



Georgia's Fight against Prescription Drug Abuse

By Rachel Leitman
Principal Policy Analyst

July 2013

In Georgia and around the nation, law enforcement and health officials have become increasingly concerned about the rise in the misuse of prescription drugs, as the abuse of legal substances has in many instances eclipsed the use of illicit street drugs. While drugs such as OxyContin, Vicodin, and Xanax undoubtedly have valid medical uses, they are among a long list of prescription drugs that have the potential to be addictive and that may easily be abused. According to the Office of National Drug Control Policy, prescription drugs are the second most commonly abused class of drugs, after marijuana, and are a major contributor to drug related deaths. In 2007, there were approximately 12,000 deaths nationwide linked to prescription pain relievers. Here in Georgia, data shows that prescription drug abuse accounts for more deaths than the abuse of illicit drugs. According to the Georgia Bureau of Investigation, between 2010 and 2011, 512 of the 664 fatal drug overdoses that were recorded in Georgia were due to a prescription drug; another 70 overdose deaths occurred as a result of the mixing of a prescription drug with an illegal substance.

In an effort to curb the tide of prescription drug abuse and to halt the operation of pill mills in Georgia, the General Assembly has enacted two key pieces of legislation within the past three years: SB 36, which authorized a prescription drug monitoring program in Georgia, and HB 178, the Georgia Pain Management Clinic Act.

Senate Bill 36

Although prescription drug abuse is a problem across the United States, Georgia has in recent years become known as one of the nation's hot spots for prescription drug trafficking. This is in large part due to the efforts of nearby states to crackdown on so-called "pill mills," operations that readily hand out prescriptions for pain medications and allow persons to obtain large quantities of pills that can be resold on the black market.

One of the primary ways in which other states have combated pill mills and prescription drug trafficking is the establishment of prescription drug monitoring programs (PDMPs). These programs allow state entities to collect, monitor, and analyze electronically transmitted prescribing and dispensing data submitted by pharmacies. PDMPs can help law enforcement identify doctors or clinics that issue prescriptions inappropriately. Such programs can also prevent patients from obtaining multiple prescriptions from several sources by allowing doctors and pharmacists to check the PDMP's database before writing or filling prescriptions. Until very recently, Georgia was the only state in the Southeast to have not enacted legislation to create a PDMP. This contributed to the rise of pill mills in our state as other states such as Florida established PDMPs and made other efforts to curb prescription drug trafficking.

According to the Wall Street Journal, from 2010 to 2011, the number of pain clinics in Georgia went from ten to 140. As neighboring states got tougher on pill mills, operators of these outfits brought their business to Georgia to satisfy demand. In 2010, the Atlanta Journal-Constitution reported that oxycodone pills obtained legally in Georgia for \$3 to \$4 per pill can fetch as much as \$60 per pill in neighboring states.

This dramatic rise in prescription drug trafficking in Georgia led to several attempts by lawmakers to establish a PDMP in Georgia. However, such a proposal has not been without its critics. Opponents of PDMPs have characterized these monitoring programs as a violation of privacy rights and an infringement of the doctor-patient relationship. After much debate and compromise, the General Assembly finally passed legislation enabling the establishment of a PDMP during the 2011 Session. Senate Bill 36, authored by Senator Buddy Carter, authorized the Georgia Drugs and Narcotics Agency (GDNA) to establish an electronic database of information on controlled substance prescriptions dispensed in Georgia and to electronically review such prescription information.

The legislation requires dispensers to electronically submit certain information to GDNA regarding prescriptions dispensed for controlled substances on a weekly basis. Information must be protected by confidentiality procedures, and GDNA may only provide collected data to certain persons or under certain circumstances. Under the final version of SB 36, persons with access to database information include, but are not limited to, law enforcement or prosecutorial officials pursuant to a search warrant, Georgia-licensed prescribers of controlled substances for the purpose of providing medical treatment to a specific patient, and governmental entities for research purposes if all identifying information has been removed. The bill did not authorize the sharing of information from the PDMP with out-of-state providers.

