board issues CDS permits to all in-state pharmacies, for a fee of \$25 each. All other CDS permits are issued by the Health Standards Section in the Dept. of Health & Hospitals (DHH); the fee varies by classification of applicant, and ranges from \$20-100.

To fund the ongoing administrative and operational costs, the proposed legislation authorizes the Board to levy and collect a surcharge on all CDS permits issued by any state agency. The legislative proposal anticipates a statutory maximum of \$50 per year, with a requirement for rule-making to establish the amount of the initial fee and any subsequent revision. The opening budget for the program anticipates a surcharge of \$20 per year. If additional funds become necessary, the Board may seek to revise the surcharge by promulgation of a rule to revise the surcharge, or it can request the legislature to evaluate the suitability of other options such as allocation of certain fines and assessments or asset forfeiture proceeds.

Acknowledgements

The task force is indebted to the staff members of several organizations for their efforts in collecting and compiling the data presented in this report. Specific credits are referenced in the footer of all data reports. The task force also benefited from legal research by staff members of still other organizations.

The Board is indebted to the entire task force for its concentrated efforts during the last four months of 2005. While they – and the entire state – recovered from the devastation of Hurricanes Katrina and Rita, the members of the task force focused on their legislative charge and held to their original project timeline. The Board is confident this report represents the best plan for the development and implementation of an electronic prescription monitoring program for the State of Louisiana.

Respectfully submitted this 31st day of January 2006,

Malcolm J Broussard
Executive Director
Louisiana Board of Pharmacy

Regular Session, 2005

HOUSE CONCURRENT RESOLUTION NO. 98

BY REPRESENTATIVE BADON

A CONCURRENT RESOLUTION

To request the Louisiana Board of Pharmacy to study the feasibility and effectiveness of implementing a prescription monitoring program for controlled dangerous substances and to report its findings to the speaker of the House of Representatives and the president of the Senate no later than February 1, 2006, and to create the Prescription Monitoring Program Task Force to assist in this study.

WHEREAS, the abuse of controlled dangerous substances is a nationwide problem; and

WHEREAS, many families in this state have been destroyed due to the devastating effects of the abuse of controlled dangerous substances; and

WHEREAS, implementation of a prescription monitoring program for controlled dangerous substances could curtail the abuse of controlled dangerous substances; and

WHEREAS, many states have implemented prescription monitoring programs for controlled dangerous substances; and

WHEREAS, the Louisiana Board of Pharmacy is the state agency best equipped to monitor a prescription monitoring program.

THEREFORE, BE IT RESOLVED that the Louisiana Board of Pharmacy, with the assistance of the task force created herein, shall study a variety of issues relating to the feasibility and effectiveness of implementing a prescription monitoring program for controlled dangerous substances.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby create the Prescription Monitoring Program Task Force to assist the Louisiana Board of Pharmacy in conducting this study. The task force shall be composed of the following members:

(1) The president of the Louisiana State Board of Medical Examiners or his designee.

- (2) The president of the Louisiana State Board of Dentistry or his designee.
- (3) The president of the Louisiana State Board of Examiners of Psychologists or his designee.
- (4) The president of the Louisiana State Board of Nursing or his designee.
- (5) The colonel of the office the Louisiana State Police or his designee.
- (6) The secretary of the Department of Health and Hospitals or his designee.
- (7) The president of the Louisiana Board of Pharmacy or his designee.
- (8) The president of the Louisiana State Medical Society or his designee.
- (9) The president of the Louisiana Pharmacists Association or his designee.
- (10) A representative from the Drug Enforcement Agency.
- (11) The president of the Louisiana Independent Pharmacies Association or his designee.
- (12) The president of the Louisiana Nurse Practitioner's Association or his designee.
- (13) The speaker of the Louisiana House of Representatives or his designee.
- (14) The president of the Louisiana Senate or his designee.
- (15) The chairman of the House Committee on Health and Welfare or his designee.
- (16) The chairman of the Senate Committee on Health and Welfare or his designee.
- (17) The president of the Pharmaceutical Research and Manufacturers of America or his designee.
- (18) The president of the Louisiana Dental Association or his designee.
- (19) The president of the Louisiana District Attorneys Association or his designee.
- (20) The president of the Louisiana Sheriffs' Association or his designee.
- (21) The president of the Louisiana State Board of Veterinary Medicine or his designee.
- (22) The president of the Louisiana Veterinarian Medical Association or his designee.
- (23) The president of the Louisiana State Board of Optometry Examiners or his designee.
- (24) The president of the Optometry Association of Louisiana or his designee.
- (25) A representative of the National Association of Chain Drug Stores.

BE IT FURTHER RESOLVED that the members of the task force shall serve at the pleasure of the appointing authority. The members shall elect a chairman and vice chairman whose duties shall be established by the task force.

BE IT FURTHER RESOLVED that the Louisiana Board of Pharmacy shall fix a time and place for regular meetings of the task force and shall meet at least quarterly.

BE IT FURTHER RESOLVED that a majority of the membership of the task force shall constitute a quorum and shall be necessary to take action.

BE IT FURTHER RESOLVED that the Louisiana Board of Pharmacy shall report its findings to the speaker of the House of Representatives and the president of the Senate and the health and welfare committees of the Senate and the House of Representatives no later than February 1, 2006.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

