



National Association of State  
Controlled Substances Authorities



## NASCSA NEWS

June 26, 2013

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### DEA Staff Changes

According to Cathy Gallagher, Chief of the Liaison and Policy Section of the US Drug Enforcement Administration, Office of Diversion Control, there have been a number of changes in staff to NASCSA members. Ruth Carter has been named as the Deputy Section Chief. Ms. Carter has extensive experience with regulatory and criminal matters. The Policy Unit (under Loren Miller, Chief) and Liaison Unit (under John Purcell, Acting Chief) will report directly to Ms. Carter. Ms. Carter can be reached at (202) 307-7297.

### Other Staff Changes

**Alliance of States With Prescription Monitoring Programs** - Cheryl Anderson, President of the Alliance of States With Prescription

### Mark Keeley on Medical Leave

Mark Keeley, President of NASCSA is currently undergoing treatment for leukemia and is presently on medical leave for the next several months. His treatments are going well and we are in periodic touch with him. In the interim, the Officers and members of the Executive Committee continue to work on behalf the organization. Our thoughts and prayers are with Mark for a speedy recovery and we will keep you updated.

### It's Not Too Late - Travel Scholarship Deadline This Friday

This is a reminder that the deadline for applying for travel scholarships to attend this year's annual conference is **June 28, 2013**. Travel scholarship criteria as well as the application form and instructions have already been posted at <http://www.nascsa.org/scholarships.htm>.

The Executive Committee has authorized the awarding of up to six (6) travel scholarships to attend the Annual 29th Annual Conference at the Westin Crown Center in Kansas City, Missouri from October 22-25, 2013. The hotel is located in the heart of beautiful Kansas City, within walking distance of numerous restaurants and shopping. We have a link to the hotel's website if you wish to reserve your hotel room now. Note that we have two room rates - \$99 government rate and \$129 per night for all

Monitoring Programs has tendered her resignation. Michael Wissel will serve as Acting President until the fall elections. An active member of the Alliance and NASCSA, we wish Miss Anderson well in her future endeavors.

**Indiana** - Marty Allain, General Counsel at the Indiana Professional Licensing Agency has accepted a new position with the National Association of Boards of Pharmacy as NAR<sub>X</sub>CHECK Senior Manager.

**South Carolina** - Christie Frick has been named as the Director of the South Carolina Prescription Drug Monitoring Program.

### New Jersey Issues Best Practice Guidelines

Best practices for pharmacy security guidelines have been developed by the New Jersey State Board of Pharmacy and the state's Attorney General to assist pharmacies in preventing drug theft and diversion. The guidelines were developed in partnership with the Board with input from the pharmacy industry and law enforcement. The best practices guidelines include recommendations for physical security controls of controlled dangerous substances (CDS), general pharmacy security, CDS inventory, and interface with prescribers and customers, among other areas. The "Pharmacy Security Best Practices" document is available [here](#).

others. You must show your government-issued ID at the time of check-in in order to receive the government rate. More information is available [here](#). Check NASCSA's website at [www.nascsa.org](http://www.nascsa.org) for important updates on the conference. The conference program will be available this summer. The Alliance of States with Prescription Drug Monitoring Programs will meet Oct. 21-22, 013. The Alliance agenda will be posted once it is finalized.

### DEA Arrests Six in Major Sting on Synthetic Drugs

The US Drug Enforcement Administration today announced the arrest of six individuals in Operation Log Jam, during the first-ever nationwide law enforcement action against the synthetic designer drug industry. Specifically targeted in this operation were those entities responsible for the production and sale of synthetic drugs that are often marketed as bath salts, Spice, incense, or plant food. Operation Log Jam was conducted jointly by DEA, with assistance from the U.S. Attorney's Office, Internal Revenue Service Criminal Investigation Division, the U.S. Postal Inspection Service, the Federal Bureau of Investigation, as well as countless state and local law enforcement members in more than 20 cities and towns throughout Texas and targeted every level of the synthetic designer drug industry, including retailers, wholesalers, and manufacturers. To view the full press release click [here](#).

