MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

2134

2007 SENATE HUMAN SERVICES

SB 2134

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 1-09-07

Recorder Job Number: 817

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee, Chairman, opened the hearing on SB 2134 relating to a prescription drug monitoring program for controlled substances; to provide a penalty; and to declare an emergency.

Senator J. Lee told the committee that there is a fiscal note. It adds two sections to the action taken last session and only grant funds allocated to be spent.

Senator Erbele, Vice Chair, took control of the meeting so Senator J. Lee could testify.

Senator J. Lee (Dist. #13) introduced SB 2134. This is the result of work taking place over the last two years that allows electronic monitoring of controlled substances. One good reason to look at this is the health outcome. Another is the law enforcement side of it. In her view, the end goal would be, through health technology as well as this electronic monitoring, to have your prescription records electronically available. If you are in another place and see a physician there, they will be able to check on what you are already taking and make sure any new drugs won't interact inappropriately with them. An important component from the law enforcement standpoint is because controlled substances are a controlled commodity and there are all kinds of clever ways in which people are inappropriately or illegally obtaining drugs.

Senator J. Lee resumed her position of Chairman.

Howard Anderson (Executive Director, ND State Board of Pharmacy) testified in support of SB 2134. (Attachment #1)

Senator J. Lee asked Mr. Anderson to explain what the process has been and who was involved in the discussions.

Mr. Anderson said that the way it works now is if law enforcement or the board of nursing or the board of medical examiners wants to investigate, say one of their licensees in the case of a board, or if law enforcement is looking at an individual, they ask the Board of Pharmacy to do a profile search for that person. The board then asks pharmacies to send information on that individual's prescriptions. The board consolidates those in their office and would furnish those for the investigation or, if it is a regulatory board looking for one of their licensees, would furnish it to the person at the regulatory board whose handling the investigation. It's a fairly onerous process because they write a letter to all of their pharmacies asking them to send a profile back. It takes 6-8 weeks to consolidate that information. The pharmacies have to spend a considerable amount of time answering the request. The board is doing 2-3 a week now from law enforcement agencies, regulatory boards, etc. It's a lot of work and not always complete information.

This prescription monitoring program will gather information electronically from the pharmacies dispensing the prescriptions. Then the contracting agency consolidates the profile so the drug seeker is all on one profile. This profile would then be available to the attending physician and eventually pharmacies. Law enforcement can ask for a profile if they have an active investigation. That is the way it is now, if law enforcement calls about an investigation, the information is furnished to the investigator. It remains confidential until charges are filed.

An advisory board has been created which has physicians, pharmacist, and regulatory board people.

Senator Warner asked if there was a reason to single out WSI as having a special privilege and not to establish to other insurances.

Mr. Anderson said that it is public money and that is the reason WSI was included. Typically, BC/BS and other insurance carriers get data on the people they pay for.

Senator Dever said that, for his understanding, 1459 last session said "do it". This is the implementation of it and the purpose and the emergency clause is the money is available when we are ready.

Mr. Anderson said that was correct.

Senator Heckaman asked if the money available from the dept. of justice is just for the beginning implementation or will it be continuous.

Mr. Anderson said they have applied for an implementation grant, $372,000 which has been awarded. He also has an application prepared for an enhancement grant for approximately $400,000 to be used to expand surveillance and analysis data. He's hoping those monies will run the program into the next 3 years.

Senator J. Lee said they also thought it would be able to be self sufficient at some point.

Dr. Brendan Joyce (Administrator of Pharmacy Services for the Dept. of Human Services) presented testimony in favor of SB 2134 (Attachment #2)

Senator Dever asked if it would alert if someone doesn't renew medication.

Dr. Joyce said this is the dept. of justice. It can only be used to collect controlled substance data and other substances deemed abusable or divertible. Grant dollars can only be used for controlled substances and other abusable medications.

Senator J. Lee said that this is the first step. The ultimate goal is to manage patient medication, especially Medicaid patients.

Senator Heckaman asked if this is more driven from the pharmacies, law enforcement, liability by medical providers, patient concern, or all.

Dr. Joyce said it is a very broad mixture.

Senator Lee asked for an example of how a Medicaid recipient could cheat.

Dr. Joyce gave an example. (Meter 31:00)

Harvey Hanel (Pharmacy Director for WSI) testified in support of SB 2134 as the Chair of the working group that was formed under HB 1459 in the 59th legislative session. (Attachment #3)

Senator J. Lee commented that the hospital pharmacists would only be providing medication for inpatients and so there wouldn't be any supply that would be available to the individual. That would be a logical reason for them to be exempted.

Mr. Hanel said that was true to the largest extent. There is some after hours dispensing that occurs in emergencies.

Senator Warner asked if the prescription bottle of meds you get when discharged from the hospital comes from the hospital pharmacy or is that coming from some allied pharmacy.

Mr. Hanel said, in most cases, unless it is after hours or the hospital pharmacy is dispensing just a limited quantity. The larger hospitals in the state do have a retail component, a pharmacy that will dispense on a retail basis, bill insurance, etc. This is if you take it to the pharmacy downtown. That information would still be collected because it is coming from the retail side of it.

Senator Warner asked if there is any implication where drug abuse by medical practitioners can be detected.

Mr. Hanel said one of the algorithms that could be set up would be to look at prescribing pattern and prescribing for family members and for ones own self as the prescriber.

Senator Dever asked if there are any others, like veterinarians, that deal with controlled substances.

Mr. Hanel said the working group had talked about other practitioners. It was felt that until a good mechanism was in place that could get that information in, they would not be included. They were not specifically excluded.

Bruce Levi (Executive Director of the ND Medical Association). See attachment #4 in favor of SB 2134.

Senator J. Lee asked if the amendments he was proposing were met with any objections from other stake holders.

Mr. Levi was not aware of any.

Senator J. Lee said she wanted to make sure there was nothing in there that conflicted with the pain management statute that was passed last session.

Mr. Levi said they looked at that and those provisions aren't changed and they are very compatible with where this is going.

Dr. McCullough (emergency physician who works in California and ND) testified in support of SB 2134. She feels like the prescription drug problem is spiraling out of control. One of the concerns is with pain management. The way this has been crafted, it will allow for pain management for patients. Both the patient and the physician need to be responsible. This program shouldn't hurt that program. But she thinks the diversion issue will be able to be addressed by having this program. She sees both sides. She sees the diversion, the abuse, the people who are receiving pain medications. She gave examples of abuse. This program

would be helpful to emergency physicians so they can go into the system to find out if the meds are legitimate.

Senator J. Lee said she thought the daily reporting, if possible to do that, would be very valuable from both sides.

Dr. McCullough said that any feedback right now would help. But the daily reporting is what she needs for her type of work.

Senator Dever asked if pharmacists in one state look at a prescription more suspiciously if somebody comes from another state to have it filled.

Dr. Joyce said they would be requiring anyone with a license with ND Board of Pharmacy, so Moorhead pharmacies will have licenses with ND and they will submit their data. It will include anyone they have filled controlled substances for, not just ND residents.

He also spoke about the enhancement grant that Mr. Anderson mentioned. That includes the desire to do a multi state program. There is also a house resolution that was passed in Congress a year or so ago that authorizes a nationwide. There's no funding behind it yet, but once there is, there could be a national type program.

John Olson (ND Board of Medical Examiners) reported for the board that they support SB 2134. They deal with physician licensing discipline and they work occasionally and closely with the Board of Pharmacy and Dept. of Human Services to audit petitions and patients when they think care is being compromised. They feel this bill will provide a good assistance with that process. They feel the amendments are fine.

Michael Mullen (Assistant Attorney General) worked on the bill in the 2005 session and has consulted with Howard Anderson, Mellissa Hauer, and Dr. Joyce regarding SB 2134. He said the California program is heavily oriented toward making sure patients are getting the proper

care. Physicians are using the system trying to find out what prescription drugs their patients are receiving.

Senator Warner asked about disclosure and when warrants are necessary and not necessary.

Mr. Mullen said the 4th amendment applies when law enforcement is seeking information they are going to use in a criminal prosecution. There has to be some specific investigation going on in order to ask this program to disclose a drug profile. With respect to a board, again there would have to be some sense that the profile indicates that there is an unusual distribution of a particular drug that indicate a case should be referred to a particular board. He also talked about abuse addiction and rights to pain medications.

Senator J. Lee said that two years ago when they did the pain management statute discussions, the whole point was that if somebody had an addiction, but did have a need for pain management, the provision was supposed to continue to treat that illness.

Mr. Mullen said this law sets up a system for prescription drug monitoring and it requires the retail pharmacist to report the controlled substance information to the Board of Pharmacy. That is permitted under HIPAA because it is a disclosure required by law.

Senator Warner asked about obtaining information on minor children.

Mr. Mullen said the HIPAA privacy rule, with respect to minors, reverts back to state law.

Senator Dever asked if he had reviewed the amendments. He also asked if the board is subject to open records, meetings, except when they discuss an individual situation.

Mr. Mullen said he hadn't studied the text of the amendment. The Board of Medical Examiners and the Board of Nursing have long standing rules so they go into, at least in the initial phases, investigatory phase that's a non public meeting. Typically, when they go forward with a formal administrative action against a licensed professional they will take out the names of the patients and use pseudonyms unless the patient consents to testifying at a hearing.

There was no opposing testimony.

John Val Emter (God's law) said this bill is targeting the poor people. He felt doctors were trying to make him take medications that he didn't want to take.

Senator J. Lee explained that this bill is not about that, it is about individuals who are taking more drugs than they ought to be and getting them in some illegal fashion. It has nothing to do with income. If there is a medical professional with prescriptive authority who is prescribing inappropriately, this is a way to stop that.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 1-10-07

Recorder Job Number: 887

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee opened SB 2134 for discussion and reported that she asked Mr. Armstrong from WSI to provide information about Workforce Safety being included on the list of participants that would have access to the information. He said a percentage of drugs on the street are coming from people who are receiving benefits from WSI so they have a vested interest in it. She requested that he put the information in written form for the committee. (See Attachment #5)

She also reported that she asked Rod St. Aubyn with BC/BS about their not having participated. They didn't feel they needed to because, from a reimbursement standpoint, they and any other private insurer who paid for prescription drug coverage would know if something odd is happening. They have a record because the insurance is reimbursing for it. They would have no way of knowing if someone is paying cash. What they need to know is already in their own records.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 1-16-07

Recorder Job Number: 1231

Committee Clerk Signature Mary K Monson

Minutes:

Senator J. Lee, Chairman, opened SB 2134 for discussion. She reported that Mr. Hanel from WSI and Dr. Joyce were there to answer any questions the committee might have for them.

