36

FIS 14 015 13

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY

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Concord, NH 03301-2412
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E-Mail:

January 23, 2014

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Approved by Fiscal Committee 2/14/14 Date

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

1. Pursuant to RSA 14:30-a, authorize the Board of Pharmacy to accept and expend funds from the Department of Justice in the amount of $368,871 to implement the Controlled Drug Prescription Health and Safety Program, effective upon Fiscal Committee and Governor and Council approval through March 31, 2015. This is 100% Other (Department of Justice Assistance grant).

2. Pursuant to RSA 124:15, authorize the Board of Pharmacy to establish a temporary full-time position, , Class 059, Administrator I, Labor Grade 27, effective upon Fiscal Committee and Governor and Council approval through March 31, 2015. This position would report to the New Hampshire Board of Pharmacy.

3. Pursuant to RSA 124:15 authorize the Board of Pharmacy to extend the temporary part-time position, Class 50, Administrator I, Labor Grade 27, expiring on June 30, 2014, to continue through March 31, 2015. This position would report to the Program Manager who reports to the New Hampshire Board of Pharmacy. This position was approved by the Fiscal Committee on July 10, 2013, Fiscal item #FIS-13-164, and Governor and Council on July 24, 2013, Item #57.

Funds are to be budgeted in account #05-0074-074-PHB743510-3331PDM/HEALTH AND HUMAN SERVICES/HHS: ADMIN ATTACHED BOARDS/PHARMACY BOARD/PRESCRIPTION DRUG MONITORING as follows:

STATE FISCAL YEAR 2014

CLASS	DESCRIPTION	CURRENT AUTHORIZED BUDGET	REQUESTED ACTION	REVISED AUTHORIZED
005-401716	Other (NASCSA grant)	$ 15,517	0	$ 15,517
009-403574	Agency Income	0	$ 163,320	$163,320
	TOTAL	**$ 15,517**	**$ 163,320**	**$ 178,837**

CLASS	DESCRIPTION	CURRENT AUTHORIZED BUDGET	REQUESTED ACTION	REVISED AUTHORIZED
020-500241	Current Expenses	$1,006	$320	$1,326
022-500248	Rents/Leases Other Than State	$1	$0	$1
026-500251	Membership Fees	$1	$0	$1
027-502799	Transfers to Doit	$1	$0	$1
028-500292	Transfer to General Services	$1	$0	$1
029-500290	Intra-Agency Transfers	$1	$0	$1
030-500311	Equipment - General (New)	$1	$1,300	$1,301
039-500188	Telecommunications	$1	$240	$241
046-500464	Gen Consultants Non Ben	$1	$0	$1
049-500294	Transfer to Other Agencies	$1	$0	$1
050-500109	Part-Time Salaries	$13,000	$8,000	$21,000
059-509059	Full-Time (Temporary)	$0	$25,000	$25,000
060-500612	Benefits (Temporary)	$995	$7,500	$8,495
066-500544	Educational Training	$1	$0	$1
070-500704	Mileage Private Cars In State	$501	$960	$1,461
072-502646	Prog Reimbursement	$1	$0	$1
073-500582	Grants to other state agencies	$1	0	$1
080-500716	Out-of-state travel	$1	0	$1
102-500731	Contracts for Program Services	$1	$120,000	$120,001
103-502664	Contract for Operational Services	$1	$0	$1
TOTAL		**$ 15,517**	**$ 163,320**	**$ 178,837**

STATE FISCAL YEAR 2015

CLASS	DESCRIPTION	CURRENT AUTHORIZED BUDGET	REQUESTED ACTION	REVISED AUTHORIZED
--005-401716	Other (NASCSA grant)	$ 17	0	$ 17
009-403574	Agency Income	$ 0	$ 205,551	$ 205,551
	TOTAL	**$ 17**	**$205,551**	**$ 205,568**

CLASS	DESCRIPTION	CURRENT AUTHORIZED BUDGET	REQUESTED ACTION	REVISED AUTHORIZED
020-500241	Current Expenses	$1	$0	$1
022-500248	Rents/Leases Other Than State	$1	$0	$1
026-500251	Membership Fees	$1	$0	$1
027-502799	Transfers to Doit	$1	$0	$1
028-500292	Transfer to General Services	$1	$0	$1
029-500290	Intra-Agency Transfers	$1	$0	$1
030-500311	Equipment - General (New)	$1	$0	$1
039-500188	Telecommunications	$1	$480	$481
046-500464	Gen Consultants Non Ben	$1	$0	$1
049-500294	Transfer to Other Agencies	$1	$0	$1
050-500109	Part-Time Salaries	$0	$15,400	$15,400
059-509059	Full-Time (Temporary)	$0	$48,154	$48,154
060-500612	Benefits (Temporary)	$0	$20,372	$20,372
066-500544	Educational Training	$1	$0	$1
070-500704	Mileage Private Cars In State	$1	$1,145	$1,146
072-502646	Prog Reimbursement	$1	$0	$1
073-500582	Grants to other state agencies	$1	$0	$1
080-500716	Out-of-state travel	$1	0	$1
102-500731	Contracts for Program Services	$1	$120,000	$120,001
103-502664	Contract for Operational Services	$1	$0	$1
TOTAL		**$17**	**$205,551**	**$ 205,568**

