



Working with Law Enforcement Policy and Guidelines

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NOVA SCOTIA PRESCRIPTION MONITORING PROGRAM

SECTION I

WORKING WITH LAW ENFORCEMENT POLICY

1. Policy Objective

The purpose of this policy is to provide guidance to the Administrator when working with law enforcement. The objective is to establish a framework to guide The Administrator's interactions with law enforcement when personal information is involved.

2. Policy Statement

The Nova Scotia Prescription Monitoring Program has a responsibility to work with law enforcement. This policy provides guidance to the Administrator in managing interactions with law enforcement where personal information is involved. The intent is to promote a logical step-by-step process to ensure that an individual's right to privacy is considered in the context of the Program's responsibility under the Prescription Monitoring Act, which is to promote:

- (a) the appropriate use of monitored drugs; and
- (b) the reduction of the abuse and misuse of monitored drugs.

3. Responsibilities

The Board is responsible to provide policy direction to the Administrator and to monitor the effectiveness of the processes put in place by the Administrator to manage interactions with law enforcement.

The Administrator is responsible for implementing the guidelines included in this policy and for reporting to the Board on compliance with the policy.

4. Legislative Framework

The Program is bound by the Prescription Monitoring Act (Act) and its regulations and the Freedom of Information and Protection of Privacy Act (FOIPOP Act) and its regulations. Specific sections of the Act applicable to the process of interacting with law enforcement are cited here:

The Act provides that:

Section 12(2)(e)(i) as follows:

12(2) The Administrator shall

...

(e) monitor the use of monitored drugs by residents and report inappropriate use to

(i) an appropriate law enforcement authority pursuant to subsection 23(1)

...

23 (1) Where the Administrator has reasonable grounds to believe that an offence has been committed contrary to the Controlled Drugs and Substances Act (Canada) or the Criminal Code (Canada) or successor legislation, information in the possession of the Administrator in respect of such offence may be communicated to the appropriate law enforcement authority by the Administrator or such person as may be designated by the administrator.

The Prescription Monitoring Regulations provide that:

1. *The following information must be communicated when information is communicated to the appropriate law enforcement authority under subsection 23(1) of the Act, or the appropriate licensing authority under subsection 23(2) of the Act:*
 - a) *the residents name;*
 - b) *the resident's address;*
 - c) *an identification of the monitored drug or drugs in use;*
 - d) *the number of prescriptions dispensed and the date each one was dispensed;*
 - e) *the number of prescribers.*

5. Principles

The **following** principles will guide the Board's oversight of this policy:

- (a) A process for working with law enforcement is established by the Administrator to guide both the release of and the protection of personal information.
- (b) The Administrator reports on the effectiveness of the policy to the Board annually.

6. Definitions

In this policy:

- (a) "Administrator" means the agency or person designated by the Minister to administer the Program, and for the purposes of this Policy includes the Manager appointed by the Administrator or any other person employed by the Administrator.
- (b) "Board" means the Nova Scotia Prescription Monitoring Board established by the Prescription Monitoring Act.
- (c) "Business Support Analyst" means an individual employed by the Administrator who reports to the Manager.
- (d) "Law enforcement" includes the following:
 - policing, including criminal-intelligence operations,
 - investigations that lead or could lead to a penalty or sanction being imposed, and
 - Proceedings that lead or could lead to a penalty or sanction being imposed.
- (e) "Manager" means the individual appointed as the Manager by the Administrator pursuant to s. 12(4) of the Prescription Monitoring Act.
- (f) "Personal information" is defined in the Program's Privacy Policy.
- (g) "Program" means the Prescription Monitoring Program established by the Board.

7. Scope

This policy applies to:

- (a) The Board, and
- (b) The Administrator.

8. Accountability

The Administrator has responsibility for the ongoing monitoring and enforcement of this policy. The Administrator reports on compliance with this policy to the Board at least once per year.

9. Challenging Compliance

Any challenge to the Program's compliance with this policy shall be provided in writing to the Board Chair.

NOVA SCOTIA PRESCRIPTION MONITORING PROGRAM

SECTION II

GUIDELINES

Operational Guideline for the Administrator

Requests Initiated by Law Enforcement for Release of Personal Information

The Prescription Monitoring Act (Act) permits law enforcement to view or receive information collected and managed by the Program as is reasonable to achieve the objects of the Program and where the Administrator has reasonable grounds to believe that certain offenses have been committed. As well, there may be instances when law enforcement informs PMP about abuse/misuse and/or diversion and requests that information be provided the individual's prescriber(s).