Louisiana Board of Pharmacy
Prescription Monitoring Program Task Force
Roster

Organization	A	D	S	Name	Mailing Address	City, State, ZIP	E-mail Address
<i>Legislative</i>							
La. House - Speaker	x			Rep. Joe R. Salter	P. O. Box 250	Florien, LA 71429	larep024@legis.state.la.us
La. House - Speaker		x		Rep. Austin J. Badon, Jr.	3212 Prytania Street	New Orleans, LA 70130	larep100@legis.state.la.us
La. House - Chair, H&W	x			Rep. Sydnie M. Durand	P. O. Box 2840	Parks, LA 70582	sdurand@legis.state.la.us
La. House - Chair, H&W		x		Rep. Ronald S. Johns	3701 Maplewood Dr., Suite 2	Sulphur, LA 70663	larep033@legis.state.la.us
La. Senate - President	x			Sen. Donald Hines, MD	P. O. Box 262	Bunkie, LA 71322	hinesd@legis.state.la.us
La. Senate - President		x		Sen. Willie L. Mount	P. O. Box 3004	Lake Charles, LA 70602	lasen27@legis.state.la.us
La. Senate - Chair, H&W	x			Sen. Joe McPherson	880 Robinson Bridge Road	Woodworth, LA 71485	lasen29@legis.state.la.us
La. Senate - Chair, H&W		x		Sen. Nick Gautreaux	209 E. St. Victor Street	Abbeville, LA 70510	gautreauxn@legis.state.la.us
La. House Staff - ACRJ Cmte			x	Mr. Gregory Riley	P. O. Box 44486	Baton Rouge, LA 70804	rileyg@legis.state.la.us
La. House Staff - H&W Cmte			x	Ms. Ashley Dupree	P. O. Box 44486	Baton Rouge, LA 70804	ragusaa@legis.state.la.us
La. Senate Staff - H&W Cmte			x	Ms. Mary O'Brien	P. O. Box 94183	Baton Rouge, LA 70804	obrienm@legis.state.la.us
<i>Regulatory</i>							
La. Board of Medical Examiners	x			Dr. Kim LeBlanc	P. O. Box 30250	New Orleans, LA 70190	klebla@lsuhsc.edu
La. Board of Medical Examiners		x		Mr. Alfred Gaudet	P. O. Box 30250	New Orleans, LA 70190	agaudet@lsbme.louisiana.gov
La. Board of Dentistry	x			Dr. Vance L. Wascom	365 Canal St., Suite 2680	New Orleans, LA 70130	2thfxr@earthlink.net
La. Board of Dentistry		x		Mr. Barry Ogden	365 Canal St., Suite 2680	New Orleans, LA 70130	bogden@bellsouth.net
La. Board of Veterinary Medicine	x			Dr. Lon Randall	151 S. Beadle	Lafayette, LA 70508	lbvm@eatel.net
La. Board of Veterinary Medicine		x		Ms. Wendy Parrish	263 Third St., Suite 104	Baton Rouge, LA 70801	
La. Board of Nursing	x			Ms. Patricia Bourgois	5207 Essen Lane, Suite 6	Baton Rouge, LA 70809	
La. Board of Nursing		x		Ms. Peggy Griener	5207 Essen Lane, Suite 6	Baton Rouge, LA 70809	grienerm@lsbn.state.la.us
La. Board of Examiners of Psychologists	x			Dr. Bruce McCormick	2210 Line Ave., Suite 104	Shreveport, LA 71104	drmac@familypsych.net
La. Board of Examiners of Psychologists		x		Ms. Brenda Ward	8280 YMCA Plaza, Bldg. 8-B	Baton Rouge, LA 70810	bward@lsbep.brcoxmail.com
La. Board of Optometry Examiners	x			Dr. Gary J. Avallone	P. O. Box 555	Oakdale, LA 71463	lsboe@yahoo.com
La. Board of Pharmacy	x			Mr. Carl W. Aron	1209 N. 18th St.	Monroe, LA 71201	aron_cw@yahoo.com
La. Board of Pharmacy		x		Mr. Malcolm Broussard	5615 Corporate Blvd., Suite 8-E	Baton Rouge, LA 70808	mbroussard@labp.com
La. Board of Pharmacy			x	Mr. Carlos Finalet	5615 Corporate Blvd., Suite 8-E	Baton Rouge, LA 70808	cfinalet@labp.com
<i>Practitioners</i>							
La. State Medical Society	x			Dr. Joseph Busby	6767 Perkins Road, Suite 100	Baton Rouge, LA 70808	
La. State Medical Society		x		Dr. Vincent Forte	312 Grammont St., Suite 405	Monroe, LA 71201	vforte@lapaincare.com
La. Dental Association	x			Dr. Timothy Perry	7833 Office Park Blvd.	Baton Rouge, LA 70809	
La. Dental Association		x		Mr. Ward Blackwell	7833 Office Park Blvd.	Baton Rouge, LA 70809	ward@ladental.org
La. Veterinary Medical Association	x			Dr. Robert Gros	8550 United Plaza Blvd., Suite 1001	Baton Rouge, LA 70809	rcgdvm@aol.com
La. Association of Nurse Practitioners	x			Ms. Joni Nickens	1200 S. Acadian Thruway, Suite 206	Baton Rouge, LA 70806	jnickens@etigers.net