EXPLANATION

In June 2012, Governor Lynch signed legislation, Chapter Law 196, codified as RSA 318-B:32-38 (attached) to establish a Prescription Monitoring Program (PMP), to combat prescription drug abuse and misuse by allowing practitioners to review controlled medication data collected from licensed dispensers in a secure web based program. Subsequent legislation (Senate Bill 83, 2013 Session) abolished the sunset provision that was in RSA 318-B (attached). No general funds were allocated or allowed to establish this program. In January 2013, the Board of Pharmacy was awarded a grant from the National Association of Controlled Substance Authorities (NASCSA) for $15,517 to support the implementation the Prescription Drug Monitoring program (PMP). Those funds were previously approved, Fiscal Committee (July 10, 2013, Item #5) and Governor and Council (July 24, 2013, Item # 57). With this funding and approval the Board of Pharmacy hired a part-time program manager to assist in the implementation of the PMP. In the fall of 2013 the New Hampshire Department of Justice applied for and was awarded a Federal BJA Grant, Harold Rogers Grant, on behalf of the Board of Pharmacy. These funds were subsequently awarded to the Board of Pharmacy, approved by Governor and Council on October 18, 2013, Item #41, for the purposes of implementing the PMP, specifically for staffing and contracting with a vendor to develop a web based program which will allow practitioners to review controlled medication data collection from licensed dispensers.

Approval of this request will allow the Board of Pharmacy:

1.) To accept and expend $368,871 subgrant from the Department of Justice to establish a Prescription Monitoring Program (PMP) and to contract with a vendor, which will combat prescription drug abuse and misuse by allowing practitioners to review controlled medication data collected from licensed dispensers in a secure web based program.

2.) Authorize the hiring of a temporary full-time employee, Administrator I, Labor Grade 27, who will work under the direction of the Board of Pharmacy to assist with rulemaking, sustainability of the Controlled Drug Prescription Health and Safety Program, the grant writing process, training, implementation and the operation oversight to the program once fully implemented.

3.) Authorize the extension of the temporary part-time position Administrator I, Labor Grade 27, hired to assist with this program from June 30, 2014 to March 31, 2015. The part-time employee will work under the direction of the full-time employee, Program Manager.

If this request is not approved, the Board of Pharmacy will not be able to establish a Prescription Monitoring Program to combat prescription drug abuse and misuse which 48 other states have addressed.

In the event that these funds are no longer available, general funds will be not be used to continue this program. Any remaining funds in the grant at the end of the authorized grant period will be returned to the U.S. Department of Justice's Bureau of Justice Assistance. This grant may not be used for any other purpose other than the prescription drug monitoring program.

The funds approved will be used for the following purposes:

Class 020 - Current Expenses - will be used to purchase stationery, postage, letterhead, conference calls

Class 030 - Equipment - will be utilized to purchase a computer, printer and software for the new full-time Administrator I.

Class 039 - Telecommunications – for telephone service for the Administrator I.

Class 050 - Part-time Salaries (temporary) - to continue the extended part-time position which was established in July, 2013. (See attached.)

Class 059 - Full Time Salaries (temporary) – for hiring the Administrator I, who will oversee all aspects of the program.

Class 060 - Benefits (temporary) - health and dental insurance, state retirement, federal taxes for the full-time program manager

Class 070 - In State Travel - for training and education provided by the Administrator I and part-time employee.

Class 102 - Contract for Operational Services – contract to be used for a secure web based program that will be maintained by the vendor. This program will track Schedule II, III and IV controlled substances prescribing and dispensing, and the vendor will also manage the database of prescribers and dispensers

FY 2015

Class 039 - Telecommunications – for telephone service for program manager

Class 050 - Part-time Salaries (temporary) to continue to fill the extended part-time position to support program manager

Class 059 - Full-time Salaries (temporary) – to continue the Administrator I position who oversees all aspects of the program.

