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Prescription Drug Monitoring Programs Applying A One Size Fits All Approach to Human and Veterinary Medical Professionals Custom Tailoring is Needed

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PRESCRIPTION DRUG MONITORING PROGRAMS: APPLYING A ONE SIZE FITS ALL APPROACH TO HUMAN AND VETERINARY MEDICAL PROFESSIONALS, CUSTOM TAILORING IS NEEDED

*Robert John Simpson, D.V.M.**

Abstract:

In an effort to curb the United States prescription drug epidemic, most states have enacted Prescription Drug Monitoring Programs (PDMP)s to collect data on controlled substances dispensed by medical professionals, some of which include veterinarians. This fifty state survey of PDMPs, concludes that annually there are less than ten veterinary shoppers nationwide that PDMPs could identify and that veterinarians are a de minimus source of controlled substances. This article seeks to assess the need for exempting veterinarians from PDMPs and obtain a snapshot of the current PDMP programs nationwide.

I. Introduction:

The United States is admittedly in the midst of a prescription drug abuse epidemic.¹ Since 1990, the number of drug overdoses tripled.² From 1997 to 2007, the number of opioid (prescription painkiller) overdoses quadrupled.³ The amount of painkillers prescribed and dispensed in the United States is enormous.⁴ In 2010, “[e]nough painkillers were prescribed . . . to medicate every American adult around-the-clock for one month.”⁵ Furthermore, it has been

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¹ Leonard Paulozzi et al., *CDC Grand Rounds: Prescription Drug Overdoses- a U.S. Epidemic*, MORBIDITY & MORTALITY WEEKLY REP., JAN. 13, 2012.

² Centers for Disease Control and Prevention, *Policy Impact: Prescription Painkiller Overdoses*, at 3 (Nov. 2011), <http://www.cdc.gov/HomeandRecreationalSafety/pdf/PolicyImpact-PrescriptionPainkillerOD.pdf> [hereinafter *Policy Impact: Prescription Painkiller Overdoses*].

³ Jeanmarie Perrone & Lewis Nelson, *Medication Reconciliation for Controlled Substances- An “Ideal” Prescription-Drug Monitoring Program*, 366 NEW ENG. J. MED. 2341, 2341 (June 21, 2012) [hereinafter *An “Ideal” Prescription-Drug Monitoring Program*].

⁴ *Policy Impact: Prescription Painkiller Overdoses*, supra note 2, at 12.

⁵ *Id.*

estimated that 1.8% or 170,000 Medicare part D recipients (including prescription beneficiaries from both Medicare and Medicaid programs) were prescribed one or more “highly abused prescriptions”⁶ from more than five providers⁷ in 2008.⁸ Taxpayers paid an estimated \$111 million for those presumably abused prescriptions.⁹ It has also been estimated that there are over seven million non-medical prescription users.¹⁰ Thus, prescribers of prescription medications play a larger role than drug cartels in the new drug epidemic.¹¹

One of the first federal steps in supporting the implementation of state-run Prescription Drug Monitoring Programs (PDMP)s emerged in 1993.¹² This federal legislation, aimed at providing additional safeguards against drug diversion, arose as an effort to combat the emerging prescription drug problem.¹³ PDMPs are state operated databases which “collect, store, and

⁶ This Government Accountability Office (GAO) study used data from previous drug diversion research to classify 14 groups of drugs as highly abused; those groups are: Amphetamine derivatives; Benzodiazepines; Carisoprodol; Codeine with Acetaminophen; Fentanyl; Hydrocodone combinations; Hydromorphone; Meperidine; Methadone; Methylphenidate; Morphine; Non-Benzodiazepine sleep aids; Oxycodone; and Tramadol. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-12-104T, MEDICARE PART D: INSTANCES OF QUESTIONABLE ACCESS TO PRESCRIPTION DRUGS 2-3 (2011).

⁷ Based upon multiple studies, if more than 5-8 providers are utilized on an annualized basis to obtain controlled substances, a person is likely to be a doctor or pharmacy shopper. See Barth Wilsey et al., *An Analysis of the Number of Multiple Prescribers for Opioids Utilizing Data from the Cal. Prescription Monitoring Program*, 20 PHARMACOEPIDEMOLOGY AND DRUG SAFETY, 1262 (2011) (comparing their results with those of: Stephen Parente et al., *Identifying Controlled Substance Patterns of Utilization Requiring Evaluation Using Admin. Claims Data*, 10 AM. JOURNAL OF MANAGED CARE 783 (2004); and Rolf Winther & Jørgen Bramness, *Prescription Shopping of Addictive Drugs in Norway*, 129 TIDSSKR NOR LAEGEFOREN 517 (2009)).

⁸ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-12-104T, MEDICARE PART D: INSTANCES OF QUESTIONABLE ACCESS TO PRESCRIPTION DRUGS 2 (2011).

⁹ *Id* at 2-3 (With the patient obtaining prescriptions from five or more providers, for the purpose of this study, it was presumed that they were obtained for “illegitimate use.” The total cost of these prescriptions was \$148 million for those 170,000 individuals, and 25% of the Medicare Part D is financed through premiums.).

¹⁰ Kristin Finklea, Erin Bagalman, & Lisa Sacco, *Nonmedical use of prescription drugs occurs when the drugs are used without a prescription or solely for the feeling they cause*, CONG. RESEARCH SERV., R42593, PRESCRIPTION DRUG MONITORING PROGRAMS (2013) (citing U.S. Dep't of Health and Human Serv., *Substance Abuse and Mental Health Serv. Admin., Results from the 2010 Nat'l Survey on Drug Use and Health: Summary of Nat'l Findings*, (September 2011), <http://www.oas.samhsa.gov/NSDUH/2k10NSDUH/2k10Results.htm#Ch2>).

¹¹ *An “Ideal” Prescription-Drug Monitoring Program*, *supra* note 3, at 2341.

¹² See *id.* (referencing Domestic Chemical Diversion Control Act of 1993, Pub. L. No. 103-200, 107 Stat. 2333).

¹³ See *An “Ideal” Prescription-Drug Monitoring Program*, *supra* note 3, at 2341.

distribute” data regarding prescribing and distributing controlled substances.¹⁴ They are designed to identify and curtail a patient’s use of multiple providers, also termed “doctor shopping,” to obtain prescriptions for non-medical uses.¹⁵ The hope is that identification of doctor shoppers will “identify patients at risk for an adverse drug outcome.”¹⁶ Under most state-run PDMPs, the authorized users are the prescriber, the pharmacist or dispenser, the state regulatory board, and, under limited circumstances, law enforcement.¹⁷ Since most veterinarians prescribe and dispense prescriptions, “vet shopping” or “veterinary shopping” is the veterinary equivalent of “doctor shopping” and/or “pharmacy shopping.”¹⁸

Both federal and state regulatory support is evidenced by funding from federal grants and state funding. With large startup costs, which can far exceed \$1.5 million,¹⁹ and equally large annual maintenance cost of hundreds of thousands to millions of dollars,²⁰ the cost of PDMPs has been a large burden for setup and maintenance in cash-strapped states.²¹ The brunt of the cost of these programs are borne by the taxpayers, insurance companies and pharmaceutical industries, and the individual patients, prescribers, and dispensers.²²

¹⁴ Hallam Gugelmann, Jeanmarie Perrone, & Lewis Nelson, *Windmills and Pill Mills: Can PDMPs Tilt the Prescription Drug Epidemic?*, 8 JOURNAL OF MED. TOXICOLOGY 378, 378 (2012) [hereinafter *Windmills and Pill Mills*].

¹⁵ See *id.*; Gretchen Peirce et al., *Doctor and Pharmacy Shopping for controlled Substances*, 50 MED. CARE 494, 494 (2012); Amy Cadwell, *In the War on Prescription Drug Abuse, Epharmacies are Making Doctor Shopping Irrelevant*, 7 HOUS. J. HEALTH L. & POL’Y 85, 89 (2006).

¹⁶ Peirce, *supra* note 15, at 494.

¹⁷ *Windmills and Pill Mills*, *supra* note 14, at 378.

¹⁸ See Peirce, *supra* note 15, at 494.

¹⁹ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-02-634, PRESCRIPTION DRUGS: STATE MONITORING PROGRAMS PROVIDE USEFUL TOOL TO REDUCE DIVERSION 3 (2002).

²⁰ See *New York’s Prescription Drug Monitoring Program*, Nat’l Alliance for Model State Drug Laws (Sept. 18, 2006) <http://www.namsdl.org/resources/New%20York1.pdf> (stating that New York’s Operating cost is \$17 million).

²¹ See *infra* § II.

²² See An “Ideal” Prescription-Drug Monitoring Program, *supra* note 3, at 2342; Finklea, *supra* note 10, at 8; Bureau of Justice Assistance, *The Bureau of Justice Assistance Prescription Drug Monitoring Program at a Glance*, (Nov. 7, 2007), <http://www.bja.gov/Funding/PDMPchart.pdf>.; See also Wis. Veterinary Med. Ass’n, *Mandatory Drug Reporting Exemption Saves Wis. Veterinary Small Businesses Over \$7 Million: Governor Walker Signs Veterinary Exemption From PDMP*, WVMA VOICE (April 2013), http://www.wvma.org/index.php?option=com_docman&task=doc_download&gid=160&Itemid=171 (stating that Wisconsin’s PDMP “would have cost veterinary clinics in Wisconsin over \$7 million annually”); See, e.g., LUCIAN

Non-electronic and alternative submissions to a PDMP have the largest cost per submission. Unlike many retail pharmacy software programs which upload PDMP submissions automatically,²³ veterinary practice management software systems are incompatible with many state PDMPs' electronic reporting protocols. Therefore, veterinarians tend to make up the largest percentage of alternative reporting.²⁴ Alternative reporting varies from state to state; it runs the gamut from fax and mailed paper systems to manual data entry in the electronic database. The cost for programs that allow paper or fax submissions is much higher than that for a pharmacy able to submit electronically. For example, the additional expense affiliated with manual data entry was one of several considerations that led to the exclusion of veterinarians from Kentucky's PDMP.²⁵ This article explores the need for veterinary reporting to PDMPs; whether or not other states should follow Kentucky's lead and exempt veterinarians from PDMPs.

II. Veterinarians are not required to report to most state-run PDMP's.

To evaluate veterinary PDMP impact, a questionnaire was sent to PDMP program administrators or their representative for each state's PDMP, and they were requested to participate in the study.²⁶ For the states that failed to respond to the initial inquiry, an inquiry was sent to the responsible regulatory body for each state. For those states that failed to respond to the second inquiry, the state's Veterinary Medical Association and veterinary board were

GEISE, FISCAL NOTE H.B. 572 – S.B. 1070, 108th Gen. Assemb. (Tenn. 2013), <http://www.capitol.tn.gov/Bills/108/Fiscal/HB0572.pdf> (There will be no significant state borne fiscal impact of removing veterinarians from Tennessee's PDMP because the cost of veterinarians reporting is borne by Tennessee's Board of Veterinary Medical Examiners, and any cost savings "will be spread out to licensees of the Board through decreased licensure fees.").

²³ E.g., Am. Soc'y for Automation in Pharmacy (ASAP) is an organization that writes and disseminates a "Standard for Prescription Monitoring Programs." AM. SOC'Y FOR AUTOMATION IN PHARMACY, <http://asapnet.org/index.html> (last visited Jan. 17, 2013).

²⁴ E.g., Controlled Substance Monitoring Database Advisory Comm., *Meeting Minutes*, <https://health.state.tn.us/boards/Controlledsubstance/index.shtml> (last visited Mar. 6, 2013).

²⁵ Discussed further *infra* § II (discussing the reasoning of Kentucky eliminating the reporting requirement for veterinarians).

²⁶ See questionnaires sent *infra* Appendix 1 and Appendix 2.

contacted requesting their point of contact for the PDMP. As all states had responded to the inquiry at this point, no further steps were needed to obtain additional information.