Harvey Hanel, WSI, said that his involvement with the prescription drug monitoring program over the last two years was in the capacity of serving as chair of the working group. One of the items they were tasked with was to try to figure out who would have access to the data base. The obvious ones, of course, were the prescribers and the dispensers as well as law enforcement. When they looked at what other entities should have access or would have benefit from having access the regulatory agencies came to mind at that point—the board of medical examiners, the board of pharmacy, the board of nursing. Then a question came up as to, should the payers also have access. The discussion that took place within the committee was that there would be benefits to having additional sets of eyes looking at the information, helping to identify patterns of either abuse or diversion. The question came up last week as to why not BC/BS. BC/BS did have representation on the working group and were asked directly if they wanted access to the data base. They declined saying it would not be a benefit to BC/BS. It was the feeling of the working group that the payers would also have a benefit by being able to help identify potential trends, perhaps, earlier than would come on the radar of

either law enforcement from the diversion aspect or even abuse requiring referral into additional therapy if there is a question of whether or not this individual had become addicted or whether there were patterns of prescribing or dispensing either the board of pharmacy or the board of medical examiners would like to be involved, as well. That, from the standpoint of the working group, was where that conversation went. As a result, WSI was included as one of the entities. WSI has now taken a position in favor of SB 2134.

Senator J. Lee reported that BC/BS already knows if they are being asked to pay for a particular drug and the patient is unlikely to ask for a prescription to be filled twice under the same policy. From the medical side, the physician is going to monitor. From the addiction side of it, it really isn't their business. Their obligation is to make sure reimbursement is proper.

Mr. Hanel said that WSI has a different relationship with providers and patients. WSI does see a benefit when a situation arises when abuse or diversion is suspected. To have access to the information either to confirm or discount that suspicion before escalating it to the special investigation would be very helpful and would serve the best interest of the patient, as well.

Senator J. Lee said the diversion is a component and there are a significant number of people who are doing something they shouldn't be doing who are involved with WSI and it is a means of being able to monitor that a little closely.

Mr. Hanel said that WSI wants to supply medications for legitimate medical uses but certainly doesn't want to be supplying to help with the diversion and illicit use of prescription drugs.

Senator Heckaman asked when information is going to be posted onto this program, will it be scanned from past history or is it going to start from day one when the program is initiated.

Mr. Hanel said the plan is backload 1 year into the system to give some initial history. From that point, it goes forward.

Senator Dever asked if this applies to veterinarians. He was looking at page 2, the definition of a patient.

Mr. Hanel said the pharmacies will be reporting information on any prescriptions that are dispensed that are controlled substances that would be used by an animal lover, a persons pet, whatever the case may be, but only those medications that come through the pharmacy.

Senator Dever had another question from page 3 under disclosure, item b, where it says "an individual who requests prescription information of the individual or the individual's minor child". He wondered if it should say who requests the prescription information on "behalf of the individual or..."

There was discussion on that part and there was consensus that the language was clear the way it was.

Senator J. Lee pointed out amendments proposed by Howard Anderson, WSI, (Attachment #6) and Bruce Levi, Medical Association, (Attachment #7).

There was discussion on whether the changes submitted by Mr. Anderson, WSI, would mean that data could be shared with other states. This would be important for border towns and bordering states.

Senator Heckaman asked if our bordering states are all buying into this.

Dr. Joyce said they are, slowly. He went on to explain what some other states are doing.

He also said it is important for the committee to know that IHS, Indian Health Services, are very willing to participate in this. He cited some instances where there is diversion happening.

Senator Heckaman asked where they go with information when they find someone abusing the system.

Dr. Joyce said nothing in the bill tells what to do. The primary goal is to help with the patients health. He can tell what kind of help they need – if they are feeding their own addiction and

need addiction treatment, or if they are making money. It's very rare that it is a balance between the two and not easy to tell. The feds with the program have assistance they can provide.

Senator J. Lee said this is a means to collect the data which we haven't been able to have in any kind of central spot before. Then it is up to the physician, or law enforcement, or whoever the appropriate entity to request the information through the board of pharmacy to get everything that is appropriate at that point.

Senator Pomeroy asked who is on the advisory group.

Dr. Joyce replied that the advisory group is made up of 7 physicians appointed by the board medical examiners, 1 pharmacist appointed by the board of pharmacy, 1 FNP appointed by the board of nursing, 1 physician appointed by the medical association, and somebody from the dept. of human services.

Senator Dever said this plugs a lot of holes but the availability of controlled substances outside of the system will still include veterinary clinics, mail order, and Canada.

Dr. Joyce said that was correct. True mail orders will be required to submit through their ND licensing. He wasn't sure if Canada had an all encompassing data base. He also talked about getting controlled substances in Canada.

Senator J. Lee asked the committee to deal with the amendment proposed by Howard Anderson.

Senator Heckaman moved to accept the Howard Anderson amendment.

Senator Pomeroy seconded.

Discussion to clarify the amendment being considered is the one that includes the spelling correction. (Attachment #6)

Roll call vote 6-0-0. Carried.

Next, the committee took up the proposed amendment by Bruce Levi.

Senator J. Lee asked Dr. Joyce to run through the amendment for the committee.

Dr. Joyce reviewed the amendment. (Meter 38.45) He talked about DEA numbers used to identify physicians, the Advisory Council (he corrected information he gave earlier in response to a question by Senator Pomeroy).

Senator Dever moved to accept the amendements proposed by Bruce Levi.

Senator Erbele seconded.

Roll call vote 6-0-0.

Senator Warner moved to further amend to delete lines 24-25 on page 3.

Senator Heckaman seconded.

Senator Erbele asked Senator Warner what the reason was for the amendment.

Senator Warner replied that first he felt it was important to not rely on hearsay evidence about criminal activity on behalf of WSI recipients. Secondly, there is concern by his constituents and those he represents, that WSI would use this information for retaliatory purposes. He said they didn't have the same concern with the dept. of human services.

Senator J. Lee didn't see WSI being the same as a private insurance company.

Senator Heckaman also saw it as an issue.

Roll call vote 3-3-0. Failed due to lack of a majority.

Senator Warner moved a Do Pass on SB 2134 as amended and rerefer to Appropriations.

Senator Dever seconded. Roll call vote 6-0-0. Passed.

Carrier is Senator J. Lee.

FISCAL NOTE

Requested by Legislative Council
03/08/2007

Amendment to: Engrossed SB 2134

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$74,463	$0	$297,852	$0	$0
Expenditures	$0	$74,463	$0	$297,852	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Adds two sections to the action taken by HB 1459 from last session.Adds an immunity provision.Adds tramadol and carisoprodol to the list of drugs to be monitored. Only grant funds are allocated to be spent.The amendments only add provisions already adopted by rule and do not change the fiscal note.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The implementation and operation of this program will be funded by grant funds from the department of justice. The amendments do not change the fiscal note. We have applied for an enhancement grant of just under $400,000 dollars, which will not be decided until October of 2007, so no information is included about that at this point.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None of these funds are included in the executive budget. All revenue comes from a US Department of Justice grant.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Medicaid and the Board of pharmacy are to implement this prescription drug monitoring program. One FTE will be hired by the board of pharmacy to manage the program, O.25 FTE is allocated for pharmacist supervision of the program.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No appropriations are involved in this program. I have attached the budget from the grant applications.

NORTH DAKOTA PRESCRIPTION DRUG MONITORING PROGRAM
BUDGET WORKSHEET & NARRATIVE

A. Personnel

Name/PositionComputationCost
Program Assistant (1 FTE)($40,000 x 100% x 2.00 years)$80,000
Pharmacist/Director (0.25 FTE)($84,000 x 25% x 2.00 years)$42,000
Merit increase($40,000 x 2% x 1.00 year) $800
Cost of living increase($61,000 x 2% x 1.00 year)$1,220

The program assistant will serve as administrator and provide general direction and assistance to ensure the project maintains focus and timelines are met and will assist with required grant reporting, advisory committee meetings, and training and education. The program assistant will compile statistics and records requested by the advisory council or needed to evaluate program effectiveness. This person will assist in all program implementation and maintenance activities as directed including coordinating receipt and dissemination of program data, reconciliation of incompatible data issues, resolution of technical conflicts or issues, grant reporting, and responding to queries from pharmacists, prescribers, law enforcement, and the public.

The pharmacist will act as program manager, responsible for training and educational activities, acting as liaison with reporting pharmacies, supervising the program assistant, and assisting with investigations resulting from program information. This person will review all profile reports generated from program data and will distribute proactive reports of identified at-risk patients or indiscriminate prescribers to the appropriate parties, will review and determine the validity of requests for profile data from law enforcement and regulatory agents.

The program assistant is anticipated to receive a merit increase after 1 year of employment.
A 2% cost of living adjustment is anticipated for both employees the second year of employment.
TOTAL PERSONNEL WAGES$124,020

B. Fringe Benefits

BenefitComputationCost
Employer's FICA($124,020 x 7.65%)$9,488
NDPERS (Retirement)($124,020 x 9.00%)$11,162
Health Insurance($554 x 1.25 FTE x 24 months)$16,618
Life Insurance($50,000)($28 x 1.25 x 24 months)$745
Workers Compensation Insurance($124,020 x 1.9%$1116
Unemployment Insurance(124,020 x 0.45%)$558
Except as noted below, health, and life insurance premium benefits are calculated based on the average costs of those benefits currently provided to all North Dakota State Board of Pharmacy employees. Other benefit rates are current state of North Dakota Board of Pharmacy rates as a percentage of wages.
TOTAL FRINGE BENEFITS$39,687

C. Travel

Purpose and Location of TravelItem and ComputationCost
Statewide education/information presentations to health professionals and the public regarding program activities and goalsMileage (3000 miles x 0.37.5/mile)$1,125
Statewide education/information presentations to health professionals and the public regarding program activities and goalsRefreshments provided for attendees ($5/person x 800)$4,000
Hotel for program staff for 10 programs ($50/person/night x 2 people x 10)$1,000
Meals for program staff for 10 programs ($25/person/day x 2 x 10)$500
Midwest Regional Planning Meeting -- State Prescription Monitoring ProgramsAssume average level 3 city for meal reimbursement ($40/day), lodging rate of $125 per day, and airline ticket $550; including travel time, assume 2 travel days and 1 overnight; cost is provided for 2 attendees$1,510
Annual National Conference -- State Prescription Monitoring ProgramsMeal reimbursement ($45/day, lodging rate of $170 per day, airline ticket $625; including travel time, assume 2 travel days and 1 overnight, cost is provided for 2 attendees$1,770
Advisory Group (3 practitioners and 3 pharmacists) to develop and review policy for notification of providers based on report generationSix group members and staff for travel to 3 meetings per year at $200 per group member per meeting (6 x $200 x 3)$3,600
Travel is anticipated for 10 to 20 educational or informational sessions to be provided throughout the state. These sessions, if sponsored by the program, would be open to the public and would include refreshments as an inducement for attendance. Travel expenses, not including refreshment costs, may also be incurred by program personnel responding to requests from health professionals or other civic groups to present information regarding the program

and program goals.
Travel for the Midwest and National conferences is important to provide program personnel the opportunity to discuss progress and ideas regarding use and enhancement of prescription drug monitoring programs, to coordinate ideas regarding sharing applicable program data between and among states, and to establish contacts with other states' program personnel. These meetings also provide an opportunity to review and evaluate statistical information derived from program data and to share problems and solutions.
Travel estimates are based on State of North Dakota in-state travel & subsistence reimbursement policy: mileage is reimbursed at $0.375 per mile; meals are reimbursed to a maximum $25 per day; lodging is reimbursed at a maximum $50 per night.
Out-of-state travel is based on State of North Dakota out-of-state reimbursement policy: actual cost of air travel if most cost-effective carrier utilized; actual cost of lodging if at the location of the meeting/conference; actual meal costs to the maximum daily rate for the destination-city level of reimbursement.
Costs for the Annual National Conference assume that the conference will continue to be held in Washington, DC (level 4 city) and the Regional Planning Meeting will be held in a central state.
TOTAL TRAVEL$13,505

D. Equipment

Computer and Software	$3,000
Fax/Scanner/Printer	$800
Office Furniture	$2,400
Office Cubicle	$2,400
Total Equipment	$8,600

Equipment for use of the program assistant within an existing office. Laptop Computer with software, a high speed fax machine, desk and console, with cubicle barriers for semi-privacy.