Class 060 - Benefits (temporary) health and dental insurance, state retirement, federal taxes for the full-time program manager

Class 070 - In State Travel – to be used for travel associated with the training and education provided by the project manager and part-time employee.

Class 102 - Contract for Operational Services - secure web based program that will be maintained by the vendor. This program will track Schedules II, III and IV controlled substances prescribing, and the vendor will also manage the database of prescribers and dispensers

The following information is provided in accordance with the Comptroller's instructional memorandum dated September 21, 1981.

1) List of personnel involved: One temporary full-time position, Administrator I, Labor Grade 27; one temporary part-time position Administrator I, Labor Grade 27.

2) Nature, Need, and Duration: The full-time position will assist with rulemaking, sustainability, the grant writing process, training, and implementation and operation oversight. The part-time position will assist with communication, logistics, scheduling and supporting implementation and operation for the duration of the authorized grant period.

3) Relationship to existing agency programs: The temporary full-time position will be responsible as a project manager reporting to the Board of Pharmacy and working for the successful completion of the Prescription Drug Monitoring Program Advisory Council goals. The temporary part-time position reports under the direction of the full-time position.

4) Has a similar program been requested of the legislature and denied? No

5) Why wasn't funding included in the agency's budget request? At the time of the creation of the FY 14 budget these funds were not available.

6) Can portions of the grant funds be utilized? The grant funds cannot be utilized for anything other than the purpose of the prescription drug monitoring program.

7) Estimate the funds required to continue this position(s): The estimated funds required to continue this position is approximately $167,856.

Respectfully submitted,

Charles J. Fanaras R.Ph.
President
New Hampshire Board of Pharmacy

STATE OF NEW HAMPSHIRE
DEPARTMENT OF JUSTICE
GRANT AWARD

Agency Name:	NH Board of Pharmacy	Vendor No.:	177945B006
Program Name:	Prescription Drug Monitoring Program	Amount:	$ 368,871.00
Grant Start Date:	Upon Approval	State Grant Number:	2013PMP01
Grant End Date:	3/31/2015	Federal Grant Number:	2013-PM-BX-0005
Appropriation No.:	02-20-20-201510-2907-072		

Head of Agency	Project Director	Fiscal Officer
Charles J. Fanaras, R.Ph. Board President 121 South Fruit Street Concord, NH 03301	Michael Viggiano Coordinator 121 South Fruit Street Concord, NH 03301	Jean Barnes Administration 121 South Fruit Street Concord, NH 03301

Federal Grant Name:	Harold Rogers Prescription Drug Monitoring Program
Federal Agency:	United States Department of Justice
Bureau/Office:	Office of Justice Programs
CFDA Number:	16.754
Purpose of Grant:	Implementation of a statewide prescription drug monitoring program
Program Requirements:	Adherence to Program Conditions and Guidelines.
Match Requirements:	Match must be spent on program allowable activities.
Program income Requirements:	Program Income must be reported and spent on program allowable activities.
Reporting Requirements:	Monthly or quarterly Financial reports. Required Performance reports and audit. Adherence to Program Conditions and Guidelines. Completion of Monitoring forms and processes.

Approval	Program Agency	NH Department of Justice
Name	Charles J. Fanaras, R.Ph.	Rosemary Faretra
Title	Board President	Director of Administration
Date		

All terms of this grant award are not valid unless signed by both authorized parties.

Houman, Johanna

From: Houman, Johanna
Sent: Thursday, January 23, 2014 12:21 PM
To: Houman, Johanna
Subject: FW: Classification Approval, Request to Position 9T2676, Administrator I

---- Forwarded by Heidi L Acevedo/Administration/SOPS_Brown/DHHS on 01/23/2014 12:10 PM -----

"Spring, Laurie"
<Laurie.Spring@nh.gov
>

01/23/2014 10:14 AM

To <Heidi.Acevedo@dhhs.state.nh.us>

cc "Brobst, Heidi S" <Heidi.Brobst@nh.gov>

Subject Classification Approval, Request to Position 9T2676, Administrator I

Good morning Heidi,

We've received your request to establish a 9T position for Administrator I, position number 9T2676.

The Classification analysts have approved the request, and we will process the NH First work unit #92263 once we've received a signed PPF from the DAS business supervisor.