Once the data were compiled, states were divided into several categories:²⁷

(1) States with operational PDMPs currently requiring veterinarians to report: Alabama, Alaska, Arkansas, Arizona, California, Hawaii, Illinois, Indiana, Michigan, Mississippi, New Mexico, New York, North Dakota, Oklahoma, Rhode Island, South Carolina, Tennessee, Washington, and West Virginia;

(2) The following states have operational PDMPs and have not recently required veterinarians²⁸ to report: Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Montana, Nebraska, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, Virginia, Wisconsin, and Wyoming;

(3) States with operational PDMPs that once required veterinarians to report, but recently changed the reporting requirement to exempt veterinarians: Kentucky;

(4) States with no operational PDMP, but with a PDMP that is legislatively enacted but not yet operational: New Hampshire; and

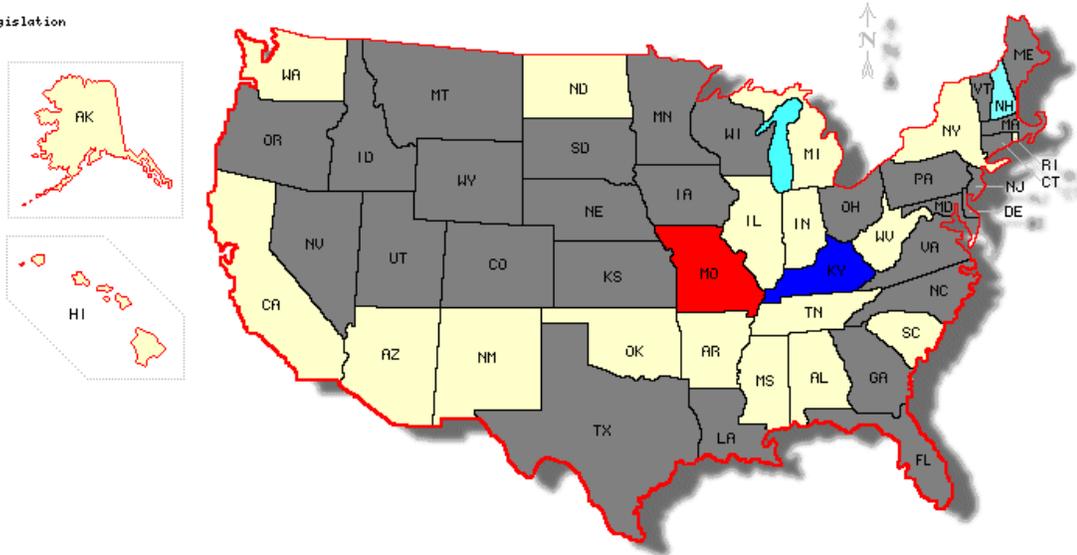
(5) States with no operational PDMP and no enabling legislation: Missouri.

²⁷ Each state will be discussed individually in Appendix 3. The enabling legislation of the state's PDMP is the initial citation for each state.

²⁸ Most states that exclude veterinarians as a dispenser from reporting to their PDMP require retail pharmacies to report veterinary prescriptions.

Current Status of State Run PDMPs (Veterinary Reporting)

- - Exempt
- - Reporting required
- - Historical Reporting
- - Legislatively enact.
- - No Legislation



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A detailed listing of states can be found in Appendix 3. The following section discusses several notable states:

Mississippi:³⁰ Unlike other PDMPs, Mississippi recently audited veterinary prescriptions.³¹ During this audit, the Mississippi PDMP manager randomly checked the PDMP database for reported veterinary prescriptions and found no evidence of any “vet shopping” behavior.³²

²⁹ Maps created using DIYMAPS.net map drawing utility.

³⁰ MISS. CODE. ANN. § 73-21-127 (West, Westlaw Next through End of 2012 Reg. Sess.).

³¹ E-mail from Deborah Brown, PMP Manager, Miss. Bd. of Pharmacy, to author (Dec. 26, 2012, 14:54 EST) (on file with author) (Mississippi audited veterinary prescriptions in 2011 and found no instances of vet shopping.).

³² *Id.*

Furthermore, since implementation in 2005, there have been no requests for veterinary or veterinary patient data from the Mississippi PDMP.³³

Oklahoma:³⁴ Those who dispense controlled substances must report to Oklahoma's PDMP in real time, within five minutes of dispensing the prescription.³⁵ Oklahoma's expedient PDMP reporting requirement has altered the prescribing habits of veterinarians; many veterinarians have shifted from directly dispensing a controlled substance to having the owner fill the prescription at a retail pharmacy.³⁶

Unlike many other states, Oklahoma has had a known problem with vet shopping.³⁷ It has been estimated that there are two to three cases in the entire state per year.³⁸ The Program Manager cited one example of vet shopping, but the case described veterinary prescription diversion, not vet shopping.³⁹ Therefore, Oklahoma has likely overestimated the prevalence of vet shopping in that state.

Additionally, Oklahoma differs from many other states in their organizational structure and control of their PDMP. Oklahoma Bureau of Narcotics and Dangerous Drug Control is a

³³ *Id.*

³⁴ OKLA. STAT. tit. 63 § 2-309C (West, Westlaw Next through Chapter 370 (End) of the Second Reg. Sess. of the 53rd Leg. (2012)), *amended by* 2012 Okla. Sess. Law Serv. Ch. 206 (H.B. 2941) (West).

³⁵ Interview with Don Vogt, PMP Program Manager, Okla. Bureau of Narcotics and Dangerous Drug Control (Jan. 29, 2013).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* (This can be explained by Oklahoma's method of data collection. Oklahoma collects both the patient and the owner information. This method of data collection in Oklahoma has allowed the state to link prescriptions that would not have otherwise been linked to the same person. However, it is likely that not all of the cases reported are cases of vet shopping.).

³⁹ *Id.* (Mr. Vogt used the following case as an example of the problem of vet shopping and the usefulness of veterinary reporting to their PDMP: an elderly dog owner was repeatedly prematurely refilling her dog's Phentermine. As this had continued, the veterinarian became suspicious and reported the case to the Oklahoma Bureau of Narcotics and Dangerous Drug Control. Investigation led to the discovery that the roommate was taking the dog's medication. This is a classic example of veterinary prescription diversion, but it is not an example of a case of vet shopping behavior that could be identified by a PDMP. Oklahoma's PDMP did not initially flag this individual, an astute veterinarian suspected illicit usage and reported the case to the Oklahoma Bureau of Narcotics and Dangerous Drug Control. Thus, with the former example used not being a case that could have been identified, it calls into question if the noted 2-3 cases per year are truly cases of vet shopping behavior that can be identified by a PDMP and not simply cases of veterinary prescription diversion that does not involve multiple providers.).

law enforcement agency (as opposed to a regulatory board,) and one of the few resources capable of quantifying the efficacy of PDMPs.⁴⁰ Since the state switched to an electronic monitoring program in 2006, there has been a 78 percent decrease in doctor/ pharmacy shopping.⁴¹ In 2006, tens of thousands of people visited five prescribers/ pharmacies; thousands of people visited ten prescribers/ pharmacies; and hundreds of people visited fifteen prescribers/ fifteen pharmacies.⁴² In 2012, hundreds of people visited five prescribers/ pharmacies; twenty people visited ten prescribers/ pharmacies; and no one obtained prescriptions from fifteen or more prescribers/ pharmacies.⁴³

Tennessee:⁴⁴ There have been no known cases of vet shopping in Tennessee.⁴⁵ Tennessee has found that veterinarians are a de minimis source of controlled substances.⁴⁶ The Controlled Substance Monitoring Program's annual legislative report, which itemizes the most commonly prescribed controlled substances by prescriber's medical field, has consistently excluded veterinarians as dispensers and prescribers.⁴⁷ Although Tennessee's PDMP does not exempt veterinarians, it does exempt veterinary prescriptions intended to treat an animal for less than

⁴⁰ Please note: the figures are quoted from a personal conversation with the PDMP director, and therefore, must be considered anecdotal. The author has not been able to find a publication to substantiate these claims.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ TENN. CODE ANN. §§ 53-10-301 to -311 (West, Westlaw Next through end of 2012 Second Reg. Sess.).

⁴⁵ E-mail from Andrew Holt, Dir., Tenn. Bd. of Pharmacy, to author (Jan. 9, 2013, 12:07 EST) (on file with author) and Interview with Barry Carrier, Tenn. Bureau of Investigation Drug Taskforce (Dec. 21, 2012).

⁴⁶ See Tenn. Dep't of Health Controlled Substance Database Advisory Comm. Bd. of Pharmacy, Amended Rep. to the Gen. Assemb.: Controlled Substance Database, 107th Gen. Assemb. (Tenn. 2012) *available at* http://health.state.tn.us/boards/Controlledsubstance/PDFs/CSMD_2011_Amend_Report.PDF, and Tenn. Dep't of Health Controlled Substance Database Advisory Comm. Bd. of Pharmacy, Amended Rep. to the Gen. Assemb.: Controlled Substance Database, 107th Gen. Assemb. (Tenn. 2011) *available at* http://health.state.tn.us/boards/Controlledsubstance/PDFs/CSMD_2010_Report.PDF.

⁴⁷ See Tenn. Dep't of Health Controlled Substance Database Advisory Comm. Bd. of Pharmacy, Amended Rep. to the Gen. Assemb.: Controlled Substance Database, 107th Gen. Assemb. (Tenn. 2012) *available at* http://health.state.tn.us/boards/Controlledsubstance/PDFs/CSMD_2011_Amend_Report.PDF, and Tenn. Dep't of Health Controlled Substance Database Advisory Comm. Bd. of Pharmacy, Amended Rep. to the Gen. Assemb.: Controlled Substance Database, 107th Gen. Assemb. (Tenn. 2011) *available at* http://health.state.tn.us/boards/Controlledsubstance/PDFs/CSMD_2010_Report.PDF.

forty-eight hours,⁴⁸ and also exempts veterinarians from the human medical provider requirement to check the PDMP database prior to prescribing a controlled substance.⁴⁹

In early 2013, bills were introduced to exclude veterinarians from the reporting requirement, but those bills failed to pass in the 2013 legislative session.⁵⁰

Washington:⁵¹ Currently, Washington state has no method to distinguish between veterinary and human prescription requests.⁵² In 2012, there was an initiative to alter the reporting requirements of veterinarians.⁵³ Although the original bill attempted to completely exempt veterinary reporting,⁵⁴ a compromise resulted in a less frequent veterinarian-specific reporting system.⁵⁵ Currently, the new veterinary reporting system has not been implemented.⁵⁶ Required reporting to the existing program ended June 7, 2012, but the Washington Department of Health recommends that veterinarians continue to report to the existing program until the new program is operational.⁵⁷ The first report required from the new program was due October 1, 2013 for the period of July 1 to September 30, 2013.⁵⁸

Kansas:⁵⁹ Although Kansas veterinarians are not required to report to the PDMP,⁶⁰ the Kansas legislature mandated a taskforce to study the need for including veterinarians in the PDMP.⁶¹

⁴⁸ TENN. CODE ANN. § 53-10-305 (a) (West, Westlaw Next through end of 2012 Second Reg. Sess.).

⁴⁹ TENN. CODE ANN. § 53-10-310 (West, Westlaw Next through end of 2012 Second Reg. Sess.).

⁵⁰ S.B. 1070, 108th Gen. Assemb. (Tenn. 2013); H.B. 572, 108th Gen. Assemb. (Tenn. 2013).

⁵¹ WASH. REV. CODE ANN. §§ 70.225.010 (West, Westlaw Next Current with all 2012 Legis. and Chapters 1, 2, and 3 from the 2013 Reg. Sess.).

⁵² E-mail from Chris Baumgartner, PMP Dir., Wash. Dep't of Health, to author (Jan. 9, 2013, 16:27 EST) (on file with author).

⁵³ 2012 Wash. Sess. Laws 1389-90.

⁵⁴ S.B. 6105, 62nd Leg., 2012 Reg. Sess. (Wash. 2012).

⁵⁵ Wash. State Veterinary Med. Ass'n, *Prescription Monitoring Program (DOH)*, (June 2012), <http://www.wsvma.org/displaycommon.cfm?an=1&subarticlenbr=560> (last visited Feb. 25, 2013).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Wash. State Veterinary Med. Ass'n, *Prescription Monitoring Program – Update: New rules are expected to take effect July 1, 2013*, (May 10, 2013), <http://www.wsvma.org/displaycommon.cfm?an=8> (last visited May 27, 2013).

⁵⁹ KAN. STAT. ANN. § 65-1685 (West, Westlaw Next through 2012 Reg. Sess.).

⁶⁰ E-mail from Aimee Grubb, Admin. Specialist, Kan. Prescription Monitoring Program, to author (Dec. 31, 2012, 12:30 EST) (on file with author).

⁶¹ KAN. STAT. ANN. §§ 65-1682 to -1695 (West, Westlaw Next through 2012 Reg. Sess.).

The five-year task force was concluded at the end of 2012 and reported back to the legislature in the January legislative session.⁶² The report concluded that veterinarians should not be required to report to the PDMP.⁶³ Furthermore, none of the 365 PDMP data requests from law enforcement and other regulators involved veterinarians or their animal patients.⁶⁴

Massachusetts:⁶⁵ Massachusetts has a unique regulation which requires veterinarians to have prescriptions filled at a retail pharmacy unless it is for a medication required for immediate treatment, usually less than seventy-two hours.⁶⁶ All other prescriptions are sent to a pharmacy and dispensed there.⁶⁷ Furthermore, there have been no known requests for veterinary patient data submitted to the PDMP by the dispensing pharmacy.⁶⁸

Minnesota:⁶⁹ The manager of Minnesota's PDMP, a subdivision of the Minnesota Board of Pharmacy, recently sent a report to the legislature recommending that veterinarians continue to be exempted from the reporting requirement.⁷⁰ The task force created a report from 1,896 email surveys sent to licensed veterinarians, with a response rate of 207.⁷¹ The survey showed that only eleven veterinarians, 5 percent of the respondents, had experienced overt vet shopping.⁷²

The individuals with experience of overt vet shopping indicated that they have only seen one or

⁶² KAN. STAT. ANN. § 65-1694 (West, Westlaw Next through 2012 Reg. Sess.).

⁶³ See *State Legis. Update April 2013*, Dep't of State Legis. and Regulatory Affairs Am. Veterinary Med. Ass'n (April 16, 2013), <https://www.avma.org/Advocacy/StateAndLocal/Pages/State-Leg-Update-April-2013.aspx>.