The following process is followed when personal information is requested by law enforcement:

1. Contact initiated by law enforcement will be referred to the Program's Business Support Analyst or Manager (or designate).
2. The Business Support Analyst or Manager will require written submission, of a Monitored Prescription History Request Form (Appendix A) from the requestor with signature and contact information.
3. The Business Support Analyst or Manager (or designate) will review the information submitted via the Monitored Prescription History form to confirm the identity of the individual who is the subject of the request. The following information may be considered in confirming the identity of the individual who is the subject of the request:
 - A) Name of individual
 - B) Birth date of the individual
 - C) The healthcard number of the individual
 - D) Address of the individual for whom the information is being requested.
4. Reason for the request

As per section 23, of the Prescription Monitoring Act, the Administrator must have reasonable grounds to believe that an offence has been committed contrary to the Controlled Drugs and Substances Act (Canada) or the Criminal Code (Canada) or successor legislation in order to release prescription monitoring records. Information required to be submitted on the Monitored Prescription History Request Form includes, but is not limited to:

- A) The basis for the belief an offence has been committed (i.e. source information [unnamed]).
- B) The believed reliability of the information provided and the basis for any such believed reliability.
- C) General information related to the circumstances of the offence committed
- D) Other information that may be relevant for consideration by the Administrator as to whether there are 'reasonable grounds to believe' an offense has been committed.
- E) Information to support investigation of a death believed to be caused by a prescription drug overdose.

Other Program Data:

5. Although not required, available Program data may assist in determining the release of program information by further establishing 'reasonable grounds to believe'. The following are examples of program information, which may be used as part of the consideration whether the information regarding an individual constitutes '*reasonable grounds to believe*' for releasing information to law enforcement:
 - (a) Indicators of possible multiple doctoring activities, are or have been previously, identified.
 - (b) The individual's profile has been identified in various reports, with or without subsequent follow up.
 - (c) Attempts in the past to clarify the individual's profile have been unsuccessful.

Considerations in Determining Burden of Proof

In situations where the Business Support Analyst or Manager (or designate) is reviewing collected information from various sources in an attempt to determine whether or not misuse or abuse of monitored drugs constitutes an offence under the Controlled Drugs and Substances Act (Canada) or Criminal Code (Canada) or successor legislation, then the burden of proof for "reasonable grounds to believe", is interpreted to mean the following:

1. Whether there is an objective basis for the belief which is based on compelling and credible information which is corroborated.
2. Whether the belief is more than mere suspicion, but less than a balance of probabilities. It connotes a degree of probability based on credible evidence.

Upon consideration of all the information regarding potential diversion, misuse or abuse of monitored drugs, the Business Support Analyst or Manager (or designate) may consult and seek advice (legal or otherwise) regarding the factors outlined above that must be considered prior to release of information to law enforcement.

Should the Business Support Analyst or Manager (or designate) determine it is necessary to initiate contact with law enforcement they will provide the appropriate law enforcement authority with the following information pursuant to section 31 of the regulations:

- (a) The resident's name;
- (b) The resident's address;
- (c) An identification of the drug or drugs in use;
- (d) The number of prescriptions dispensed and the date each one was dispensed; and
- (e) The number of prescribers.

The Business Support Analyst or Manager (or designate) will review the request and make the decision to deny or approve the request (release or non release of Program data). See Appendix C for standard NSPMP response letters. Response correspondence may be adjusted with the approval of the Manager if deemed appropriate in providing an accurate response to law enforcement.

When the release of information is approved by the Business Support Analyst or Manager (or designate), the information can be issued to the law enforcement official by secure fax or courier/mail. E-Mail is not an option due to an inability to encrypt data at this time.