Thank you,

Laurie Spring
Hr Assistant III
Classification Section Rm 14
Division of Personnel
28 School Street
Concord NH 03301
Phone: 603-271-1424
Fax: 603-271-1422

FIS 13 164

57

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY
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Robert D. Elder, R.Ph. Compliance Investigator
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Brenda J. Langis Licensing Assistant

Website: nh.gov/ph
E-Mail: pharmacy.board@nh.gov

June 18, 2013

The Honorable Mary Jane Wallner, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Approved by Fiscal Committee 7/10/13
Date

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

1. Authorize the Board of Pharmacy to accept and expend a grant from the National Association of State Controlled Substances Authorities (NASCSA), Quincy, Massachusetts, (Vendor Code # 227900) in the amount of $15,500, to implement the Controlled Drug Prescription Health and Safety Program pursuant to Chapter 196, Laws of 2012. Effective upon Governor and Council approval through June 30, 2014. This is 100% Other (NASCSA Grant).

2. Pursuant to RSA 124:15, the Board of Pharmacy respectfully requests authorization to establish a part-time position, Class 50, Administrator I, Labor Grade 27, effective upon Joint Fiscal Committee and Governor and Council approval through June 30, 2014. This position would report to the advisory council established in the statute and the Board of Pharmacy.

Funds are to be budgeted in account #05-0074-074-PHB743510-3331PDM/HEALTH AND HUMAN SERVICES/HHS: ADMIN ATTACHED BOARDS/PHARMACY BOARD/PRESCRIPTION DRUG MONITORING as follows:

Class	Class Description	Ad Auth	Increase/ Decrease Amount Budgeted	Revised Amount
State FY 14				
Revenue				
401716	Private Local Funds	$ -	$ 15,500	$ 15,500
Expenditure				

Expenditure				
020-500200	Current Expense	$ -	$ 1,005	$ 1,005
022-500248	Rents-Leases Other Than State	$ -	$ -	$ -
026-500251	Organizational Dues	$ -	$ -	$ -
027-502799	Transfers To DoIT	$ -	$ -	$ -
028-500292	Transfers To General Services	$ -	$ -	$ -
029-500290	Intra-Agency Transfers	$ -	$ -	$ -
030-500310	Equipment New/Replacement	$ -	$ -	$ -
039-500187	Telecommunications	$ -	$ -	$ -
046-500464	Consultants	$ -	$ -	$ -
049-500294	Transfer to Other State Agencies	$ -	$ -	$ -
050-500109	Personal Service-Temp/Appointe	$ -	$ 13,000	$ 13,000
059-500117	Temp Full Time	$ -	$ -	$ -
060-500601	Benefits	$ -	$ 995	$ 995
066-501802	Employee Training	$ -	$ -	$ -
070-500706	In-State Travel Reimbursement	$ -	$ 500	$ 500
072-500753	Grants-Federal	$ -	$ -	$ -
073-500582	Grants-Non Federal	$ -	$ -	$ -
080-500712	Out-Of State Travel Reimb	$ -	$ -	$ -
102-500731	Contracts for Program Services	$ -	$ -	$ -
103-500735	Contracts for Op Services	$ -	$ -	$ -
Total Expenditures		$ -	$ 15,500	$ 15,500

EXPLANATION

Explanation for Requested Action #1:

Purdue Pharma, a major pharmaceutical company, awarded National Association of State Controlled Substances Authorities (NASCSA) approximately $2 million to pass through to states with pending or active prescription drug monitoring programs. The funds are intended to assist the states in implementation and/or the enhancement of a prescription drug monitoring program. On June 12, 2012, New Hampshire's Controlled Drug Prescription Health and Safety Program legislation, Chapter 196, Laws of 2012, was signed into law. The law tasks the Board of Pharmacy to implement the program without the use of general funds or increasing professional fees. The New Hampshire Board of Pharmacy applied for the grant from National Association of State Controlled Substances Authorities ("NASCSA") and was awarded a grant in the amount of $15,500 from the NASCSA. The Board is actively pursuing funding in order to further comply with this law through a Harold Rogers Federal grant.

Funding in the amount of $15,500, will be utilized as follows:

Class 20 - To pay for photocopying, office supplies, etc.
Class 50 - To pay one part time Administrator I, Labor Grade 27, to administer the program
Class 60 - To pay for position's benefits
Class 70 - To pay in-state travel required by the part time staff to administer the program

Explanation for Requested Action #2:
This grant will be utilized to hire a part time employee who will work under the direction of an advisory council and the Board of Pharmacy to assist with rulemaking, sustainability, the grant writing

process, training and implementation. One (1) part time Administrator I, Labor Grade 27, will be hired to administrate this new program. The Division of Personnel has approved the request for TMPPT3396

The following information is provided in accordance with the Comptroller's instructional memorandum dated September 21, 1981.