Louisiana Board of Pharmacy
Prescription Monitoring Program Task Force
Roster

Organization	A	D	S	Name	Mailing Address	City, State, ZIP	E-mail Address
<i>Practitioners (cont.)</i>							
La. Academy of Medical Psychologists	x			Dr. James W. Quillin	1016 Calais Circle	Alexandria, LA 71303	jimq112325@aol.com
Optometry Association of Louisiana	x			Dr. Darby Chiasson	16140 W. Main St.	Cut Off, LA 70345	doctordarby@yahoo.com
Optometry Association of Louisiana		x		Dr. Stephanie White	11141 Woodvine Lane	New Orleans, LA 70128	in6420sight@aol.com
La. Pharmacists Association	x			Mr. Robert Troups	P. O. Box 250	Duplessis, LA 70728	roberttroups@cox.net
La. Pharmacists Association		x		Ms. Phyllis Perron	450 Laurel Street, Suite 1400	Baton Rouge, LA 70801	jpa@pperron.com
<i>Law Enforcement</i>							
U. S. DEA	x			Mr. Donald Hickman	3838 N. Causeway Blvd.; Lakeway III, #1800	Metairie, LA 70002	donald.l.hickman@usdoj.gov
La. State Police	x			Col. Henry Whitehorn	7919 Independence Blvd.	Baton Rouge, LA 70806	
La. State Police		x		Capt. David Staton	7919 Independence Blvd.	Baton Rouge, LA 70806	dstaton@dps.state.la.us
La. State Police			x	Sgt. Jude Mathews	7919 Independence Blvd.	Baton Rouge, LA 70806	jmathews@dps.state.la.us
La. Sheriffs' Association	x			Sheriff Ricky Edwards	P. O. Box 1449	Jennings, LA 70546	sheriff@jeffdavis.net
La. Sheriffs' Assoc. - St. Bernard Parish		x		Sheriff Jack Stephens	P. O. Box 168	Chalmette, LA 70044	sheriff@sbso.org
La. Sheriffs' Assoc. - St. Bernard Parish			x	Maj. Peter Tufaro			ptufaro@bellsouth.net
La. District Attorneys Association	x			Mr. Scott Perrilloux	P. O. Box 639	Amite, LA 70422	
La. District Attorneys Association		x		Mr. John J. Williams	1645 Nicholson Dr.	Baton Rouge, LA 70802	john@ldaa.org
La. District Attorneys Association			x	Mr. Dave Baxter	1645 Nicholson Dr.	Baton Rouge, LA 70802	
<i>Treatment Professionals</i>							
DHH - Secretary	x			Dr. Fred P. Cerise	1201 Capitol Access Road	Baton Rouge, LA 70821	
DHH - Director of Pharmacy		x		Ms. M. J. Terrebonne	P. O. Box 91030	Baton Rouge, LA 70821	mterrebo@dhh.la.gov
DHH - Office of Addictive Disorders			x	Ms. Brenda Lands	1201 Capitol Access Road, Bin #9	Baton Rouge, LA 70821	blands@dhh.la.gov
<i>Pharmacy Business Interests</i>							
Pharmaceutical Manufacturers Assoc.	x			Mr. William Tauzin	1100 Fifteenth St., NW	Washington, DC 20005	jobrien@phrma.org
Pharmaceutical Manufacturers Assoc.		x		Dr. John O'Brien	1100 Fifteenth St., NW	Washington, DC 20005	
Pharmaceutical Manufacturers Assoc.			x	Mr. Elliott Hutchinson	521 Laurel Street	Baton Rouge, LA 70801	bud@coursonnickel.com
National Assoc. of Chain Drug Stores	x			Mr. Bud Courson	445 North Blvd., Suite 604	Baton Rouge, LA 70802	mgibbens@riteaid.com
National Assoc. of Chain Drug Stores		x		Ms. Marla Gibbens			rickyguidry@centurytel.net
La. Independent Pharmacies Assoc.	x			Mr. Ricky Guidry	4008 Hyacinth Ave.	Baton Rouge, LA 70808	twoods@publinkllc.com
La. Independent Pharmacies Assoc.			x	Ms. Tammy Woods	4008 Hyacinth Ave.	Baton Rouge, LA 70808	

Louisiana Board of Pharmacy
Louisiana Controlled Substance Utilization Review Program

Comparative Utilization of Selected Controlled Substances in Louisiana
Ranking of Louisiana Compared to Other States & Territories
Based on Grams of Target Drug Per 100,000 of Population

Drug	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u> Jan - June	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
<u>Stimulants</u>														
d-Amphetamine Base (<i>Dexedrine</i>)	31	19	18	18	8	6	5	4	N/A					
d-l Amphetamine Base (<i>Adderall</i>)	25	21	12	11	5	4	4	3	N/A					
d-Methamphetamine (<i>Desoxyn</i>)	40	41	45	N/A	47	43	41	32	32					
Cocaine	22	36	36	N/A	40	36	35	36	33					
Methylphenidate (<i>Ritalin, Concerta</i>)	37	36	34	33	30	28	22	18	14					
<u>Narcotics</u>														
Codeine	44	41	42	N/A	42	47	48	49	50					
Fentanyl Base (<i>Duragesic</i>)	15	10	12	N/A	9	41	41	37	37					
Hydrocodone (<i>Vicodin, Lortab</i>)	5	5	4	5	5	6	6	6	4					
Hydromorphone (<i>Dilaudid</i>)	35	28	36	N/A	39	36	32	N/A	34					
Meperidine (<i>Demerol</i>)	6	4	6	N/A	6	4	6	5	5					
Methadone	31	29	27	N/A	17	10	5	4	14					
Morphine	42	41	42	N/A	46	46	40	38	40					
Oxycodone (<i>Percodan, OxyContin</i>)	34	36	36	30	33	35	36	35	37					

Louisiana Board of Pharmacy
Louisiana Controlled Substance Utilization Review Program