Notification of Charges or Suspicious Behavior Related to a Monitored Drug

The NSPMP, under the *Prescription Monitoring Act*, has the ability to report inappropriate use of monitored drugs to a prescriber and/or pharmacist if the release of information furthers the objects of the Program, which is to promote the appropriate use of monitored drugs; and the reduction of abuse or misuse of monitored drugs. In keeping with the Program's mandate the NSPMP will provide information to prescribers and pharmacies about their patients when charges have been laid or when suspicious behavior has been reported related to a monitored drug. Only charges or suspicious behavior pertaining to drugs which are monitored by the NSPMP will be communicated to prescribers and pharmacies. The following process will be followed:

1. Law enforcement will be responsible to notify the NSPMP of charges which have been laid or of suspicious behavior relating to a monitored drug. Those charges or suspicious behavior may include:
 - (a) Trafficking in a Controlled Substance;
 - (b) Possession for the Purpose of Trafficking;
 - (c) Possession of a Controlled Substance (for which they have no prescription);
 - (d) Double Doctoring;
 - (e) Theft relating to a duplicate pad;
 - (f) Theft relating to a Controlled Substance
 - (g) Fraud/Forgery/Uttering a forged document in relation to a prescription (In relation to making changes to a duplicate prescription, writing a new prescription and presenting a prescription that is known to be forged to a pharmacy);
 - (h) Robbery (Where monitored drugs were the target);
 - (i) Break and Enter (Residences and businesses where monitored drugs were the target);
 - (j) Report of a lost controlled substance; and
 - (k) Report of a stolen controlled substance
1. Law enforcement personnel are responsible for completing a "Notification of Charges or Suspicious Behavior Related to a Monitored Drug" form found in Appendix B and transmitting it via fax or email to the NSPMP.
3. Once the NSPMP has reviewed the information from law enforcement the Program will review the charged individual's prescription profile. The Administrator will assess whether a report of inappropriate use to a pharmacist and/or prescriber furthers the objects of the Act. If so, then correspondence will be issued to the prescribers and pharmacies noted on the patient's monitored drug profile. The intent of this notification is to keep the prescriber(s) and pharmacies informed and no response or follow up is required to the NSPMP.

Processing of Subpoenas, Court Orders, and Warrants

1. On receipt, a valid subpoena, court order or warrant must be referred to the Business Support Analyst or Manager.
2. The required information detailed in the subpoena, court order or warrant must be released within the specified timeframe.

Initiation of Contact with Law Enforcement

Pursuant to subsection 23(1) of the Act, if the Administrator has reasonable grounds to believe that an offence has been committed contrary to the Controlled Drugs and Substances Act (Canada) or the Criminal Code (Canada) the information in the possession of the Administrator may be communicated to the appropriate law enforcement authority.

Further, subsection 12(2)(e)(i) of this Act calls for the Administrator to report inappropriate use of monitored drugs to an appropriate law enforcement authority pursuant to subsection 23(1), if the release of such information furthers the objects of the Act.

The decision to initiate contact (in the form of a complaint) with law enforcement must be approved by the Manager or designate. Factors considered in determining whether law enforcement may be contacted include, but are not limited to the following situations:

1. Indicators of multiple doctoring activities have been identified and attempts to clarify any potential justification have been unsuccessful.
2. Suspicion of diversion and/or abuse or misuse of monitored drugs has been reported to the Program by prescribers/pharmacists and the profile activity is consistent with reported concerns.
3. Information has been provided to the Program regarding potential diversion, misuse or abuse or monitored drugs by an individual or group and review/monitoring of the profile indicates activity consistent with reports, concerns or patterns of concern.

Process to Initiate, Record and Follow-up Complaints to Law Enforcement

The following process will be used to initiate, record and follow-up complaints to law enforcement:

1. To determine which law enforcement authority the complaint will be filed with, identify either the location of the majority of reportable activities or, if the activity is throughout the province, identify the individual's area of residence.
2. If the complaint is to be filed within the Halifax Regional Municipality (HRM), complete the "HRM Prescription Fraud Form" and fax it to the Financial Crime Section at 490-1970.
3. If the complaint is within a municipality other than the HRM, contact that town's/city's police department directly. Most detachments have a general investigations department.
4. If the reportable activities occur in a municipality without a police force, the complaint should be forwarded to the RCMP's Division Drug Coordinator.