1) List of personnel involved: One (1) part time position, Administrator I, Labor Grade 27, Class 50.
2) Nature, Need, and Duration: The part time position will assist with rulemaking, sustainability, the grant writing process, training and implementation
3) Relationship to existing agency programs: The position will be responsible as a project manager reporting to the Board of Pharmacy and working for the successful completion of the Prescription Drug Monitoring Program Advisory Council goals.
4) Has a similar program been requested of the legislature and denied? No
5) Why wasn't funding included in the agency's budget request? At the time of the creation of the FY 14 budget this program was not established.
6) Can portions of the grant funds be utilized? Yes, 100% Other/Agency Income
7) Estimate the funds required to continue this position(s): Salary $13,000 / Benefits $ 995.

In the event that these funds are no longer available, no general funds will be requested to continue this programming.

Please do not hesitate to contact me if you have any questions.

Sincerely,

James M. Queenan, R.Ph. MBA
Executive Secretary/Director

CHAPTER 196

SB 286 – FINAL VERSION

03/21/12 1178s

25Apr2012... 1666h

17May2012... 2312h

2012 SESSION

12-2836

01/10

SENATE BILL ***286***

AN ACT relative to a controlled drug prescription health and safety program.

SPONSORS: Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Lambert, Dist 13; Sen. Odell, Dist 8; Sen. Carson, Dist 14; Sen. Boutin, Dist 16; Sen. Groen, Dist 6; Sen. Kelly, Dist 10; Sen. Merrill, Dist 21; Sen. D'Allesandro, Dist 20; Sen. Larsen, Dist 15; Sen. Rausch, Dist 19; Sen. De Blois, Dist 18; Sen. Stiles, Dist 24; Sen. Luther, Dist 12; Rep. Reagan, Rock 1; Rep. L. Ober, Hills 27; Rep. Kotowski, Merr 9; Rep. Harding, Graf 11

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill establishes the controlled drug prescription health and safety program. The bill grants the New Hampshire pharmacy board rulemaking authority for the purposes of the bill. Under this bill, the program is prospectively repealed on September 1, 2015.

- -

Explanation: Matter added to current law appears in ***bold italics.***

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03/21/12 1178s

25Apr2012... 1666h

17May2012... 2312h

12-2836

01/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to a controlled drug prescription health and safety program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

196:1 Statement of Intent.

I. The general court recognizes that there is a significant problem with the abuse, misuse, and diversion of controlled prescription drugs, resulting in over 100 deaths annually in New Hampshire and thousands of unnecessary visits to health care practitioners and our hospital emergency rooms.

II. The controlled prescription drugs most misused are found in schedules II, III, and IV, such as the stimulants Ritalin and Adderall and pain reliever oxycodone (Oxycontin and others), all in schedule II; the pain medication Vicodin, the number one abused drug in the nation, in schedule III; and tranquilizers (benzodiazepines) such as Valium, Xanax, and Ativan, in schedule IV.

III. The general court understands that health practitioners are challenged everyday with the difficult task of discerning between patients in need of legitimate pain treatment and the "doctor shoppers" who seek a controlled drug prescription for their own addiction or for diversion on the street. Access to a controlled drug prescription health and safety program can help physicians and other health practitioners provide better care to patients truly in need of such medications. A controlled drug prescription health and safety program will also help identify health practitioners who are fraudulently prescribing controlled drugs and adding to prescription drug abuse in New Hampshire.

IV. The general court believes that a controlled drug prescription health and safety program that fully complies with all state and federal Health Insurance Portability and Accountability Act (HIPPA) privacy and security laws and regulations should be established as a tool to improve medical treatment.

V. The general court intends that a controlled drug prescription health and safety program will reduce patient morbidity and mortality associated with controlled drugs by providing a secure program through which the prescriber and the dispenser may access information on a patient's controlled drug prescription history. The program established by this act is designed to create a greater sense of safety, security, and comfort in the health practitioner-patient relationship when controlled drugs are prescribed.

VI. The general court believes, to achieve these goals, New Hampshire should join 48 other states to enact a controlled drug prescription health and safety program that physicians and other legal practitioners can access when prescribing or dispensing controlled drugs.

196:2 New Subdivision; Controlled Drug Prescription Health and Safety Program. Amend RSA 318-B by inserting after section 30 the following new subdivision:

Controlled Drug Prescription Health and Safety Program

318-B:31 Definitions. In this subdivision:

I. "Board" means the pharmacy board, established in RSA 318:2.

II. "Controlled substance" means controlled drugs as defined in RSA 318-B:1, VI.

III. "Dispense" means to deliver a controlled substance by lawful means and includes the packaging, labeling, or compounding necessary to prepare the substance for such delivery.

