Prescription Monitoring Program Compact

Background & Summary

Project Background

In 2007 alone, 2.5 million people aged 12 or older used prescription drugs non-medically for the first time. Divided over the course of the year, roughly 7,000 new people became prescription drug abusers each day. To put this further into perspective, abuse is spreading so rapidly that in 2007 nearly 450,000 more people started misusing prescription drugs than started using marijuana. The most frequently abused medications are narcotic pain relievers, which account for nearly 75 percent of illicit use. The central challenge facing policy makers is how to prevent diversion and abuse of these medications while ensuring legitimate access.¹

The number of drug overdose deaths in the United States continues to increase, representing a serious threat to public health. To a significant extent, these deaths are related to increases in prescription drug abuse. Rates of overdose deaths currently are 4 to 5 times higher than during the black tar heroin epidemic of the mid-1970s and more than twice the rates during the peak years of crack cocaine in the early 1990s. In 2005—the most recent year for which data are available—there were 22,400 drug overdose deaths in the United States, compared with slightly more than 17,000 homicides in the same year. Notably, prescription pain killers were implicated in nearly 40 percent of these deaths.²

States are making critical contributions in the fight against prescription drug diversion by implementing Prescription Monitoring Programs (PMPs). In 2001, there were 15 prescription monitoring programs. Today, 43 States have active programs or are in the process of creating such programs. While the structure and function of individual state PMPs vary, each program focuses on the responsible monitoring of drug prescriptions with the goal of preventing the diversion of these medications.³

Despite the accomplishments of a majority of states and key stakeholders who are in varying stages of progress on this issue, the ideal means for achieving greater uniformity, information sharing and cooperation across state lines does not yet exist. An interoperable system of information sharing among the various state monitoring programs is likely to be a far more reliable and effective means of ensuring that these medicines are properly distributed. To that end, the Council of State Governments, in conjunction with federal and state policymakers, state legislators and other interested stakeholders, has developed the Prescription Monitoring Program Compact. The compact specifically addresses the following:

² ibid.
³ ibid.
The new Prescription Monitoring Program Compact addresses these issues as well as compact enforcement, administration, finances, communications, data sharing and training. The new compact establishes an independent compact operating authority, the Interstate Commission, which will be positioned to address future interstate problems and issues as they arise.

The development of interstate data sharing system aimed at reducing the growing epidemic of prescription drug abuse is paramount to both public health and safety. While states and communities have responded to this problem on an intrastate basis, no comprehensive policy approach exists to interstate sharing of prescription drug data.

What is a compact?
Simply stated, a compact is an agreement between two or more states for cooperative effort, mutual assistance, management, and regulation of public policy matters by the states, which transcend the boundaries of one state. Authorized under Article I of the U.S. Constitution and dating as far back as the 1780s, compacts have been created to address a wide variety of issues that arise among the states. Many of the earliest compacts were designed to settle boundary disputes.

Throughout the 20th century, compacts became increasingly relied upon to manage and regulate state concerns in diverse areas such as environmental resource management, multi-state taxation, transportation, corrections, crime control and juvenile justice. States ratifying compacts are bound to observe the terms of the agreement until the compact is formally renounced by the state. Compact provisions take precedence over conflicting state laws and inconsistent provisions of existing laws of a compact state.

Solutions for the Future
The Council of State Governments (CSG) has drafted a new interstate compact that would enable states to develop an interoperable system to share prescription data. Since November 2009, CSG has worked with a variety of federal, state and local officials as well as national stakeholder organizations representing a variety of prescription monitoring programs nationwide.

While the compact is not exhaustive in its coverage, it does address the key issues that the interested stakeholders felt were essential to sharing prescription data while protecting patient privacy: authorized uses and restrictions on prescription data, technology and security, and funding. In addition, the compact provides for a detailed
governance structure at both the state and national levels with built-in enforcement and compliance mechanisms.