Deaths Attributable to Drug Induced Mortality, by Parish of Residence

<i>Parish</i>	2001		2002		2003 (preliminary)	
	<i>Deaths</i>	<i>Population</i>	<i>Deaths</i>	<i>Population</i>	<i>Deaths</i>	<i>Population</i>
Acadia	*	58,835	8	59,085	11	59,165
Allen	*	25,446	0	25,360	*	25,334
Ascension	6	78,278	6	79,108	12	81,388
Assumption	*	23,253	*	23,618	0	23,291
Avoyelles	*	41,449	*	41,584	0	42,287
Beauregard	*	32,962	*	33,032	*	33,190
Bienville	*	15,560	*	15,590	0	15,580
Bossier	*	99,267	6	100,179	22	102,088
Caddo	14	252,574	25	253,474	35	254,216
Calcasieu	11	183,670	15	184,279	31	184,693
Caldwell	0	10,500	0	10,618	*	10,715
Cameron	0	9,862	0	9,795	*	9,717
Catahoula	*	10,518	0	10,850	0	10,717
Claiborne	0	16,533	*	16,463	*	16,428
Concordia	*	19,813	0	20,002	*	19,995
DeSoto	*	25,496	*	25,708	5	25,490
E. Baton Rouge	14	414,040	14	414,883	27	416,881
E. Carroll	0	9,222	0	9,080	0	9,005
E. Feliciana	0	21,416	*	21,083	*	20,940
Evangeline	*	35,469	6	35,434	*	35,180
Franklin	*	21,014	*	21,174	0	20,848
Grant	*	18,674	*	18,784	0	18,905
Iberia	6	73,349	*	73,518	7	73,842
Iberville	0	33,191	*	33,368	*	32,842
Jackson	*	15,122	*	15,420	*	15,591
Jefferson	61	453,116	99	455,927	107	456,779
Jefferson Davis	*	31,269	*	31,115	*	30,826
Lafayette	14	190,858	18	192,014	31	194,408
Lafourche	8	90,255	7	90,477	5	91,034
LaSalle	0	14,139	*	14,305	0	14,349
Lincoln	*	42,375	*	42,688	*	42,882
Livingston	9	94,263	12	95,978	25	99,109
Madison	0	13,617	0	13,575	*	13,091
Morehouse	*	30,454	*	30,514	*	30,520
Natchitoches	0	39,273	7	39,308	*	39,328
Orleans	41	479,187	45	476,649	74	469,271
Ouachita	12	146,651	11	147,758	12	148,112
Plaquemines	*	26,998	5	27,409	*	28,049
Point Coupee	0	22,615	0	22,504	*	22,114
Rapides	8	126,542	6	126,979	6	127,184
Red River	0	9,592	0	9,603	0	9,556
Richland	*	20,827	0	20,584	0	20,151
Sabine	*	23,457	*	23,383	0	23,635
St. Bernard	15	66,473	41	66,758	34	66,172
St. Charles	*	48,336	*	48,418	10	48,351
St. Helena	*	10,582	*	10,601	*	10,500
St. James	0	21,221	*	21,293	0	21,139
St. John	*	43,492	*	43,267	6	44,053
St. Landry	6	87,785	10	87,966	11	89,128
St. Martin	*	49,201	0	49,178	*	49,294
St. Mary	*	52,293	7	52,573	*	52,403
St. Tammany	30	193,466	32	196,283	50	202,203
Tangipahoa	9	100,935	7	101,450	12	102,078
Tensas	*	6,506	0	6,511	0	6,252
Terrebonne	7	104,892	*	105,935	19	106,823
Union	*	22,804	*	22,745	0	22,330
Vermilion	*	53,651	*	54,123	*	54,274
Vernon	*	51,995	*	51,951	*	51,959
Washington	8	43,723	11	43,603	*	43,634
Webster	*	41,480	*	41,945	*	41,441
W. Baton Rouge	*	21,722	*	21,686	*	21,738
W. Carroll	0	12,070	0	12,332	*	12,208
W. Feliciana	0	15,138	*	15,125	0	15,177
Winn	*	16,664	*	16,644	*	16,453
TOTAL	346	4,465,430	461	4,482,646	617	4,496,336

Louisiana Board of Pharmacy
Louisiana Controlled Substance Utilization Review Program

Admissions to Treatment Programs (Detoxification, Inpatient, Outpatient, & Halfway Homes)

Age Grp.	State Fiscal Year Ending June 2001		State Fiscal Year Ending June 2002		State Fiscal Year Ending June 2003		State Fiscal Year Ending June 2004		State Fiscal Year Ending June 2005		State Fiscal Year Ending June 2006	
		<u>% of total</u>		<u>% of total</u>		<u>% of total</u>		<u>% of total</u>		<u>% of total</u>		<u>% of total</u>
0-17	2,453	8.1	2,103	7.2	1,942	6.4	2,387	7.3	2,449	7.8		
18-20	2,295	7.6	2,079	7.1	1,982	6.6	2,191	6.7	2,135	6.8		
21-24	3,488	11.6	3,470	11.9	3,681	12.2	4,156	12.8	4,200	13.3		
25-34	8,284	27.5	7,634	26.2	8,157	27.0	8,770	26.9	8,531	27.0		
35-44	9,329	31.0	9,231	31.6	9,380	31.0	9,432	28.9	8,792	27.8		
45-54	3,521	11.7	3,873	13.3	4,182	13.8	4,614	14.2	4,540	14.4		
55-64	648	2.1	667	2.3	762	2.5	861	2.6	828	2.6		
65 +	123	0.4	109	0.4	127	0.5	184	0.6	119	0.3		
Total	30,141	100.0	29,166	100.0	30,213	100.0	32,595	100.0	31,594	100.0		

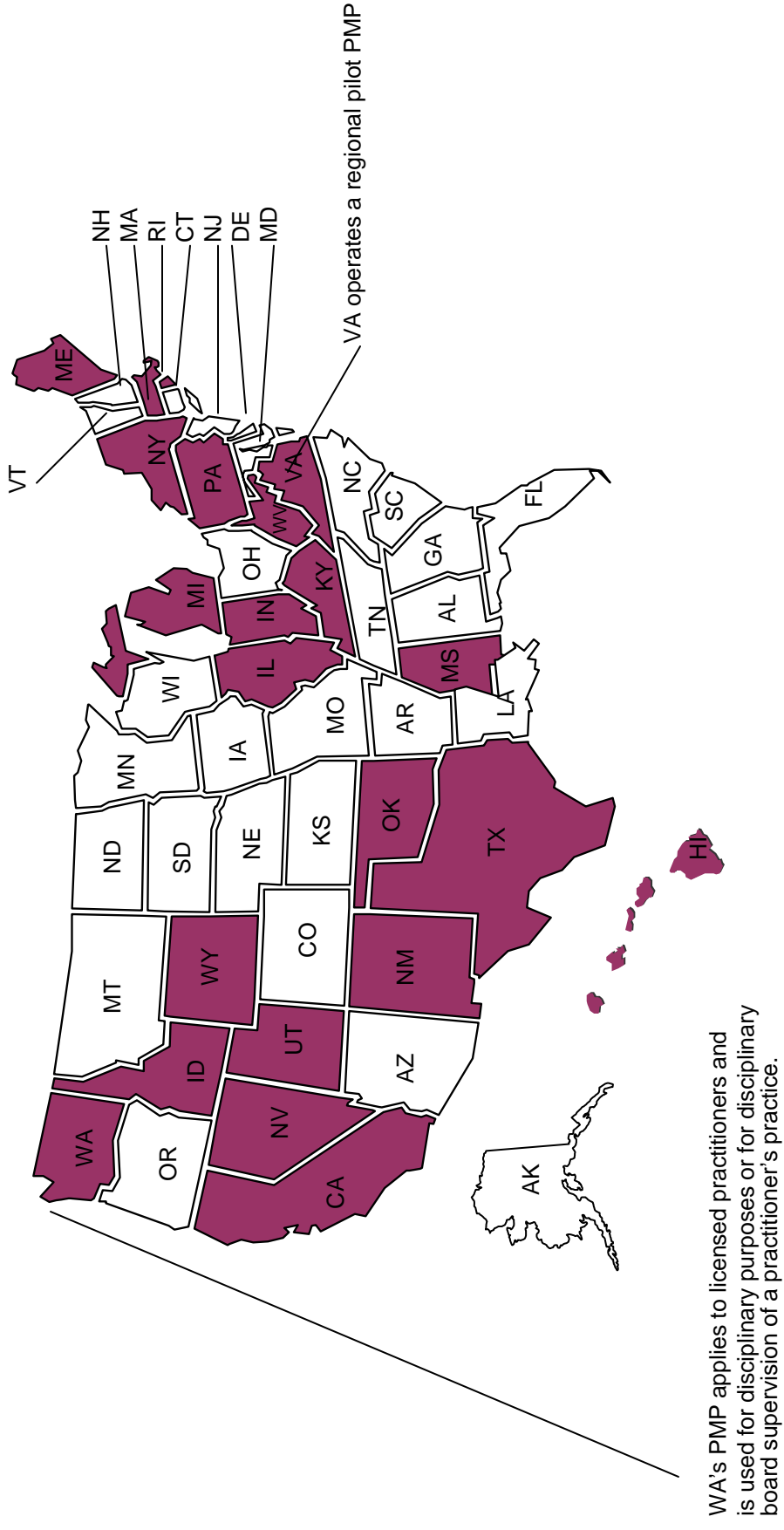
Gender											
Male	21,788	72.2	21,108	72.4	21,509	71.2	22,917	70.3	22,166	70.2	
Female	8,353	27.8	8,058	27.6	8,704	28.8	9,678	29.7	9,428	29.8	
Total	30,141	100.0	29,166	100.0	30,213	100.0	32,595	100.0	31,594	100.0	