⁶⁴ Grubb, *supra* note 60.

⁶⁵ MASS. GEN. LAWS ANN. ch. 94C, § 24A (West, Westlaw Next through Chapter 416, except for Chapters 371, 379, 398, 402 and 403 of the 2012 2nd Ann. Sess.).

⁶⁶ E-mail from Adele Audet, Assistant Dir., Drug Control Program, Mass. Dep't of Health, to author (Jan. 14, 2013, 16:54 EST) (on file with author).

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ MINN. STAT. ANN. § 152.126 (West, Westlaw Next through the end of the 2012 First Spec. Sess.).

⁷⁰ E-mail from Barbara A. Carter, Program Manager, Minn. Prescription Monitoring Program, to author (Dec. 26, 2012, 17:23 EST) (on file with author) (referencing *Report to the Leg.: Diversion of Controlled Substances Dispensed by Veterinary Practice*, *infra* note 71).

⁷¹ Barbara A. Carter, *Report to the Leg.: Diversion of Controlled Substances Dispensed by Veterinary Practice*, Minn. Bd. of Pharmacy at 3, 11 (Dec. 1, 2011 approved Jan. 11, 2012), <http://archive.leg.state.mn.us/docs/2012/mandated/120074.pdf>.

⁷² *Id.* at 5.

two cases in their careers.⁷³ Additionally, the report indicated the most commonly prescribed controlled substance for companion animals was buprenorphine, used for immediate post-operative pain control, in minimal quantities, and there have been no known cases “where a pet was used as a means of securing controlled substances that had been dispensed by a veterinarian.”⁷⁴ Of the top three dispensed controlled substances, none were in the top ten dispensed controlled drugs to the Minnesota PDMP.⁷⁵

Additionally, the study by the Minnesota task force surveyed all fifty states’ PDMPs and determined that twenty-three of the thirty-nine responding states do not require veterinarians to report.⁷⁶ At the time of this multi-state survey, three states, South Carolina, Kentucky, and Arizona, were re-evaluating the necessity of veterinary PDMP reporting.⁷⁷

Kentucky:⁷⁸ Until mid-2012, veterinarians were required to report to Kentucky’s PDMP.⁷⁹ The exemption for veterinarians occurred with a change of the PDMP’s definition of “Dispenser” to “Not include an individual licensed to practice veterinary medicine under KRS Chapter 321.”⁸⁰

During the last several years [Kentucky] . . . did have a requirement for veterinarians to report to our PDMP, but feedback from law enforcement was that there was very little diversion being identified from veterinarian sources. The effort and costs for the veterinarian practices to report to the PDMP and for us to process the data was significant, although we did implement a web portal for reporting at the end of 2011 that eliminated data entry of paper forms. However the stakeholder consensus was that vet reporting was not necessary, and as a result our legislature agreed to eliminate the requirement for veterinarians to report, effective July 20, 2012.⁸¹

⁷³ *Id.*

⁷⁴ *Id.* at 6, 8.

⁷⁵ *Id.* at 9.

⁷⁶ *Id.* at 7.

⁷⁷ *Id.*

⁷⁸ KY. REV. STAT. ANN. § 218A.390 (West, Westlaw Next through end of 2012 Legis.).

⁷⁹ 902 KY. ADMIN. REGS. 55:110 § 1(3)(b) (Westlaw Next Current with amendments included in the Admin. Reg. of Ky., Volume 39, No. 11, dated May 1, 2013).

⁸⁰ *Id.*

⁸¹ E-mail from David Hopkins, Ky. Cabinet for Health and Family Serv., Office of Inspector Gen., KASPER (Ky. All Schedule Prescription Electronic Reporting) (Jan. 15, 2013, 16:41 EST) (on file with author).

California:⁸² California's financial crisis has led to a suspension of its PDMP.⁸³ California contracted its PDMP to a company, Atlantic Associates, Inc., and for the past two years the California PDMP website has stated, "CA Direct Dispense Application is now available for reporting. REGISTERED users will be receiving an email shortly with instructions. Your continued [sic] patience is appreciated."⁸⁴ Veterinary practitioners were instructed to keep a paper copy of what they would have reported for submission once the program is again active.⁸⁵ In early 2013, the program resumed operation⁸⁶ and gave dispensers until "February 28, 2013 to conform to the new electronic reporting format."⁸⁷

Although veterinarians have not reported to the PDMP for the past two years and there are no data from that period, the office of the Attorney General of California declined to respond to the author's information request.⁸⁸

Wisconsin:⁸⁹ Veterinarians were not exempted from reporting to Wisconsin's PDMP.⁹⁰ Prior to the implementation of veterinary reporting, there was resounding support to exclude

⁸² CAL. HEALTH & SAFETY CODE ANN. § 11165 (West, Westlaw Next Current with all 2012 Reg. Sess. laws, Gov. Reorg. Plan No. 2 of 2011-2012, and all propositions on 2012 ballots).

⁸³ Sarah Varney, Calif.'s Prescription-Drug Monitoring System Feels Pain From Budget Cuts, NATIONAL PUBLIC RADIO, (April 10, 2012, 3:43 AM EST), <http://www.npr.org/blogs/health/2012/04/10/149943047/calif-s-prescription-drug-monitoring-system-feels-pain-from-budget-cuts> ("California Gov. Jerry Brown announced last year that, for budget reasons, he was eliminating the Bureau of Narcotic Enforcement, which had long managed the prescription-drug monitoring program. ...[T]he state laid off or transferred the nine people who operated the prescription database. Now there's a lone civil servant - Mike Small, program manager for the Law Enforcement Support Program - at the Department of Justice keeping it from going dark. Can one person really keep a massive system - with 200 million entries-going?").

⁸⁴ Atlantic Associates, Inc, <http://www.aainh.com/index.html>, accessed Jan. 14, 2013. See e-mail from Bonnie Lutz, Att'y, Klinedinst P.C. (Dec. 28, 2012) (on file with author) (stating that Atlantic Associates web page has stated the same thing for the past two years).

⁸⁵ Peter Mundschen, *Controlled Substance Utilization Review and Evaluation System (CURES) Reporting*, CAL. VETERINARIAN, March/April 2011, 12 available at <http://www.cvma.net/images/cvmapdf/ControlledSubstance.pdf>. See e-mail from Mike Small, Adm'r II, Law Enforcement Support Program, Bureau of Criminal Identification and Investigative Serv., Cal. Dep't of Justice, to author (Dec. 27, 2012, 19:41 EST) (on file with author) (denying any information requested).

⁸⁶ Grant Miller, *Controlled Substance Utilization Review and Evaluation System (CURES) Reporting Update*, Cal. Veterinary Med. Ass'n (Jan. 2013), <http://www.cvma.net/doc.asp?id=21365>.

⁸⁷ Office of the Cal. Att'y Gen., *Controlled Substance Utilization Review and Evaluation System (CURES)*, Cal. Prescription Drug Monitoring Program (PDMP), STATE OF CAL. DEP'T OF JUSTICE, <http://oag.ca.gov/cures-pdmp#ddra> (last visited Apr. 9, 2013).

⁸⁸ Letter from Mike Small, Dep't of Justice Adm'r II for Kamala D. Harris Cal. Att'y Gen., to author (Dec. 27, 2012) (on file with author).

veterinarians.⁹¹ This bill was introduced by fifteen senators, cosponsored by forty-nine representatives, and signed into law by the Governor on March 13, 2013.⁹²

III. “Vet shopping” occurs, but it is extremely rare.

Based upon the responses from the various states, vet shopping behavior comprises an extremely small percentage of overall doctor/pharmacy shopping. Where there was an estimated 170,000 Medicare Part D doctor shoppers identified in 2008,⁹³ less than ten people nationwide would be identified by a PDMP for vet shopping per year.

When the known cases were adjusted based on state populations, there was an estimated one case per 30 million people, or 6.5 cases per year, in the United States.⁹⁴ With such a low prevalence of vet shopping, there have only been a few published cases of vet shopping in the past fifteen years.

⁸⁹ WIS. STAT. ANN. § 450.19 (West, Westlaw Next through 2011 Act 286, published April 26, 2012).

⁹⁰ E-mail from Brad Dunlap, Spec. Agent-in-Charge, Wis. Dep’t of Justice, Div. of Criminal Investigation, to author (Dec. 28, 2012, 9:38 AM EST) (on file with author) (Wisconsin’s PDMP will become operational at the end of January 2013).

⁹¹ S.B. 7, 2013-2014 Leg. (Wis. 2013).

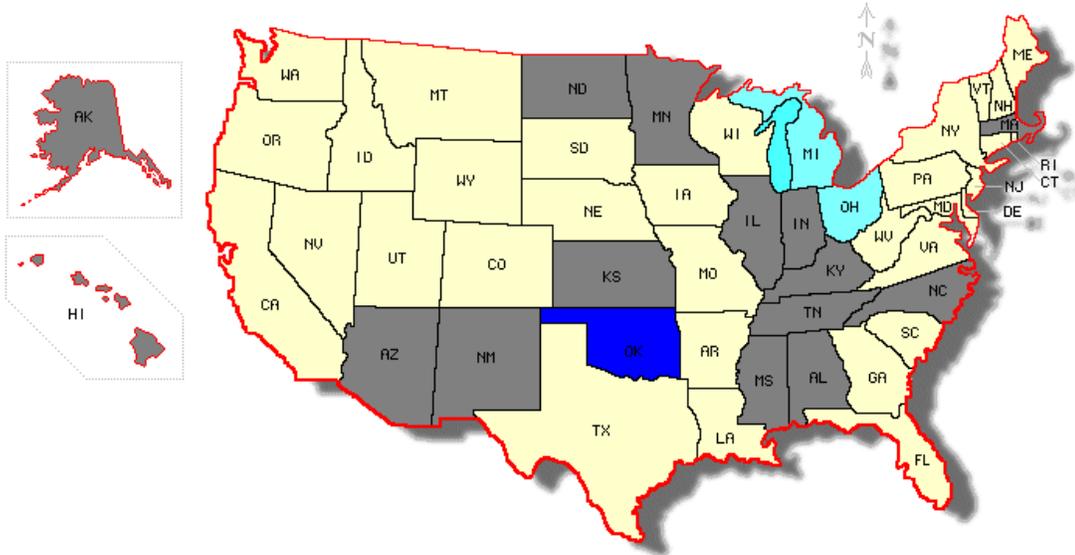
⁹² Assemb. B. 3, 2013-2014 Leg. (Wis. 2013) (legislative history available at <http://docs.legis.wisconsin.gov/2013/proposals/ab3>).

⁹³ U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-12-104T, MEDICARE PART D: INSTANCES OF QUESTIONABLE ACCESS TO PRESCRIPTION DRUGS 2 (2011) (170,000 doctor shoppers were identified in a 2008 retrospective study of medicare part D payouts.).

⁹⁴ In Michigan, there have only been a “handful” of vet shopping cases in the past 10 years. E-mail from Michael Wissel, Pharmacy Serv. Manager, Bureau of Health Professions, Health Investigation Div., to author (Dec. 26, 2012, 10:54 EST) (on file with author). This imprecise measure of cases was taken as if there had been five known cases in the past ten years or one case every other year (0.5 cases per year). In Ohio, there have been two known cases in the past ten years (0.2 cases per year). See Burke, *infra* note 94; Mehling, *infra* note 102. Oklahoma has approximately two to three cases per year (2.5 cases per year). See Vogt, *supra* note 35. That equates to 3.2 cases per year for a total population of 98,352,909 (the population of all states with no known cases (Hawaii, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Mississippi, New Mexico, North Carolina, North Dakota and Tennessee) and states with known cases (Michigan, Ohio, and Oklahoma) or 6.5 cases per year nationally.). See U.S. Census Bureau, 2010 census, Population Map, <http://www.census.gov/2010census/popmap/>.

PDMP Detected or Known Instances of Vet Shopping (2012)

- - No Known Cases
- - One Case
- - Two to Three Cases
- - Not Reported



A. “Dolly” and her canine friends were used as a method for their owners to vet shop.

Veterinarians are not required to report to Ohio’s PDMP, yet three known vet shopping cases have occurred in Ohio in the past decade. “Dolly” was a small dog with purported anxiety problems, which were well-regulated with Diazepam.⁹⁵ Diazepam, also known as Valium® or Diastat®, is a benzodiazepine, a Class IV controlled substance.⁹⁶ It can be used in dogs as a fast acting anti-anxiety medication for situational anxiety (i.e., anxiety related to thunderstorms, fireworks, loud noise phobias, etc.).⁹⁷ Dolly's owner made a monthly trip to all five of Dolly's

⁹⁵ John Burke, *Drug Diversion in Veterinary Medicine*, PHARMACY TIMES, October 1, 2002, available at <http://www.pharmacytimes.com/publications/issue/2002/2002-10/2002-10-7007>.

⁹⁶ DONALD PLUMB, PLUMB'S VETERINARY DRUG HANDBOOK 304-07 (7th ed. 2011) (Valium® (Roche) and Diastat® (Valeant)).