**Applicability**

- The new compact applies to any state that has already implemented a prescription monitoring program (PMP). In the event that a state has not previously implemented a PMP, it would be possible for a state to develop a prescription monitoring program and also join the compact at the same time through the same piece of legislation.

**Authorized Uses and Restrictions on Prescription Data**

- **Member State Control of Data** – under the new compact, a member state retains its authority and autonomy over its prescription monitoring program and prescription data in accordance with its existing state laws and regulations. A member state may provide, restrict or deny prescription data to a requestor of another state in accordance with its laws, regulations and policies. A member state may also provide, restrict or deny prescription data received from another state to a requestor within that state and the member state also has authority to determine which requestors shall be authorized.

- **Prescription Data Obtained by a Member State** – under the compact, prescription data will be used solely for purposes of providing the prescription data to a requestor. It will not be stored in the state’s prescription monitoring program database, except for stored images, nor in any other database.

- **Requestor Authentication** - The commission shall promulgate rules establishing standards for requestor authentication. Every member state shall authenticate requestors according to the rules established by the commission. A member state may authorize its requestors to request prescription data from another member state only after such requestor has been authenticated. A member state that becomes aware of a requestor who violated the laws or regulations governing the appropriate use of prescription data shall notify the state that transmitted the prescription data.

**Technology and Security**

- **Security** – the Commission will establish through rules how prescription drug data is transmitted. This will be done with the goal of protecting patient privacy in mind.
• **Technology Infrastructure** – the Commission shall foster the adoption of open (vendor- and technology-neutral) standards for the technology infrastructure and shall be responsible for the acquisition and operation of the technology infrastructure.

**Funding**

• **Dues** – the member states shall provide for the payment of the reasonable expenses for establishing, organizing and administering the operations and activities of the interstate compact. In order to do so, the interstate commission may collect annual dues from each member state to cover the cost of operations and activities of the interstate commission and its staff.

• **Grants and Awards** - the interstate commission may accept non-state funding, including grants, awards and contributions to offset, in whole or in part, the costs of the annual dues.

• **Financial Obligations** - The interstate commission shall not incur financial obligations of any kind prior to securing adequate funding; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member states.

• **Record Keeping** - The interstate commission is obligated to keep accurate accounts of all receipts and disbursements subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission shall be audited annually by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

**National Coordination**

• **Interstate Commission** – the governing body of the new interstate compact will be composed of one voting representatives from each member state, a non-voting technical advisor from each member state and various ex-officio members representing impacted stakeholder groups. The Interstate Commission will provide general oversight of the agreement, create and enforce rules governing the compact’s operation and promote training and compliance with the compact’s requirements. Each state will be allowed one vote on compact matters and the Commission will maintain a variety of policy and operations committees. Rather than states operating under an interstate agreement without any national coordination, the Interstate Commission will provide the venue for solving interstate issues and disputes.

• **Rulemaking** – the Interstate Commission, through its member states, will draft and enforce rules for the operation of the compact. While the interstate compact
mechanism provides the skeletal structure of the agreement, the rules are the muscles or actuators of the contract. The compact is basic in its scope and intent, therefore compelling the rules and rulemaking process to be dynamic in its ability to respond to changing issues without rewriting the compact at every turn. However, a rule may be voided should a majority of member state legislatures revoke the rule (check and balance).

- **Enforcement** – the Interstate Commission will have the ability to enforce the provisions of the compact and its rules on states and prescription monitoring programs. Without enforcement and compliance powers, the compact becomes a toothless tiger – a set of good ideas under which no one feels compelled to abide. With enforcement capacity, the compact can force member states to comply with the rules and regulations of the compact. Of course, such action could only be undertaken by the Commission itself, i.e. the state members.

**Effective Date**

- **Six or more states** – the compact will activate once six or more states have adopted the language. Team felt that six states threshold was sufficiently large enough to begin operations, while also creating a sense of urgency for the remaining states.

Questions may be directed to:

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