Local Law Enforcement Activities - 2004

	<u>Investigations</u>	<u>Persons Investigated</u>	<u>Arrests</u>	<u>Average Hours Work Per Investigation</u>	<u>Dosage Units Diverted</u>	<u>Persons Prosecuted</u>	<u>Average Hours Work Per Case</u>
Alexandria City Police Dept District Attorney	10	10	10	56	1,800	22	2
Baton Rouge City Police Dept District Attorney	95	95	150	110	6,950	50	32
Lafayette City Police Dept District Attorney	60	60	54	48	2,050	45	3
Lake Charles City Police Dept District Attorney	330	345	251	45	85,000	40	2
Monroe City Police Dept District Attorney	18	18	20	256	2,160	51	24
New Orleans City Police Dept District Attorney	150	150	170	4.5	7,200	200	32
Shreveport City Police Dept District Attorney	60	50	33	44	8,736	43	1
TOTAL	723	728	688	51*	113,896	451	21*

* = calculated value: total number of hours [# persons x average # hours] divided by total number of persons.

States with Prescription Monitoring Programs Currently Operating



Regular Session, 2006

HOUSE BILL NO. 153

BY REPRESENTATIVE JOHNS

HEALTH CARE: Creates the Prescription Monitoring Program

1 AN ACT

2 To enact Part X-A of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:1001 through 1014, relative to the Prescription Monitoring
4 Program Act; to provide for a short title; to provide for the purpose and definitions;
5 to provide relative to the establishment of the prescription monitoring program; to
6 provide for the creation of the advisory council; to provide for the reporting of
7 prescription monitoring information; to provide for access to prescription monitoring
8 information; to provide relative to education and treatment; to provide for unlawful
9 acts; to provide for data analysis; to provide relative to reporting to the legislature;
10 to provide relative to the authority to promulgate rules and regulations; to provide
11 relative to the authority to contract; to provide relative to funding authority; to
12 provide for severability; to provide for an effective date; and to provide for related
13 matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Part X-A of Chapter 4 of Title 40 of the Louisiana Revised Statutes of
16 1950, comprised of R.S. 40:1001 through 1014, is hereby enacted to read as follows:

17 PART X-A. PRESCRIPTION MONITORING PROGRAM

18 §1001. Short title

19 This Section shall be known and may be cited as the "Prescription
20 Monitoring Program Act".

1 §1002. Purpose

2 The purpose of this Act is to authorize the development, implementation,
3 operation, and evaluation of an electronic system for the monitoring of controlled
4 substances and other drugs of concern that are dispensed in the state or dispensed to
5 an address within the state. The goal of the program is to improve the state's ability
6 to identify and inhibit the diversion of controlled substances and drugs in an efficient
7 and cost-effective manner and in a manner that shall not impede the appropriate
8 utilization of these drugs for legitimate medical purposes.

9 §1003. Definitions

10 As used in this Part, the following terms shall have the meaning ascribed to
11 them unless the context clearly indicates otherwise:

12 (1) "Administer" or "administration" means the direct application of a drug
13 to the body of a patient by injection, inhalation, ingestion, or any other means.

14 (2) "Advisory council" means the entity established in R.S. 40:1005.

15 (3) "Board" means the Louisiana Board of Pharmacy.

16 (4) "Controlled substance" means any substance or drug defined,
17 enumerated, or included in federal or state statute or rules, 21 CFR 1308.11-15 or
18 R.S. 40:964, or any substance which may hereafter be designated as a controlled
19 substance by amendment or supplementation of such regulations or statute.
20 "Controlled substance" shall not include distilled spirits, wine, malt beverages, or
21 tobacco.

22 (5) "Dispense" or "dispensing" means the interpretation, evaluation, and
23 implementation of a prescription drug order, including the preparation and delivery
24 of a drug or device to a patient or patient's agent in a suitable container appropriately
25 labeled for subsequent administration to, or use by, a patient.

