

# Senate Health and Human Services Committee

*Kyle Baker 271-2609*

**HB 291-FN**, removing veterinarians from the requirements of adopting rules for prescribing opioids and querying the controlled drug prescription health and safety program.

**Hearing Date:** April 18, 2017

**Members of the Committee Present:** Senators Bradley, Avard, Gray, Fuller Clark and Hennessey

**Members of the Committee Absent :** None

**Bill Analysis:** This bill removes the requirement that the board of veterinary medicine adopt rules regarding prescribing opioids and that veterinarians query the controlled drug prescription monitoring program when prescribing such drugs.

This bill also makes an appropriation to the office of professional licensure and certification for the purposes of the controlled drug prescription health and safety program.

**Sponsors:**

Rep. McGuire  
Sen. Giuda

Rep. J. Belanger

Rep. Fraser

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**Who supports the bill:** Sue Watkins, NHVMA; Jane Barlow Roy, NHVMA; Rep. Peter Bixby, Straf 17; Thomas Candee DVM; Marc Mitchell, DVM; David Stone; Dick Bouley, NHVMA; Rep. John O'Connor; Sen. Regina, Birdsell, SD# 19; Rep. Carol McGuire; Michael Bullok, Board of Pharmacy; Sen. Bob Giuda, SD# 2

**Who opposes the bill:** Aly Mcknight, New Futures; Matt Mavvegeorge, DOJ

**Who is neutral on the bill:** Michelle Ricco Jonas, NHPDMP

**Summary of testimony presented in support:**

**Rep. Carol McGuire – Merr. 29**

- Bill came out of a rule conflict in JLCAR where Veterinarians were supposed to come up with rules for prescribing opioids.
- Veterinarians are not working with human patients so it is hard for them to use the PDMP program.
- There are concerns about patient privacy.
- The House committee made some changes by adding the ability to search for

people in a system to see if they have been using their pet to seek out opioids.  
**Sen. Fuller Clark** – Were there any objections to making the changes these changes?

**Rep. McGuire** – No

**Sen. Bradley** – My understanding is that the veterinarians under the house passed version would not have to query the owner, but they would still have to report, is that correct?

**Rep. McGuire**- You should ask that question to one of the people behind me.

**Sen. Bob Giuda – Senate District 2**

- Supports the bill.
- This bill is a result of unknown consequences from well-meaning legislation.
- This bill makes the PDMP process more effective for veterinarians.
- A very small percentage of veterinarians distribute opioids that are a part of our states current crisis.
- This bill represents an excellent compromise; it allows the veterinarians to do their work while also having a reporting requirement.

**Sen. Fuller Clark** – If many veterinarians are not distributing would owners of animals need to go to a pharmacy to get opioids?

**Sen. Giuda**- Yes. Opioids usually have to be distributed from a community pharmacy which would also have to query the PDMP

**Sue Watkins & Jane Barlow Roy – NHVMA**

- The confusion about the HIPPA rules is certainly a concern.
- Querying humans is a clear violation of privacy of owners.
- No one can tell the board whether or not it is a violation of a law but the state has said they will not defend a vet in court on this issue.
- There were concerns raised that if veterinarians are removed from the program because they would become victims of doctor shopping and that is not the case because any pet coming in to the office will need to go through a thorough exam and would not be given any opioids unless the vet makes the determination that it would be beneficial.
- There are always going to be bad practitioners and those that are currently violating the law will probably continue to do so.
- Most opiate medications we prescribe are only schedule 4 opioids, not something like Percocet or other more addictive medications.

**Sen. Bradley** – Are there any other states that required querying?

**Roy**- Yes there are, though most do not.

**Rep. John T O'Conner – Rock. 6**

- This bill came out of the House committee with a 17-0 vote and passed on the

consent calendar.

- We are all concerned about the opioid crisis, and this bill would help this problem by keeping the requirement that veterinarians input data into the program.
- We asked the Attorney General's office to submit a letter to the committee that Veterinarians would not be penalized under HIPPA, but that did not happen.

**Rep. Peter Bixby – Strafford 17**

- The original bill took veterinarians completely out of the program.
- We are asking the veterinarian board to create rules for prescribing opioids in this bill.
- The greatest issue the veterinarians had with HB 1423 (2016) was the requirement to query the PDMP for the owners because they did not have a relationship with the owners but since we believed that submitting information to the program was important we left the requirement to report in place while removing the requirement of querying the program.
- One possible idea for either now or in the future would be to use a pet's RFID chip number if available as a clear identifier. Would also suggest requiring, owners address, owners telephone number, owners date of birth.
  - o If changes are controversial it can be done in the future.
- This bill keeps a waiver for the computer processing for veterinarians with no capability for that.

**Sen. Bradley** - Would you have any problem with exempting the veterinarians from continuing education requirements, but instead have them develop their own education requirements in accordance with RSA 342 B?

**Rep. Bixby**- I would personally support that, it seems to make sense.

**Summary of testimony presented in opposition:**

**Matt Mavvegeorge – DOJ**

- Works in the officer that investigates and prosecutes misconduct in any of the professional licensing boards.
- Opposed to the bill.
- Supported HB 1423 in 2016.
- One of the main components to the opioid crisis was the over prescription of opioids and the creation and requirement of licensing boards to use the PDMP was to cut down on people "doctor shopping" for opioids.
- Concerned that the exemption of veterinarians from querying the program would hurt the progress we are making.
- There is a growing trend in some states where owners are hurting animals in order for them to get opioids for the owners use.
- There have been concerns about HIPPA and it does not seem the veterinarians

are bound by HIPPA because they do not treat human patients and are therefore not considered healthcare providers.

- If veterinarians are really concerned with HIPPA there could be a declaration form used to inform owners that they will be queried.

Sen. Gray – We have heard that Veterinarians cannot prescribe more than a 3 day supply of opioids and the cost of the visit would be more than if they were to purchase the pills on the street.

**Sen. Bradley** – Can you talk about the expressed HIPPA Concerns?

**Mavvegeorge**- HIPPA to my understanding only applies to healthcare providers working with human patients. It does not apply to veterinarians.

### **Neutral Information Presented:**

#### **Michelle Rico Jonas – Administrator of the PDMP**

- When the program was originals put in place most veterinarians needed to register twice. There was a separate registration for distributing prescription drugs.
- There are about 560 active veterinarians in the state, and 184 are registered with the prescription drug monitoring program.
- The other challenge we have is that there is no oversight of the veterinarian facilities in NH.
- We only have estimations. We estimate that there are about 210 “pet pharmacies” in our state. Some of these may only be prescribers and not dispensers.
- Only 56% of these “pet pharmacies” are uploading data into the system. We are trying to work through this problem but it is difficult.
- There has been steady decrease in the number of opioids being prescribed since the program began.
- There are a few number of veterinarians that are dispensing more than what is allowed by law. This data is going to the proper regulatory board to make sure they follow up with those practitioners.
- It is very important that data keep getting uploaded to the program because the program will not be effective if everyone is not reporting to the database.
- This is not a covered area under HIPPA so the data in the PDMP is not under those regulations.
- If one was to search a pet they would only get limited information about the owner and the pet.
- The veterinarian will also be able to see if an individual is doctor shopping. If they have a bad feeling they can refrain from prescribing opioids.
- The PDMP is going to need some help with funding in the future. The program

is looking at a shortfall of about \$115,000 in the coming biennium due to shrinking grants and additional costs.

**Future Action:** Pending

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Date Hearing Report completed: April 21, 2017