E. Supplies

Supply Item
Computation
Cost

Office Supplies
($80/month x 24 months)
$1,920

Postage/Delivery Charges
($100/month x 24 months)
$2,400

Educational Brochures for Health Care Practitioners
($400/1,000 x 3,000)
$1,200

Educational Brochures for the Public
($400/1,000 x 30,000)
$12,000

Office supplies are needed for general operation of the program.
Postage is needed to deliver educational materials to prescribers, pharmacies, and other interested parties and to deliver hard-copy profiles and statistical reports to qualified requestors.
Educational materials will be developed and used by program personnel and others involved in educating prescribers, pharmacists, and the public regarding the appropriate use of prescription and nonprescription medications, diversion and abuse issues, and treatment and recovery options. Educational brochures will be made available to health care practitioners at various meetings and through direct mail as requested and to the public in pharmacies, prescribers' offices, schools and libraries, retail outlets and other public access locations, and through direct mail request.

TOTAL SUPPLIES
$17,520

F. Construction
No funding will be expended pursuant to this grant for construction purposes.

G. Consultant/Contract
DescriptionComputationCost
Contract for upgrade of Medicaid computer system to generate reports and receive data. Software engineer at $125 per hour for 100 hours$12,500
Contractor Cost-collect/assist with collection of controlled substance prescription data. Estimate of $54,000 in startup year and $46,000 in second year$100,000
Upgrade for database applications and maintenance cost is based on usual costs incurred by Medicaid for similar work at present. Costs for data collection contractor is based on estimates from similar programs such as Wyoming and Nevada
TOTAL CONSULTANT/CONTRACT$112,500

H. Other Costs
DescriptionComputationCost
Telecommunications($180 x 24 mos.)$4,320
Utilities$100 x 24 months)$2,400
Recruitment Costs for Program AssistantOne Time Expense$1,200
Telecommunications includes monthly costs for 2 cellular telephones for the pharmacist and technical support person. Due to the travel requirements imposed on these positions, portable telephones will be needed. A dedicated high speed fax line to accommodate the large volume of faxed profiles expected and a DSL internet connection.
TOTAL OTHER COSTS$7,920

I. Indirect Costs
DescriptionComputationCost
15% of personnel salaries and fringe benefits($323,034 x 15%)$48,563
The North Dakota Department of Human Services has a federally approved cost allocation plan on file with our cognizant agency, The Department of Health and Human Services.
TOTAL INDIRECT COSTS$48,563

BUDGET SUMMARY
Budget CategoryAmount
A. Personnel Wages$124,020
B. Fringe Benefits$39,687
C. Travel$13,505
D. Equipment$8,600
E. Supplies$17,520
F. Construction0
G. Consultant/Contract$112,500
H. Other$7,920
TOTAL DIRECT COSTS$323,752
I. Indirect Costs$48,563
TOTAL PROJECT COSTS$372,315

Name:	Howard C. Anderson	**Agency:**	Board of Pharmacy
Phone Number:	701-328-9535	**Date Prepared:**	03/08/2007

FISCAL NOTE

Requested by Legislative Council
01/23/2007

Amendment to: SB 2134

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
$0	$0	$0	$0	$0	$0	$0	$0	$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Adds two sections to the action taken by HB 1459 from last session.Adds an immunity provision.Adds tramadol and carisoprodol to the list of drugs to be monitored. Only grant funds are allocated to be spent.The amendments only add provisions already adopted by rule and do not change the fiscal note.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The implementation and operation of this program will be funded by grant funds from the department of justice. The amendments do not change the fiscal note. We have applied for an enhancement grant of just under $400,000 dollars, which will not be decided until October of 2007, so no information is included about that at this point.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None of these funds are included in the executive budget. All revenue comes from a US Department of Justice grant.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Medicaid and the Board of pharmacy are to implement this prescription drug monitoring program. One FTE will be hired by the board of pharmacy to manage the program, O.25 FTE is allocated for pharmacist supervision of the program.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No appropriations are involved in this program. I have attached the budget from the grant applications.

NORTH DAKOTA PRESCRIPTION DRUG MONITORING PROGRAM

BUDGET WORKSHEET & NARRATIVE
A. Personnel
Name/PositionComputationCost
Program Assistant (1 FTE)($40,000 x 100% x 2.00 years)$80,000
Pharmacist/Director (0.25 FTE)($84,000 x 25% x 2.00 years)$42,000
Merit increase($40,000 x 2% x 1.00 year) $800
Cost of living increase($61,000 x 2% x 1.00 year)$1,220

The program assistant will serve as administrator and provide general direction and assistance to ensure the project maintains focus and timelines are met and will assist with required grant reporting, advisory committee meetings, and training and education. The program assistant will compile statistics and records requested by the advisory council or needed to evaluate program effectiveness. This person will assist in all program implementation and maintenance activities as directed including coordinating receipt and dissemination of program data, reconciliation of incompatible data issues, resolution of technical conflicts or issues, grant reporting, and responding to queries from pharmacists, prescribers, law enforcement, and the public.

The pharmacist will act as program manager, responsible for training and educational activities, acting as liaison with reporting pharmacies, supervising the program assistant, and assisting with investigations resulting from program information. This person will review all profile reports generated from program data and will distribute proactive reports of identified at-risk patients or indiscriminate prescribers to the appropriate parties, will review and determine the validity of requests for profile data from law enforcement and regulatory agents.

The program assistant is anticipated to receive a merit increase after 1 year of employment.
A 2% cost of living adjustment is anticipated for both employees the second year of employment.
TOTAL PERSONNEL WAGES$124,020

B. Fringe Benefits
BenefitComputationCost
Employer's FICA($124,020 x 7.65%)$9,488
NDPERS (Retirement)($124,020 x 9.00%)$11,162
Health Insurance($554 x 1.25 FTE x 24 months)$16,618
Life Insurance($50,000)($28 x 1.25 x 24 months)$745
Workers Compensation Insurance($124,020 x 1.9%$1116
Unemployment Insurance(124,020 x 0.45%)$558
Except as noted below, health, and life insurance premium benefits are calculated based on the average costs of those benefits currently provided to all North Dakota State Board of Pharmacy employees. Other benefit rates are current state of North Dakota Board of Pharmacy rates as a percentage of wages.
TOTAL FRINGE BENEFITS$39,687

C. Travel
Purpose and Location of TravelItem and ComputationCost
Statewide education/information presentations to health professionals and the public regarding program activities and goalsMileage (3000 miles x 0.37.5/mile)$1,125
Statewide education/information presentations to health professionals and the public regarding program activities and goalsRefreshments provided for attendees ($5/person x 800)$4,000
Hotel for program staff for 10 programs ($50/person/night x 2 people x 10)$1,000
Meals for program staff for 10 programs ($25/person/day x 2 x 10)$500
Midwest Regional Planning Meeting -- State Prescription Monitoring ProgramsAssume average level 3 city for meal reimbursement ($40/day), lodging rate of $125 per day, and airline ticket $550; including travel time, assume 2 travel days and 1 overnight; cost is provided for 2 attendees$1,510
Annual National Conference -- State Prescription Monitoring ProgramsMeal reimbursement ($45/day, lodging rate of $170 per day, airline ticket $625; including travel time, assume 2 travel days and 1 overnight, cost is provided for 2 attendees$1,770
Advisory Group (3 practitioners and 3 pharmacists) to develop and review policy for notification of providers based on report generationSix group members and staff for travel to 3 meetings per year at $200 per group member per meeting (6 x $200 x 3)$3,600
Travel is anticipated for 10 to 20 educational or informational sessions to be provided throughout the state. These sessions, if sponsored by the program, would be open to the public and would include refreshments as an inducement for attendance. Travel expenses, not including refreshment costs, may also be incurred by program personnel responding to requests from health professionals or other civic groups to present information regarding the program and program goals.

Travel for the Midwest and National conferences is important to provide program personnel the opportunity to discuss progress and ideas regarding use and enhancement of prescription drug monitoring programs, to coordinate ideas regarding sharing applicable program data between and among states, and to establish contacts with other states' program personnel. These meetings also provide an opportunity to review and evaluate statistical information derived from program data and to share problems and solutions.
Travel estimates are based on State of North Dakota in-state travel & subsistence reimbursement policy: mileage is reimbursed at $0.375 per mile; meals are reimbursed to a maximum $25 per day; lodging is reimbursed at a maximum $50 per night.
Out-of-state travel is based on State of North Dakota out-of-state reimbursement policy: actual cost of air travel if most cost-effective carrier utilized; actual cost of lodging if at the location of the meeting/conference; actual meal costs to the maximum daily rate for the destination-city level of reimbursement.
Costs for the Annual National Conference assume that the conference will continue to be held in Washington, DC (level 4 city) and the Regional Planning Meeting will be held in a central state.
TOTAL TRAVEL$13,505

D. Equipment

Computer and Software	$3,000
Fax/Scanner/Printer	$800
Office Furniture	$2,400
Office Cubicle	$2,400
Total Equipment	$8,600

Equipment for use of the program assistant within an existing office. Laptop Computer with software, a high speed fax machine, desk and console, with cubicle barriers for semi-privacy.

E. Supplies

Supply Item
Computation
Cost

Office Supplies
($80/month x 24 months)
$1,920

Postage/Delivery Charges
($100/month x 24 months)
$2,400

Educational Brochures for Health Care Practitioners
($400/1,000 x 3,000)
$1,200

Educational Brochures for the Public
($400/1,000 x 30,000)
$12,000

Office supplies are needed for general operation of the program.
Postage is needed to deliver educational materials to prescribers, pharmacies, and other interested parties and to deliver hard-copy profiles and statistical reports to qualified requestors.
Educational materials will be developed and used by program personnel and others involved in educating prescribers, pharmacists, and the public regarding the appropriate use of prescription and nonprescription medications, diversion and abuse issues, and treatment and recovery options. Educational brochures will be made available to health care practitioners at various meetings and through direct mail as requested and to the public in pharmacies, prescribers' offices, schools and libraries, retail outlets and other public access locations, and through direct mail request.