⁹⁷ *Id.*

veterinarians and all individual veterinary offices were prescribing Dolly's anti-anxiety medication.⁹⁸

The same publication that described Dolly's case described another desperate drug-addicted owner who went to the extreme of training his dog to display clinical signs of an ailment to obtain the desired medication.⁹⁹ This dog was trained to cough on command.¹⁰⁰ The owner took his pet to several veterinarians to obtain cough syrup with hydrocodone.¹⁰¹ This exemplifies one rationale for a much lower incidence of veterinary prescription diversion and vet shopping than what occurs in human medicine; the drug addicted animal owner needs to have a pet, or access to a pet, demonstrating clinical signs to obtain a prescription for the desired medication.

In a case similar to Dolly's, an Ohio dog owner obtained a different anti-anxiety medication from three different veterinarians for thunderstorm phobia.¹⁰² A veterinarian reported the owner when he continued to consistently obtain medications throughout the year when no thunderstorms were occurring in that part of Ohio.¹⁰³ The publication discussing Dolly and her canine friend is one of only two published case studies involving vet shopping.¹⁰⁴

⁹⁸ Burke, *supra* note 95.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² Telephone Interview with Gregg Mehling, Vice President Nat'l Ass'n of Drug Diversion Investigators of Ohio and Lorain Cnty. Drug Task Force (Dec. 31, 2012).

¹⁰³ *Id.*

¹⁰⁴ *Id.*

B. The little brown dog with an identity crisis.

The second published case of vet shopping occurred in Greensboro, North Carolina.¹⁰⁵ In that case Molly Lackey Murrow became “addicted” to a medication prescribed by her physician to treat her migraines, Butorphanol or Stadol®, which has the same active ingredient as a commonly used canine medication, Torbutol®.¹⁰⁶ Torbutol® is used for analgesia, sedation, and as an antitussive (cough suppressant) property.¹⁰⁷ During the course of one year and 180 veterinary visits to a total of twenty-four veterinarians, Ms. Murrow obtained “7,568 dog-sized doses” of Torbutol®.¹⁰⁸ This was an expensive proposition; her out-of-pocket veterinary expenditures likely were in the range of \$2,000 to \$55,000.¹⁰⁹

Not only was this an expensive proposition, it was complicated.¹¹⁰ Her scheme involved seven aliases with numerous aliases for her dog, including “Tots,” “Pixie,” and “Tippy.”¹¹¹ Ms. Murrow falsified records stating that the dog had been prescribed Torbutol® prior to a fictitious move from Louisiana.¹¹² Several vets became suspicious and attempted to verify the “records.”¹¹³ Upon learning of the fraudulent nature of the “records,” the veterinarians contacted the Drug

¹⁰⁵ Paula Christian, *Woman Feeds Addiction with Dog's Prescription; a Pet Owner Admits to Abusing Painkillers Prescribed to Her Terrier by; Veterinarians in Three Counties*, NEWS & REC. (Greensboro, N.C.), Jan. 9, 1999, at A1 [hereinafter *Woman Feeds Addition with Dog's Prescription*].

¹⁰⁶ *Id.*

¹⁰⁷ Butorphanol, Stadol ® (Bristol-Myers Squibb) or Torbutrol ® (Fort Dodge) are partial opiate agonist and class IV controlled substances with a low risk of physical dependence. DONALD PLUMB, PLUMB'S VETERINARY DRUG HANDBOOK 131-35 (7th ed. 2011).

¹⁰⁸ Christian, *supra* note 105.

¹⁰⁹ The wide range of cost is due to a number of unknown factors: the dog was reported to be a Chihuahua-Terrier mix (likely weighing between 2-10 kilograms(kg) or 4.4-22 pounds); the antitussive dose range for Torbutrol is 0.05- 1 milligram(mg) per kg (total dose of 0.1 – 10mg) up to every six hours; DONALD PLUMB, PLUMB'S VETERINARY DRUG HANDBOOK 131-35 (7th ed. 2011); the cost of the Torbutrol® to the veterinarian (for the purpose of this estimation current price of various milligram dosages of Torbutrol® from a popular veterinary distributor); and the expenditure associated with diagnostics and a minimum of 24 physical examinations. See KAREN E. FELSTED, THE VETERINARY FEE REFERENCE (2011) (containing the average prescription markup and physical exam charges).

¹¹⁰ Christian, *supra* note 105.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

Enforcement Agency, and the DEA set up surveillance at several local vet offices.¹¹⁴ Ms. Murrow was arrested and later pled guilty to “falsely obtaining Torbutrol[®].”¹¹⁵

IV. Vet shopping is but a small percentage of veterinary prescription diversion, other methods of veterinary diversion that would not be detected by a PDMP.

Of the few officers or agents in prescription drug task forces that have ever seen a case involving an animal prescription or a veterinarian in their careers,¹¹⁶ the vast majority were cases of diverting pet medication from a single provider, where the owners obtain prescriptions allegedly for their pets and take it themselves.¹¹⁷ There are various methods of fraudulently obtaining prescription veterinary medications: “the racehorse scam;”¹¹⁸ “the guard dog scam;”¹¹⁹ “the overweight house pet scam;”¹²⁰ among others.

Most of the diverted prescriptions are prescribed for the animal’s legitimate medical problem. For example, one notable case involved a dog with cancer-associated pain.¹²¹ Ultram®, also known as Tramadol, is a non-opioid pain medication, which was prescribed and dispensed to this dog for cancer-associated pain.¹²² The owners were emotionally distraught from dealing with a painful dying pet, a marital separation, and finalizing their divorce.¹²³ They had shared custody of their beloved pet, resulting in canine custodial exchanges from the wife to

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ This is derived from the responses of the survey and discussions with many agents and officers in the field of prescription diversion.

¹¹⁷ Mehling, *supra* note 102.

¹¹⁸ This occurs when there is a horse owner who approaches a veterinarian for the purpose of obtaining large quantities of a controlled substance, which would be an appropriate dose for a horse, to aid in “calming [the owner’s] . . . high spirited horse during transport. *Preventing Prescription Fraud*, MO. TASK FORCE ON MISUSE, ABUSE AND DIVERSION OF PRESCRIPTION DRUGS 9 (5th ed.), available at <http://health.mo.gov/safety/bnodd/doc/PreventingPrescriptionFraud.doc> (accessed Dec. 28, 2012).

¹¹⁹ This occurs when an owner of a guard dog requests stimulants for their guard dog to “mak[e the]... guard dogs more alert and aggressive.” *Id.* at 11. Aside from the drug diversion and potential dog bite liability, increasing aggression should never be the goal of a veterinarian. The same premise has been used to “improve” a show dog’s performance. *Id.*

¹²⁰ This occurs when an owner of an overweight house pet requests amphetamines or anabolic steroids to aid weight loss. *Id.*

¹²¹ Mehling, *supra* note 102.

¹²² *Id.*

¹²³ *Id.*

the husband.¹²⁴ After one such exchange, the husband opened the bottle of Tramadol to medicate his canine companion, he thought the tablets looked very different than the previously prescribed Tramadol.¹²⁵ He thought that they looked like 81mg Aspirin.¹²⁶ The husband took the prescription to his veterinarian's office and asked if there was a mix up with his dog's prescription.¹²⁷ The veterinarian confirmed the husband's suspicion that the tablets in the Tramadol bottle were, in fact, Aspirin.¹²⁸ The veterinarian explained that they do not keep Aspirin in the pharmacy on-site, so the alleged prescription error or drug diversion did not occur at the veterinarian's office.¹²⁹ The husband was unconvinced that the veterinarian's office did not exchange the medication, so he notified the police of the prescription diversion.¹³⁰

After an initial investigation, the police found no evidence that there was diversion by the veterinarian's office.¹³¹ The wife was questioned and ultimately confessed to switching and abusing her dog's Tramadol; she was charged with deception to obtain dangerous drugs and cruelty to a companion animal (for denying the pain medications that were prescribed for her painful dog).¹³² This type of prescription diversion is virtually undetectable and typically would not raise any red flags with even the most sophisticated PDMP.

Another form of veterinary prescription diversion that is undetectable with most PDMPs occurs when a dispensing prescriber sells prescriptions for illicit purposes.¹³³ For example, a

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ Although this form of prescription diversion is not detectable under most PDMPs, the Drug Enforcement Agency has methods of detecting abnormally large purchases of controlled substances. Interview Barry Carrier, Tenn. Bureau of Investigation Drug Taskforce (Dec. 21, 2012).

veterinarian was diverting prescriptions and selling them for illegal use.¹³⁴ In addition to selling prescription medications, including his drug of choice prescription narcotics, this veterinarian was growing and distributing marijuana.¹³⁵ Additionally, this veterinarian was addicted to prescription painkillers.¹³⁶ Most PDMPs are not designed to detect controlled substances distributed to the dispenser; they are designed to detect controlled substances dispensed from a dispenser directly to the end user/ patient.¹³⁷ Therefore, unless a PDMP has a method of detecting the quantity of controlled substances distributed to the dispenser, a dispenser can avoid suspicious data in the PDMP database by simply not reporting the dispensed prescription. Thus, a state-run PDMP will not flag a dispenser diverting and selling controlled substances unless there was prior knowledge of a problem. Some states, however, have enacted legislation to fill in this gap.¹³⁸

V. PDMPs are designed for human patients and are only loosely applicable to veterinarians.

Most state PDMPs are not able to easily differentiate human prescriptions from animal prescriptions. Under the ASAP 0.5/1995,¹³⁹ a commonly used format for reporting, the data reported includes¹⁴⁰: the dispenser's information (Drug Enforcement Agency [DEA] number and

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ See Appendix 4.

¹³⁸ *E.g.*, Addison Sharp Prescription Regulatory Act of 2013, S.B. 0676, 108th Gen. Assemb. (Tenn. 2013).

¹³⁹ Am. Soc'y for Automation in Pharmacy (ASAP) is an organization that writes and disseminates a "Standard for Prescription Monitoring Programs." AM. SOC'Y FOR AUTOMATION IN PHARMACY, <http://asapnet.org/index.html> (last visited Jan. 17, 2013).

¹⁴⁰ Individual states have different required and optional fields. See Appendix 4 for a list of required fields for the states that require veterinarians to report to their PDMP.

zip code); patient information (last name, first name, date of birth, sex,¹⁴¹ address, and patient's customer number¹⁴²); prescriber information (DEA number); and prescription information (date filled, metric quantity, National Drug Code (NDC) number,¹⁴³ number of days supplied, if the medication was compounded or not, number of refills, date prescription written, prescription origin code, diagnosis code).¹⁴⁴ The required fields vary from state to state.

A. Who is the patient?

According to most PDMPs, the information added to the database is for the “patient,” and when the patient is an animal, the pet owner's name is not collected.¹⁴⁵ Unfortunately, it is not always clearly communicated to the dispenser who the “patient” is for the purpose of reporting; therefore, some respondents may identify the owner’s name as the “patient,” while others identify the pet’s name as the patient.

For example, at the inception of Tennessee’s PDMP, in late 2006 and early 2007, there was great confusion as to who is the “patient.” Initially, Tennessee veterinarians were told to use the animal’s name. “For example, use 'Fido' Smith for the patient name.”¹⁴⁶ A newsletter from the Tennessee Veterinary Medical Association (TVMA) to its members stated:

¹⁴¹ In Tennessee, until 2011, this is the only field that could delineate between human and animal prescriptions. However, it was an optional field. The field values were: “1=Male; 2=Female; and 3= Animal.” Tenn. Controlled Substance Database: Data Reporting Manual, Effective December 2006 (Optimum Tech. Dec. 2006) at 9. Furthermore, when Tennessee updated to ASAP 2009 v 4.1 this animal delineation was not included. Tenn. Controlled Substance Database: Data Reporting Manual, Effective December 12th 2011 (Optimum Tech. Dec. 2006) available at http://health.state.tn.us/boards/Controlledsubstance/PDFs/TNDataCollectionManual_v1.2.pdf at 11 (where the fields were changed to “1=Male; 2=Female; and U= Unknown”).

¹⁴² This number can vary by state. For example, in Tennessee, “If a patient is an animal, then the board shall use the owner’s social security, driver’s license number, telephone number, or number ‘000-00-0000’ (does not have data) or number ‘999-99-9999’ (refusal to provide data) as the patient identifier in the database.” TENN. COMP. R. & REGS. 1140-11-.03(6) (2013).

¹⁴³ *Nat’l Drug Code Directory*, U.S. Food and Drug Admin. (Jan 17, 2013), <http://www.fda.gov/drugs/informationondrugs/ucm142438.htm> (“Drug products are identified and reported using a unique, three-segment number, called the National Drug Code (NDC), which serves as a universal product identifier for human [and animal] drugs.”).

¹⁴⁴ Tenn. Controlled Substance Database: Data Reporting Manual, Effective December 2006 (Optimum Tech. Dec. 2006) at 9.

¹⁴⁵ Only a handful of states have the ability to report both the owner and the patient’s information. See Appendix 4.

¹⁴⁶ Telephone Interview with Arlene Carmon, technical support with Optimum Tech. (Dec. 27, 2006).