IV. "Dispenser" means a person who is lawfully authorized to deliver a schedule II - IV controlled substance, but does not include:

(a) A licensed hospital pharmacy that dispenses for administration in the hospital;

(b) A practitioner, or other authorized person who administers such a substance; or

(c) A wholesale distributor of a schedule II-IV controlled substance or its analog.

V. "Patient" means the person or animal who is the ultimate user of a controlled substance for whom a lawful prescription is issued and for whom a controlled substance or other such drug is lawfully dispensed.

VI. "Practitioner" means a physician, dentist, podiatrist, veterinarian, or other person licensed or otherwise permitted to prescribe, dispense, or administer a controlled substance in the course of licensed professional practice.

VII. "Prescribe" means to issue a direction or authorization, by prescription, permitting a patient to lawfully obtain controlled substances.

VIII. "Prescriber" means a practitioner or other authorized person who prescribes a schedule II, III, and/or IV controlled substance.

IX. "Program" means the controlled drug prescription health and safety program that electronically facilitates the confidential sharing of information relating to the prescribing and dispensing of controlled substances listed in schedules II-IV, established by the board pursuant to RSA 318-B:32.

318-B:32 Controlled Drug Prescription Health and Safety Program Established.

I. The board shall design, establish, and contract with a third party for the implementation and operation of an electronic system to facilitate the confidential sharing of information relating to the prescribing and dispensing of schedule II-IV controlled substances, by prescribers and dispensers within the state.

II. All costs incurred by the board for the implementation and operation of the program shall be supported through grants, gifts, or user contributions. The board may charge a fee to individuals who request their own prescription information. The amount charged for an individual's request for his or her prescription information shall not exceed the actual cost of providing that information.

III. There shall be no state general funds appropriated for the implementation or operation of the program.

IV. Prescription information relating to any individual, which information does not meet the level established to suggest possible drug abuse or diversion shall be deleted within 6 months after the initial prescription was dispensed. All other information shall be deleted after 3 years.

318-B:33 Controlled Drug Prescription Health and Safety Program Operation.

I. The board shall develop a system of registration for all prescribers and dispensers of schedule II-IV controlled substances within the state. The system of registration shall be established by rules adopted by the board, pursuant to RSA 541-A.

II. All prescribers and dispensers authorized to prescribe or dispense schedule II-IV controlled substances within the state shall be required to register with the program. Only registered prescribers and dispensers shall be eligible to access the program.

III. Each dispenser shall submit to the program the information regarding each dispensing of a schedule II-IV controlled substance. Any dispenser located outside the boundaries of the state of New Hampshire and who is licensed and registered by the board shall submit information regarding each prescription dispensed to a patient who resides within New Hampshire.

IV. Each dispenser required to report under paragraph III of this section shall submit to the program by electronic means information for each dispensing that shall include, but not be limited to:

(a) Dispenser's Drug Enforcement Administration (DEA) registration number.

(b) Prescriber's DEA registration number.

(c) Date of dispensing.

(d) Prescription number.

(e) Number of refills granted.

(f) National Drug Code (NDC) of drug dispensed.

(g) Quantity dispensed.

(h) Number of days supply of drug.

(i) Patient's name.

(j) Patient's address.

(k) Patient's date of birth.

(l) Patient's telephone number, if available.

(m) Date prescription was written by prescriber.

(n) Whether the prescription is new or a refill.

(o) Source of payment for prescription.

V. Each dispenser shall submit the required information in accordance with transmission methods and frequency as established by the program; but no more than 7 days from the date the prescription was dispensed.

VI. The program may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided all information required by paragraph IV is submitted in this alternative format and within the established time limit.

VII. The program may grant a reasonable extension to a dispenser that is unable, for good cause, to submit all the information required by paragraph IV within the established time limits.

VIII. Any dispenser who in good faith reports to the program as required by paragraphs III and IV shall be immune from any civil or criminal liability as the result of such good faith reporting.

318-B:34 Confidentiality.

I. Information contained in the program, information obtained from it, and information contained in the records of requests for information from the program, is confidential, is not a public record or otherwise subject to disclosure under RSA 91-A, and is not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be shared with an agency or institution, except as provided in this subdivision.

II. The board shall establish and maintain procedures to ensure the privacy and confidentiality of patients and patient information.

318-B:35 Providing Controlled Drug Prescription Health and Safety Information.

I. The program may provide information in the prescription health and safety program upon request only to the following persons:

(a) By electronic or written request to prescribers and dispensers within the state who are registered with the program:

(1) For the purpose of providing medical or pharmaceutical care to a specific patient; or

(2) For reviewing information regarding prescriptions issued or dispensed by the requester.