### Committee Reports Ongoing Work Continues

**Program Committee** - The committee has been hard at work over the past several months working on the program for this year's conference. There are a number of exciting programs and speakers being planned. For the first time this year NASCSA will be "going green" by posting most of the presentations online prior to and during the conference to save on costs. This change is based on conference evaluations

## Colorado and Wisconsin Join NABP's PDMP Interconnect

Colorado and Wisconsin's Prescription Drug Monitoring Programs have become the latest state to join the National Association of Boards of Pharmacy (NABP) PMP InterConnect®, bringing to 15 the total number of participating states. Colorado and Wisconsin join PMPs in Arizona, Connecticut, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, New Mexico, North Dakota, Ohio, South Carolina, South Dakota, and Virginia, which have implemented use of the NABP InterConnect, giving authorized PMP users the ability to request and share program data across state lines. Nine additional states have signed memorandums of understanding (MOUs) to participate in the NABP InterConnect. NABP continues to work with other states to facilitate their participation in the NABP InterConnect, and it is anticipated that more than 25 states will be sharing data or will have executed an MOU to participate in the NABP InterConnect in 2013. The NABP InterConnect is a highly secure communications exchange platform that facilitates the transmission of PMP data across state lines to authorized requestors, while ensuring that each state's data-access rules are enforced. Additional information about the NABP InterConnect is available in the Programs section of the NABP Web site.

### Don't Forget to Renew Your Dues

Dues notices for the upcoming fiscal year (July 1-June 30th) have been mailed to all members and non-members. In order to be eligible to vote at the annual

and feedback from members. The conference program should be posted online in mid July.

**Membership Committee** - The committee will be evaluating travel scholarships that have been submitted by members and will make recommendations to the Executive Committee. In addition, the committee is responsible for the newsletter that is distributed to members several times a year as well as evaluating breaking news items for dissemination. The next newsletter will be distributed August 5<sup>th</sup>. Please feel free to submit any newsletter items for consideration.

**Special Projects Committee** - The committee continues to monitor and review quarterly reports and spending plans of the 14 states that received funding from NASCSA for Prescription Drug Monitoring Program enhancements made possible from a grant from Purdue Pharma. The committee is currently exploring continuation of funding support for 2014 and is in the midst of developing criteria should funding continue to be provided.

**Survey/Data Committee** - The committee has already distributed one survey to members to assist the Executive Committee determine the next focus of a "white paper" or other resource document that will assist members and others interested in controlled substances issues. The committee will be meeting in the coming months to develop other possible surveys that will assist members and serve as a resource. Please let us know if you have suggestions for surveys or data collection that the committee should be considering.

**Resolutions/Bylaws Committee** - The committee has made several recommended changes to NASCSA's bylaws that will be reviewed and voted on at the annual meeting. In addition, the committee has been reviewing and discussing a number of resolutions for consideration by members at the annual meeting. In accordance with the bylaws, both the proposed bylaw changes and draft resolutions will be sent to members electronically no later than August 24, however the committee hopes this information will be distributed earlier. In addition, the committee is exploring the possibility of hosting a webinar in September to review the proposed

conference, and be eligible for travel scholarships as well as the prescription drug monitoring program grant program which is the result of a grant provided by Purdue Pharma, membership dues must be paid in full. If you need a duplicate invoice please contact the office.

### [PA to Review Data on Methadone Overdose/Abuse](#)

Officials in Pennsylvania will review data about methadone overdose cases to determine how many deaths in the state were related to prescriptions for pain relief. The state's new Methadone Death and Incident Review Team will investigate the circumstances of methadone-related deaths, which have been on the rise. Gary Tennis, Pennsylvania secretary of Drug and Alcohol Programs, indicated that the review team will analyze data about the use and abuse of methadone in the state. More information can be found [here](#).

### [Kentucky to Study Effects of Pain Clinic Law](#)

The University of Kentucky College of Pharmacy's Institute for Pharmaceutical Outcomes and Policy will launch a year-long study next month to determine the effects of a new state law designed to curb prescription drug abuse. Kentucky's Cabinet for Health and Family Services is sponsoring the study, using a \$100,000 grant from the U.S. Bureau of Justice Assistance. It will run through June 2014.

### [DEA Shares Information on State Laws Related to Bath Salts and Synthetic Marijuana](#)

The US Drug Enforcement

bylaw changes and resolutions. More details will follow.

### [Key Congressional Committee Holds Hearing on Prescription Drug Abuse](#)

On June 14, 2013 the House Energy & Commerce's Subcommittee on Health, chaired by Rep. Joe Pitts (R-PA), last week held a hearing on "Examining the Federal Government's Response to the Prescription Drug Abuse Crisis." Members heard testimony from the Office of National Drug Control Policy, the Food and Drug Administration, and the Substance Abuse and Mental Health Services Administration. The hearing is the first in a series being held in the 113th Congress examining prescription drug abuse. To read a summary of the hearing, click [here](#). The hearing can be watched in its entirety [here](#).

### [SAMHSA Extends Deadline for Prescription Drug Monitoring Program Grants](#)

SAMHSA is pleased to announce that the deadline for the Electronic Health Record (EHR) and Prescription Drug Monitoring Program (PDMP) Data Integration Grant program has been extended to July 24, 2013.

