

STATE OF KANSAS



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Testimony concerning HB 2759
House Committee on Appropriations
March 21, 2018

Chairman Waymaster and Members of the Committee:

The Kansas State Board of Pharmacy respectfully submits this testimony on HB 2759. The Board of Pharmacy licenses a variety of facilities and individuals in relation to the practice of pharmacy, with the mission of ensuring that all persons and entities conducting business relating to the practice of pharmacy in Kansas are properly licensed and registered in order to protect the public's health, safety, and welfare. The Board is also responsible for administering the Kansas Prescription Drug Monitoring Program (K-TRACS) which tracks and monitors Schedule II through IV controlled substances and other drugs of concern in Kansas. K-TRACS is a potent tool in aiding in the identification of patients with drug-seeking behaviors, providing treatment, and educating the public. Each dispenser (pharmacy) is required to electronically submit information to K-TRACS on a daily basis for each controlled substance prescription or drug of concern dispensed in an outpatient setting. The goal of K-TRACS is to prevent the misuse, abuse, and diversion of controlled substances and drugs of concern, while ensuring continued availability of these medications for legitimate medical use.

K-TRACS includes all retail and outpatient dispensing records for any controlled substance or drug of concern dispensed in Kansas or to a Kansas resident, regardless of whether the pharmacy is located in Kansas. The only exceptions are for quantities dispensed in the emergency room for 48 hours or less, medications administered directly to a patient (hospital or long-term care), and veterinarians. Though the program was created by statute in 2008, the Board officially began collecting data in February 2011 and the program became fully operational in September 2011. If a prescriber or a pharmacist has a concern about a patient, he/she can look up the patient's prescription history in K-TRACS. Because K-TRACS is a real-time, web-based system, prescribers and pharmacists in Kansas can access patient information instantly from any location at any time with the proper login credentials.

At the time of the initial legislation, K.S.A. 65-1694 established the veterinary prescription monitoring program task force with the aim of studying and determining whether veterinarians should be required to report to K-TRACS. The task force was to utilize nationally available resources afforded by the American Association of Veterinary State Boards and the American Veterinary Medical Association to develop a plan in consultation with the K-TRACS Advisory Committee, which is composed of prescribers and pharmacists. The task force included one member appointed by the Advisory Committee, one member appointed by the Kansas Board of Veterinary Examiners, and one member nominated by the Kansas Veterinary Medical Association and appointed by the Kansas Board of Veterinary Examiners. In January 2013, the task force reported its conclusions to the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services. The task force recommendation was that veterinarians should remain exempt from reporting to K-TRACS for the

following reasons: feasibility of reporting through software and cost/time constraints, the low number of veterinarians likely to dispense controlled substances, and the low likelihood of animal medication diversion. As a result, no updates or changes were made to the existing statutes. Since veterinarian dispensing of controlled substances is not reported to K-TRACS, Kansas is missing a piece of the puzzle – something that deserves thoughtful consideration in light of the opioid epidemic and recent trends in drug poisonings in Kansas.

At the time the report was delivered to the legislature, the Board was using a different software vendor. That contract ended in 2013 and the new/current vendor (Appriss Health) is equipped to allow reporting by veterinarians with the \$60,000 contract increase identified in the fiscal note to this bill. Our vendor is already providing this service to most of the states that require veterinarian reporting. In visiting with fellow program directors in those states, it's clear that the feasibility of reporting has changed and is widely standardized throughout the nation. Nebraska recently surveyed veterinarian electronic health records systems and found that all were capable of reporting electronically to the prescription drug monitoring program.

As of December 2017, 19 states require veterinarian reporting to the prescription drug monitoring program, including Nebraska and Oklahoma. In addition to Kansas, Pennsylvania is currently considering legislation. There are also growing media reports in the past year of individuals using pets to obtain prescription controlled substance medications, such as opioids. It is also notable that these individuals often steal and/or cause injury to the animal before seeking veterinary assistance. An individual in Kentucky was arrested for this practice, and Oregon law enforcement arrested four individuals involved in an alleged dog pill mill. We have also begun to hear reports from pharmacy inspectors in Oklahoma about clients seeking drugs from veterinarians via pet injury. Nebraska recently passed legislation requiring veterinarians to report to their prescription drug monitoring program beginning July 1, 2018, and Oklahoma has mandated this activity for years. A couple states have also exempted reporting of quantities dispensed for 48 hours or less, similar to Kansas' emergency room exemption.