TOTAL SUPPLIES
$17,520

F. Construction
No funding will be expended pursuant to this grant for construction purposes.

G. Consultant/Contract
DescriptionComputationCost
Contract for upgrade of Medicaid computer system to generate reports and receive data. Software engineer at $125 per hour for 100 hours$12,500
Contractor Cost-collect/assist with collection of controlled substance prescription data. Estimate of $54,000 in startup year and $46,000 in second year$100,000
Upgrade for database applications and maintenance cost is based on usual costs incurred by Medicaid for similar work at present. Costs for data collection contractor is based on estimates from similar programs such as Wyoming and Nevada
TOTAL CONSULTANT/CONTRACT$112,500

H. Other Costs
DescriptionComputationCost
Telecommunications($180 x 24 mos.)$4,320
Utilities$100 x 24 months)$2,400
Recruitment Costs for Program AssistantOne Time Expense$1,200
Telecommunications includes monthly costs for 2 cellular telephones for the pharmacist and technical support person. Due to the travel requirements imposed on these positions, portable telephones will be needed. A dedicated high speed fax line to accommodate the large volume of faxed profiles expected and a DSL internet connection.
TOTAL OTHER COSTS$7,920

I. Indirect Costs
DescriptionComputationCost
15% of personnel salaries and fringe benefits($323,034 x 15%)$48,563
The North Dakota Department of Human Services has a federally approved cost allocation plan on file with our cognizant agency, The Department of Health and Human Services.
TOTAL INDIRECT COSTS$48,563

BUDGET SUMMARY
Budget CategoryAmount
A. Personnel Wages$124,020
B. Fringe Benefits$39,687
C. Travel$13,505
D. Equipment$8,600
E. Supplies$17,520
F. Construction0
G. Consultant/Contract$112,500
H. Other$7,920
TOTAL DIRECT COSTS$323,752
I. Indirect Costs$48,563
TOTAL PROJECT COSTS$372,315

Name:	Howard C. Anderson	**Agency:**	Board of Pharmacy
Phone Number:	328-9535	**Date Prepared:**	01/23/2007

FISCAL NOTE

Requested by Legislative Council
01/02/2007

Bill/Resolution No.: SB 2134

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	$0	$74,463	$0	$297,852	$0	$0
Expenditures	$0	$74,463	$0	$297,852	$0	$0
Appropriations	$0	$0	$0	$0	$0	$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
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$0	$0	$0	$0	$0	$0	$0	$0	$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill adds two sections to the action taken by HB 1459 from last session.It adds an immunity provision and adds tramadol and carisoprodol to the list of drugs to be monitored. There is only grant funds allocated to be spent.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This has no appropriated funds connected with it.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

None of these funds are included in the executive budget. All revenue comes from a US Department of Justice grant.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Medicaid and the Board of pharmacy are to implement this prescription drug monitoring program. one fte will be hired by the board of pharmacy to manage the program.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No appropriations are involved in this program. I have attached the budget from the grant application.

NORTH DAKOTA PRESCRIPTION DRUG MONITORING PROGRAM

BUDGET WORKSHEET & NARRATIVE

A. Personnel
Name/PositionComputationCost
Program Assistant (1 FTE)($40,000 x 100% x 2.00 years)$80,000
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TOTAL PERSONNEL WAGES$124,020

B. Fringe Benefits
BenefitComputationCost
Employer's FICA($124,020 x 7.65%)$9,488
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Purpose and Location of TravelItem and ComputationCost
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Equipment for use of the program assistant within an existing office. Laptop Computer with software, a high speed fax machine, desk and console, with cubicle barriers for semi-privacy.	

E. Supplies

Supply Item	Computation	Cost
Office Supplies	($80/month x 24 months)	$1,920
Postage/Delivery Charges	($100/month x 24 months)	$2,400

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	TOTAL SUPPLIES	**$17,520**

F. Construction
No funding will be expended pursuant to this grant for construction purposes.

G. Consultant/Contract
DescriptionComputationCost
Contract for upgrade of Medicaid computer system to generate reports and receive data. Software engineer at $125 per hour for 100 hours$12,500
Contractor Cost-collect/assist with collection of controlled substance prescription data. Estimate of $54,000 in startup year and $46,000 in second year$100,000
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of faxed profiles expected and a DSL internet connection.
TOTAL OTHER COSTS$7,920

I. Indirect Costs
DescriptionComputationCost
15% of personnel salaries and fringe benefits($323,034 x 15%)$48,563
The North Dakota Department of Human Services has a federally approved cost allocation plan on file with our cognizant agency, The Department of Health and Human Services.
TOTAL INDIRECT COSTS$48,563

BUDGET SUMMARY
Budget CategoryAmount
A. Personnel Wages$124,020
B. Fringe Benefits$39,687
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D. Equipment$8,600
E. Supplies$17,520
F. Construction0
G. Consultant/Contract$112,500
H. Other$7,920
TOTAL DIRECT COSTS$323,752
I. Indirect Costs$48,563
TOTAL PROJECT COSTS$372,315

Name:	Howard C Anderson Jr	**Agency:**	Board of Pharmacy
Phone Number:	3289535	**Date Prepared:**	01/02/2007

Date: 1-16-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2134

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Accept Howard Anderson Amendment

Motion Made By Sen. Heckaman Seconded By Sen. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1-16-07
Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2134

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amendments by Bruce Levi

Motion Made By Sen. Dever Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1-16-07
Roll Call Vote #: 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2134

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken delete lines 24-25 pg. 3

Motion Made By Sen. Warner Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman		✓	Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair		✓	Senator Jim Pomeroy	✓	
Senator Dick Dever		✓	Senator John M. Warner	✓	

Total (Yes) 3 No 3

Absent 0

Floor Assignment Failed

If the vote is on an amendment, briefly indicate intent:

Date: 1-16-07
Roll Call Vote #: 4

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2134

Senate **HUMAN SERVICES** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78199.0101 Title .0200

Action Taken Do Pass as amended / rerefer to approp.

Motion Made By Sen. Warner Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator J. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2134: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2134 was placed on the Sixth order on the calendar.

Page 1, line 13, replace "carisopordol" with "carisoprodol"

Page 3, line 22, after "department" insert "of human services"

Page 5, after line 3, insert:

"19-03.5-06. Data review and referral - Corrections.

1. a. The board shall review the information received by the central repository to determine if there is reason to believe:

(1) A prescriber or dispenser may have engaged in an activity that may be a basis for disciplinary action by the board or regulatory agency responsible for the licensing of the prescriber or dispenser; or

(2) A patient may have misused, abused, or diverted a controlled substance.

b. If the board determines that there is reason to believe that any of the acts described in subdivision a may have occurred, the board may notify the appropriate law enforcement agency or the board or regulatory agency responsible for the licensing of the prescriber or dispenser. The advisory council described in section 19-03.5-07 shall recommend guidelines to the board for reviewing data and making determinations with respect to the referral of patients, prescribers, or dispensers to law enforcement or appropriate regulatory authorities.

2. A patient, dispenser, or prescriber may request that erroneous information contained in the central repository be corrected or deleted. The board shall review the request to determine if the information is erroneous with respect to the patient, prescriber, or dispenser. The board shall correct any erroneous information the board discovers due to the request for review by a patient, prescriber, or dispenser.

3. The board shall adopt a procedure to allow information contained in the central repository to be shared with officials in other states acting for the purpose of controlled substance monitoring and for requesting and receiving similar controlled substance monitoring information from other states.

19-03.5-07. Advisory council.

1. An advisory council is established to advise and make recommendations to the board regarding how to best use the program to improve patient care and foster the goal of reducing misuse, abuse, and diversion of controlled substances; to encourage cooperation and coordination among state, local, and federal agencies and other states to reduce the misuse, abuse, and diversion of controlled substances; and to provide advice and recommendations to the board regarding any other matters as requested

by the board. The advisory council may have access to central repository information to fulfill its duties.

2. The advisory council must consist of:

   a. One dispenser selected by the board;

   b. One physician selected by the North Dakota medical association;

   c. One prescriber selected by the board of nursing;

   d. A designee of the attorney general;

   e. A designee of the department of human services;

   f. One prescriber selected by the board of medical examiners;

   g. One prescriber selected by the North Dakota nurses association; and

   h. Any other prescriber or dispenser determined by the board to be necessary to meet a mandate of, or avoid a delay in implementing, an appropriations measure. The number of additional members selected by the board must be limited to the number necessary to meet the mandate or avoid the delay of an appropriation.

3. The advisory council shall make recommendations to the board regarding:

   a. Safeguards for the release of information to individuals who have access to the information contained in the central repository;

   b. The confidentiality of program information and the integrity of the patient's relationship with the patient's health care provider;

   c. Advancing the purposes of the program, including enhancement of the quality of health care delivery in this state; and

   d. The continued benefits of maintaining the program in relationship to the cost and other burdens to the state.

4. The board may provide reimbursement of expenses and per diem to members of the advisory council within the limits provided in state law."

Page 5, line 4, replace "19-03.5-06" with "19-03.5-08" and replace "Nothing in this chapter may be construed to" with "The board may provide data in the central repository"

Page 5, remove line 5

Page 5, line 6, remove "program" and remove "to the"

Page 5, line 7, remove "extent otherwise authorized by law"

Page 5, line 9, replace "19-03.5-07" with "19-03.5-09"

Page 5, line 11, replace "19-03.5-08" with "19-03.5-10"

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2134

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2134

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 01-26-07

Recorder Job Number: 2000

Committee Clerk Signature Alice Delzer

Minutes:

Chairman Holmberg opened the hearing on SB 2134 on January 26, 2007 relating to a prescription drug monitoring program for controlled substances. We are focusing on the financial aspect of SB 2134.

Senator Judy Lee, District 13, West Fargo gave oral testimony in support of the bill.

Chairman Holmberg asked if this is a Federal Grant. He was told it was, and has to be applied for.

Howard Anderson, Chairman of Board of Pharmacy testified in support of the bill.

Senator Seymour had questions regarding monitoring drugs.

Senator Fischer requested a list of controlled substances.

Senator Grindberg moved a DO PASS, Senator Fischer seconded. A roll call vote was taken resulting in 11 yes, 0 no, and 3 absent. The motion carried. Senator Judy Lee will carry the bill.

The hearing was closed on SB 2134.

Date: 1-26-07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2134

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Grindberg Seconded By Fischer

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm			Senator Elroy N. Lindaas		
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Back to Comm. HMS Judy Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2134, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed SB 2134 was placed on the Eleventh order on the calendar.

2007 HOUSE HUMAN SERVICES

SB 2134

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2007

Recorder Job Number: 3388

Committee Clerk Signature Judy Schock

Minutes:

Chairman Price: Calls the committee to order and open SB 2134. **Senator Judy Lee** is unable to be here and asked me to pass out her testimony. See attached testimony

David Peske, ND Medical Association: See attached testimony.

Howard Anderson, Executive Director of the ND State Board of Pharmacy: Se attached testimony and also copy of rules and drugs that can be purchased over the internet, also enclosed are proposed amendments.

Dr Brendan Joyce, Administrator of Pharmacy Services for Department of Human Services: See attached testimony.

Representative Conrad: Who is the vender that has been chosen? Does no one in ND qualify?

Dr. Joyce: (Could not understand his answer), in Alabama. The goal was on a fixed time frame for the grant. We used existing venders. It is difficult to start from scratch.

Harvey Hanel, Pharmacy Director for Workforce Safety and Insurance: See attached testimony.

Chairman Price: Anyone else in favor? Anyone in opposition of SB 2134? If not we will close the hering on SB 2134.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

House Human Services Committee

☐ Check here for Conference Committee

Re

Hearing Date: February 12, 2007

Recorder Job Number: 3395

Committee Clerk Signature	Judy Dehnke

Minutes:

Chairman Price: Committee take out SB 2134 and we will take action on the bill.