Throughout the manual, it refers to data like the patient's name and the patient's address. For veterinarians, the Board of Pharmacy would like to have the CLIENT information. So you would not be reporting that “Rover” Jones received 60 tablets of 15mg Phenobarbital, but rather that Jane Jones received that medication.¹⁴⁷

At an informational session in early 2013, a veterinarian inquired who is the “patient” that is to be reported to the PDMP.¹⁴⁸ Veterinarians were informed that “the animal is technically the patient and should be the name that is reported.”¹⁴⁹ Yet, the Tennessee rules and regulations state, “‘Patient’ means a person, animal or owner of an animal who is receiving medical treatment from a prescriber.”¹⁵⁰ Thus, the patient name reported to the PDMP could be that of an agent who presents the animal, the animal itself, or the owner.¹⁵¹ Therefore, if a person takes a pet to multiple vets to obtain controlled substances, there would likely be multiple entries that cannot be cross-referenced. Furthermore, unless the data clearly identifies that the patient is an animal,¹⁵² a prescription for the owner’s pet may be entered identically to a prescription written by a physician for the owner.¹⁵³ Hence, much conflicting information is disseminated to veterinarians regarding the manner in which the animal patient is entered into the PDMP databases.

B. Animal prescriptions can easily be linked with the owner's prescriptions.

Animal prescriptions entered into the PDMP database utilizing the owner’s name, phone number, or social security number as the patient identifiers will link the animal’s and the owner’s

¹⁴⁷ Letter from Tenn. Veterinary Med. Ass’n (Jan. 2007) (copy available at <http://www.docstoc.com/docs/4205131/News-from-Tennessee-Veterinary-Medical-Association-Controlled-Substance-Database>) (referring to Tenn. Controlled Substance Database: Data Reporting Manual, Effective December 2006 (Optimum Tech. Dec. 2006)).

¹⁴⁸ Andrew Holt, Dir. of the Tenn. Bd. of Pharmacy, Webinar to the Tenn. Veterinary Med. Ass’n: Controlled Substance Database Requirements for Veterinarians (Jan. 3, 2013).

¹⁴⁹ *Id.*

¹⁵⁰ TENN. COMP. R. & REGS. 1140-11-.01(1)(o) (2013).

¹⁵¹ *Id.*

¹⁵² There is an optional field in some states which allows for the differentiation of an animal from a human patient. *See supra* note 141.

¹⁵³ *See supra* note 142 (discussing the patient identifier).

prescriptions. An animal owner will potentially be unable to obtain an appropriate medication for themselves due to a pet or multiple household pet's prescriptions entered into the PDMP. Thus, a problem arises, distinguishing legitimate prescriptions obtained for one's pet and those that may be fraudulently obtained.

The problem is further compounded by the increasing frequency of legislation that requires prescribers to check the PDMP database prior to prescribing a new prescription. For example, as of April 1, 2013, human prescribers in Tennessee are required to check the PDMP database prior to writing a new prescription.¹⁵⁴ Thus, an animal's legitimate prescription present under the owner's name could lead the owner's physician to believe that the owner is doctor shopping when in reality the prescription in the PDMP database is for the owner's pet, and the owner would then have a problem obtaining a legitimate prescription from his or her prescriber.¹⁵⁵ Alternatively, an owner could be subjected to an unnecessary and costly drug test prior to obtaining a legitimate prescription.¹⁵⁶

This problem is one of the reasons Kentucky eliminated its requirement for veterinarians to report to their PDMP:

The change was made because law enforcement in Kentucky indicated that controlled substances dispensed by veterinarians were not a significant source of abused or diverted drugs. While there was agreement that veterinarian dispensing was the source in some situations, it was not common. The Cabinet for Health and Family Services that houses our PMP supported the change because the cost of compliance was greater than the advantages of having that data, and the pet data sometimes showed up in the owner PMP reports.¹⁵⁷

¹⁵⁴ TENN. CODE ANN. § 53-10-310 (e) (West 2012).

¹⁵⁵ For example, when searching Tennessee's PDMP, the information that is used for the search is last name, first name, and date of birth. TENN. DEP'T OF HEALTH, *Controlled Substance Monitoring Database Program: Frequently Asked Questions*, <http://health.state.tn.us/boards/Controlledsubstance/faq.shtml> (last visited Jan. 16, 2013).

¹⁵⁶ E.g., TENN. CODE ANN. § 53-11-308 (g) (as amended by 2013 Tenn. Pub. Acts 430) (Physicians of patients on multiple different types of long term controlled substances "shall consider mandatory urine drug testing.").

¹⁵⁷ E-mail from David Hopkins, KASPER Program Manager, Ky. Cabinet for Health and Family Serv., to author (Jan. 2, 2013 at 08:57 EST) (on file with author).

An alternative to Kentucky's approach would be to separate prescriptions by the prescriber's DEA number. Unfortunately, that would be an extremely labor intensive process to ensure that the prescribers DEA numbers are linked to their profession. Some states have enacted other methods of distinguishing human from non-human patients, which are described in Appendix 4.

C. What is in a name?

An animal's name is fungible, unlike human names. Pets do not have driver's licenses or any other type of governmental identification. Even if an animal has a permanent identifier, such as a microchip or an alphanumeric tattoo, it is not common practice for a veterinarian to ensure the presenting client is the client on record with the microchip company at the time of treatment.¹⁵⁸ These permanent forms of identification are typically only used in the event that the pet becomes lost or a client presents a pet that they found.¹⁵⁹ Thus, the pet's name recorded by the owner is considered the pet's name. An unscrupulous owner that is vet shopping could have a different name for the same pet at many different veterinarians' offices and a different name for themselves, thus, escaping any flag affiliated with vet shopping.

D. Date of birth is also known as a guessed field.

The exact date of birth, which is a required field in most PDMPs, is not always known for veterinary patients, which presents a distinct problem. Approximately 44% of dogs in the United States are mixed breed.¹⁶⁰; therefore, many canine patients do not come with breed registration or known lineage.¹⁶¹ The exact date of birth is unknown, and the date of birth used is typically a

¹⁵⁸ Implantable RFID microchips give a numerical or alphanumeric string typically 9-15 digits in length. These numbers are initially registered to the purchaser, typically the veterinarian, and then the owner may register the identifier with the manufacture or a third party. *See Microchipping of Animals*, AM. VETERINARY MED. ASS'N (Oct. 2, 2009) , https://www.avma.org/KB/Resources/Backgrounders/Documents/microchipping_bgnd.pdf.

¹⁵⁹ *See id.*

¹⁶⁰ AM. PET PRODUCTS ASS'N, *Dog Ownership*, in 2009-2010 APPA NAT'L PET OWNERS SURVEY 53, 53-63 (2010).

¹⁶¹ Robert Simpson, Kathryn Simpson & Ledy VanKavage, *Exploring the Bond: Rethinking Dog Breed Identification in Veterinary Practice*, 241 J. AM. VETERINARY MED. ASS'N 1163, 1163 (2012).

guess.¹⁶² Veterinarians have been told to “put your best guess and make sure the dates match your records.”¹⁶³

In the author's experience, it is extremely common for an owner to put the animal's age in years on the new client form in lieu of a definitive date of birth (even when the exact date of birth is known). Most, if not all, veterinary practice management software systems allow the user to either put in a date of birth or the age in years, month, or days. Thus, if the date is January 1, 2013 and the owner tells the veterinary hospital that the animal is three years old, without further inquiry, the default date of birth will be January 1, 2010. A vet shopper would merely have to give an age of their pet in years to avoid being flagged in the database. For example, if the owner goes to a different veterinarian the next day and tells that veterinarian's office that the pet is three years old, then the date of birth would be January 2, 2010 and so on. The owner could go to five different veterinarians on subsequent days and the reported date of birth could be different at each of the offices, potentially leading to each of these entries not being linked with one another. Several states have used various methods to solve this problem, such as requiring a default date of birth for pets, putting the pet under the owner's date of birth, etc.¹⁶⁴

VI. Conclusion

Just a quarter century ago, it was believed that pain medication was unnecessary and even harmful for animal patients, because postoperative pain could encourage animals to lie still.¹⁶⁵

Today, it is recognized that withholding pain medications in these circumstances is archaic, and

¹⁶² *Id.*

¹⁶³ Telephone Interview with Ricco (surname unknown), technical support with Optimum Tech., in Columbus, Ohio (Dec. 26, 2006).

¹⁶⁴ See Appendix 4.

¹⁶⁵ Karen Overall, *Proceeding of the dogs trust meeting on advances in veterinary behavioural medicine London; 4th - 7th November 2004 Veterinary behavioural medicine: a roadmap for the 21st century*, 169 VETERINARY J. 130 (2005); Bernard Rollins, *Animal pain: what it is and why it matters*, 15 J. ETHICS 425-37 (2011), available at: <http://philpapers.org/rec/ROLAPW> (last accessed May, 29 2013).

veterinarians frequently prescribe pain relief for surgeries perceived even as routine (e.g. spay or neuter).¹⁶⁶ As prescription pain management is now viewed as an integral part of veterinary practice, its use is increasing. This increase of controlled substance prescriptions in veterinary medicine would lead one to jump to the conclusion that veterinary prescription diversion would rise to the epidemic problem equivalent to that seen in human patients, but that is not the case.

The available data show that vet shopping is essentially non-existent. PDMPs that require veterinarians to report identify less than four vet shoppers per 100 million individuals annually.¹⁶⁷ Hence, vet shopping in the United States is not statistically significant. When one compares the total number of prescription diversions that occur with human patients to the handful that occur with veterinary patients, one can see that the incidence of veterinary prescription drug diversion is infinitesimal. Thus, inclusion of veterinary reporting to PDMP's is totally superfluous.

In addition to the lack of need for veterinarians to report to PDMPs, the inclusion of veterinary data in PDMPs can lead to consternation and a decreased efficacy of the PDMP. PDMP data for a veterinary patient may be input into the system identical to that of the owner, which can be challenging for a medical provider to differentiate the veterinary data from that of the owner and possibly lead to the deprivation of the appropriate therapy for a patient, be it human or animal. Excising the extraneous veterinary data from PDMPs will allow for better analysis of the PDMP prescription diversion data.

There is no compelling reason to continue to require veterinarians to report to PDMPs, and states that currently require veterinarians to report to their PDMP should follow Kentucky's

¹⁶⁶ Overall, *supra* note 165.

¹⁶⁷ *See supra* note 94.

lead and exempt veterinarians from their PDMP. Veterinarians should be exempted from all state-run PDMPs.

Appendix 1 (text of email sent to states requiring veterinarians to report to the state's PDMP)

I am in the process of researching the prevalence of vet hopping to illegally obtain controlled substances and the efficacy of controlled drug monitoring programs in the various states which require veterinarians to report dispensed controlled substances.

In most states there is a process by which law enforcement may request access to the controlled substance database. The information that I am attempting to obtain is how many requests were submitted overall and how many of those request pertained to veterinary patients.

If you cannot provide this information, it would be greatly appreciated if you can point me in the direction of an individual who can assist in this matter.

Thank you for any assistance that you can give.

Appendix 2 (text of email sent to states that do not require veterinarians to report to the state's PDMP):

I am in the process of researching the prevalence of vet hopping to illegally obtain controlled substances and the efficacy of controlled drug monitoring programs in the various states which require veterinarians to report dispensed controlled substances.

My research has shown that your state has a prescription monitoring program, but veterinarians are not currently required to report. Can you please confirm that your state does not require veterinarians to report.

However, if your state does require veterinarians to report, I am attempting to obtain the number of law enforcement requests to access the controlled substance database and how many of those request pertained to veterinary patients.

If you cannot provide this information, it would be greatly appreciated if you can point me in the direction of an individual who can assist in this matter.

Thank you for any assistance that you can give,

Appendix 3: Individual discussion of each state:**(1) Several states with operational PDMPs which currently require veterinarians to report.**

Alabama:¹⁶⁸ Like many states, Alabama is not able to distinguish law enforcement requests for information pertaining to veterinary patients from those for human patients, but “[a]s of 12/31/2012, the Alabama PDMP has received a total of 4, 931 requests from Law Enforcement personnel.”¹⁶⁹

Alaska:¹⁷⁰ Veterinarians have not been the subject of any PDMP data request made by a law enforcement agency.¹⁷¹

Arizona:¹⁷² There have been no known cases where an investigation targeted either a veterinarian or their patient.¹⁷³

Arkansas:¹⁷⁴ Arkansas's PDMP became operational March first, 2013.¹⁷⁵

California:¹⁷⁶ See discussion supra § II.

Hawaii:¹⁷⁷ Although there is a requirement for veterinarians to report to their PDMP, there has been very poor compliance with the requirement in Hawaii.¹⁷⁸ The poor compliance is likely due

¹⁶⁸ ALA. CODE §§ 20-2-210 to -220 (West, Westlaw Next through the end of the 2012 Reg. and First Spec. Sess.).

¹⁶⁹ E-mail from Donna Jordan, Program Manager, Ala. Prescription Drug Monitoring Program, to author (Jan. 2, 2013, 18:31 EST) (on file with author).

¹⁷⁰ ALASKA STAT. ANN. § 17.30.200 (West, Westlaw Next through Legis. passed during the 2012 2nd Reg. Sess. and Third Spec. Sess. of the 27th Leg.).