26 (6) "Dispenser" means a person authorized by this state to dispense or
27 distribute to the ultimate user any controlled substance or drug monitored by the
28 program, but shall not include any of the following:

1 (a) A pharmacy permitted by the board as a hospital pharmacy that dispenses
2 or distributes any controlled substance or drug monitored by the program for the
3 purposes of inpatient hospital care.

4 (b) A practitioner who dispenses or distributes no more than a single forty-
5 eight-hour supply of such controlled substance or drug to a patient prior to or
6 subsequent to performing an actual procedure on that patient.

7 (c) A practitioner or other authorized person who administers such controlled
8 substance or drug upon the lawful order of a practitioner.

9 (d) A wholesale distributor of such controlled substance or drug that is
10 credentialed by the Louisiana State Board of Wholesale Drug Distributors.

11 (7) "Distribute" or "distribution" means the delivery of a drug or device other
12 than by administering or dispensing.

13 (8) "Drug" means any of the following:

14 (a) Any substance recognized as a drug in the official compendium, or
15 supplement thereto, designated by the board for use in the diagnosis, cure,
16 mitigation, treatment, or prevention of diseases in humans or animals.

17 (b) Any substance intended for use in the diagnosis, cure, mitigation,
18 treatment, or prevention of disease in humans or other animals.

19 (c) Any substance other than food intended to affect the structure or any
20 function of the body of humans or other animals.

21 (9) "Drugs of concern" means drugs other than controlled substances as
22 defined by rule which demonstrate a potential for abuse.

23 (10) "Patient" means the person or animal who is the ultimate user of a
24 controlled substance or drug monitored by the program for whom a prescription is
25 issued and for whom a controlled substance or drug is dispensed.

26 (11) "Prescriber" means a licensed health care professional with prescriptive
27 authority.

28 (12) "Prescription monitoring information" means data submitted to and
29 maintained by the prescription monitoring program.

1 (13) "Prescription Monitoring Program" or "PMP" means the program
2 established in R.S. 40:1004.

3 (14) "Procedure" means any dental or medical practice or process described
4 in the current year's version of the American Dental Association's current Dental
5 Terminology or the American Medical Association's Code of Procedural
6 Terminology.

7 §1004. Establishment of prescription monitoring program

8 A. The board shall establish and maintain, in consultation with and upon the
9 recommendation of the advisory council, an electronic system for the monitoring of
10 controlled substances and drugs of concern dispensed in the state or dispensed to an
11 address in the state.

12 B. In conformity with the Louisiana Public Bid Law, R.S. 38:2211 et seq.,
13 the board may contract with a vendor to establish and maintain the electronic
14 monitoring system pursuant to rules promulgated by the board.

15 §1005. Advisory council

16 A. The advisory council shall consist of the following members, each of
17 whom may appoint a designee:

18 (1) The president of the Louisiana State Board of Medical Examiners.

19 (2) The president of the Louisiana State Board of Dentistry.

20 (3) The president of the Louisiana State Board of Nursing.

21 (4) The president of the Louisiana State Board of Optometry Examiners.

22 (5) The president of the Louisiana State Board of Examiners of
23 Psychologists.

24 (6) The president of the Louisiana State Board of Veterinary Medicine.

25 (7) The president of the Louisiana Board of Pharmacy.

26 (8) The superintendent of the Louisiana State Police.

27 (9) The administrator of the United States Drug Enforcement
28 Administration.

29 (10) The speaker of the Louisiana House of Representatives.

- 1 (11) The president of the Louisiana Senate.
- 2 (12) The chairman of the House Committee on Health and Welfare.
- 3 (13) The chairman of the Senate Committee on Health and Welfare.
- 4 (14) The secretary of the Department of Health and Hospitals.
- 5 (15) The president of the Louisiana State Medical Society.
- 6 (16) The president of the Louisiana Dental Association.
- 7 (17) The president of the Louisiana Association of Nurse Practitioners.
- 8 (18) The president of the Optometry Association of Louisiana.
- 9 (19) The president of the Louisiana Veterinary Medical Association.
- 10 (20) The president of the Louisiana Pharmacists Association.
- 11 (21) The president of the Louisiana Independent Pharmacies Association.
- 12 (22) The president of the National Association of Chain Drug Stores.
- 13 (23) The president of the Louisiana Sheriffs' Association.
- 14 (24) The president of the Louisiana District Attorneys Association.
- 15 (25) The president of the Pharmaceutical Research and Manufacturers of
- 16 America.
- 17 (26) The president of the Louisiana Academy of Medical Psychologists.
- 18 B. The members of the advisory council shall serve at the pleasure of their
- 19 respective appointing authorities, eleven of whom shall constitute a quorum for the
- 20 transaction of all business. The members shall elect a chairman and vice chairman
- 21 whose duties shall be established by the advisory council. The board shall fix a time
- 22 and place for regular meetings of the advisory council, which shall meet at least
- 23 quarterly. The advisory council shall establish policies and procedures necessary to
- 24 carry out its duties.
- 25 C. The board shall seek, and the advisory council shall provide, information
- 26 and advice regarding the development and operation of the electronic monitoring
- 27 system, including but not limited to the following:
- 28 (1) Which controlled substances should be monitored.
- 29 (2) Which drugs of concern demonstrate a potential for abuse and should be

1 monitored.

2 (3) Design and implementation of educational courses identified in R.S.
3 40:1008.

4 (4) Proper analysis and interpretation of prescription monitoring information.

5 (5) Design and implementation of an evaluation component.

6 (6) Potential nominees to the advisory council.

7 §1006. Reporting of prescription monitoring information

8 A. Each dispenser shall submit to the board information regarding each
9 prescription dispensed for a controlled substance or drug monitored by the program.

10 The information submitted for each prescription shall include, at a minimum, data
11 relative to the identification of the following elements of the transaction:

12 (1) Prescriber information, including:

13 (a) Category of licensure and credential number.

14 (b) United States Drug Enforcement Administration registration number.

15 (2) Patient, including:

16 (a) Full name.

17 (b) Address.

18 (c) Gender.

19 (d) Date of birth.

20 (3) Prescription information, including:

21 (a) Date of issue.

22 (b) Date of dispensing.