Representative Porter moves a do pass RR/ Appropriations, seconded by **Representative Pietsch. Chairman Price** asks for discussion. The vote was taken with 12 yeas, 0 nays, and 0 absent. **Representative Hofstad** will carry the bill to the floor.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 5, 2007

Recorder Job Number: 4356

Committee Clerk Signature Judy Schock

Minutes:

Chairman Price: Committee we took back SB 2134 to reconsider our actions.

Cal Rolfson, with Johnson and Johnson pharmaceuticals: I have a proposed amendment. See attached. Just to clarify this is not changing the bill.

Howard Anderson, with Pharmacy Association: We go along with the amendments. It clarifies things. There was never any intent to schedule these two drugs. We can go through the 5 scheduled drugs.

Representative Potter: Why just these 2 drugs?

Mr. Anderson: Both drugs we have quite a bit of trouble with. These are addictive drugs. We have abuse problems with them.

Representative Conrad moved motion to reconsider out past action, seconded by **Representative Hatlestad**. Verbal vote was unanimous yeas **Representative Hofstad** moves to pass amendment, seconded by **Representative Uglem**. The verbal vote was a unanimous yeas. **Representative Porter** moves a do pass as amended, seconded by **Representative Hofstad**. The vote was taken with 12 yeas, 0 nays, and 0 absent.

Representative Hofstad will carry the bill to the floor.

Date: 2/12
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2134 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken do pass RR/Appr.

Motion Made By Rep. Porter Seconded By Rep. Pietsch

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman	✓		Kari L Conrad	✓	
Vonnie Pietsch – Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) "Click here to type Yes Vote" 13 No "Click here to type No Vote" 0

Absent 2

Floor Assignment Rep. Hofstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2134, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2134 was rereferred to the **Appropriations Committee**.

Date: 3/5
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2134 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken motion to reconsider past action

Motion Made By Rep. Conrad Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) "Click here to type Yes Vote" 12 No "Click here to type No Vote" 5

Absent 0

Floor Assignment Rep.

If the vote is on an amendment, briefly indicate intent:

Date: 3/5
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES S.B 2134 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Move : Pass Amendment

Motion Made By Rep. Hatlestad Seconded By Rep. Uglem

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglem					
Robin Weisz					

Total (Yes) "Click here to type Yes Vote" 12 No "Click here to type No Vote" 0

Absent 0

Floor Assignment Rep.

If the vote is on an amendment, briefly indicate intent:

Date: 3/5
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2134 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Rep. Porter Seconded By Rep. Hofstad

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman	✓		Kari L Conrad	✓	
Vonnie Pietsch – Vice Chairman	✓		Lee Kaldor	✓	
Chuck Damschen	✓		Louise Potter	✓	
Patrick R. Hatlestad	✓		Jasper Schneider	✓	
Curt Hofstad	✓				
Todd Porter	✓				
Gerry Uglem	✓				
Robin Weisz	✓				

Total (Yes) "Click here to type Yes Vote" 12 No "Click here to type No Vote" 0

Absent 0

Floor Assignment Rep. Hofstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2134, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2134 was placed on the Sixth order on the calendar.

Page 1, line 13, replace "<u>, a tramadol-containing substance, and</u>" with "<u>and nonscheduled substances containing tramadol or</u>"

Renumber accordingly

2007 HOUSE APPROPRIATIONS

SB 2134

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2134

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 2/26/07

Recorder Job Number: 3823

Committee Clerk Signature Holly N. Stund

Minutes:

Chairman Svedjan opened the hearing on Senate Bill 2134.

Sen. Lee spoke in support of the SB 2134.

Chairman Svedjan: The bill adds a couple of drug classes or drugs, correct?

Sen. Lee: The bill was correcting some of the spelling of the drugs.

Chairman Svedjan: With regard to the fiscal note, $74,463 is projected for revenues and expenditures for the remainder of this biennium. For the next biennium it's $297,800. All of these funds are derived from the department of justice.

Sen. Lee: The program originated from a call from the White House who saw North Dakota as a good place to implement this program. So, yes, the initial funding has come from federal sources.

Chairman Svedjan: Are the federal funds secured?

Sen. Lee: Yes.

Howard Anderson, Jr., Executive Director of the Board of Pharmacy, testified with regard to the fiscal note. Mr. Anderson explained that a federal grant from the U.S. Dept. of Justice has been awarded. An RFP has been issued and a contractor has been selected.

Mr. Anderson also responded to Chm. Svedjan's earlier question regarding new drugs. Two new drugs were added: Tramadol and Carisoprodol.

Rep. Monson: The fiscal note shows no effect for 2009 -2011. Why?
Mr. Anderson: The federal grant is for 2 years. After 2 years, we should know if this is a good program or not. If we don't have federal money to run this program, we'll probably have to institute our own controlled substances registration in North Dakota.

Rep. Klein: Am I understanding it correctly that you will need 1.25 FTEs?

Mr. Anderson: Yes.

Rep. Aarsvold: Do I understand that everyone who has a prescription drug would be put into this database?

Mr. Anderson: Only controlled substances that cause addiction or have the potential for abuse.

Rep. Aarsvold: What is the identifier? Social Security number? Name?

Mr. Anderson: We do not collect universal identifiers in North Dakota. The contracted company uses algorithms, a mathematical formula, to match the patients name and address.

David Peske, North Dakota Medical Association, spoke in support of SB 2134 (Ref. 16:15).

Rep. Wald motioned a Do Pass to SB 2134. Rep. Glassheim seconded the motion. The motion carried by a roll call vote of 22 yeas, 0 nays and 2 absent and not voting. Rep. Hofstad was designated to carry the bill.

Chm. Svedjan adjourned the meeting.

Date: 2/24/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2134

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number —

Action Taken Do Pass

Motion Made By Wald Seconded By Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	—				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	—		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 22 No 0

Absent 2

Floor Assignment Rep. Hofstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2134, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **DO PASS** (22 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2134 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2134

Attachment #1

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State of North Dakota

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Hettinger, Senior Member
Dewey Schlittenhard, MBA, R.Ph.
Bismarck
Rick L. Detwiller, R.Ph.
Bismarck
Laurel Haroldson, R.Ph.
Jamestown
William J. Grosz, Sc.D., R.Ph.
Wahpeton, Treasurer

Senate Human Services Committee

TESTIMONY ON THE PRESCRIPTION DRUG MONITORING PROGRAM
Senate Bill #2134 – Red River Room
10:30 AM - Tuesday – January 9th, 2007
Senate Human Services Committee

Chairman Lee and Members of the Senate Human Services Committee, for the record, I am Howard C. Anderson, Jr, R.Ph., Executive Director of the North Dakota State Board of Pharmacy. Thank you for the opportunity to speak with you today.

You might remember that last year, late in the session, House Bill No. 1459 was amended to include a Prescription Drug Monitoring Program and to authorize the Human Services Department to seek a Harold Rogers Grant through the U.S. Department of Justice, to implement the program. Though it took longer than we had hoped, those things were accomplished. We did have a working group, originally comprised of a large number of representative individuals and agencies, which worked on defining some rules for implementation of the Grant. Those rules were authorized as emergency rules, just in December of 2006. I am including a copy of those rules, along with the hearing notice for your perusal and information.

The working group asked for several things during their deliberation on the program and it's rules. One area of concern, which in fact held up the rules while we were trying to figure out the best solution, was the inclusion of an immunity provision for practitioners who choose to, or choose not to, access the program. This Bill has solved that with an agreed upon immunity provision.

There was also a need to include carisopordol and tramadol, two drugs which are not on the federal schedule, but cause considerable problems in the state of North Dakota. These drugs which, because of the way they are metabolized by the body, have an addictive potential for abuse by those who use them. Just in December and continuingly we are working with Law Enforcement all across the state, investigating an individual using a half-a-dozen different aliases in obtaining tramadol. This individual goes to the extent of forging and calling in his own prescriptions to obtain this drug in large quantities. Carisopordol is a drug whose brand name is Soma and which is seen commonly in combination with narcotic drugs as drugs of choice by those seekers going from physician to physician and pharmacy to pharmacy. The authorization to gather information on these drugs has been included in the legislation.

There is a provision contained in the rules, which creates an advisory group to work with the Board of Pharmacy, in making determinations as to what level of concern profile information should generate, before it is passed on without a prior request, to physicians and pharmacies trying to care for the patient. It is intended that this group would also set some guidelines on how contacts are made with regulatory boards, if any, when egregious behavior by physicians or pharmacists are identified.

As you will remember, it is the intent of the Prescription Drug Monitoring Program and it's laws and rules to help physicians and pharmacists take care of patients. It is our goal to provide information to practitioners so they can validate their trust in legitimate patients and help them to recognize those patients who need extra help, or referrals for drug treatment.

This system will allow us to help law enforcement obtain information for their legitimate investigations and reduce the burden on pharmacies in providing that information.

I would be happy to try and answer any questions you may have.

Again, thank you for your time.

[11/07/06]

Atricle 61-12
CHAPTER 61-12-01
PRESCRIPTION DRUG MONITORING PROGRAM

61-12-01-01. Adoption by reference of prescription drug monitoring program rules. The Board of Pharmacy adopts and incorporates by reference the rules adopted by the North Dakota Department of Human Services in chapter 75-02-02.3. The rules incorporated by reference relate to the prescription drug monitoring program described in chapter 413 of the 2005 Session Laws.

History: Effective _____, 2006.
General Authority: NDCC ch. 19-03.1; NDCC ch. 43-15-10
Law Implemented: S.L. 2005, ch. 413

CHAPTER 75-02-02.3
PRESCRIPTION DRUG MONITORING PROGRAM

75-02-02.3-01. Definitions. For purposes of this chapter:

1. "Board" means the North Dakota Board of Pharmacy.

2. "Central repository" means a place where electronic data related to the prescribing and dispensing of controlled substances is collected.

3. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in North Dakota Century Code chapter

19-03.1 and any other drugs required by law to be monitored by the program.

4. "De-identified information" means health information that is not individually identifiable information because an expert has made that determination under title 45, Code of Federal Regulations, section 164.514 or direct identifiers and specified demographic information have been removed in accordance with the requirements of that section.

5. "Department" means the North Dakota Department of Human Services.

6. "Dispense" means to deliver a controlled substance to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for delivery.

7. "Dispenser" means an individual who delivers a controlled substance to the ultimate user, but does not include:

   a. A licensed hospital pharmacy that provides a controlled substance for the purpose of inpatient hospital care; or

   b. A licensed health care practitioner or other authorized individual in those instances when the practitioner administers a controlled substance to a patient. For purposes of this section, administer

means the direct application of a controlled substance to the body of a patient and does not include the prescribing of a controlled substance for administration by the patient or someone other than the health care practitioner.

8. "Individually identifiable health information" has the meaning set forth in title 45, Code of Federal Regulations, section 160.103.

9. "Patient" means an individual or the owner of an animal who is the ultimate user of a controlled substance for whom a prescription is issued and for whom a controlled substance is dispensed.

10. "Prescriber" means an individual licensed, registered, or otherwise authorized by the jurisdiction in which the individual is practicing to prescribe drugs in the course of professional practice.

11. "Program" means the North Dakota Prescription Drug Monitoring Program implemented pursuant to chapter 413 of the 2005 Session Laws.