Grant funds will enable States to integrate their PDMPs into EHR and other health information technology systems. The goal is to increase the use of PDMPs by facilitating the secure and timely transmission of prescription drug information to prescribers, dispensers, and other entities.

The Funding Opportunity Announcement (FOA) is posted here and the deadline for applications is July 24, 2013. As discussed in the announcement, applications may be submitted online here. Should jurisdictions have questions contact CDR Jinhee Lee, PharmD, the Project Officer at [jinhee.lee@samhsa.hhs.gov](mailto:jinhee.lee@samhsa.hhs.gov).

Administration has compiled a listing of state laws related to bath salts and synthetic marijuana that may be helpful to members. The listing is posted [here](#). Please note that because laws are constantly changing, there may be updates that are not necessarily reflected in the listing.

### FDA Launches Fentanyl Awareness Campaign

The FDA Safe Use Initiative is launching an effort to increase public awareness about the safe use, storage and disposal of fentanyl transdermal system "patches" (Duragesic® and its generics). Healthcare providers can participate in this effort by talking to patients and their caregivers about proper disposal when they prescribe or dispense fentanyl patches. FDA has electronic and web-based educational resources that can be downloaded and printed from the website. The "Fentanyl Transdermal System (marketed as Duragesic) Information," and the "Disposal of Unused Medicines: What You Should Know" webpages contain additional safety information. Healthcare providers can also join the FDA Safe Use Initiative in a broad-based collaborative effort to encourage safer use of fentanyl patches. More information can be found [here](#).

### Having Trouble Reading "NASCSA News?"

To view a full screen of the newsletter, right click. In addition, if your contact information changes, please login using the original email address you originally had subscribed with and update any information including your new email address and

## Indiana Appeals Court Upholds Law on Synthetic Marijuana

*With Permission, American Society of Pharmacy Law*

In 2012, the Indiana Legislature modified its existing statute banning synthetic cannabinoids to expand the concept to a ban on "synthetic drugs," adding several substances including AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole). The statute also provided the Board of Pharmacy with authority to adopt emergency rules to declare a substance is a synthetic drug if it finds that (a) the substance has been scheduled or emergency scheduled by the DEA, or (2) has been scheduled, emergency scheduled, or criminalized by another state. Such rules become effective 30 days after filing, and remain in effect until June 30 of the year following their adoption; the Board may readopt expired rules.

The appellant was charged with dealing and possession of a synthetic drug under the revised statute, and the substance was identified as containing AM-2201. She moved for the trial court to dismiss the charges, arguing that (1) the charging information was insufficient to put her on notice of the crime, (2) the Synthetic Drug Law is constitutionally vague, and (3) the Synthetic Drug Law provides for an unconstitutional delegation of authority. The trial judge denied her motion, based on arguments by the State that the charging authorization, plus the probable cause affidavit, identifying the substance as AM-2201, provided sufficient notice of the crime being charged, that the statute is neither unconstitutionally vague nor vague as applied, and that either the delegation was constitutional or that, at any rate, the charges were not as a result of possession of a drug designated by the Board. On appeal, the Court agreed that the sufficiency of notice must assess whether the charging document and the affidavit of probable cause filed with the charges, taken together, provide the defendant with notice of the crime charged. It found that the affidavit specifically noticed that the substances purchased from the defendant contained AM-2201. The Court also agreed that, as applied to the defendant, the banned substance was one listed in statute by the Legislature, so defendant's argument

updated contact information.

## State Pain Policy Advocacy Network Updates on PDMP Legislation

Members of NASCSA should be aware of a great tracking tool available from the State Pain Policy Advocacy Network, a project of the American Academy of Pain Management, that is available that provides weekly updates on state Prescription Drug Monitoring Program (PDMP) legislation. These weekly updates include PMP bills, listed alphabetically by state, with insight from Bob Twillman, on behalf of SPPAN. This includes, to our best knowledge, all state legislation involving prescription monitoring programs. Bill numbers will all be hyperlinks to the text of the bills. The site is [here](#).

## Please Consider Volunteering

As a small nonprofit organization, NASCSA relies heavily on volunteers throughout the year and during the annual conference. There are many volunteer opportunities including assisting during the business meetings, serving on committees and serving as an officer or member of the Executive Committee. If you are interested in volunteering, please contact Kathy Keough at [KathyKeough@nascsa.org](mailto:KathyKeough@nascsa.org) or a member of the Executive Committee to learn how you can get involved.