23 (c) Days supply dispensed.

24 (d) Whether the prescription is new or a refill.

25 (e) Serial or prescription number assigned by the dispenser.

26 (4) Controlled substance or drug information, including:

27 (a) Brand or generic name.

28 (b) National Drug Code for the drug dispensed.

29 (c) Quantity of the controlled substance or drug dispensed.

1 (d) Dosage form.

2 (5) Dispenser information, including:

3 (a) Pharmacy permit number or other dispensing credential identifier.

4 (b) United States Drug Enforcement Administration registration number.

5 B. Each dispenser shall submit the required information in accordance with
6 transmission methods and frequency established by the board.

7 C. The board may issue a waiver to a dispenser who is unable to submit
8 prescription information by electronic means. The waiver shall state the format and
9 frequency with which the dispenser shall submit the required information.

10 D. Any person or entity required to report information concerning
11 prescriptions to the board or to its designated agent pursuant to the requirements of
12 this Part shall not be liable to any person or entity for any claim of damages as a
13 result of the act of reporting the information and no lawsuit may be predicated
14 thereon. Any person or entity who submits report information in good faith
15 containing prescription information that is not the subject of the PMP shall not be
16 liable to any person or entity for any claim of damages and no lawsuit may be
17 predicated thereon.

18 §1007. Access to prescription monitoring information

19 A. Except as provided in Subsections C, D, E, and F of this Section,
20 prescription monitoring information submitted to the board shall be protected health
21 information and not subject to public or open records law, including but not limited
22 to R.S. 44:1 et seq. Prescription monitoring information shall not be available for
23 civil subpoena nor shall such information be disclosed, discoverable, or compelled
24 to be produced in any civil proceeding nor shall such records be deemed admissible
25 as evidence in any civil proceeding for any reason. Notwithstanding this provision,
26 law enforcement and professional licensing, certification, or regulatory agencies may
27 utilize prescription monitoring information in the course of any investigation and
28 subsequent criminal and administrative proceedings.

29 B. The board shall maintain procedures to ensure that the privacy and

1 confidentiality of patients and patient information collected, recorded, transmitted,
2 and maintained is not disclosed to persons or entities except as in Subsections C, D,
3 E, and F of this Section.

4 C. The board shall review the prescription monitoring information. If there
5 is reasonable cause to believe a violation of law or breach of professional or
6 occupational standards may have occurred, the board shall notify the appropriate
7 local, state, or federal law enforcement agency or professional licensing,
8 certification, or regulatory agency and shall provide prescription monitoring
9 information required for an investigation.

10 D. The board shall provide prescription monitoring information to public or
11 private entities, whether located in or outside of the state, for public research, policy,
12 or educational purposes, but only after removing information that could be used to
13 identify individual patients or persons who received prescriptions from prescribers.

14 E. The following persons, after successful completion of the educational
15 courses identified in R.S. 40:1008, may access prescription monitoring information
16 in the same or similar manner, and for the same or similar purposes, as those persons
17 are authorized to access similar protected health information under federal and state
18 law and regulation:

19 (1) Persons authorized to prescribe or dispense controlled substances or
20 drugs of concern, for the purpose of providing medical or pharmaceutical care for
21 their patients.

22 (2) Local, state, and federal law enforcement or prosecutorial officials
23 engaged in the administration, investigation, or enforcement of the laws governing
24 controlled substances or other drugs of concern.

25 (3) Designated representatives from the professional licensing, certification,
26 or regulatory agencies charged with supervising those professionals engaged in the
27 prescribing or dispensing of controlled substances or other drugs of concern.

28 (4) Designated representatives from the Louisiana Medicaid program
29 regarding Medicaid program recipients.

1 (5) Designated representatives of the board and any vendor or contractor
2 establishing or maintaining the prescription monitoring program.

3 F. The board may provide prescription monitoring information to an
4 individual who requests his personal prescription monitoring information in
5 accordance with procedures established by board regulation.

6 G. The board and the advisory council shall be immune from civil liability
7 arising from inaccuracy of any of the information submitted to the board pursuant
8 to this Act.

9 §1008. Education and treatment

10 A. The board shall, in consultation with and upon the recommendation of the
11 advisory council, implement the following education courses:

12 (1) An orientation course during the implementation phase of the
13 prescription monitoring program.

14 (2) A course for persons who are authorized to access the prescription
15 monitoring information, but who did not participate in the orientation course.

16 (3) A course for persons who are authorized to access the prescription
17 monitoring information, but who have violated the laws or breached occupational
18 standards involving the prescribing, dispensing, or use of any controlled substances
19 or drugs monitored by the prescription monitoring program.

20 (4) A continuing education course for health care providers or professionals
21 on prescribing practices, pharmacology, and the identification, treatment, and referral
22 of a patient addicted to or abusing controlled substances or drugs monitored by the
23 prescription monitoring program.

24 B. The board shall, in consultation with and upon recommendation of the
25 advisory council, implement an educational program to inform the public about the
26 use, diversion and abuse of, addiction to, and treatment for the addiction to
27 controlled substances or drugs monitored by the prescription monitoring program.

1 C. The board shall, when appropriate, refer potential or alleged impaired
2 professionals to the appropriate professional licensing, certification, or regulatory
3 agency to ensure intervention, treatment, and ongoing monitoring and follow-up.

4 §1009. Unlawful acts and penalties

5 A. A dispenser who fails to submit prescription monitoring information to
6 the board as required by this Act shall be referred to the appropriate professional
7 licensing, certification, or regulatory agency for administrative sanctions as deemed
8 appropriate by that agency.

9 B. A person or entity authorized to possess prescription monitoring
10 information pursuant to this Act who knowingly discloses such information in
11 violation of this Act shall be referred to the appropriate professional licensing,
12 certification, or regulatory agency for administrative sanctions as deemed
13 appropriate by that agency and may, upon criminal conviction, be imprisoned, with
14 or without hard labor, for not more than five years, and in addition, may be fined not
15 more than five thousand dollars.