History: Effective _____, 2006.
General Authority: NDCC 50-06-27 and S.L. 2005, ch. 413, § 1
Law Implemented: NDCC 50-06-27

75-02-02.3-02. Dispenser Reporting.

1. Each dispenser licensed by a regulatory agency in the state of North Dakota who dispenses a controlled substance to a patient shall submit to the central repository by electronic means information regarding each prescription dispensed for a controlled substance. The information submitted for each prescription shall include all of the data elements in the American society for automation in pharmacy rules-based standard implementation guide for prescription monitoring programs issued August 31, 2005, version 003, release 000.

2. Each dispenser shall submit the information required by this chapter to the central repository at least once every day unless the board waives this requirement for good cause shown by the dispenser.

3. An extension of the time in which a dispenser must report the information required by this chapter may be granted to a dispenser that is unable to submit prescription information by electronic means if:

   a. The dispenser suffers a mechanical or electronic failure or cannot report within the required time for other reasons beyond the dispenser's control; or

   b. The central repository is unable to receive electronic submissions.

History: Effective _____, 2006.
General Authority: NDCC 50-06-27 and section 1 of chapter 413 of the 2005 Session Laws
Law Implemented: NDCC 50-06-27

75-02-02.3-03. Access to program information.

1. Information submitted to the central repository is confidential and may not be disclosed except as provided in this section.

2. The board shall maintain procedures to ensure that the privacy, confidentiality, and security of patient information collected, recorded, transmitted, and maintained is not disclosed except as provided in this section.

3. Unless disclosure is prohibited by law, the board may provide data in the central repository to:

   a. A prescriber for the purpose of providing medical care to a patient; a dispenser for the purpose of filling a prescription or providing pharmaceutical care for a patient; a prescriber or dispenser inquiring about the prescriber's or dispenser's own prescribing activity; or a prescriber or dispenser in order to further the purposes of the program;

b. An individual who requests the prescription information of the individual or the individual's minor child;

c. State boards and regulatory agencies that are responsible for the licensing of individuals authorized to prescribe or dispense controlled substances if the board or regulatory agency is seeking information from the central repository that is relevant to an investigation of an individual who holds a license issued by that board or regulatory agency;

d. Local, state and federal law enforcement or prosecutorial officials engaged in the enforcement of laws relating to controlled substances who seek information for the purpose of an investigation or prosecution of the drug-related activity or probation compliance of an individual;

e. The department for purposes regarding the utilization of controlled substances by a medicaid recipient;

f. North Dakota workforce safety and insurance for purposes regarding the utilization of controlled substances by a claimant;

g. Judicial authorities under grand jury subpoena or court order or equivalent judicial process for investigation of criminal violations of controlled substances laws;

h. Public or private entities for statistical, research, or educational purposes after the information is de-identified with respect to any prescriber, dispenser, or patient who received a prescription for a controlled substance; or

i. A peer review committee which means any committee of a health care organization, composed of health care providers, employees, administrators, consultants, agents, or members of the health care organization's governing body, which conducts professional peer review as defined in chapter 23-34 of the North Dakota Century Code.

4. The board shall maintain a record of each person who requests information from the central repository. The board may use the records to document and report statistics and outcomes. The board may provide records of the requests for information to:

a. A board or regulatory agency responsible for the licensing of individuals authorized to prescribe or dispense controlled substances that is engaged in an investigation of the individual who

submitted the request for information from the central repository; and

b. Local, state and federal law enforcement or prosecutorial officials engaged in the enforcement of laws relating to controlled substances for the purpose of an active investigation of an individual who requested information from the central repository.

5. Nothing in this chapter shall require a prescriber or dispenser to obtain information about a patient from the central repository prior to prescribing or dispensing a controlled substance. A prescriber, dispenser or other health care practitioner may not be held liable in damages to any person in any civil action on the basis that the prescriber, dispenser or other health care practitioner did or did not seek to obtain information from the central repository. Unless there is shown a lack of good faith, the board, any other state agency, a prescriber, dispenser, or any other individual in proper possession of information provided under this chapter may not be subject to any civil liability by reason of:

a. The furnishing of information under the conditions provided in this chapter;

b. The receipt and use of, or reliance on, such information;

c. The fact that any such information was not furnished; or

d. The fact that such information was factually incorrect or was released by the board to the wrong person or entity.

History: Effective _____, 2006.
General Authority: NDCC 50-06-27 and section 1 of chapter 413 of the 2005 Session Laws
Law Implemented: NDCC 50-06-27

75-02-02.3-04. Operation of program.

1. The board or department may contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the program. Any contractor shall be bound to comply with the provisions regarding confidentiality of prescription information in this chapter.

2. The board may charge a fee to an individual who requests the individual's own information from the central repository.

3. The board may charge a fee to a person who requests statistical, aggregate, or other de-identified information.

History: Effective _____, 2006.
General Authority: NDCC 50-06-27 and section 1 of chapter 413 of the 2005 Session Laws
Law Implemented: NDCC 50-06-27

75-02-02.3-05. Data review and referral. Corrections.

1. The board shall review the information received by the central repository to determine if there is reason to believe:

   a. A prescriber or dispenser may have engaged in an activity that would be a basis for disciplinary action by the board or regulatory agency responsible for the licensing of the prescriber or dispenser; or

   b. A patient may have misused, abused, or diverted a controlled substance.

   If the board determines that there is reason to believe that any of the acts described in this subsection may have occurred, the board may notify the appropriate law enforcement agency or the board or regulatory agency responsible for the licensing of the prescriber or dispenser. The advisory council described in section 75-02-02.3-06 shall recommend guidelines to the board for reviewing data and making determinations with respect to the referral of patients, prescribers, or dispensers as described in this subsection.

2. A patient, dispenser, or prescriber may request that erroneous information contained in the central repository be corrected or deleted. The board shall review the request to determine if the information is erroneous with respect to the patient, prescriber, or dispenser. The board shall correct any erroneous information it discovers due to the request for review by a patient, prescriber, or dispenser.

3. The board shall adopt a procedure to allow information contained in the central repository to be shared with officials in other states acting for the purpose of controlled substance monitoring and for requesting and receiving similar controlled substance monitoring information from other states.

History: Effective _____, 2006.
General Authority: NDCC 50-06-27 and section 1 of chapter 413 of the 2005 Session Laws
Law Implemented: NDCC 50-06-27

75-02-02.3-06. Advisory council.

1. An advisory council shall be established to advise and make recommendations to the board regarding how to best use the program to improve patient care and foster the goal of reducing misuse, abuse, and diversion of controlled substances, encourage cooperation and coordination among state, local, and federal agencies and other states to reduce the misuse, abuse, and diversion of controlled substances, and

provide advice and recommendations to the board regarding any other matters as requested by the board. The advisory council may have access to central repository information in order to fulfill its duties.

2. The advisory council shall consist of at least seven members made up of:

a. One dispenser selected by the board;

b. One physician selected by the North Dakota medical association;

c. One prescriber selected by the board of nursing;

d. A designee of the Attorney General;

e. A designee of the department;

f. One prescriber selected by the board of medical examiners;

g. One prescriber selected by the North Dakota nurses association; and

h. Other prescribers or dispensers as determined by the board to be necessary in order to meet a mandate of, or avoid a delay in

implementing, an appropriations measure. The number of additional members selected by the board shall be limited to the number necessary to meet the mandate or avoid the delay of an appropriation.

3. The advisory council shall make recommendations to the board regarding:

   a. Safeguards for the release of information to those who have access to the information contained in the central repository;

   b. The confidentiality of program information and the integrity of the patient's relationship with the patient's health care provider;

   c. Advancing the purposes of the program including enhancement of the quality of health care delivery in this state; and

   d. The continued benefits of maintaining the program in relationship to the cost and other burdens to the state.

4. The board may provide reimbursement of expenses and per diem to members of the advisory council within the limits provided in state law.

History: Effective _____, 2006.
General Authority: NDCC 50-06-27 and section 1 of chapter 413 of the 2005 Session Laws
Law Implemented: NDCC 50-06-27

BOARD OF PHARMACY
State of North Dakota

John Hoeven, Governor

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Dewey Schlittenhard, MBA, R.Ph.
Bismarck
Rick L. Detwiller, R.Ph.
Bismarck
Laurel Haroldson, R.Ph.
Jamestown
William J. Grosz, Sc.D., R.Ph.
Wahpeton, Treasurer

AMENDMENTS TO SB#2134 – PRESCRIPTION DRUG MONITORING PROGRAM

On page 3, line 22 the word department we need to add after <u>of human services</u>

On page 5, line 4 remove "Nothing in this chapter may be construed to"

On page 5, remove line 5

On page 5, line 6 remove "program" and insert "the board may provide data in the central repository" and remove " to the" at the end of line 6

On page 5, line 7, remove "extent otherwise authorized by law"

Renumber accordingly

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SPECIALS! HOODIA SOMA TRAMADOL FIORICET ALL $51

OUR FEATURED WEIGHT LOSS PRODUCT "HOODIA"

Attachment #2

Testimony
Senate Bill 2134 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairperson
January 9, 2007

Chairman Lee, members of the committee, I am Dr. Brendan Joyce, Administrator of Pharmacy Services for the Department of Human Services. I appear before you to provide testimony in favor of Senate Bill number 2134.

Howard Anderson, Jr., with the Board of Pharmacy has provided testimony regarding the reasons and background information on this bill. My testimony will focus on updating the committee on the progression of the Prescription Drug Monitoring Program since the end of the 2005 Legislative Session.

Immediately after 2005 House Bill 1459 passed, the identification of individuals, interested in participating in the Prescription Drug Monitoring Program (PDMP) working group began. Attached please find the list of the PDMP working group members. The first working group meeting was held August 24, 2005. The working group also met in December 2005, February 2006, May 2006, and June 2006. Meeting minutes for all meetings are available if desired. A subgroup met more often to prepare the Department of Justice grant application and to draft the administrative rules.

During the February 2006 meeting, the working group voted in favor of having the PDMP implemented, and sustained in the Board of Pharmacy. This decision is the reason for 2007 Senate Bill number 2134.

The Department of Human Services applied for the Department of Justice (DOJ) grant in December 2005. We were notified the end of August 2006 that we were awarded the grant. Unfortunately, the grant application paperwork has one spot for the Tax ID number. The DOJ used this Tax ID number as the vendor number for their paperwork with the federal comptroller's office. This resulted in the grant technically being awarded to the North Dakota Highway Patrol. The Department of Justice informed us in December 2006, that it would take two to three months to reprocess the grant paperwork to correct the vendor number. Once approved, the Department of Human Service may start drawing down grant funds.

The Department has submitted emergency rules as the grant is for a fixed timeline. This was done prior to the realization of the vendor number issue. The largest concern with the rules from anyone within the working group was the liability protection, and the Medical Association will explain that further.

In anticipation of the grant award, the Department released an RFP for services needed to operate the PDMP. Three qualified responses were received, and one scored the highest. An agreement has been reached, and a contract will be signed soon in anticipation of the grant being reprocessed.

Once the grant is set up under the correct vendor number, the PDMP would be able to become partially operational within one month, and fully operational (receiving routine updates from pharmacies) within two months.