The 2013 report also indicated that few veterinarians have DEA registrations allowing them to dispense controlled substances. While updated statistics have not been collected by the Board, the California Veterinary Medical Association published an article in 2013 that describes how many veterinary practices will use one DEA number for all veterinarians in the practice. It would be important to understand if this is or ever was a factor in Kansas in determining the number of veterinarians likely to dispense controlled substances. Veterinarians that don't dispense controlled substances or drugs of concern would be able to file a waiver with the Board that would exempt them from reporting unless their circumstances changed. In addition, if controlled substances are only dispensed occasionally, veterinarians can file zero reports on a weekly basis instead of daily. It is also important to note that this bill does not contemplate requiring veterinarians to report controlled substances that are administered directly to the patient.

While the Board supports requiring all dispensers to report to K-TRACS to help ensure that all potential sources for abuse or misuse are covered and patient safety is protected, the Board understands the need to balance the unique patient needs, interests, and considerations at stake – whether human or other animal. The healthcare environments for these two groups are not identical and reporting requirements would need to be tailored to appropriate data field submission in the veterinary context. The Board

believes this can be done, much like other states have done. The Board appreciates the many opportunities in recent weeks to discuss this matter with the Veterinary Board and Association since introduction of this bill, and looks forward to an ongoing dialogue between our respective groups regardless of the outcome today. The Board also suggests an amendment that would give veterinarians sufficient time to comply with these new requirements – perhaps six months. For example, when the Board adds a new drug of concern to the list of substances required to be tracked in K-TRACS, the Board typically gives a minimum of 90 days for pharmacies to comply, to ensure sufficient time for updates to electronic systems.

In regard to New Section 1 in the bill: The Board initially received federal grants to fund the K-TRACS program. Because no grant funding remains for ongoing support and maintenance of K-TRACS, last year the legislature approved a proposal that has allowed the Board to partner with the Boards of Nursing, Healing Arts, Optometry, and Dentistry to use our collective surplus fee funds to cover program costs for FY2018 and FY2019. Total costs are apportioned according to the number of active prescribers and pharmacists licensed by each agency. If this bill were adopted by the legislature, it seems only appropriate to require the Board of Veterinary Examiners to contribute to these costs in conjunction with the other boards. Transfers are made quarterly and actual costs of the program are certified by the Board's Executive Secretary.

Respectfully submitted.



National Alliance for Model State Drug Laws

Requirements for Veterinarians to Report Information about their Dispensing of Monitored Substances to the PMP

