Prescription Drug Abuse: A Growing Epidemic

Senator Vicki Schmidt
Assistant Majority Leader
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Prescription Drug Abuse

Scope of the Problem

- Prescription drug abuse is recognized as the nation’s fastest growing drug problem.

- Prescription drugs are the second most commonly abused drug behind marijuana.

- Nearly one third of all people 12 or older who abuse drugs for the first time abuse prescription drugs.
Prescription Drug Abuse

*Scope of the Problem (cont’)*

- In KY the rate of prescription drug abuse has doubled among men and tripled among women in the last 10 years.

- In FL estimates suggests as many as seven people are overdosing daily on prescription drugs.

- Deaths from prescription drug overdoses are the leading cause of accidental death in 17 states.
At the center of the epidemic are schedule II–V pharmaceutical products.

While many states regulate these drugs, stricter and more uniform standards are probably needed.

Until that happens drugs will continue being diverted and used for illicit purposes.
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State Driven Solutions

- With the epidemic of prescription drug abuse continuing to grow, the Obama Administration released an ambitious plan in April, 2011 to reduce the problem.

- The plan aimed to curb abuse by cracking down on pill mills and pain clinics and requiring manufactures to develop better education programs.

- The plan also called for each state to develop a PMP.
According to the National Alliance for Model State Drug Laws 40 states have operational PMPs.

Another 8 states have enacted enabling legislation.

For more information about your individual states please visit the following Web site: http://www.namsdl.org/documents/StatusofStates011112.pdf
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The Need for Interstate Cooperation

- State PMPs represent a tremendous first step.

- However there is still a need for an interoperable system that allows for data sharing across state lines.
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The Need for Interstate Cooperation (cont’)

- There are two such options designed to ensure interstate data sharing that states are currently considering.

- The first is the National Association of Boards of Pharmacy Interconnect

- The second is the Prescription Monitoring Program Compact developed by CSG.
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NABP Interconnect

- Implemented through memorandum's of understanding between states and NABP.
- To date 13 states have signed MOUs with NABP.
- Data has begun being shared across states lines on a limited basis, with additional states to follow soon.
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The Prescription Monitoring Program Compact
What is an Interstate Compact?

• Simple, versatile and proven tool
• Effective means of cooperatively addressing common problems
• Contract between states
• Creates economies of scale
• Responds to national priorities with one voice
• Retains collective state sovereignty over issues belonging to the states
History

• Interstate Compacts are rooted in the colonial past.

  Because each colony was independent, disputes between them were worked out by negotiation that was submitted to the king for approval.

• Interstate compacts are not new.

  What has changed in the last century is the use of interstate compacts to create on-going administrative agencies.
Common Law Contract Principles

- An offer to enter the agreement is expressed by statutory language enacted by the first state to join the compact and each subsequent jurisdiction accepts this offer by enacting statutory language.

- Once enacted by two or more states, a compact, like any other contractual agreement, is protected from impairment by the states under Article I, Section 10, Clause 1 of the U.S. Constitution.

- Although a state cannot be bound by a compact to which it has not consented, once enacted a compact takes precedence over conflicting statutes of the signatory states.

- A state cannot unilaterally nullify, revoke, or amend one of its compacts if the compact does not so provide.
Recent Court Rulings

• **Alabama v. North Carolina**, 560 U.S. ___, 130 S. Ct. 2295, 176 L.Ed. 2d 1070 (June 1, 2010)

  - The Court will not "read absent terms into an interstate compact due to the federalism and separation-of-powers concerns that would arise if the Court was to "rewrite an agreement among sovereign States, to which the political branches consented."

  - The Court will not “order relief inconsistent with [the] express terms of a compact, no matter what the equities of the circumstances might otherwise invite.”

  - The 11th Amendment does not bar enforcement of the provisions of an interstate compact against a state acting in violation of the terms of the agreement.
3 Primary Purposes

1. Used to resolve boundary disputes.
2. Used to institutionalize and manage interstate issues pertaining to allocation of natural resources.
3. Used to create administrative agencies which have jurisdiction over a wide variety of state concerns:
   - State transportation
   - Taxation
   - Environmental matters
   - Regulation
   - Education
   - Corrections
   - Public safety
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Compacts

- Approximately 200 compacts formed
- About 38 are inactive
- On average, each state is a member of 25 compacts
- Port Authority of NY & NJ (1922) signaled a new era in regulatory compacts.
Other Forms of Multistate Cooperation

**Multistate Legal Actions**
- Joint legal actions
- Tobacco settlement by NAAG

**Uniform State Laws**
- National Conference of Commissioners on Uniform State Laws (NCCUSL)
- No involvement with “collective action” per se

**Administrative Agreements**
- Executive agencies
- Formal or informal
Advantages

✓ Flexible, enforceable means of cooperation.

✓ Interstate uniformity with federal consent – i.e., best of both worlds.

✓ States give up right to act unilaterally, but retain shared control (“collective sovereignty”).

✓ Opportunity for states to work cooperatively in many cases with USG partners, thus avoiding conflicts over federal preemption, e.g., the Interstate Agreement on Detainers
Potential Disadvantages

- Lengthy and challenging process.
- Lack of familiarity with the mechanism.
- Loss of individual state sovereignty.
- Delegation of state regulatory authority to interstate entities
Prescription Monitoring Program Compact – Project Overview

✓ State Driven Solution

✓ CSG served as neutral convener, facilitator, and resource

✓ Provide states the tools necessary and sustainable tools to govern/enforce data exchange
Prescription Monitoring Program Compact – Key Players

- **State Government Officials**
  - Governors and policy staff
  - Executive agency directors
  - Legislative leaders
  - Legislators and Staff

- **External Stakeholders**
  - National Associations/Groups
  - Academic/Scientific Researchers
  - Federal Agencies
Prescription Monitoring Program Compact – Goals

✓ Explore a variety of state driven solutions…not just interstate compacts

✓ Examine challenges, obstacles, and opportunities surrounding data exchange

✓ Establish recommendations for a PDMP agreement
Prescription Monitoring Program Compact – Key Policy Areas

- Key areas covered by the compact
  - Governance and Structure
  - Authorized use of data
  - Technology and security
  - Funding
  - Dispute Resolution
  - Rules
  - Boiler Plate Language
Prescription Monitoring Program Compact – Next Steps

- Education
- State Support
- State Enactments
Contact Information

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Visit CSG’s National Center for Interstate Compacts online at:

www.csg.org/ncic

Learn about the Prescription Monitoring Program Compact online at:

http://www.csg.org/NCIC/PrescriptionMonitoringProgramCompact.aspx
PRESENTED BY THE NATIONAL CENTER FOR INTERSTATE COMPACTS

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