## State Regulatory Developments

Did you know that

concerning unconstitutional vagueness is inapplicable. The Court also agreed with the State that the appellant's arguments concerning delegation of authority to the board are not applicable under the circumstances of the case, because the Legislature's designation of AM-2201 as a banned substance does not run afoul of the Indiana Constitution's Distribution of Powers clause. The trial court's rejection of her motion to dismiss was affirmed. [Kauer v. State, No. 29A05-1208-CR-424, Ind. App., May 6, 2013]

Indiana distributors file federal suit against Indiana Synthetic Drug Law amendments  
On May 28, a group of sellers of "bath salts" filed suit in the Southern District of Indiana seeking declarative and injunctive relief and challenging constitutionality of Indiana's Sen. Enr. Act 536, effective on May 7, which makes it illegal to possess, distribute, or manufacture a "synthetic drug lookalike substance." In its 2013 amendments to the Synthetic Drug Law, the Indiana Legislature defined a synthetic lookalike substance as "one ... or more of the following: (1) A substance, other than a synthetic drug, which ... would lead a reasonable person to believe to be a synthetic drug ... [or] (2) A substance, other than a synthetic drug: (A) that a person knows or should have known was intended to be consumed; and (B) the consumption of which the person knows or should have known to be intended to cause intoxication." Alcohol, legend drugs, foods, dietary supplements, and tobacco are excluded from the definition. Circumstances which would make the substance lead a person to believe it was a synthetic drug include the overall appearance of a dosage unit of the drug, how the substances is packaged or marketed, statements made by the owner or person in control of the substance concerning its nature or use, a statement to the buyer indicating it is a synthetic drug or that it may be resold for profit, and the nature of the circumstances under which the substance is distributed.

The suit argues, inter alia, that a reasonable person cannot undertake the analysis required by the statute, that the statute is not objective and can be abused by law enforcement, and that it violates the due process requirements of the 14th Amendment and Article I, Section 12 of the Indiana Constitution because it is impossible for a person to know whether or not they

NASCSA publishes a monthly compilation of state regulatory actions related to pharmacy and controlled substances. State Regulatory Developments is located on the website [here](#).

## NASCSA Forum

Members are strongly encouraged to take advantage of the "Forum" site for members and others interested in a variety of topics related to controlled substances, prescription monitoring programs, trends, legislation and other issues. The Forum, located at <http://forum.nascsa.org> is also accessible from the main website [www.nascsa.org](http://www.nascsa.org). The Forum requires a one-time initial registration to create a user name and password in order to post or subscribe and is moderated by volunteers. NASCSA has initially limited the number of "forums" included, however if you would like to suggest a new forum subject please send your suggestion to [KathyKeough@nascsa.org](mailto:KathyKeough@nascsa.org). Detailed instructions on how to use the Forum are also included on the site.

possess a synthetic lookalike substance. The suit argues as well violations of equal protection guarantees under federal and state constitutions, and that the law is an unconstitutional regulatory taking under the 5th Amendment and Article I, Section 21 of the Indiana Constitution. [Little Arm Inc. et al. v. Prosecutors et al. No. 1:13-cv-862, S.D. Ind., filed May 28, 2013]

## CT DPH Chosen to Participate in RX Drug Abuse Initiative

Officials from the Connecticut Department of Public Health (DPH) recently announced that Connecticut has been selected by the Association of State and Territorial Health Officials (ASTHO) to participate in a national effort to address policy options and other strategies to decrease prescription drug misuse, abuse, and diversion. ASTHO, the national nonprofit organization representing public health agencies in the United States, the U.S. Territories, and the District of Columbia, supports state health officials and their leadership teams in a variety of ways. This initiative serves as a valuable opportunity for states to collaborate with other states facing similar challenges to develop intermediate and long-term change strategies to improve health outcomes and reduce the human and economic costs associated with prescription drug abuse. In addition to DPH, representing Connecticut on this initiative is the Department of Consumer Protection, Department of Mental Health and Addiction Services, the Office of the Attorney General and a community physician with expertise in this area. Connecticut's team will work with four other state teams, together with expert faculty and other state partners, to facilitate communication and support states in identifying concrete action steps and evaluation approaches related to the prescription drug overdose epidemic. Connecticut's team will meet with ASTHO officials and the other state teams at a meeting in late June in Washington D.C. More information can be found [here](#).

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We hope you enjoyed this latest edition of NASCSA News. We strongly encourage members and others to share information from

their respective agencies for consideration for our newsletter. Please email [KathyKeough@nascsa.org](mailto:KathyKeough@nascsa.org) with your articles and ideas.

Sincerely,

*Kathy Keough*  
Executive Director

Did You Know NASCSA is on Twitter?

If you have a Twitter account, please make sure to follow us @NASCSA. Our followers are growing by leaps and bounds so spread the word and stay connected!

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