(b) By written request, to:

(1) A patient who requests his or her own prescription monitoring information.

(2) The board of dentistry, the board of medicine, the board of nursing, the board of registration in optometry, the board of podiatry, the board of veterinary medicine, and the pharmacy board; provided, however, that the request is pursuant to the boards' official duties and responsibilities and the disclosures to each board relate only to its licensees and only with respect to those licensees whose prescribing or dispensing activities indicate possible fraudulent conduct.

(3) Authorized law enforcement officials on a case-by-case basis for the purpose of investigation and prosecution of a criminal offense when presented with a court order based on probable cause. No law enforcement agency or official shall have direct access to the program.

(4) A controlled drug prescription health and safety program from another state on a case-by-case basis, if an agreement is in place with the other state to ensure that the information is used and disseminated pursuant to the requirements of this state.

II. The program shall notify the appropriate regulatory board listed in subparagraph I(b)(2) and the prescriber or dispenser at such regular intervals as may be established by the board if there is reasonable cause to believe a violation of law or breach of professional standards may have occurred. The program shall provide prescription information required or necessary for an investigation.

III. The program shall review the information to identify information that appears to indicate whether a person may be obtaining prescriptions in a manner that may represent misuse or abuse of schedule II-IV controlled substances. When such information is identified, the program shall notify the practitioner who prescribed the prescription.

318-B:36 Unlawful Act and Penalties.

I. Any person who fails to submit the information required in RSA 318-B:33 or knowingly submits incorrect information shall be subject to a warning letter and provided with an opportunity to correct the failure. Any person who subsequently fails to correct or fails to resubmit the information may be subject to discipline by the board.

II. Any person whose failure to report the dispensing of a schedule II-IV controlled substance that conceals a pattern of diversion of controlled substances into illegal use shall be guilty of a violation and subject to the penalties established under RSA 318-B:26 and the board's rules as applicable. In addition, such person may be subject to appropriate criminal charges if the failure to report is determined to have been done knowingly to conceal criminal activity.

III. Any person who engages in prescribing or dispensing of controlled substances in schedule II-IV without having registered with the program may be subject to discipline by the appropriate regulatory board.

IV. Any person authorized to receive program information who knowingly discloses such information in violation of this subdivision shall be subject to discipline by the appropriate regulatory board and to all other relevant penalties under state and federal law.

V. Any person authorized to receive program information who uses such information for a purpose in violation of this subdivision shall be subject to disciplinary action by the appropriate regulatory board and to all other relevant penalties under state and federal law.

VI. Unauthorized use or disclosure of program information shall be grounds for disciplinary action by the relevant regulatory board.

VII. Any person who knowingly accesses, alters, destroys, or discloses program information except as authorized in this subdivision or attempts to obtain such information by fraud, deceit, misrepresentation, or subterfuge shall be guilty of a class B felony.

318-B:37 Rulemaking. By June 30, 2013, the board shall adopt rules, pursuant to RSA 541-A, necessary to implement the program including:

I. The criteria for registration by dispensers and prescribers.

II. The criteria for a waiver pursuant to RSA 318-B:33, VI for dispensers with limited electronic access to the program.

III. The criteria for reviewing the prescribing and dispensing information collected by the program.

IV. The criteria for reporting matters to the applicable health care regulatory board for further investigation.

V. The criteria for notifying prescribers of individuals that are engaged in obtaining controlled substances from multiple practitioners or dispensers.

VI. Content and format of all forms required under this subdivision.

318-B:38 Advisory Council Established.

I. There is hereby established an advisory council to assist the board in carrying out its duties under this subdivision. The members of the council shall be as follows:

(a) A representative of the board of medicine, appointed by such board.

(b) A representative of the pharmacy board, appointed by such board.

(c) A representative of the board of dental examiners, appointed by such board.

(d) A representative of the New Hampshire board of nursing, appointed by such board.

(e) A representative of the board of veterinary medicine, appointed by such board.

(f) The attorney general, or designee.

(g) The commissioner of the department of health and human services, or designee.

(h) A representative of the New Hampshire Medical Society, appointed by the society.

(i) A representative of the New Hampshire Dental Society, appointed by the society.

(j) A representative of the New Hampshire Association of Chiefs of Police, appointed by the association.

(k) A representative of a retail pharmacy, appointed jointly by the New Hampshire Pharmacists Association, the New Hampshire Independent Pharmacy Association, and the New Hampshire Association of Chain Drug Stores.

(l) Two public members appointed by the governor's commission on alcohol and drug abuse prevention, intervention, and treatment, one of whom may be a member of the commission.