I would be happy to answer any questions the committee would have.

Prescription Drug Monitoring Working Group

Barb Groutt, ND Health Care Review Inc.

Brendan Joyce, ND Department of Human Services

Bruce Levi, ND Medical Association

Chip Thomas, ND Hospital Association

D. Remillard, ND Health Care Review Inc.

Dan Ulmer, Blue Cross/Blue Shield of ND

Dave Peske, ND Medical Association

Doran Eberle, ND Information Technology Department

Guy Connell, Emergency Room Physician

Harvey Hanel, Workforce Safety Insurance

Howard Anderson, ND Board of Pharmacy

Jeff White, ND Bureau of Criminal Investigation

JoAnne Hoesel, ND DHS – Substance Abuse and Mental Health

Karen Haskins, ND Healthcare Association

Karla Bitz, ND Board of Nursing

Lynette McDonald, ND Board of Medical Examiners

Melissa Hauer, ND Department of Human Services

Mike Forman, Aberdeen Area Indian Health Services Pharmacy Consultant

Mike Mullen, ND Attorney General's office in absence of Jeff White, ND BCI

Mike Ness, ND Bureau of Criminal Investigation

Rick Detwiller, St. Alexius Medical Center

Rod St. Aubin, Blue Cross/Blue Shield of ND

Rolf Sletten, ND Board of Medical Examiners

Sarah McCullough, Emergency Room Physician

Shelly Killen, MD, Pain Specialist

Shelly Peterson, ND Long Term Care Association

Attachment # 3

Testimony
Senate Human Services Committee
Senator Judy Lee, Chair
January 9, 2007

Good morning Chair Lee and members of the Senate Human Services Committee, my name is Harvey Hanel and I am the Pharmacy Director for Workforce Safety and Insurance (WSI). I would like to note that while I work at WSI, I am testifying in support of SB 2134 today as the Chair of the working group that was formed under HB 1459 passed in the 59th legislative session. I am not testifying here on behalf of WSI or its Board of Directors which have not taken a formal position in relation to this bill.

Under HB 1459, the working group was responsible for the implementation of a prescription drug monitoring program. The working group was given the mission to:

1. Identify problems relating to the abuse and diversion of controlled substances and how a prescription drug monitoring program may address these problems;
2. Identify a strategy and propose a prescription drug monitoring program through which to address the identified problems, including consideration of how the program would fit into the overall strategy. Factors to be addressed in the program must include
    a. *Determination of what types of prescription drugs will be monitored*
    b. *Determination of what types of drug dispensers will be required to participate in the program*
    c. *Determination of what data will be required to be reported*
    d. *Determination of what persons will be allowed to access data, what types of data will be accessible, and how to ensure appropriate protection of data*
    e. *Determination of the entity that will implement and sustain the program*
3. Establish how the program will be implemented, the fiscal requirements for implementation, and the timelines for implementation. In establishing how the program will be implemented, the working group shall consider the feasibility and desirability of formal or informal educational outreach to North Dakota communities and interested persons.

4. Consider possible performance measures the state may use to assess the impact of the program and whether special data collection instruments would be required to effectively monitor the impact of the program.
5. Provide to the department of human services a draft of proposed administrative rules to implement the proposed program.

Brendan Joyce has already provided testimony on several aspects of the working group's activities. I would like to highlight several areas in which there were concerns expressed by some members of the working group and which pertain directly to the proposed legislation that is before you now.

One of the issues that generated discussion after the working group reviewed the extent of the problems associated with abuse and diversion was who would be required to submit information to the database. There were concerns related to the practicality of obtaining the information and the desire that the process not become overly onerous to the various providers and dispensers. This is addressed in SB 2134 by exempting hospital pharmacies and physicians and other providers who directly administer controlled substance medications.

Another issue that caused much discussion centered on the protection of the information contained within the database and who would have the authority to access that information and for what purposes. The working was very much concerned that the information that is gathered would be used, first and foremost, for the purpose of assisting in the provision of healthcare. Other uses of the database relating to the activities of law enforcement, regulatory agencies, or others, while important, needs to be limited to the extent as already permitted by law. The proposed legislation satisfactorily addresses these concerns.

The final issue that I will address is who will maintain and administer the database. After much discussion it was determined that housing the program at the Board of Pharmacy would most closely mimic the process that currently exists. At the present time, the Board of Medical Examiners, the Board of Nursing, and law enforcement utilize the Board of Pharmacy when they need to obtain information for investigative purposes.

I would be happy to answer any questions that the committee might have at this time.

Attachment # 4

Testimony on Senate Bill No. 2134
Senate Human Services Committee
January 9, 2007

Senator Lee and Committee members, I'm Bruce Levi, Executive Director and General Counsel of the North Dakota Medical Association. NDMA is the professional membership organization for North Dakota's physicians, residents and medical students. With me today is Dr. Sarah McCullough. Dr. McCullough is an emergency medicine physician here in Bismarck. She has been actively involved in the rulemaking process during this past interim with respect to the development of a prescription drug monitoring program in North Dakota and will make some brief comments and try to answer any questions you may have about physician perspectives regarding this proposed program. She will speak on her own behalf.

The North Dakota Medical Association was part of the work group established under 2005 HB 1459 to provide the Department of Human Services with a draft rules proposal to implement the prescription drug monitoring program. We would like to express our appreciation for the process that was set in motion by HB 1459, as it was a very useful way to involve all the affected parties who then reached consensus on draft rules.

SB 2134 incorporates most of the draft rules developed by the work group, but not all of them. We offer an amendment to incorporate the remaining provisions of the rule which we believe should also be incorporated into statute rather than rule. They are provisions all the parties to the rulemaking effort agreed to when we took the final vote to accept them in total. These are important provisions relating to the correction of errors in the central repository, the legal standards for the Board of Pharmacy to use when it reviews the data to determine whether to make a referral of the information to law enforcement or professional disciplinary board, and another important feature in creating an interdisciplinary advisory committee to advise and make recommendations to the board on how to best use the program. The latter feature in particular provides a mechanism for health professionals – prescribers and dispensers – who are not Board of Pharmacy members to provide their perspective in the implementation of the program.

The physicians in North Dakota have actually been involved in discussions regarding such a program for many years. Our NDMA Commission on Ethics consisting of several physicians from around the state several years ago participated in discussions with Mr. Anderson on the development of such a

program in which it expressed the need to address patient confidentiality concerns that might arise in such a program. In 2005 our NDMA adopted a resolution urging the North Dakota Department of Human Services to follow various principles in implementing a prescription drug monitoring program that achieves the balanced goals of providing adequate pain management and preventing diversion and abuse of prescription controlled substances. Those principles included the following:

1. Preventing diversion and abuse of prescription controlled substances while ensuring their availability for legitimate medical use is an important public health goal. To be balanced, efforts to prevent diversion of controlled substances must not interfere with their use in the treatment of pain and other medical practice.
2. The prescription drug monitoring program should provide for collaboration with the North Dakota Medical Association, the North Dakota State Board of Medical Examiners, and other health professional boards and associations in addition to state law enforcement and public health entities.
3. Any prescription drug monitoring program must preserve and protect the confidential nature of the physician-patient relationship.
4. A prescription drug monitoring program must not increase liability for physicians and other health professionals for failure to request information about a patient, and legislation should be proposed protecting physicians and other health professionals from any new legal liability.
5. A prescription drug monitoring program should ensure that physicians have access to accurate, timely prescription history information that they can use as a tool for the early identification of patients at risk for addiction in order to initiate appropriate medical interventions.
6. Achieving the balanced goals of providing adequate pain management and preventing diversion and abuse of prescription controlled substances requires exchange of information and perspectives, identification of issues, and concerted action between regulatory and medical groups.

From a physician view this is certainly a balancing act – an effort to prevent diversion and abuse of prescription controlled substances ensuring that those prevention efforts do not interfere with the legitimate use of controlled substances, particularly in the treatment of pain and other medical practice. Physicians will appreciate having access to accurate, timely prescription history information that they can use as a tool in working with patients.

The proposed amendments are included with our written materials. We urge the committee to adopt the amendments to incorporate fully the agreement between the work group parties who brokered this approach to a workable prescription drug monitoring program for North Dakota.

Thank you. I would now like to introduce Dr. McCullough.

Attachment #5

Testimony

Senate Human Services Committee

Senator Judy Lee, Chair

Thank you for allowing WSI the opportunity to respond to a concern that was addressed regarding SB 2134. Namely, why should WSI be included as one of the entities having access to the PDMP, when private insurers would not?

With the adoption of HB 1459 after the 2005 legislative session, the PDMP working group was given the job of implementing a prescription drug monitoring program. One of the tasks that was specifically cited was the *"(d)etermination of what persons will be allowed to access data, what types of data will be accessible, and how to ensure appropriate protection of data."* In response to this, the working group discussed at length who would have a legitimate need for the information contained within the database. The issue of whether payers should have access was specifically addressed. The overwhelming consensus of the group was that this access would be of legitimate benefit for payers to ensure that controlled substance prescriptions are being used in a manner that is cost-effective and appropriate. When specifically asked whether Blue Cross/Blue Shield would want access to the database, their representative on the working group stated that they would not. When the administrative rules were drafted naming those entities that would have access, they were not included by their choice.

While much attention was given in testimony to the problems that arise due to doctor shopping or pharmacy shopping, the aspect of payer shopping was not addressed. This is a mechanism by which multiple sources of payment are used by the patient to obtain the medication when it would normally be denied. This raises the possibility of abuse or diversion. Granting the payers access to the database provides an additional opportunity to identify patients who may need treatment and get them some help, or, if illegal activity is suspected that the appropriate action and notification might also occur.

Attachment # 6

Bonnie J. Thom, R.Ph.
Granville, President
Gary W. Dewhirst, R.Ph.
Hettinger, Senior Member
Dewey Schlittenhard, MBA, R.Ph.

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William J. Grosz, Sc.D., R.Ph.
Wahpeton, Treasurer

AMENDMENTS TO SB#2134 – PRESCRIPTION DRUG MONITORING PROGRAM

On page 1, line 13, correct the spelling of carisoprodol not carisopordol

On page 3, line 22 the word department we need to add after of human services

On page 5, line 4 remove "Nothing in this chapter may be construed to"

On page 5, remove line 5

On page 5, line 6 remove "program" and insert "the board may provide data in the central repository" and remove " to the" at the end of line 6

On page 5, line 7, remove "extent otherwise authorized by law"

Renumber accordingly

Attachment # 7

Proposed Amendments to SB 2134
North Dakota Medical Association

Page 5, after line 3, insert:

"**19-03.5-06. Data review and referral -- Corrections.**

1. The board shall review the information received by the central repository to determine if there is reason to believe:
   a. A prescriber or dispenser may have engaged in an activity that would be a basis for disciplinary action by the board or regulatory agency responsible for the licensing of the prescriber or dispenser; or
   b. A patient may have misused, abused, or diverted a controlled substance.

