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Michigan Gets Aggressive in Its Efforts to Combat Opioid Abuse

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On April 11, 2017, the State unveiled its new Michigan Automated Prescription System (“MAPS”), which significantly overhauled its predecessor system. The updated MAPS is just one step in the State’s Action Plan presented to Governor Snyder in October 2015 by his Michigan Prescription Drug and Opioid Abuse Task Force.[1] Effective April 4, 2017, Users and Data Submitters of MAPS were no longer able to access the old System. Registration for the new MAPS opened March 8 and 9, 2017 for Data Submitters (Clearinghouses) and certain Users (Practitioners and Pharmacists), respectively. Registration for other Users (government agencies, law enforcement, and Pharmacy Benefit Managers) opened March 16, 2017.

In its April 11, 2017 Press Release, the Department of Licensing and Regulatory Affairs (“LARA”), which administers the MAPS portal, highlights a few of the benefits of the new MAPS, which is touted as being “at the forefront of prescription drug monitoring technology.” The new MAPS utilizes Appriss Health’s PMP AWARxE platform, the benefits of which include:

- The fastest response time in the drug monitoring industry, with record lookups completed in seconds, rather than minutes (sometimes taking up to 10 minutes to process).
- A dashboard that provides patient alerts, recent request history and the ability to maintain delegate user activity within the prescriber’s main account.
- Patient report requests, including prescription history, prescriber and dispenser information, that includes seamless interstate data sharing.
- Real-time data uploads occur during the day versus the current process of batched data uploaded nightly.

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- Online tutorials for first-time provider-users of the system.

According to the April 11 Press Release, Kroger, in partnership with the State and Appriss, has already fully implemented the new MAPS at all of its 105 retail pharmacies in Michigan. Users and Data Submitters that are subject to MAPS reporting obligations must ensure they have registered for and are utilizing the new MAPS. While it is unclear what action the State would pursue for failing to do so, the possibility of criminal action, while remote, is not without authority under the Michigan Public Health Code.

The introduction of the new MAPS platform comes on the heels of another Task Force initiative announced on March 23, 2017—a comprehensive bi-partisan and bicameral legislative strategy focusing on preventing and eradicating opioid and other controlled substances abuse which plagues Michigan.^[2] Among the recently introduced legislation are bills that:

- Require prescribers to obtain MAPS reports prior to prescribing or dispensing schedule 2-5 Controlled Substances and impose penalties, including disciplinary action, on those prescribers that fail to do so [SB 0166 & 0167].
- Increase penalties for physicians and pharmacists who wrongfully prescribe, dispense, manufacture or distribute controlled substances [SB 0171 & 0172].
- Require prescribers to have a bona-fide physician-patient relationship with a patient before prescribing a Schedule 2 through 5 controlled substance [SB 0270].
- Require education on opioid and prescription drug abuse and addiction in school curriculum [SB 0236; HB 4406; HB 4407].
- Require prescribers to provide information to patients on dangers, proper disposal and penalties for dispensing prior to prescribing a controlled substance [SB 0272].
- Require physicians to provide patients being treated for an opioid overdose with information on substance use disorder services [SB 0273].
- Create prescribing limits for opioids. Prescribers would be limited to prescribing chronic pain sufferers a 30-day supply of opioids and acute pain suffers a 7-day supply of opioids [SB 0274].
- Require pain management facilities to be licensed by the state [HB 4404].
- Provide treatment options for Medicaid beneficiaries suffering from opioid addiction including medically necessary acute treatment services, inpatient care and clinical stabilization services [HB 4403].
- Protect pharmacists from civil liability if the pharmacist refuses to fill a prescription, so long as they are acting in good faith and have reasonable doubt regarding the authenticity of the prescription or believe the prescription is being filled for non-medical purposes [HB 4405].
- Require parental consent and signature before a minor receives their first prescription of a controlled substance containing an opioid. Prior to receiving consent, the prescriber should discuss with the minor and their parent the potential risk of addiction and overdose [HB 4408].

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With the State's increased focus on eradicating opioid abuse, prescribers should take the time to educate their staff—and themselves—on the signs of drug-seeking behavior in patients. In a recent on-line article published *Physicians Practice*,^[3] Linda Girgis, MD, identifies Red Flags of drug seeking behavior. While many, if not all, are fairly obvious, it is a good idea for practitioners to periodically review these Red Flags (and do so with your staff that interact with the patients) to avoid feeding the drug-seeker's addiction:

- The patient comes from a town far from the practitioner's office where most patients do not come from.
- The patient has seen numerous doctors in a short period of time.
- Patients who come carrying records that are from several years prior.
- The patient uses multiple pharmacies.
- The patient claims an allergy to all pain medications except the one he/she is seeking.
- The patient tells you the dose, the medication and the quantity they want and do not want to listen to anything practitioner has to say.
- The patient is unwilling to consider any other treatments. She notes, patients truly in pain will try almost anything to stop the pain—drug seekers only want the medications.
- The patient calls when the office is closing or right before a weekend or holiday requesting a prescription.
- The patient lies or his/her story doesn't make sense. Dr. Girgis notes that taking a detailed history is imperative, since too often, "there are inconsistencies in a made-up story."
- The patient exaggerates his/her symptoms. For example, the patient easily walks into the office, but once in the presence of the provider, he/she hold their "aching" body part and moan in pain. As Dr. Girgis notes, "Don't be fooled by tears. Many drug seekers are good actors."
- The patient gets aggressive when the practitioner suggests other medications/therapies.
- The patient provides false information, such as false address or phone number.
- The patient is on multiple controlled substances, *i.e.*, opioids and benzodiazepines.

For more information about the new MAPS system and other changes in healthcare laws and regulations, please contact the author of this Alert, your Butzel Long attorney or any member of Butzel Long's Health Care Industry Group.

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[1] See, Governor Snyder's Press Release and related documents, issued October 26, 2015, at: <http://www.michigan.gov/snyder/0,4668,7-277--367961--,00.html> (accessed April 20, 2017).

[2] Additional bills that were introduced in 2017 targeting opioid and controlled substance abuse prevention and detection include: SB 0218; SB 0237; HB 4074; HB 4170; HB 4171; HB 4173; HB 4174 and HB 4284.

[3] Girgis, MD, L., *13 Red Flags Your Pain Patient is a Drug Seeker*, Physicians Practice April 19, 2017.