16 C. A person or entity authorized to possess prescription monitoring
17 information pursuant to this Act who uses such information in a manner or for a
18 purpose in violation of this Act shall be referred to the appropriate professional
19 licensing, certification, or regulatory agency for administrative sanctions as deemed
20 appropriate by that agency and may, upon criminal conviction, be imprisoned, with
21 or without hard labor, for not more than five years, and in addition, may be fined not
22 more than five thousand dollars.

23 §1010. Evaluation; data analysis; reporting

24 A. The board shall, in consultation with and upon recommendation of the
25 advisory council, design and implement an evaluation component to identify cost
26 benefits of the prescription monitoring program and other information relevant to
27 policy, research, and education involving controlled substances and drugs monitored
28 by the prescription monitoring program.

1 B. The board shall report to the appropriate legislative oversight committees
2 on a periodic basis, but in no case less than annually, the cost benefits and other
3 information contained in Subsection A of this Section.

4 §1011. Rules and regulations

5 In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the
6 board shall promulgate rules and regulations necessary to implement the provisions
7 of this Act.

8 §1012. Authority to contract

9 In accordance with the Public Bid Law, R.S. 38:2211 et seq., the board shall
10 have the authority to contract with another agency of this state or with a private
11 vendor, as necessary, to ensure the effective operation of the prescription monitoring
12 program. Any contractor shall be bound to comply with provisions regarding
13 confidentiality of prescription information in R.S. 40:1007 and further shall be
14 subject to the penalties specified in R.S. 40:1009 for unlawful acts.

15 §1013. Funding authority

16 A. The board shall have the authority to make application for, receive, and
17 administer grant funding from public or private sources for the development,
18 implementation, or enhancement of the prescription monitoring program.

19 B. The board shall have the authority to levy and collect an annual fee on
20 controlled dangerous substance permits issued by an agency within the state to
21 physicians, podiatrists, dentists, veterinarians, optometrists, medical psychologists,
22 pharmacies, and any other person authorized by law to prescribe or dispense
23 controlled dangerous substances. A twenty-five-dollar fee shall be levied and
24 collected annually by the board on controlled dangerous substance permits
25 enumerated in Subsection B of this Section.

26 §1014. Severability

27 If any provision of this Act or application thereof to any person or
28 circumstance is held invalid, the invalidity does not affect other provisions or
29 applications of this Act which can be given effect without the invalid provisions or

1 applications, and to this end the provisions of this Act are severable.

2 Section 2. The Louisiana State Law Institute is hereby directed to redesignate and
3 incorporate Parts X-A, X-B, X-C, and X-D of Chapter 4 of Title 40 of the Louisiana Revised
4 Statutes of 1950.

5 Section 3. This Act shall become effective on July 1, 2006; if vetoed by the governor
6 and subsequently approved by the legislature, this Act shall become effective on July 1,
7 2006, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Johns

HB No. 153

Abstract: Creates an electronic system for the monitoring of controlled substances and other drugs of concern dispensed in the state or dispensed to an address within the state in order to improve the state's ability to identify and inhibit the diversion of controlled substances and drugs in an efficient and cost-effective manner and in a manner that shall not impede the appropriate utilization of these drugs for legitimate medical purposes.

Proposed law provides for the short title, purpose, and definitions of proposed law.

Proposed law requires that the La. Board of Pharmacy (LABP) work with the advisory council to establish the prescription monitoring program which shall consist of an electronic system for monitoring of controlled substances and drugs of concern dispensed in the state or to an address in the state. Authorizes the LABP to contract with a vendor in order to maintain the monitoring system.

Proposed law creates an advisory council which consists of the following members or their designees:

- (1) The president of the Louisiana State Board of Medical Examiners.
- (2) The president of the Louisiana State Board of Dentistry.
- (3) The president of the Louisiana State Board of Nursing.
- (4) The president of the Louisiana State Board of Optometry Examiners.
- (5) The president of the Louisiana State Board of Examiners of Psychologists.
- (6) The president of the Louisiana State Board of Veterinary Medicine.
- (7) The president of the Louisiana Board of Pharmacy.
- (8) The superintendent of the Louisiana State Police.
- (9) The administrator of the U.S. Drug Enforcement Administration.
- (10) The speaker of the Louisiana House of Representatives.
- (11) The president of the Louisiana Senate.
- (12) The chairman of the House Committee on Health and Welfare.
- (13) The chairman of the Senate Committee on Health and Welfare.
- (14) The secretary of the Department of Health and Hospitals.
- (15) The president of the Louisiana State Medical Society.
- (16) The president of the Louisiana Dental Association.

- (17) The president of the Louisiana Association of Nurse Practitioners.
- (18) The president of the Optometry Association of Louisiana.
- (19) The president of the Louisiana Veterinary Medical Association.
- (20) The president of the Louisiana Pharmacists Association.
- (21) The president of the Louisiana Independent Pharmacies Association.
- (22) The president of the National Association of Chain Drug Stores.
- (23) The president of the Louisiana Sheriffs' Association.
- (24) The president of the Louisiana District Attorneys Association.
- (25) The president of the Pharmaceutical Research and Manufacturers of America.
- (26) The president of the Louisiana Academy of Medical Psychologists.

Proposed law provides for the operation of the advisory council including specific topics which it must consider in advising the LABP.

Proposed law provides for specific information that each dispenser must include in reporting each prescription dispensed for a drug monitored by the program.

Proposed law provides for access to the information in the prescription monitoring program.

Proposed law provides for educational courses that the LABP must implement.

Proposed law provides for a dispenser who fails to submit prescription monitoring information to the board as required by proposed law.

Proposed law provides for procedures for persons authorized to possess prescription monitoring information who knowingly disclose such information in violation of proposed law.

Proposed law requires the LABP to implement an evaluation component to identify cost benefits of the prescription monitoring program and report its finding to the appropriate legislative oversight committees on a periodic basis.

Proposed law requires the LABP to promulgate rules for the implementation of proposed law.

Proposed law authorizes the LABP to receive public or private grants and collect an annual fee of \$25 for certain controlled dangerous substance permits issued in the state.

Effective July 1, 2006.

(Adds R.S. 40:1001-1014)