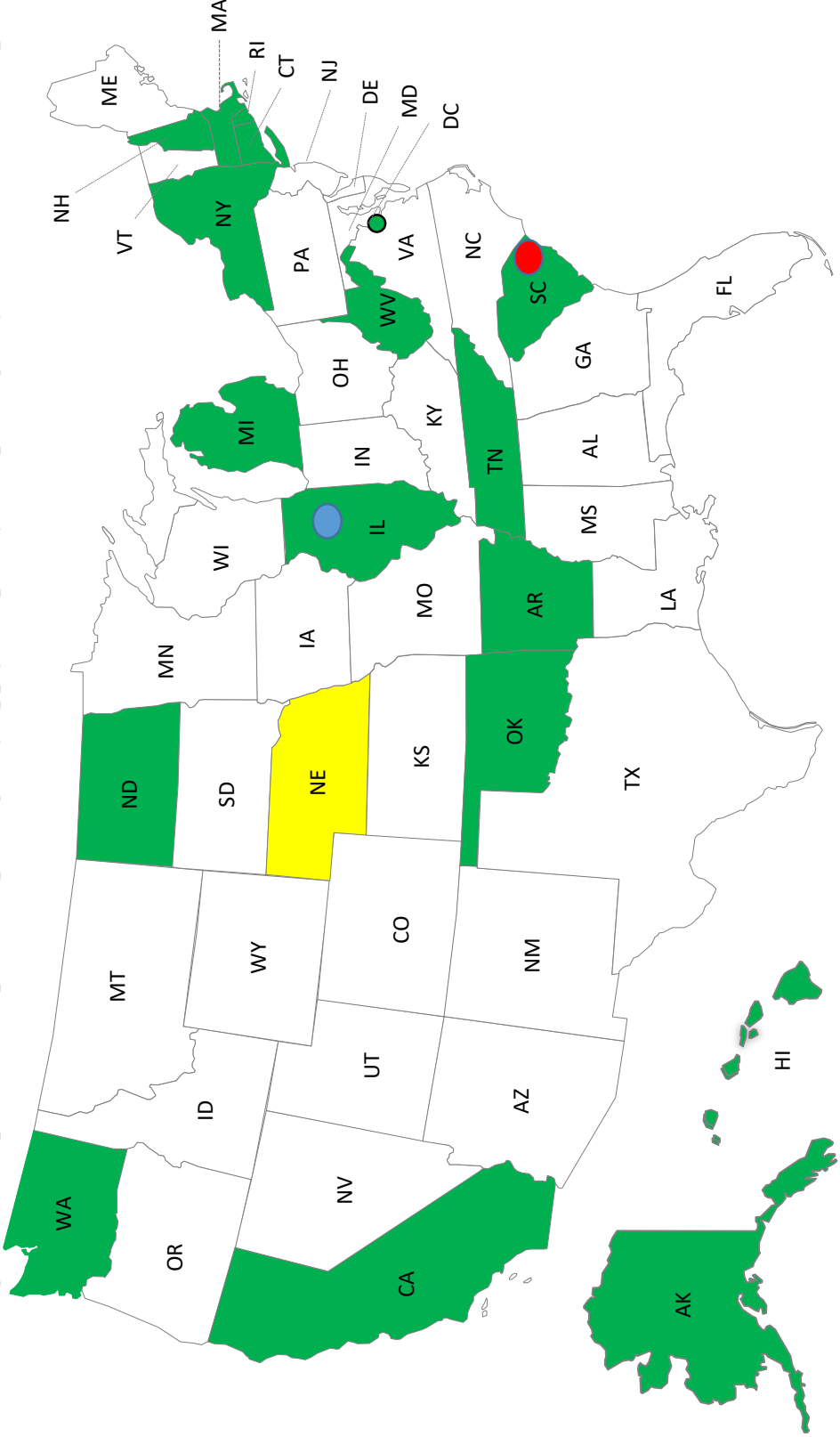
Research Current As of June 24, 2017. Revised December 2017

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Requirements for Veterinarians to Report Information about their Dispensing of Monitored Substances to the PMP

(general exceptions to dispenser reporting may apply; frequency of reporting may differ from other dispensers)



- Requirement applies if dispensing more than a 72 hour supply.
- Requirement in Nebraska applies as of July 1, 2018.
- Requirement applies if dispensing more than a 5 day supply except for phenobarbital. Reporting is required if dispensing more than a 30 day supply of phenobarbital.

**Kansas Veterinarian Prescription Monitoring
Program Task Force
Final Recommendation to the Legislature**



Prepared by the
Veterinarian Prescription Monitoring Program Task Force
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January 2013

Table of Contents

1. Introduction.....	3
2. Background and Executive Summary.....	3
3. Factors to Consider in Veterinarian Reporting to PMP	5
3.1 Veterinarian Software Constraints/Cost and Time Issues.....	5
3.2 K-TRACS Data in Support of Veterinary Dispensing Exemption.....	6
3.3 First Hand Accounts/Studies from Other States.....	8
3.4 Detecting Diversion of Controlled Substances by a Veterinary Professional	9
4. Final Recommendation	9
5. Appendix A-Minnesota Board of Pharmacy Report to the Legislature Report to the Legislature: Diversion of Controlled Substances Dispensed by Veterinary Practice.....	10

1. Introduction

The abuse and diversion of controlled prescription medications is a significant and persistent problem in the United States. Current data from the Substance Abuse and Mental Health Services Administration (SAMHSA) 2010 National Survey on Drug Use and Health reveals that approximately 16 million individuals age 12 or older have used controlled prescription medications (opioid pain relievers, tranquilizers, sedatives, or stimulants) non-medically in the past year. While the number of non-medical users has remained relatively stable over the past 10 years, the number of treatment admissions and deaths from overdose of controlled prescription drugs has increased significantly.