¹⁷¹ E-mail from Brian Howes, Program Manager, Alaska Prescription Drug Monitoring Program, Alaska Bd. of Pharmacy, to author (Dec. 20, 2012, 15:40 EST) (on file with author).

¹⁷² ARIZ. REV. STAT. ANN. §§ 36-2601 to -2611 (West, Westlaw Next through the Second Reg. Sess. of the Fiftieth Leg. (2012), also includes election results from the November 6, 2012 Gen. election).

¹⁷³ E-mail from Dean Wright, Prescription Monitoring Program Dir., Ariz. State Bd. of Pharmacy, to author (Dec. 20, 2012, 16:49 EST) (on file with author).

¹⁷⁴ ARK. CODE ANN. §§ 20-7-601 to -614 (West, Westlaw Next through 2012 Fiscal Sess. and the Nov. 6, 2012, election, including changes made by Ark. Code Rev. Comm. received through 11/1/2012).

¹⁷⁵ E-mail from James Myatt, Ark. Dep’t of Health, Div. Pharmacy Serv. and Drug Control, to author (Dec. 20, 2012, 16:03 EST) (on file with author).

¹⁷⁶ CAL. HEALTH & SAFETY CODE ANN. § 11165 (West, Westlaw Next Current with all 2012 Reg. Sess. laws, Gov. Reorg. Plan No. 2 of 2011-2012, and all propositions on 2012 ballots).

¹⁷⁷ HAW. REV. STAT. § 329-101 (West, Westlaw Next current with amendments through Act 329 of the 2012 Reg. Sess.).

¹⁷⁸ E-mail from Eric Ako, Exec. Vice President, Haw. Veterinary Med. Ass’n, to author (Jan. 11, 2013, 21:31 EST) (on file with author).

to the difficulty of using the PDMP system.¹⁷⁹ It is unknown if there have been any cases of vet shopping in the state.¹⁸⁰

Illinois:¹⁸¹ It is unknown if there is a problem with vet shopping.¹⁸² There have been attempts in the past to have veterinarians excluded based upon the costs to the veterinarian, the cost to the state, and the lack of an apparent problem.¹⁸³

Indiana:¹⁸⁴ Of the 9,856 law enforcement requests to Indiana's PDMP in 2012, 178 related to prescriber information and 9,678 related to individual patient information.¹⁸⁵ Unfortunately, those requests cannot be separated by profession or species.¹⁸⁶

Furthermore, Indiana has found that the majority of the veterinary data collected has significant flaws and lacks utility.¹⁸⁷ The data submissions are inconsistent; some, but not all, submissions list the pet as the patient.¹⁸⁸ Many of the veterinary prescriptions reported do not list the NDC number, so the database does not report what was prescribed.¹⁸⁹

Michigan:¹⁹⁰ Over the past ten years, veterinary reporting has been dwarfed by that of the human medical profession.¹⁹¹ The majority of the reports are for Phenobarbital.¹⁹² There have only been a "handful of investigations."¹⁹³

¹⁷⁹ *Id.*

¹⁸⁰ Interview with unidentified investigator, Haw. Narcotics Enforcement Div. (Jan. 9, 2013).

¹⁸¹ IL ST CH 720 §§ 570/100-603 (West, Westlaw Next through P.A. 97-1144 of the 2012 Reg. Sess.).

¹⁸² E-mail from Chedister Lane, Project Manager at IL Prescription Monitoring Program, to author (Jan. 3, 2013, 15:54 EST) (on file with author).

¹⁸³ Interview with Chedister Lane, Project Manager at IL Prescription Monitoring Program (Jan. 25, 2013).

¹⁸⁴ IND. CODE ANN. §§ 35-48-7-2.9 to -11.5 (West, Westlaw Next through 2012 Second Reg. Sess.).

¹⁸⁵ E-mail from Taya Fernandes, Quality Assurance Coordinator, Ind. Prescription Monitoring Program, to author (Dec. 21, 2012, 13:00 EST) (on file with author).

¹⁸⁶ *Id.*

¹⁸⁷ Indiana requires veterinarians to report, but the information gathered is unusable. E-mail from Marty Allain, Gen. Counsel & INSPECT Dir., Ind. Prof'l Licensing Agency, to author (Dec. 21, 2012, 13:00 EST) (on file with author).

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ MICH. COMP. LAWS ANN. §§ 333.7333 to .7333a (West, Westlaw Next through P.A.2012, No. 398, 405, 409-425, 427-435, of the 2012 Reg. Sess., 96th Leg.).

¹⁹¹ E-mail from Michael Wissel, Pharmacy Serv. Manager, Bureau of Health Professions, Health Investigation Div., to author (Dec. 26, 2012, 10:54 EST) (on file with author) (stating "Our electronic system has been here now for 10

Mississippi:¹⁹⁴ See discussion supra § II.

New Mexico:¹⁹⁵ As of August 2012, New Mexico requires veterinarians to report to its PDMP.¹⁹⁶

There have been no requests regarding veterinary patients.¹⁹⁷

New York:¹⁹⁸ In 2012, there were approximately 4,400 law enforcement and regulatory agency requests for data contained within New York's PDMP.¹⁹⁹ When these agencies obtained the requested information, they were required to serve a subpoena to the Department of Health.²⁰⁰

Almost all of these contain a non-disclosure clause.²⁰¹ Thus, there is no way of tracking or differentiating veterinary from non-veterinary patients.²⁰² The non-disclosure has hampered prior PDMP research efforts.²⁰³

North Dakota:²⁰⁴ Veterinarians are statutorily required to report, but with no penalties for failing to report, veterinarians do not report.²⁰⁵ Furthermore, of the 36,113 information requests to the PDMP in 2011, none were known to pertain to veterinarians or their patients.²⁰⁶

Oklahoma:²⁰⁷ See discussion supra § II.

years and vet involvement has been minimal, and also much work as they must [sic] often report the phenobarbital on paper and we have only seen a handful of investigations.”).

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ MISS. CODE ANN. § 73-21-127 (West, Westlaw Next through End of 2012 Reg. Sess.).

¹⁹⁵ N.M. CODE R. § 16.19.20.1-.48 (LexisNexis 2013).

¹⁹⁶ E-mail from Larry Loring, State Drug Inspector, N.M. Bd. of Pharmacy, to author (Dec. 27, 2012, 10:35 EST) (on file with author) (New Mexico added veterinarians to require them to report to their PDMP Aug. 2012).

¹⁹⁷ *Id.*

¹⁹⁸ N.Y. PUB. HEALTH LAW § 3331 (McKinney 2013 through L.2012, chapters 1 to 500, 502 to 504) (Additional provisions of N.Y. Pub. Health Law § 3343 will take effect Aug 2013.).

¹⁹⁹ E-mail from Terence Leary, Dir., Bureau of Narcotic Enforcement, N.Y. State Dept. of Health, to author (Jan. 16, 2012 21:09 EST) (on file with author).

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ E-mail from Joanne Brady, Senior Staff Associate, Anesthesia Research Operations, Columbia Sch. of Pub. Health, to author (Jan. 23, 2013, 16:54 EST) (on file with author).

²⁰⁴ N.D. CENT. CODE ANN. §§ 19-03.5-01 to -10 (West, Westlaw Next through the 2011 Reg. and Spec. Sess. of the 62nd Legis. Assemb.).

²⁰⁵ E-mail from Howard Anderson, Exec. Dir., N.D. Bd. of Pharmacy, to author (Dec. 26, 2012, 16:12 EST) (on file with author).

²⁰⁶ *Id.*

Rhode Island:²⁰⁸ There have not been any known cases of vet shopping in Rhode Island.²⁰⁹

South Carolina:²¹⁰ Due to the data collected, South Carolina's PDMP is unable to separate human versus non-human patients.²¹¹

Tennessee:²¹² See discussion supra § II.

Washington:²¹³ See discussion supra § II.

West Virginia:²¹⁴ Currently, there is no way to distinguish between veterinary and human prescription requests.²¹⁵ Although there are 60,000 patient profiles run each month, there have been no known cases vet shopping.²¹⁶

²⁰⁷ OKLA. STAT. tit. 63 § 2-309C (West, Westlaw Next through Chapter 370 (End) of the Second Reg. Sess. of the 53rd Leg. (2012)) (*amended by* 2012 Okla. Sess. Law Serv. Ch. 206 (H.B. 2941) (West)).

²⁰⁸ R.I. GEN. LAWS ANN. § 21-28-3.18 (West, Westlaw Next current with amendments through chapter 491 of the 2012 Reg. Sess.).

²⁰⁹ E-mail from Matthew Raymond, Prescription Monitoring Program Specialist, R.I. Dep't of Health, to author (Jan. 2, 2013, 14:01 EST) (on file with author).

²¹⁰ S.C. CODE ANN. § 44-53-1640 (Westlaw Next through End of 2012 Reg. Sess.).

²¹¹ E-mail from Cheryl Anderson, PMP Dir., S.C. Dep't of Health and Envtl. Control, to author (Dec. 27, 2012, 10:52 EST) (on file with author).

²¹² TENN. CODE ANN. §§ 53-10-301 to -311 (West, Westlaw Next through end of 2012 Second Reg. Sess.).

²¹³ WASH. REV. CODE ANN. § 70.225.010 (West, Westlaw Next Current with all 2012 Legis. and Chapters 1, 2, and 3 from the 2013 Reg. Sess.).

²¹⁴ W. VA. CODE ANN. §§ 60A-9-1 to -8 (West, Westlaw Next current with laws of the 2012 First Extraordinary Sess.).

²¹⁵ E-mail from Michael Goff, CSMP Adm'r, W. Va. Bd. of Pharmacy, to author (Jan. 8, 2013, 17:09 EST) (on file with author).

²¹⁶ *Id.*

(2) States with operational PDMPs, which currently do not require veterinarians to report, which can be subdivided into: (a) Do not require veterinarians to report

Colorado:²¹⁷

Connecticut:²¹⁸

Delaware:²¹⁹

Florida:²²⁰

Georgia:²²¹ Veterinarians have been exempted from Georgia's reporting program.²²²

Idaho:²²³

Iowa:²²⁴

Kansas:²²⁵ See discussion supra § II.

Louisiana:²²⁶

²¹⁷ COLO. REV. STAT. ANN. § 12-42.5-403 (West, Westlaw Next Current with Chapters 1-4 and 6 of the First Reg. Sess. of the 69th Gen. Assemb. (2013)); see E-mail from Tia Johnson, Complaint Intake Coordinator for Bd. of Social Work Exam'r, Addiction Counselor Program, and State Grievance Bd., Bd. Member, Domestic Violence Offender Mgmt. Bd., to author (Dec. 31, 2012, 10:47 EST) (on file with author); and e-mail from Wendy Anderson, Program Dir., Colo. Dep't of Regulatory Agencies, Div. of Professions and Occupations, Bd. of Pharmacy, to author (Dec. 31, 2012, 11:24 EST) (on file with author) (Veterinarians do not report to the state's PDMP.).

²¹⁸ CONN. GEN. STAT. ANN. § 21a-254 (West, Westlaw Next Current with enactments from the 2012 February Reg. Sess. and June 12 Spec. Sess.); see e-mail from Xaviel Soto, Program Manager, Conn. Dep't of Consumer Protection, Med. Marijuana Program/Prescription Monitoring Program, to author (Jan 3, 2013, 13:54 EST) (on file with author).

²¹⁹ DEL. CODE ANN. TIT. 16, § 4798 (West, Westlaw Next Current through 78 Laws 2012, chs. 204 - 409 and technical corrections received from the Delaware Code Revisors for 2012 Acts); E-mail from David Dryden, Dir. Office of Controlled Substances, to author (Dec. 26, 2012, 19:00 EST) (on file with author); see e-mail from Samantha Nettesheim, PMP Adm'r, Div. of Prof'l Regulation, to author (Dec. 27, 2012, 10:45 EST) (on file with author) (Delaware's PDMP does not collect prescription data for veterinary patients.).

²²⁰ FLA. STAT. ANN. § 893.055 (West, Westlaw Next through Ch. 268 (End) of the 2012 2nd Reg. Sess. and the 2012 Extraordinary Apportionment Sess. of the Twenty-Second Leg.); see e-mail from Rebecca R. Poston, Program Manager, E-FORCSE Florida's Prescription Drug Monitoring Program, to author (Dec. 27, 2012, 08:59 EST) (on file with author) (Florida does not require veterinarians to report to their PDMP.).

²²¹ GA. CODE ANN. §§ 16-13-57 to -65 (West, Westlaw Next through the 2012 Reg. Sess.).

²²² See GA. CODE ANN. § 16-13-65(a) (West, Westlaw Next through the 2012 Reg. Sess.); e-mail from J. Ronnie Higgins, Spec. Agent in Charge, Ga. Drugs and Narcotics Agency, to author (Dec. 26, 2012, 18:14 EST) (on file with author).

