



THE **INFORMANT**

The Role of Local Law Enforcement in Preventing Pharmaceutical Diversion: Information Collection and Distribution

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Pharmaceutical diversion has long been a significant problem in the United States. Prescription fraud, doctor shopping, and the obtaining of prescription drugs through the Internet and through robbery (including robbery by healthcare workers) facilitate the non-medical use and abuse of prescription drugs, which falls only behind marijuana as the second most commonly abused category of drugs in the United States.² Fortunately, local law enforcement, along with pharmacists, healthcare providers, and other public and private agencies are working to curb pharmaceutical diversion. This article examines some of the steps that local law enforcement, alone and with other stakeholders, is taking to stop this serious problem. Specifically, the article explores the ways in which local law enforcement collects and distributes information in investigating pharmaceutical diversion.

Information Gathering

Local law enforcement gathers information about individuals engaged in pharmaceutical diversion and attempts to share this information among jurisdictions. The information gathered often results from a traditional investigation and is used to apprehend prescription fraud perpetrators. For example, in Oregon, a detective named Jeff Fitzpatrick, in his regular patrol through a neighborhood, began to detect suspicious behavior at the home of David Nickerson: the detective noticed several people on probation who were continually in and around the house, and he found a stolen car in the driveway.³ After observing a traffic violation, Fitzpatrick stopped a woman who was driving a car that belonged to Nickerson: during the stop, the woman informed the detective that Nickerson was involved in a pharmaceutical diversion scheme.⁴ This tip sparked an investigation of Nickerson that revealed that he had created a fake prescription that he and others were using in pharmacies throughout Oregon. Nickerson, along with three other individuals, was arrested and charged with prescription forgery and other crimes.⁵

Law enforcement personnel are also able to gather information from public agencies. More than half of the states have prescription drug monitoring programs (“PDMPs”). PDMPs are state-level programs, often run by a state’s health department or pharmacy board, that collect certain information about every prescription (for certain schedules of drugs) that is filled in the state, often including prescriptions that are filled by out-of-state pharmacies for in-state prescribers.⁶ The information that is

collected usually includes the name and/or address, as well as the Drug Enforcement Administration number, of the practitioner/prescriber/pharmacy; the name and date of birth of the patient for whom the prescription was written or the recipient of the medication; and the quantity and National Drug Code number of the substance that was dispensed.⁷ States vary greatly in the schedules of drugs that they monitor: at one extreme, there are states that monitor only Schedule Two drugs, while at the other, states monitor drugs in Schedules Two through Five.⁸ Usually, a state statute dictates the schedules of drugs that the program monitors; however, sometimes the state regulatory agency that runs the program determines the monitored schedules.⁹

There are varying ways in which the information that the PDMP collects can be accessed. In some states, such as Ohio, the program has certain parameters, so that prescribers who engage in certain kinds of activity will be “kicked out” to the personnel who monitor the program.¹⁰ In Ohio and other states, the database is online, so that doctors and/or pharmacists themselves can check on a prescriber’s activity.¹¹ In addition, in some states, tips come in from pharmacists, doctors, and the public, both about their counterparts and prescribers, and a federal, state, or local law enforcement officer runs the tipped names through the database.¹²

Regardless of who directly accesses the program, it is generally state and local law enforcement who will receive the information that a program generates, and use that information to investigate and apprehend a doctor, pharmacist, or prescriber who is engaged in diversion activity.¹³ Because the databases contain highly sensitive personal information, law enforcement personnel

who use the databases should only do so to access information relevant to a pharmaceutical drug diversion investigation, and not as part of a fishing expedition when investigating unrelated crimes, or for non-criminal investigation purposes.¹⁴ However, according to officials engaged in running and using the programs, the programs are underutilized because local law enforcement has not dedicated sufficient time to investigating diversion cases or to understanding the nature of this tool.¹⁵

In addition to state-run monitoring programs, law enforcement can gather investigatory information from private agencies. Purdue Pharma L.P., a major pharmaceutical company, has created a program called “Rx PATROL: Rx Pattern Analysis Tracking Robberies & Other Losses.”¹⁶ Rx PATROL serves as a data clearinghouse for information related to pharmaceutical robberies, theft, and burglaries in which controlled substances are taken.¹⁷ The Web site has an incident report form on which pharmacists and law enforcement personnel can record information about the location and nature of the incident, about the suspect’s physical appearance and activities, and about the items that were stolen.¹⁸ If the reporting organization or department so chooses, that report can be posted in narrative form on the RxPATROL Web site and on other Web sites.¹⁹ In addition, a law enforcement executive employed by RxPATROL uses software to analyze the reported data and detect trends from it, and then, when appropriate, passes that analyzed information to local law enforcement.²⁰

Information Sharing

As law enforcement personnel gather information about the perpetrators of pharmaceutical diversion, they in turn distribute information about diversion-related activity to other stakeholders. In many jurisdictions, law enforcement uses faxes, hotlines, and other forms of communication to alert doctors and pharmacists of prescription fraud.²¹ Such measures often meet with positive results. In Abington, Pennsylvania, police have distributed fliers that detail instances of prescription fraud, fliers that contain a picture of the suspect or fraudulent script, and this has led to an increase in arrests for prescription fraud.²² In Louisville, Kentucky, the police department’s Prescription Drug Squad writes and distributes to professionals in law enforcement, healthcare, pharmaceuticals and the government a monthly publication called the *Rx Newsletter*.²³ The newsletter contains information about current trends in pharmaceutical diversion, as well as prevention techniques to curb those trends.²⁴ For example, the January 2006 issue reports that the Prescription Drug Squad had recently made several arrests of suspects who were able to refill prescriptions of deceased relatives.²⁵ The newsletter goes on to advise healthcare providers to observe patients at regular intervals, and to regularly discuss and chart a patient’s living conditions and overall quality of life, and in particular, to record all prescribed medications in such a way that other treating physicians will have that information.²⁶ The *Rx Newsletter* also encourages tips by highlighting cases where pharmacists and doctors have alerted the squad to diversion

activity; for example, in the March 2007 issue, the squad thanks a pharmacist who notified the squad detective that a man was doctor-shopping for a particular drug.²⁷

Indeed, by providing diversion-related information to doctors, pharmacists, prescribers, and communities as a whole, local law enforcement promotes reciprocal information sharing that aids in the detection and prevention of prescription drug diversion. However, an examination of one of the primary means by which such information is exchanged—prescription drug monitoring programs—reveals that local law enforcement needs more training in the use of this and other programs that facilitate information sharing. Perhaps greater exposure to the workings of prescription drug monitoring programs will spur more local law enforcement organizations and personnel to mimic the efforts of agencies like the Louisville Police Department’s Prescription Drug Squad and take the initiative to create their own mechanisms for exchanging information about acts of pharmaceutical diversion.

Endnotes

- Stephanie C. LoConto is the Acting Program Manager of the American Prosecutors Research Institute’s Drug Prosecution and Prevention Program.
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