Law enforcement and health agencies throughout Kansas recognize the abuse and diversion of controlled substances as an increasing threat. This type of abuse makes it more difficult for individuals in pain to obtain appropriate pain management and for their treating physicians and other prescribers to comfortably prescribe appropriate treatment. It is important that, in addition to the role of providing prescribers and dispensers with controlled substance utilization information for their patients, Kansas' Prescription Monitoring Program (PMP) work collaboratively with the medical community to provide pain management education to health care providers.

Prescription Monitoring Programs are designed to help prevent and detect the diversion and abuse of pharmaceutical controlled substances, particularly at the retail level where no other automated information collection system exists. States that have implemented PMPs have the capability to collect and analyze prescription data much more efficiently than states without such programs, where the collection of prescription information requires the manual review of pharmacy files, a time-consuming and invasive process. The increased efficiency of PMPs allows for the early detection of abuse trends and possible sources of diversion.

The purpose of the program is not to restrict the availability of controlled substances, but to ensure integrity in health care by providing prescribers and pharmacies with information on their patients to ensure legitimate use. It is important that the program be used to improve pain management and the detection and treatment of addictive disease. A secondary purpose of these programs is to enhance the capacity of regulatory and law enforcement agencies to collect and analyze controlled substance prescription data by building a data collection and analysis system at the state level, enhancing existing programs' ability to analyze and use collected data and facilitate the exchange of collected prescription data among states.

2. Background and Executive Summary

To begin to address prescription drug abuse in Kansas, the 2008 Kansas Legislature mandated the establishment of an electronic system for monitoring controlled substances (CS) and drugs of concern through passage of Kansas Statutes Annotated (K.S.A.) 65-1681 through 65-1693. The Kansas Tracking and Reporting of Controlled Substances (K-TRACS) system was thus designed.

The rules for reporting and access were defined in Kansas Administrative Regulation (K.A.R.) 68-21-1 through 68-21-7 in September 2010. The original version of K-TRACS requires dispensers of CS in or into Kansas to report dispensing of Schedule II, III, IV controlled substances and drugs of concern within 7 days of dispensing the substance.

At the time, there was discussion regarding requiring veterinarians to report to the program. The 2008 Legislature determined that more research needed to be done on the matter and passed K.S.A. 65-1964 as part of the Kansas Prescription Monitoring Act.

65-1694 Same; veterinary prescription monitoring program task force; study; members; report. (a) There is hereby established the veterinary prescription monitoring program task force which shall study and determine whether to require veterinarians to report to a prescription monitoring program under this act. Such study shall include appropriate methods and procedures of reporting by the veterinarians with the necessary database field information. The task force shall utilize nationally available resources afforded by the American Association of Veterinary State boards and the American veterinary medical associations department of state legislative and regulatory affairs and development of the plan in consultation with the advisory committee. (b) The task force shall consist of three members as follows: one member appointed by the prescription monitoring program advisory committee; one member appointed by the Kansas board of veterinary examiners; and one member nominated by the Kansas veterinary medical association and appointed by the Kansas board of veterinary examiners. (c) Appointments shall be made within 120 days after the effective date of this act. The initial meeting of the task force shall be convened within 180 days after the effective date of this act. The task force shall elect a chairperson and may elect any additional officers from among its members. All task force members shall serve without compensation. (d) The task force shall report its findings and progress to the prescription monitoring program advisory committee at least annually or when requested by the advisory committee. The task force shall report its progress to the Senate committee on public health and welfare and the House committee on health and human services, if requested, and report its conclusions and recommendations to such committees within 5 years after the effective date of this act. Based on the recommendation by the task force, this act shall be amended to include the veterinarians as practitioners.

History: L. 2008, ch. 104, § 15; July 1.