With the passage of this bill, Georgia became one of the last states in the nation to authorize a PDMP. According to the Alliance of Prescription Monitoring Programs, all but one state-Missouri- has enacted legislation authorizing a PDMP, and PDMPs are operational in 43 of these states.

SB 36 did not provide funding for our state's PDMP and the General Assembly has never appropriated state money for this purpose. However, SB 36 authorized GDNA to apply for grants. Shortly after the passage of SB 36, Georgia received a two-year, \$400,000 federal grant to establish our program. Georgia's PDMP finally went live on June 14th of this year. After some delays in the registration process for users, pharmacists in Georgia are currently using the PDMP, and physicians and dentists will be able to register sometime this month.

While our PDMP has finally launched, the future of the program is still uncertain. Federal funding for the PDMP will only continue until September 30th. After that time, it is not clear whether Georgia will be eligible to receive additional federal money. This is because SB 36 does not allow data collected by the PDMP to be shared with out-of-state physicians and pharmacists, a condition for receiving future grant money under federal requirements. To remedy this situation, some lawmakers have been seeking to tweak our PDMP law to allow for information-sharing with out-of-state providers. HB 209, which was signed into law this year, expanded the definition of "dispenser" for purposes of the PDMP to include any pharmacy or facility located in another state or foreign country that delivers a dispensed controlled substance into Georgia. Another bill considered this year, SB 134, would have expanded the definition of prescriber to include anyone authorized to prescribe a controlled substance under the laws of any U.S. jurisdiction, allowing out-of-state-doctors access to the database. Although versions of SB 134 passed both the Senate and House, this legislation died on Sine Die.

GDNA hopes that the General Assembly will once again take up the issue of out-of-state access to data next session. In the meantime, the agency is applying for an extension of Georgia's existing grant.

House Bill 178

In another approach to curbing pill mills, the General Assembly this year enacted House Bill 178, the Georgia Pain Management Clinic Act. This legislation, which went into effect on July 1st, requires all pain management clinics in Georgia to be licensed by the Georgia Composite Medical Board. A "pain management clinic" is defined by the new law as a medical practice that advertises the treatment of pain and that has more than 50 percent of it is annual patient population being treated for chronic pain for a nonterminal condition with the use of Schedule II or III controlled substances; clinics that are owned in whole or in part by a hospital, health system, ambulatory surgical center, skilled nursing facility, hospice, or home health agency are excluded from this definition. In most cases, pain management clinics may now only be owned by physicians licensed to practice in Georgia, although HB 178 includes a grandfather provision that exempts clinics in existence as of June 30th of this year from the ownership requirement if they are jointly owned by one or more physician assistants or nurse practitioners and at least one physician. The new law also prohibits convicted felons from having an ownership interest in a pain management clinic.

HB 178 also allows the medical board to establish continuing education requirements for physicians owning pain management clinics and to conduct investigations of new license applicants. Pain management clinics may only provide medical services if a physician or physician assistant or advanced practice registered nurse authorized to prescribe controlled substances is on-site. The board must be notified immediately of certain occurrences experienced by pain management clinics, including, but not limited to, a change in ownership or location, a theft of drugs, the conviction of an employee of drug laws or laws that are related to fraud. All pain management clinics that dispense controlled substances or dangerous drugs must be registered with the State Board of Pharmacy. Any person who operates a pain management clinic in Georgia without a license is guilty of a felony.

In enacting HB 178, the General Assembly put Georgia at the forefront of efforts to regulate the ownership of pain management clinics. According to the National Alliance for Model State Drug Laws, Georgia is the ninth state to pass a pain clinic regulation act. It is the hope of Georgia law enforcement that these new requirements will contain the rise of pill mills and assist them in their fight against the deadly epidemic of prescription drug abuse.