   If the board determines that there is reason to believe that any of the acts described in this subsection may have occurred, the board may notify the appropriate law enforcement agency or the board or regulatory agency responsible for the licensing of the prescriber or dispenser. The advisory council described in section 19-03.5-07 shall recommend guidelines to the board for reviewing data and making determinations with respect to the referral of patients, prescribers, or dispensers as described in this subsection.
2. A patient, dispenser, or prescriber may request that erroneous information contained in the central repository be corrected or deleted. The board shall review the request to determine if the information is erroneous with respect to the patient, prescriber, or dispenser. The board shall correct any erroneous information it discovers due to the request for review by a patient, prescriber, or dispenser.
3. The board shall adopt a procedure to allow information contained in the central repository to be shared with officials in other states acting for the purpose of controlled substance monitoring and for requesting and receiving similar controlled substance monitoring information from other states.

19-03.5-07. Advisory council.

1. An advisory council is established to advise and make recommendations to the board regarding how to best use the program to improve patient care and foster the goal of reducing misuse, abuse, and diversion of controlled substances, encourage cooperation and coordination among state, local, and federal agencies and other states to reduce the misuse, abuse, and diversion of controlled substances, and provide advice and recommendations to the board regarding any other matters as requested by the board. The advisory council may have access to central repository information in order to fulfill its duties.
2. The advisory council shall consist of at least seven members made up of:
   a. One dispenser selected by the board;
   b. One physician selected by the North Dakota medical association;
   c. One prescriber selected by the board of nursing;
   d. A designee of the Attorney General;
   e. A designee of the department;
   f. One prescriber selected by the board of medical examiners;

g. One prescriber selected by the North Dakota nurses association; and
h. Other prescribers or dispensers as determined by the board to be necessary in order to meet a mandate of, or avoid a delay in implementing, an appropriations measure. The number of additional members selected by the board shall be limited to the number necessary to meet the mandate or avoid the delay of an appropriation.

3. The advisory council shall make recommendations to the board regarding:
   a. Safeguards for the release of information to those who have access to the information contained in the central repository;
   b. The confidentiality of program information and the integrity of the patient's relationship with the patient's health care provider;
   c. Advancing the purposes of the program including enhancement of the quality of health care delivery in this state; and
   d. The continued benefits of maintaining the program in relationship to the cost and other burdens to the state.
4. The board may provide reimbursement of expenses and per diem to members of the advisory council within the limits provided in state law."

Page 3, line 4, replace "**19-03.5-06**" with "**19-03.5-08**"
Page 3, line 9, replace "**19-03.5-07**" with "**19-03.5-09**"
Page 3, line 11, replace "**19-03.5-08**" with "**19-03.5-10**"

Renumber accordingly

SB 2134 – Electronic Monitoring of Prescription Drugs

House Human Services Committee
February 12, 2007

I am Senator Judy Lee from District 13 in West Fargo, and I am pleased to bring SB 2134 to your attention.

During the 2005 legislative session, HB 1459 set in motion the process of establishing an electronic monitoring program for prescription drugs. It has a two-pronged purpose. One is to provide up-to-date and complete information to physicians and other providers about prescription drugs which a patient is taking, so that drug interactions and errors in prescribing can be avoided. The other purpose is for law enforcement to have a tool to investigate diversion of controlled substances for illegal purposes, such as selling them.

A task force has worked very hard during the interim to establish the program, and SB 2134 sets it in motion. It authorizes the board of pharmacy to maintain a record of each person who requests information, to report statistics and outcomes, and to provide records of the requests to the entities authorized to receive them. The entities who may receive data are listed. The board of pharmacy may contract with another agency or a private vendor to facilitate the operation. Confidentiality is ensured. Providers will not be subject to liability for using or not using the information, including if it was incorrect. The information can be released to an entity in another state, if that entity in ND is authorized to receive it. For example, if the Board of Medical Examiners in ND is authorized to receive the information in order to evaluate the prescribing habits of a licensed physician, the Board of Medical Examiners in another state could also receive it. The board may report to a licensing board any dispenser who knowingly fails to submit prescription drug monitoring information or who submits incorrect information to the board.

The repealer moves the details from rule to statute. An emergency clause is attached, so that the work which has been done up to this point can continue seamlessly toward full implementation.

Physicians and other providers are excited about this new tool which will be available to help them treat patients properly. We were pleased to learn in committee that approximately 50% of the prescriptions can be reported on a daily basis within the next few weeks, which would be extremely helpful to emergency room physicians who need to know what someone receive as a prescription yesterday, not last month.

I am sorry that I am unable to attend the hearing today, but I will be happy to return, if you wish, to answer any questions which you may have. I am confident that the people who will follow me and testify, representing the 26 stakeholder groups involved in this task force, will be able to answer your questions.

Testimony on Senate Bill No. 2134
House Human Services Committee
February 12, 2007

Representative Price and Committee members, I'm David Peske of the North Dakota Medical Association. NDMA is the professional membership organization for North Dakota's physicians, residents and medical students.

The North Dakota Medical Association was part of the work group established under 2005 HB 1459 to provide the Department of Human Services with a draft rules proposal to implement the prescription drug monitoring program. SB 2134 as amended in the Senate essentially incorporates the draft rules developed by the work group.

In 2005 our NDMA adopted a resolution urging the North Dakota Department of Human Services to follow various principles in implementing a prescription drug monitoring program that achieves the balanced goals of providing adequate pain management and preventing diversion and abuse of prescription controlled substances. Those principles included the following:

1. Preventing diversion and abuse of prescription controlled substances while ensuring their availability for legitimate medical use is an important public health goal. To be balanced, efforts to prevent diversion of controlled substances must not interfere with their use in the treatment of pain and other medical practice.
2. The prescription drug monitoring program should provide for collaboration with the North Dakota Medical Association, the North Dakota State Board of Medical Examiners, and other health professional boards and associations in addition to state law enforcement and public health entities.
3. Any prescription drug monitoring program must preserve and protect the confidential nature of the physician-patient relationship.
4. A prescription drug monitoring program must not increase liability for physicians and other health professionals for failure to request information about a patient, and legislation should be proposed protecting physicians and other health professionals from any new legal liability.
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6. Achieving the balanced goals of providing adequate pain management and preventing diversion and abuse of prescription controlled substances requires exchange of information and perspectives, identification of issues, and concerted action between regulatory and medical groups.

From a physician view this is certainly a balancing act – an effort to prevent diversion and abuse of prescription controlled substances ensuring that those prevention efforts do not interfere with the legitimate use of controlled substances, particularly in the treatment of pain and other medical practice. Physicians will appreciate having access to accurate, timely prescription history information that they can use as a tool in working with patients.

We urge the committee to support the agreement between the work group parties who brokered this approach to a workable prescription drug monitoring program for North Dakota. We urge a "Do Pass" recommendation on SB 2134.

Testimony
Senate Bill 2134 – Department of Human Services
House Human Services Committee
Representative Clara Sue Price, Chairperson
February 12, 2007

Chairman Price, members of the committee, I am Dr. Brendan Joyce, Administrator of Pharmacy Services for the Department of Human Services (DHS). I appear before you to provide testimony in favor of SB 2134.

Howard Anderson, Jr. with the Board of Pharmacy provided testimony regarding the reasons and background information on this bill, so I will focus on updating the committee on the progression of the Prescription Drug Monitoring Program (PDMP) since last session.

Immediately after the legislation was passed last session, identification of potential interested parties started. Since the grant application wouldn't be due until near the end of 2005, the first Working Group meeting was held August 24, 2005. The working group also met in December 2005, February 2006, May 2006, and June 2006. Meeting minutes for all meetings are available if desired. A subgroup of volunteers met more often to first put together the grant application and then to put together a draft of the rules.

During the February 2006 meeting, the working group voted in favor of having the PDMP implemented and sustained in the Board of Pharmacy. There were no audible dissentions to this motion. This decision is the primary reason for SB 2134.

The Department of Human Services applied for the Department of Justice grant in December 2005. We were notified the end of August 2006 that we were awarded the grant. Unfortunately, the grant application paperwork has one spot for the Tax ID number. The DOJ used this Tax ID number as the vendor number for their paperwork with the federal comptroller's office. This resulted in the grant technically being awarded to the ND Highway Patrol. The Department of Justice informed us in December 2006 that it would take 2-3 months to re-work the grant paperwork to correct the vendor number and at that point the Department of Human Services could start drawing down grant funds. We were notified the morning of February 1st we would have a three hour window on February 1st to resubmit our documents for the grant. We completed this resubmission and are awaiting further notification from the Department of Justice.

DHS submitted emergency rules as the grant is for a fixed timeline. This was done prior to the vendor number issue. The largest concern with the rules from anyone within the working group was the liability protection, and all parties believe this concern has been addressed with this bill as it is amended.

In anticipation of the grant award, the Department released an RFP for services needed to operate the PDMP. Three qualified responses were received and one scored the highest and an agreement was reached. A contract will be signed soon in anticipation of the grant getting re-worked.

Once the grant is set up under the correct vendor number, the PDMP would be able to become partially operational within one month and fully

operational (receiving routine updates from pharmacies) within two months.

I would be happy to answer any questions the committee would have.

Testimony

House Human Services Committee

Representative Clara Sue Price, Chair

February 12, 2007

Chairman Price, committee members, for the record my name is Harvey Hanel and I am the Pharmacy Director for Workforce Safety and Insurance. I chaired the working group that was formed after the 2005 legislative session and which was given several tasks in response to the adoption of House Bill 1459. Specifically those portions of HB 1459 that were related to the implementation of a prescription drug monitoring program. It is in this capacity that I am testifying in support of SB 2134.

The working group was given the mission to:

1. Identify problems relating to the abuse and diversion of controlled substances and how a prescription drug monitoring program may address these problems.
2. Identify a strategy and propose a prescription drug monitoring program through which to address the identified problems, including consideration of how the program would fit into the overall strategy. Factors to be addressed in the program must include:
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3. Establish how the program will be implemented, the fiscal requirements for implementation, and the timelines for implementation. In establishing how the program will be implemented, the working group shall consider the feasibility and desirability of formal or informal educational outreach to North Dakota communities and interested persons.
4. Consider possible performance measures the state may use to assess the impact of the program and whether special data collection instruments would be required to effectively monitor the impact of the program.
5. Provide to the department of human services a draft of proposed administrative rules to implement the proposed program.

Brendan Joyce has already provided testimony on several aspects of the working group's activities. I would like to highlight several areas in which there were concerns expressed by some members of the working group and which pertain directly to the proposed legislation that is before you now.

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diversion was who would be required to submit information to the database. There were concerns related to the practicality of obtaining the information and the desire that the process not become overly onerous to the various providers and dispensers. This is addressed in SB 2134 by exempting hospital pharmacies and physicians and other providers who directly administer controlled substance medications.

Another issue that caused much discussion centered on the protection of the information contained within the database and who would have the authority to access that information and for what purposes. The working group was very concerned that the information that is gathered would be used, first and foremost, for the purpose of assisting in the provision of healthcare. Other uses of the database relating to the activities of law enforcement, regulatory agencies, or others, while important, needs to be limited to the extent as already permitted by law. The proposed legislation satisfactorily addresses these concerns.

The final issue that I will address is who will maintain and administer the database. After much discussion it was determined that housing the program at the Board of Pharmacy would most closely mimic the process that currently exists. At the present time, the Board of Medical Examiners, the Board of Nursing, and law enforcement utilize the Board of Pharmacy when they need to obtain information for investigative purposes.

I would be happy to answer any questions that the committee might have.