The purpose of this report is to provide a review of veterinarian practice with regard to PMP; to report on work completed by the Veterinary Prescription Monitoring Program Task Force; and to provide the Task Force's findings and recommendation to the Senate and House Committees for their consideration. This report has been prepared for the Senate Standing Committee on Public Health and the House Standing Committee on Health and Human Services, as required by statute. Based on research completed since 2008, and a recent study on the matter conducted by the Minnesota Prescription Monitoring Program, the Veterinary Prescription Monitoring Program Task Force is confident in their recommendation that veterinarians not be required to report to the Kansas Prescription Monitoring Program.

3. Factors to Consider in Veterinarian Reporting to PMP

3.1 Veterinarian Software Constraints/Cost and Time Issues

Dispensing data is required to be reported to K-TRACS electronically. The required data to be reported includes:

- (1) The dispenser identification number;
- (2) the date the prescription is filled;
- (3) the prescription number;
- (4) whether the prescription is new or is a refill;
- (5) the national drug code for the drug dispensed;
- (6) the quantity dispensed;
- (7) the number of days supply of the drug;
- (8) the patient identification number;
- (9) the patient's name;
- (10) the patient's address;
- (11) the patient's date of birth;
- (12) the prescriber identification number;
- (13) the date the prescription was issued by the prescriber;
- (14) the source of payment for the prescription;
- (15) prescriber's name,
- (16) patient's telephone number; and
- (17) the number of refills for the dispensed drug.

These data elements are required to be reported to K-TRACS through a format called ASAP 4.1. This is a standardized data format created specifically for pharmacies by the American Society of Automation in Pharmacy (ASAP). The mission of ASAP is to foster understanding of the role that technology plays in assisting pharmacists to promote patient safety and the proper use of medications, comply with laws and regulations, and operate their practices more efficiently by providing a forum for sharing diverse knowledge and perspectives on the modern practice of pharmacy. Currently 33 states have prescription-monitoring programs, where the ASAP standard is used, with several more scheduled to implement such a program using the ASAP standard. The ASAP data elements are built in to the majority of pharmacy software used by pharmacies across the nation to enable the electronic transfer of this information to K-TRACS and other prescription monitoring programs.

This reporting format is specific to reporting pharmacies and can be burdensome to other types of dispensers who are not familiar with this format and do not have this data standard in their software. Many veterinary practices will have to purchase new hardware and/or software or update their current systems in order to fulfill the requirements of the K-TRACS program. In implementing K-TRACS, there were several cases in which certain pharmacies, mostly hospital pharmacies, decided against dispensing employee prescriptions or worker's compensation prescriptions, completely

discontinuing any outpatient dispensing, due to the high cost of upgrading their pharmacy systems to be in compliance. If this was the case in a veterinary practice, and the practice no longer dispensed controlled substances to patients, it could mean a loss of business and income to the practice.

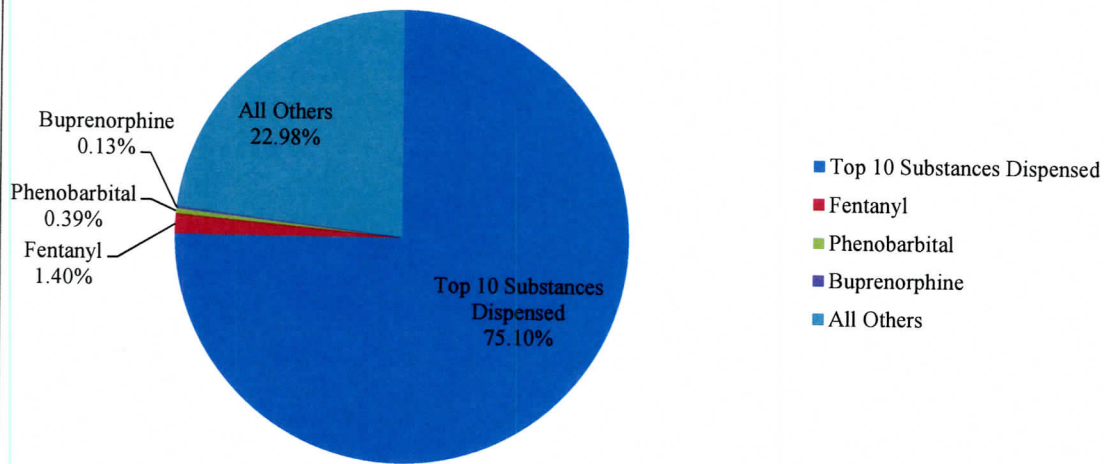
The alternative to electronic reporting is manually reporting each dispensation of a controlled substance or drug of concern to the system daily. This requires an addition in time and labor needed to comply with the K-TRACS system, and could also be detrimental to a veterinary practice.