Documentation of Complaints Filed with Law Enforcement

All involvement with law enforcement officials in which personal information is released must be documented under the "Disciplinary Actions" section on the **Notes** section within the PMP case management system. The following information will be recorded:

1. Date complaint was forwarded
2. Method in which complaint was made – telephone, fax, etc. If an HRM Prescription Fraud Report was completed, attach a copy to the note
3. Who the complaint was filed with
4. A brief, fact-based overview of the complaint
5. A case number, if provided by the authorities
6. Any other pertinent, factual data
7. Any follow up items
8. Who can be contacted for follow up

NOVA SCOTIA PRESCRIPTION MONITORING PROGRAM

SECTION III

Appendix A

Monitored Prescription History Request Form



Nova Scotia Prescription Monitoring Program
PO Box 2200, Halifax, NS B3J 3C6
T 902.496.7123 F 902.481.3157
TF 1.877.476.7767
www.nspmp.ca

**Request for a Monitored Prescription History
(One request per form)**

Requested By: _____ Title: _____
Police Agency: _____
Contact Number: _____ Fax: _____
Patient Name: _____
Patient Address: _____
Healthcard Number: _____ DOB: _____
Period Requested (Claim Dates): _____ to _____ DD/MMM/YYYY DD/MMM/YYYY
Reason for Request: As per section 23, of the Prescription Monitoring Act, the PMP must have reasonable grounds to believe that an offence has been committed contrary to the Controlled Drugs and Substances Act (Canada) or the Criminal Code (Canada) or successor legislation. Information required on this form includes but is not limited to: A) The basis for the belief an offence has been committed (i.e. source information [unnamed]). B) The believed reliability of the information provided and the basis for any such believed reliability. C) General information related to the circumstances of the offence committed D) Other information that may be relevant for consideration by the Administrator as to whether there are 'reasonable grounds to believe' an offence has been committed. E) Information to support investigation of a death believed to be caused by a prescription drug overdose.
Signature: _____ Date: _____
<input type="checkbox"/> Please check if you would like this information shared with appropriate prescribers and/or pharmacies. The NSPMP may contact you for clarification or additional information regarding this request.

Electronic Transmission Confidentiality Warning

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NOVA SCOTIA PRESCRIPTION MONITORING PROGRAM

SECTION IV

Appendix B

Notification of Charges or Suspicious Behavior Related to a Monitored Drug



Nova Scotia Prescription Monitoring Program
PO Box 2200, Halifax, NS B3J 3C6
T 902.496.7123 F 902.481.3157
TF 1.877.476.7767 www.nspmp.ca

NOTIFICATION OF CHARGES OR SUSPICIOUS BEHAVIOR RELATED TO A MONITORED DRUG

Upon receipt of a notification of a charge or a suspicious activity, which pertain to a drug monitored by the NSPMP, the Program will notify the patient's prescriber(s) and pharmacies of this information

Officer's Name & Title: _____

Police Agency: _____

Contact Phone Number: _____ Fax Number: _____

File Number: _____ Date of Charges/Report: _____ Court Date: _____

Individual's Name: _____

DOB: _____ Health Card Number (if known): _____

Individual's Address: _____

Type of Report: ☐ Notification of Charges ☐ Suspicious Behavior

Offence/Activity:

- ☐ Fraud/Forgery/Uttering a forged document in relation to a prescription
- ☐ Theft relating to controlled drugs
- ☐ Theft relating to a prescription pad
- ☐ Possession of a controlled substance for which they have no prescription
- ☐ Possession of a controlled substance for the purpose of trafficking
- ☐ Trafficking in a controlled substance
- ☐ Double doctoring
- ☐ Robbery where the item taken or sought was a controlled substance
- ☐ Break and enter where the item taken or sought was a controlled substance
- ☐ Report of a lost controlled substance
- ☐ Report of a stolen controlled substance
- ☐ Other (please specify) _____

Controlled substance(s) involved: _____

Additional Comments:

Officer's Signature: _____ Date: _____

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NOVA SCOTIA PRESCRIPTION MONITORING PROGRAM

SECTION V

Appendix C

Sample NSPMP release of information responses to law enforcement



XXXX, 2016

Cst. XXXXXX,

I am writing in response to your request for a patient profile dated August XX, 2016 for <NAME>, DOB July XX, 19XX.

Please be advised that we are unable to provide a patient profile at this time as the Reason for Request does not support the release of patient information.

If you have any questions or concerns, please contact me at 902-496-7545.

Sincerely,

Business Support Analyst
NS Prescription Monitoring Program



XXXXXX XX, 2016

Cst. XXXXXX:

I am writing in response to your request for a patient profile dated August XXX, 2016 for <NAME>, DOB June XX, 19XX.

Please find attached the patient profile for the time period January 01, 2016 – August 29, 2016 as requested. If you require anything further, please feel free to contact me at 902-490-2272.

Sincerely,

Business Support Analyst
NS Prescription Monitoring Program