²²³ IDAHO CODE ANN. § 37-2726 (West, Westlaw Next through End of 2012 2nd Reg. Sess. of the 61st Leg.); see E-mail from Teresa Anderson, Program Info. Coordinator, Idaho Bd. of Pharmacy, to author (Dec. 26, 2012, 17:29 EST) (on file with author); and e-mail from Mark D. Johnston, Exec. Dir., Idaho State Bd. of Pharmacy, to author (Jan. 2, 2013, 18:10 EST) (on file with author) (Idaho does not require veterinarians to report to their PDMP.).

²²⁴ IOWA CODE ANN. § 124.554 (West, Westlaw Next current with Legis. from the 2012 Reg. Sess.); see e-mail from Therese Witkowski, Exec. Officer, Iowa Bd. of Pharmacy, to author (Dec. 26, 2012, 17:50 EST) (on file with author) (Veterinarians in Iowa are exempt from reporting to the PDMP.).

²²⁵ KAN. STAT. ANN. § 65-1685 (West, Westlaw Next through 2012 Reg. Sess.).

Maine:²²⁷

Maryland:²²⁸

Massachusetts:²²⁹ See discussion supra § II.

Minnesota:²³⁰ See discussion supra § II.

Montana:²³¹

Nebraska:²³²

Nevada:²³³ “[T]he Nevada P[D]MP data obtained from veterinarians would not justify the burden to the [veterinary] practices,”²³⁴ so veterinarians do not report to the Nevada PDMP.²³⁵

New Jersey:²³⁶

²²⁶ LA. STAT. ANN. §§ 40:1002-1014 (West, Westlaw Next through the 2012 Reg. Sess.); see e-mail from Joe Fontenot, Compliance Officer / Prescription Monitoring Program Manager, La. Bd. of Pharmacy, to author (Dec. 20, 2012, 16:03 EST) (on file with author) (Veterinarians are not required to report to the PDMP.).

²²⁷ 22 ME. REV. STAT. §§ 7245-7252 (West, Westlaw Next current with Legis. through the 2011 Second Reg. Sess. of the 125th Leg.); see e-mail from John Lipovsky, Prescription Monitoring Program Coordinator, Office of Substance Abuse and Mental Health Serv., to author (Jan. 3, 2013, 11:41 EST) (on file with author) (Veterinarians fall into the category of prescribers who also administer/dispense.).

²²⁸ MD. HEALTH-GEN. CODE ANN. §§ 21-2A-01 to -10 (through all chapters of the 2012 Reg. Sess. and the First and Second Spec. Sess. of the Gen. Assemb.); see e-mail from Michael Baier, PDMP Coordinator, Md. Alcohol and Drug Abuse Admin., to author (Jan. 10, 2013, 08:39 EST) (on file with author) (Veterinarians do not report to PDMP.).

²²⁹ MASS. GEN. LAWS ANN. ch. 94C, § 24A (West, Westlaw Next through Chapter 416, except for Chapters 371, 379, 398, 402 and 403 of the 2012 2nd Ann. Sess.).

²³⁰ MINN. STAT. ANN. § 152.126 (West, Westlaw Next through the end of the 2012 First Spec. Sess.).

²³¹ MONT. CODE ANN. §§ 37-7-1501 to -1514 (West, Westlaw Next Statutes are current with all 2011 laws, 2011 Code Comm’r changes, and 2010 ballot measures); see E-mail from Donna Peterson, Program Manager, Mont. Prescription Drug Registry, to author (Dec. 27, 2012, 12:18 EST) (on file with author) (Montana does not require veterinarians to report to their PDMP.).

²³² NEB. REV. STAT. §§ 71-2454 to -2455 (through the 102nd Leg. Second Reg. Sess. (2012)); see e-mail from Joseph Acierno, Deputy Chief Med. Officer, Neb. Dep’t of Health & Human Serv., Div. of Pub. Health, to author (Dec. 28, 2012, 12:21 EST) (on file with author) (Veterinary prescriptions directly dispensed by the veterinarian are not required to report to the PDMP.).

²³³ NEV. REV. STAT. ANN. § 453.1545 (West, Westlaw Next through the 2011 76th Reg. Sess. of the Nev. Leg. and technical corrections received from the Legis. Counsel Bureau (2011)).

²³⁴ Barbara A. Carter, *Report to the Leg.: Diversion of Controlled Substances Dispensed by Veterinary Practice*, Minn. Bd. of Pharmacy at 9 (Dec. 1, 2011 approved Jan. 11, 2012), <http://archive.leg.state.mn.us/docs/2012/mandated/120074.pdf> (referencing a Nevada task force report).

²³⁵ E-mail from Lisa Adams, Program Adm’x, Nev. Controlled Substance Task Force, to author (Dec. 26, 2012, 19:49 EST) (on file with author).

²³⁶ N.J. STAT. ANN. § 45:1-46 (West, Westlaw Next current with laws effective through L.2012, c. 80 and J.R. No. 5.); see e-mail from James Mielo, Prescription Monitoring Program Adm’r, N.J. Div. of Consumer Affairs, to author (Dec. 27, 2012, 09:24 EST) (on file with author) (Veterinarians do not report dispensed prescriptions, but prescriptions that are dispensed at an outside pharmacy are reported.).

North Carolina:²³⁷ Veterinarians do not report dispensed prescriptions, but prescriptions that are dispensed at an outside pharmacy are reported.²³⁸ From those prescriptions filled at an outside pharmacy, there have been no requests for veterinary or veterinary patient data.²³⁹

Ohio:²⁴⁰

Oregon:²⁴¹

Pennsylvania:²⁴² Currently, veterinarians are not required to report to Pennsylvania's PDMP, but there is pending legislation that if passed would require veterinarians to report.²⁴³ This proposed legislation has been tabled.²⁴⁴

South Dakota:²⁴⁵

Texas:²⁴⁶

²³⁷ N.C. GEN. STAT. ANN. § 90-113.70 (West, Westlaw Next statutes and Constitution are current through the end of the 2012 Reg. Sess.).

²³⁸ E-mail from Johnny Womble, Program Consultant, Controlled Substances Regulatory Branch, N.C. Dep't of Health and Human Serv., to author (Dec. 27, 2012, 12:05 EST) (on file with author).

²³⁹ E-mail from William Bronson, Controlled Substances Regulatory Branch, N.C. Dep't of Health and Human Serv., to author (Dec. 28, 2012, 15:49 EST) (on file with author).

²⁴⁰ OHIO REV. CODE ANN. § 4729.79 (West, Westlaw Next through all 2011 laws and statewide issues and 2012 Files 70 through 157 of the 129th GA (2011-2012)); see e-mail from Danna Droz, Prescription Monitoring Program Adm'r, Ohio State Bd. of Pharmacy, to author (Dec. 27, 2012, 09:10 EST) (on file with author) (Veterinarians are not required to report to Ohio's PDMP.); see also supra § III (Known instances of vet shopping.).

²⁴¹ OR. REV. STAT. ANN. §§ 431.960-978 (West, Westlaw Next through End of the 2012 Reg. Sess. and ballot measures approved at the Nov. 6, 2012 Gen. Election. Revisions to Acts made by the Or. Reviser were unavailable at the time of publication); see e-mail from Todd Beran, Program Coordinator, Or. Prescription Drug Monitoring Program, to author (Jan. 2, 2013, 10:39 EST) (on file with author) (Oregon does not require veterinarians to report information to their PDMP.).

²⁴² PA. CODE 28, § 25.131 (Westlaw Next through Pa. Bulletin, Vol. 43, Num. 3, dated January 19, 2013).

²⁴³ E-mail from Steven R. Wheeler, Chief of Criminal Investigations, Pa. Office of Att'y Gen., Criminal Law Div., to author (Jan. 3, 2013, 08:57 EST) (on file with author) (referencing H.B. No. 317, Reg. Sess. 2013-2014 (Pa. 2013)).

²⁴⁴ Pa. Gen. Assemb., *House Bill 317 Bill Info.*, <http://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?year=2013&sind=0&body=H&type=B&bn=317> (last visited April 11, 2013).

²⁴⁵ S.D. CODIFIED LAWS §§ 34-20E-1 to -20 (Westlaw Next through the 2012 Reg. Sess., 2012 Gen. election results, and Supreme Court Rule 12-10); see E-mail from Kari Shanard-Koenders, Prescription Drug Monitoring Program Dir., to author (Dec. 27, 2012, 12:35 EST) (on file with author) (stating veterinarians are specifically excluded from reporting by the definition of dispenser, referencing S.D. CODIFIED LAWS § 34-20E-1(7)).a

²⁴⁶ TEX. HEALTH & SAFETY CODE ANN. § 481.074 (Westlaw Next through the end of the 2011 Reg. Sess. and First Called Sess. of the 82nd Leg.); see e-mail from Sherry Wright, Program Supervisor, Tex. Prescription Program, to author (Dec. 31, 2012, 16:33 EST) (on file with author) (Texas only requires reporting of veterinary prescriptions when they are filled at a pharmacy.).

Utah:²⁴⁷

Vermont:²⁴⁸

Virginia:²⁴⁹

Wisconsin:²⁵⁰ See discussion supra §II.

Wyoming:²⁵¹

(b) Historically required veterinarians to report;

Kentucky:²⁵² See discussion supra § II.

(3) States with no operational PDMPs, which can be subdivided into

(a) Legislatively enacted but not yet operational,

New Hampshire:²⁵³ Veterinarians are not excluded from reporting to New Hampshire's PDMP, which has enabling legislation.²⁵⁴

(b) No enabling legislation.

Missouri: Although Missouri is receiving pressure from numerous sources,²⁵⁵ it is the only state that has yet to adopt any form of a PDMP.²⁵⁶

²⁴⁷ UTAH CODE ANN. §§ 58-37f-101 to -801 (West, Westlaw Next through 2012 Fourth Spec. Sess.); E-mail from Marvin H. Sims, CSDB Adm'r, Utah Dep't of Commerce, Div. of Occupational & Prof'l Licensing, to author (Jan. 7, 2013, 14:55 EST) (on file with author) (Veterinarians that dispense directly are not required to report, but a retail pharmacy may submit an animal prescription.).

²⁴⁸ VT. STAT. ANN. tit. 18, §§ 4281-4287 (West, Westlaw Next through the laws of the Adjourned Sess. of the 2011-2012 Vt. Gen. Assemb. (2012)); see e-mail from Meika DiPietro, Program Manager, Vt. Prescription Monitoring System, Vt. Dep't of Health, to author (Dec. 28, 2012 09:02 EST) (on file with author) (Veterinarians are not required to report to Vermont's PDMP.).

²⁴⁹ VA. CODE ANN. §§ 54.1-2519 to -2526 (West, Westlaw Next Current through End of 2012 Reg. Sess. and End of 2012 Sp. Sess. I.); see e-mail from Ralph Orr, Program Dir., Va. Prescription Monitoring Program, to author (Dec. 26, 2012, 17:25 EST) (on file with author) (Veterinarians are specifically excluded from Virginia's PDMP.).

²⁵⁰ WIS. STAT. ANN. § 450.19 (West, Westlaw Next through 2011 Act 286, published April 26, 2012).

²⁵¹ WYO. STAT. ANN. § 35-7-1060 (West, Westlaw Next through the 2012 Budget Sess.); see e-mail from Mary Walker, Exec. Dir., Wyo. Bd. of Pharmacy, to author (Dec. 29, 2012, 10:15 EST) (on file with author) (Only retail pharmacies are required to report to Wyoming's PDMP. (referencing Wyo. Pharmacy Act Rules & Regulations Chapter 8 Section 2 (a))).

²⁵² KY. REV. STAT. ANN. § 218A.390 (West, Westlaw Next through end of 2012 Legis.).

²⁵³ N.H. REV. STAT. ANN. §§ 318-B:31-38 (West, Westlaw Next through Chapter 1 of the 2013 Reg. Sess., not including changes and corrections made by the State of N.H., Office of Legis. Serv.).

²⁵⁴ *Id.*; E-mail from Jay Queenan, Exec. Sec'y / Dir., N.H. Bd. of Pharmacy to author (Dec. 21, 2012, 17:11 EST) (on file with author).

²⁵⁵ Cameron Hardesty, *Dir. Kerlikowske Visits Mo.; Urges Adoption of Prescription Drug Monitoring Program*, the Whitehouse Office of Nat'l Drug Control Policy (Aug. 17, 2012, 11:17 AM), <http://www.whitehouse.gov/blog/2012/08/17/Dir.-kerlikowske-visits-missouri-urges-adoption-prescription-drug-monitoring-pro>.

²⁵⁶ E-mail from Michael Boeger, Adm'r, Mo. Bureau of Narcotics & Dangerous Drugs, to author (Dec. 26, 2012, 18:01 EST) (on file with author).

Appendix 4: Required fields for the states that require veterinarians to report to their PDMP:

Since all PDMPs require information regarding the prescribing veterinarian, this information is omitted from the following discussion.