3.2 K-TRACS Data in Support of Veterinary Dispensing Exemption

According to the DEA, only 765 of the almost 2500 Kansas licensed veterinarians hold controlled substance registrations. This represents 7.5% of the total number of practitioners in all disciplines who have a DEA in the state of Kansas currently (10,199). According to the Kansas Board of Veterinary Examiners, not all those who have a DEA registration likely dispense controlled substances, as a DEA registration is also needed to prescribe and administer controlled substances.

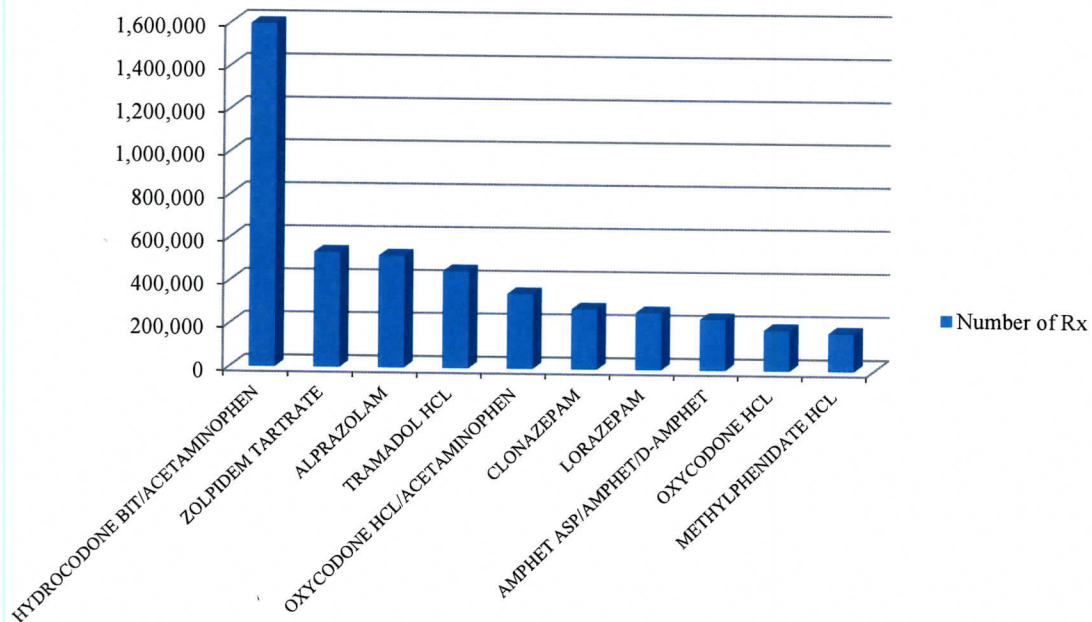
After researching the issue in Kansas and also after having viewed the survey results provided to us by the Minnesota Board of Pharmacy on the Diversion of Controlled Substances Dispensed by Veterinary Practice found in Appendix A, the Task Force has determined that there are three main controlled substances dispensed by veterinarians, fentanyl patches, phenobarbital and buprenorphine. The graphs below detail the amount of prescriptions for these substances dispensed in the state of Kansas in 2012 by all types of currently reporting dispensers in comparison with the total prescriptions dispensed in Kansas for the year. As you can see, these three substances comprise only around 2% of all controlled substances dispensed in the state. Other controlled substances less frequently used in veterinary practice include; tramadol, alprazolam, butorphanol, valium, diazepam, hydrocodone and codeine tablets. The top ten controlled substances in the state include hydrocodone /acetaminophen, zolpidem, alprazolam, tramadol, oxycodone /acetaminophen, clonazepam, lorazepam, amphetamine, oxycodone hcl, and methylphenidate. Statistics on these substances can be found the chart on page 8.