II. The council shall:

(a) Develop criteria for reviewing the prescribing and dispensing information collected.

(b) Develop criteria for reporting matters to the applicable health care regulatory board for further investigation.

(c) Develop criteria for notifying practitioners who are engaged in obtaining controlled substances from multiple prescribers or dispensers.

(d) Collect information on the outcomes and impact of the program including: satisfaction of users of the program, impact on prescribing patterns, impact on referrals to regulatory boards, and other relevant measures.

(e) Assist the board in meeting its responsibilities in RSA 318-B:32, I to implement and operate the program.

(f) Assist the board in adopting and revising the rules under RSA 541-A to implement the program.

III. The council may meet as often as necessary to effectuate its goals. The first meeting shall be called by the representative of the pharmacy board within 45 days of the effective date of this subdivision. At the first meeting, a chairman shall be elected by the members.

196:3 Applicability; Reports Required.

I. In the event that there is not adequate funding for the controlled drug prescription health and safety program established in section 2 of this act, the pharmacy board may curtail, temporarily suspend, or cancel the program.

II. The office of the legislative budget assistant shall conduct a performance audit of the program on or before December 31, 2014 for the use of the speaker of the house of representatives, the president of the senate, and the governor, in evaluating the effectiveness of the program established in section 2 of this act, including but not limited to changes in the number and type of drug-related deaths, the number of instances of drug abuse, and the number of instances of overprescribing.

III. The pharmacy board shall report annually to the oversight committee on health and human services relative to the effectiveness of the program established in section 2 of this act.

IV. The pharmacy board shall not accept any grants which require continuation of the program established in section 2 of this act beyond September 1, 2015.

196:4 Repeal. RSA 318-B:31-RSA 318-B:38, relative to the controlled drug prescription health and safety program, is repealed.

196:5 Effective Date.

I. Section 4 of this act shall take effect September 1, 2015.

II. The remainder of this act shall take effect upon its passage.

Approved: June 12, 2012

Effective Date: I. Section 4 shall take effect September 1, 2015.

II. Remainder shall take effect June 12, 2012.

SB 83 – VERSION ADOPTED BY BOTH BODIES

2013 SESSION

13-0397

01/05

SENATE BILL ***83***

AN ACT relative to the controlled drug prescription health and safety program.

SPONSORS: Sen. Bradley, Dist 3; Sen. Boutin, Dist 16; Sen. Carson, Dist 14; Sen. Cataldo, Dist 6; Sen. Fuller Clark, Dist 21; Sen. Gilmour, Dist 12; Sen. Kelly, Dist 10; Sen. Larsen, Dist 15; Sen. Lasky, Dist 13; Sen. Odell, Dist 8; Sen. Pierce, Dist 5; Sen. Rausch, Dist 19; Sen. Reagan, Dist 17; Sen. Stiles, Dist 24; Sen. Watters, Dist 4; Rep. Harding, Graf 13; Rep. Rosenwald, Hills 30; Rep. L. Ober, Hills 37; Rep. Hess, Merr 24; Rep. S. Schmidt, Carr 6

COMMITTEE: Health, Education and Human Services

ANALYSIS

This bill:

I. Adds a member to the advisory council established as part of the controlled drug prescription health and safety program.

II. Changes the date for the performance audit to be conducted by the legislative budget assistant.

III. Deletes the prospective repeal of the controlled drug prescription health and safety program.

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Explanation: Matter added to current law appears in ***bold italics.***

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

13-0397

01/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to the controlled drug prescription health and safety program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subparagraph; Controlled Drug Prescription Health and Safety Program; Advisory Council. Amend RSA 318-B:38, I by inserting after subparagraph (l) the following new subparagraph:

(m) A representative of the New Hampshire Hospital Association, appointed by the association.

2 Performance Audit; Date Change. Amend 2012, 196:3, II to read as follows:

II. The office of the legislative budget assistant shall conduct a performance audit of the program on or before December 31, [~~2014~~] ***2017*** for the use of the speaker of the house of representatives, the president of the senate, and the governor, in evaluating the effectiveness of the program established in section 2 of this act, including but not limited to changes in the number and type of drug-related deaths, the number of instances of drug abuse, and the number of instances of overprescribing.

3 Repeal. The following are repealed:

I. 2012, 196:3, IV, relative to accepting moneys for the controlled drug prescription health and safety program after September 15, 2015.

II. 2012, 196:4, relative to the repeal of the controlled drug prescription health and safety program.

III. 2012, 196:5, I, relative to the repeal of the controlled drug prescription health and safety program.

4 Effective Date. This act shall take effect upon its passage.