Alabama: There is no guidance on entering information regarding an animal patient.²⁵⁷ However, it does state that the PDMP is funded by a \$10 annual charge for each prescribing practitioner in the state.²⁵⁸

Alaska: “Last Name (Veterinarians should enter the owner’s last name); First Name (Veterinarians should enter the animal’s name or, if the name is unknown, the animal’s species (e.g., feline)); Address (Veterinarians should enter the owner’s address); and Date of Birth (Veterinarians should enter the animal’s approximate date of birth. If DOB is unknown, enter January 1 of the approximate birth year).”²⁵⁹ However, no such guidance exists in the enabling statute.²⁶⁰

Arizona: “First and last name of the person or, if for an animal, the owner of the animal for whom the controlled substance is being dispensed, and the person's or, if for an animal, the owner's: Full address, including street, city, state, and ZIP code; Gender; Telephone number; Date of birth; Species (human or veterinary patient); Identification Number; Identification Number Identifier.”²⁶¹

²⁵⁷ HEALTH INFO. DESIGNS, L.L.C., *Dispensing Practitioner’s Implementation Guide, Ala. Dep’t of Pub. Health, Prescription Drug Monitoring Program*, 6-7 (April 2013), http://adph.org/PDMP/assets/ALPDMP_DispensersImplementationGuide.pdf; ALA. CODE §§ 20-2-210 to 220 (2013); ALA. ADMIN CODE r. §§ 420-7-2-.11 to .13 (2013).

²⁵⁸ *Dispensing Practitioner’s Implementation Guide, Ala. Dep’t of Pub. Health, Prescription Drug Monitoring Program*, *supra* note 257, at 5.

²⁵⁹ HEALTH INFO. DESIGNS, L.L.C., *Dispensing Veterinarian’s Implementation Guide, Alaska Bd. of Pharmacy Prescription Drug Monitoring Program*, 6-7, A-1–A-12 (April 2013), http://www.alaskapdmp.com/Files/AK%20PDMP_Dispensing_Veterinarians_Implementation_Guide.pdf.

²⁶⁰ ALASKA STAT. § 17.30.200(b)(4) (2013); ALASKA ADMIN. CODE tit. 12 §§ 52.855-.890 (2013).

²⁶¹ HEALTH INFO. DESIGNS, L.L.C., *Dispensing Practitioner’s Implementation Guide, Ariz. Bd. of Pharmacy Prescription Drug Monitoring Program*, 3-4 (April 2013), [http://www.azpharmacy.gov/pmp/pdfs/manual%20\(practitioners\)\(asap%204.2\)%2004-01-2013.pdf](http://www.azpharmacy.gov/pmp/pdfs/manual%20(practitioners)(asap%204.2)%2004-01-2013.pdf); ARIZ. REV.

Arkansas: “Last Name (Veterinarians should enter the owner’s last name); First Name (Veterinarians should enter the animal’s name or, if the name is unknown, the animal’s species (e.g., feline)); Address (Veterinarians should enter the owner’s address); and Date of Birth (Veterinarians should enter the animal’s approximate date of birth. If DOB is unknown, enter January 1 of the approximate birth year).”²⁶² “‘Patient’ means the person or animal who is the ultimate user of a controlled substance for whom a lawful prescription is issued and for whom a controlled substance is lawfully dispensed.”²⁶³

California: California’s PDMP requires the owner’s name, the animal’s name, and the species is a veterinary patient.²⁶⁴ However, the PDMP enabling statute gives no guidance.²⁶⁵

Hawaii: No guidance regarding entering an animal patient’s data is provided by the enabling legislation or governing rules/regulations.²⁶⁶

Illinois: No guidance is provided by the enabling legislation.²⁶⁷ However, the governing rules/regulations provide: “‘Patient ID’ means the identification of the individual receiving the medication or the responsible individual obtaining the medication on behalf of the recipient or the owner of the animal.”²⁶⁸ Additionally, prescriptions in Illinois are required to “[b]ear the full

STAT. ANN. § 36-2608(A)(2) (2013) (“The name, address and date of birth of the person or, if for an animal, the owner of the animal for whom the prescription is written.”).

²⁶² HEALTH INFO. DESIGNS, L.L.C., *Dispensing Veterinarian’s Implementation Guide, Ark. Dep’t of Health Prescription Drug Monitoring Program*, 6-7, A-1–A-12 (April 2013), http://www.arkansaspmp.com/files/AR%20PMP_Implementation%20Guide%20for%20Dispensing%20Veterinarian%20s.pdf.

²⁶³ PHARMACY SERV. BRANCH, CENTER FOR HEALTH PROTECTION, *Rules and Regulations Pertaining to Ark. Prescription Drug Monitoring Program*, 3 (March 1, 2013), <http://www.healthy.arkansas.gov/aboutADH/RulesRegs/PrescriptionMonitoringProgram.pdf>.

²⁶⁴ ATLANTIC ASSOCIATES, *Cal. PDMP Direct Dispense Application Instruction Manual* http://www.aaicures.com/Atlantic_Associates_CACures_Instructions.pdf at 6-7 (last visited May 27, 2013).

²⁶⁵ CAL. HEALTH & SAFETY CODE § 11165(d)(1) (2013) (“Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Serv., and the gender, and date of birth of the ultimate user.”).

²⁶⁶ See HAW. REV. STAT. § 329-101 (2013); HAW. CODE R. § 23-200-17 (LexisNexis 2013).

²⁶⁷ See 720 ILL. COMP. STAT. 570/316 (2012).

²⁶⁸ 77 ILL. ADMIN. CODE tit. 77, § 2080.20 (2009).

name and address of the patient, or in the case of veterinary treatment, the full name and address of the animal owner, as well as the species or common name of the animal being treated.”²⁶⁹

Indiana: Minimal guidance is provided by the enabling legislation, “As used in this chapter, ‘patient’ means an individual who has requested or received health care services from a provider for the examination, treatment, diagnosis, or prevention of a physical or mental condition.”²⁷⁰

Michigan: “Customer ID: Use the pet owner's identification (driver's license or Michigan I.D. card) for all controlled substances dispensed for animals; Birth Date: Use the pet owner's date of birth; Patient First Name: Use the pet owner's first name; Patient Last Name: Use the pet owner's last name.”²⁷¹

Mississippi: The data submission guide is silent on when a patient is an animal, but it states to use a driver’s license number etc. as the patient ID.²⁷² The statute and regulations are likewise silent on the definition of “patient.”²⁷³

New Mexico: “Last Name: Enter last name (of owner if animal); First Name: Enter first name (pet’s name if animal); Middle Name: (if animal, enter species type -dog, cat, etc.); DOB: (if

²⁶⁹ 77 ILL. ADMIN. CODE tit. 77, § 2080.70 (2009). See 77 ILL. ADMIN. CODE tit. 77, § 2080.100 (2009) (The reporting requirement is further clarified by “[r]ecipient's (or animal and owner's) name and address.”).

²⁷⁰ See IND. CODE § 35-48-7-5.6 (2012).

²⁷¹ *MAPS Info. for Veterinarians*, LARA: Mich. Dep’t of Licensing and Regulatory Affairs, http://www.michigan.gov/lara/0,4601,7-154-35299_63294_63303_55478_55487---,00.html (last visited May 27, 2013); see MICH. ADMIN. CODE r. 338.3162b (2013) (“The patient identifier, ... If the patient is an animal, positive identification of the animal's owner that meets the requirements of R 338.3102(1)(f)(iv).”); MICH. ADMIN. CODE r. 338.3102(1)(f)(iv) (2013) (“Any 1 of the following: (A) A Michigan driver's license number. (B) An identification number obtained from a photo identification card issued by the state of Michigan. (C) The number zero. Zeroes shall be entered as the identification number, if the positive identification presented by the patient or the patient's agent or caregiver does not include a license number or an identification number, as listed in subparagraphs (A) and (B) of this paragraph.”); but see MICH. COMP. LAWS ANN. § 333.7333a (West 2012) (where no guidance is provided).

²⁷² RELAY HEALTH, *MS PMP Data Submission Dispenser Guide* 9 (Jan. 06, 2011), http://web.archive.org/web/20120724160035/http://pmp.relayhealth.com/MS/Documents/MS_PMP_Dispenser_Submission_Guide_v1rE1.pdf (“MS PMP prefers six forms of Patient ID in PMP data -- Driver’s License, other State Issued ID, Military ID, Passport, Social Security Number, and Cardholder ID.”)

²⁷³ MISS. CODE ANN. § 73-21-127 (2013); 30-20 MISS. CODE R. § 3001:XLIII (LexisNexis 2013) (stating that “[t]he recipient's name” needs to be reported).

animal, enter default date of 01/01/2001); GENDER: Click arrow and select response; Street, City, Zip: (if animal, enter owner's information).”²⁷⁴

New York: The data submission guide is silent on when a patient is an animal.²⁷⁵ The statute and regulation are likewise silent.²⁷⁶

North Dakota: There is no guidance on what information is to be used when the patient is an animal contained within the implementation guide.²⁷⁷ However, the statute defines patient as “‘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.”²⁷⁸

Oklahoma: The dispenser is to report the owner's name and information and the animal's species and name.²⁷⁹

Rhode Island: There is no guidance given regarding PDMP submission.²⁸⁰

South Carolina: Where there is little guidance found in the statute or regulation, the implementation guide provides, “Animal's first name is to be entered for patient's first name; Owner's last name is to be entered for patient's last name; Animal's date of birth (DOB) is to be

²⁷⁴ N.M. Prescription Monitoring Program (PMP) Dispensing Practitioner Manual, http://www.rld.state.nm.us/uploads/FileLinks/3d17c8b8a4b14830badb0d31e94473eb/PMP_Dispensing_Practitioner_Manual.pdf, at 6 (04/17/2013). See N.M. CODE R. § 16.19.29.7 (C) (2013) (“‘Patient’ means the person or animal who is the ultimate user of a drug for whom a prescription is issued and for whom a drug is dispensed.”)

²⁷⁵ NEW YORK STATE DEP'T OF HEALTH, BUREAU OF NARCOTIC ENFORCEMENT, Official New York State Prescription Program Electronic Data Transmission (July 2008) http://www.health.ny.gov/professionals/narcotic/electronic_data_transmission/docs/manual_of_instructions.pdf.

²⁷⁶ N.Y. PUB. HEALTH LAW § 3343 (McKinney's 2013); N.Y. COMP. CODES R. & REGS. tit. 10 § 80.71, .73 (2013).

²⁷⁷ HEALTH INFO. DESIGNS, L.L.C., *Dispenser's Implementation Guide*, N.D. Bd. of Pharmacy, *Prescription Monitoring Program*, 3-4 (Feb. 2012), <http://www.nodakpharmacy.com/pdfs/dataSubmissionMethods.pdf>.

²⁷⁸ N.D. CENT. CODE § 19-03.5-01 (8) (2013). See N.D. ADMIN. CODE 61-12-01-01 (9) (2013).

²⁷⁹ OKLAHOMA BUREAU OF NARCOTICS AND DANGEROUS DRUG CONTROL, INFO. TECH. DIV., *Official Oklahoma State Prescription Monitoring Program and Pseudoephedrine Electronic Data Transmissions Manual of Instructions*, 9-11 (Jan. 20, 2011), <http://web.archive.org/web/20121115033527/http://www.ok.gov/obnidd/documents/Oklahoma%202009%20PMP%20Transmission%20Manual%20v5.0.pdf>. But see OKLA. STAT. tit. 63 § 2-309C (2012) (as amended by 2012 Okla. Sess. Law Serv. Ch. 206 (H.B. 2941) (West)) (silent on animal patients); OKLA. ADMIN. CODE § 475:45-1-2 (2013) (silent on animal patients).

²⁸⁰ 31-2-1 R.I. CODE R. 1.0-4.0 (LexisNexis 2013) (the rules and regulations regarding the PDMP); R.I. GEN. LAWS § 21-28-3.18(d)(2) (2013) (the enabling legislation for their PDMP).

included for patient's DOB (if not known, provide best estimate of DOB); Animal's gender is to be entered for patient's gender; Owner's full address, including city, state, and ZIP code."²⁸¹

Tennessee: The Tennessee rules and regulations state, "'Patient' means a person, animal or owner of an animal who is receiving medical treatment from a prescriber."²⁸²

Washington: A system has yet to be implemented for veterinary reporting, thus at this time information regarding the patient cannot be provided.²⁸³

West Virginia: The enabling legislation and regulations are silent on how to deal with an animal patient.²⁸⁴

²⁸¹ HEALTH INFO. DESIGNS, L.L.C., *Dispenser's Implementation Guide S.C. Dep't of Health & Envtl. Control, Prescription Monitoring Program*, 6 (April 2010), <http://web.archive.org/web/20131001005548/http://www.scdhec.gov/administration/drugcontrol/sc-dispensers-implementation-guide.pdf>. See S.C. CODE ANN. § 44-53-1630 (4) (2013) ("'Patient' means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.").

²⁸² TENN. COMP. R. & REGS. 1140-11-.01(1)(o) (2013); OPTIMUM TECH., INC, *Tenn. Controlled Database Data Collection Manual*, (May 21, 2013), <https://www.tnrreport.com/docs/DataReportingManualforTN.pdf> (where this regulatory guidance is lacking from the data collection manual).

²⁸³ See 2013 Wash. Legis. Serv. Ch. 19 (H.B. 1609) (WEST) (amending WASH REV. CODE § 70.225.020(4)(c)) ("The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report.").

²⁸⁴ W. VA. CODE. § 60A-9-4 (2012); W. VA. CODE R. § 15-8-3 (2013).