Number of Prescriptions Dispensed in Kansas in 2012



The following data was derived from the K-TRACS database for the period 1/1/2012 to 12/31/12 for the purpose of comparing the information in the table below to the most frequently veterinarian dispensed controlled substances.

Top 10 Substances Dispensed in Kansas in 2012



Description	Number of RX	Total QTY	Total Days Supply
HYDROCODONE BIT/ACETAMINOPHEN	1,594,109	102,413,925	21,644,116
ZOLPIDEM TARTRATE	533,231	21,364,066	20,925,705
ALPRAZOLAM	517,973	33,433,928	14,304,146
TRAMADOL HCL	449,575	46,503,240	11,103,444
OXYCODONE HCL/ACETAMINOPHEN	346,472	23,227,783	4,469,178
CLONAZEPAM	278,567	17,954,856	9,229,001
LORAZEPAM	264,143	13,829,862	6,366,405
AMPHET ASP/AMPHET/D-AMPHET	235,064	11,985,896	7,200,652
OXYCODONE HCL	187,513	16,861,212	3,959,740
METHYLPHENIDATE HCL	174,423	8,536,932	5,362,138
Top 10 Dispensed Substances	4,581,070	296,111,700	104,564,525
FENTANYL	85,403	805,721	2,150,481
PHENOBARBITAL	23,500	2,707,577	955,947
BUPRENORPHINE	7,902	212,3400	99,875
All Others	1,402,006	85,899,710	37,882,051
TOTALS	6,099,881	385,737,048	145,652,879

3.3 First Hand Accounts/Studies from Other States

The Kansas Veterinarian Prescription Monitoring Program Task Force and its representative organizations have spoken with veterinarians in the state to determine how a requirement to report to K-TRACS would affect their practice.

Many of the veterinarians cited the reasoning given in sections 3.1 and 3.2 above for their concerns. Additionally, the Task Force consulted several other states, including Oklahoma, Mississippi, Alabama and Illinois, that currently require veterinarians to report on what their experiences were. Currently, at least 23 of the 37 states who have operational programs do not require veterinarian reporting to their PMP and many that do at this time are considering exempting them in the future. Many state representatives have specifically said, “I wouldn’t recommend requiring veterinarians to report”, “the hassle involved for the PMP office as well as the veterinarian office far outweighs any benefit from collecting that data”, and “if we had to do it all over again, we would have never made veterinarians report to the program.”

The Task Force also became involved last year with the Minnesota Board of Pharmacy which was in the process of doing a survey and in depth study similar to Kansas. Minnesota found similar responses when interviewing other states and took an in depth look at diversion of controlled substance dispensed by veterinarians. Please see the Appendix A for this report for the Minnesota findings.

3.4 Detecting Diversion of Controlled Substances by a Veterinary Professional

As you will see in the Minnesota report, instances of patient diversion/abuse using their pet's medications have been miniscule. The other concern involved is a veterinarian actually diverting or misusing the controlled substances themselves or prescribing outside their scope of practice. In fact, the Board of Pharmacy has already found a way to monitor this issue in another way. The Board is currently requiring all wholesale distributors to send monthly distribution reports to PMP staff for review. If there is any instance in which a large amount of a controlled substance or drug of concern is being shipped to a veterinary clinic, K-TRACS staff informs the Kansas Board of Veterinary Examiners (KBVE). KBVE is confident that this method catches most if not all instances in which a veterinarian may be acting outside the scope of their practice with these monitored medications.

4. Final Recommendation

Based on the information provided to you in this report, the Kansas Board of Pharmacy, in collaboration with the Kansas Prescription Monitoring Program Advisory Committee and the Kansas Veterinarian Prescription Monitoring Program Task Force recommend that veterinarians, dispensing controlled substances for outpatient use, remain exempt from reporting to the Kansas Prescription Monitoring Program at this time. We will continue to monitor trends regarding veterinarian reporting to prescription monitoring programs.