



To: Senate Public Health and Welfare Committee

From: Jerry Slaughter
Executive Director

Date: February 7, 2012

Subject: SB 327; Prescription Monitoring Program

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 327, which amends the Prescription Monitoring Program (PMP) Act, which was enacted into law in 2008, and appears at KSA 65-1681, *et seq.* Our PMP law was based upon model legislation for prescription monitoring programs, and all but two states have passed PMP legislation thus far.

The intent of PMP legislation was to help states combat the growing problem of illegal diversion and use/overuse of controlled substances. The PMP is essentially a database that contains every controlled substances prescription written and dispensed in our state. Prescribers and dispensers can obtain an up to date profile of their patients' use of controlled substances prior to prescribing or dispensing a controlled substance. Having access to that information helps physicians and others identify patients who overuse or divert controlled substances, as well as identifying prescribers and dispensers who inappropriately or illegally prescribe or dispense such medications.

The changes to the PMP law contained in SB 327 are mostly technical in nature. They add coroners and others involved in death investigations to the list of individuals who may access the program database (Sec. 2, page 3, lines 18-19); a provision is added to allow the PMP to proactively notify prescribers when an individual appears to be misusing, abusing or diverting controlled substances (Sec. 2, page 3, lines 14-17); accessing PMP data without proper authorization is made a crime (Sec. 3, page 3, lines 27-39); and they allow the PMP to accept grants and donations to support operations (Sec. 1, page 2, lines 3-13).

We would like to suggest another amendment to the PMP statute. This amendment is designed to make it possible for the PMP, in appropriate cases, to initiate a report to a licensing agency or law enforcement agency when the PMP has reason to believe that someone is prescribing or dispensing in a manner that is unlawful or inconsistent with professional standards of care, or that an individual is obtaining controlled substances in violation of state or federal law. The amendment is closely modeled upon a recommendation contained in the *Alliance of States with Prescription Monitoring Programs Model Act, 2010 Revision*. It establishes a review process that the PMP

Advisory Committee would carry out in order to determine if a report authorized by the subsection is warranted. The suggested amendment follows, at Sec. 2, page 3, line 25, with a new subsection (e):

(e) The board is hereby authorized to provide information in the prescription monitoring program to the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in prescribing or dispensing of scheduled substances and drugs of concern, or the attorney general or other appropriate local, state or federal law enforcement or officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern, if, based upon a review by the advisory committee established pursuant to this act, such review indicates that a violation of the prescribing or controlled substances laws may have occurred, or that a prescriber, dispenser or recipient of controlled substances has knowingly prescribed, dispensed or obtained controlled substances in a manner that is excessive and inconsistent with recognized standards of care for the profession. The advisory committee established pursuant to this act may appoint one or more individuals licensed to prescribe or dispense scheduled substances and drugs of concern to assist with such review. The advisory committee, and the individuals serving as reviewers thereto when acting in their official capacity in considering information related to the prescription monitoring program established herein shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

We believe the amendments contained in SB 327, with the addition of new subsection (e) above, significantly strengthen the prescription monitoring program. In particular, professional licensing and law enforcement agencies will obtain information about violations of prescribing laws and inappropriate prescribing or dispensing practices in a more timely manner. This will provide a greater measure of protection for patients, while also protecting prescribers and dispensers whose professional practices are consistent with established standards of care.

We urge you to adopt the amendment suggested above, and report SB 327, as amended, favorably for passage. Thank you for the opportunity to offer these comments.