

Investigating
the **ILLEGAL**
SUPPLY of
PHARMACEUTICALS



NSW Police Force

Guidelines for police

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INTRODUCTION

In recent years, the illegal trade in pharmaceutical drugs has grown in many Commands in NSW. Pharmaceuticals are illegally bought and sold in street-level drug markets or exchanged for illicit drugs or stolen goods.

Pharmaceuticals are commonly misused and therefore have value on the black market, these include opioids and benzodiazepines, sedatives and psychoactive drugs. The illegal market and patterns of substance misuse are subject to change as the types and availability of illicit and pharmaceutical drugs change.

Pharmaceuticals exchanged on the black market are often obtained through doctor shopping (also known as 'prescription shopping') or through inappropriate prescribing by some doctors. While there is no specific offence referred to as 'doctor shopping', 'false representation' to obtain a prescription or medication is an offence under either the *Drug Misuse and Trafficking Act 1985* (DMTA) or the *Poisons and Therapeutic Goods Act 1966* (PTGA), as is failing to disclose obtaining medication from another doctor.

Illegally selling pharmaceuticals is a supply offence under either the DMTA (s.25) or the PTGA (s.10(3)) depending on the type of pharmaceutical involved yet investigating the illegal supply of pharmaceuticals can be challenging.

However, as pharmaceuticals are legally regulated, avenues of action and investigation are available to police through the NSW and Commonwealth health systems.

These avenues can be utilised if there are sufficient grounds to believe that an individual is involved in activities such as drug supply, or if police have concerns about the prescribing or dispensing practices of a doctor or other medical professional or a pharmacist. This document outlines the roles of these health agencies, their contact details and the type of information and assistance that they may be able to provide.

In summary:

Medicare holds detailed information about the medication patients have received through the Pharmaceutical Benefits Scheme (PBS) and a list of the doctors they have seen. You are able to obtain information through an RFI on BluePortal.

The **Pharmaceutical Regulatory Unit (PRU)** in the NSW Ministry of Health, is responsible for administering the PTGA. Accordingly, they are responsible for ensuring that prescribers (this includes doctors, dentists, veterinary practitioners and nurse practitioners) and pharmacists are prescribing and dispensing medication in accordance with the law. If there are concerns about the professional practice of doctors or pharmacists, police can refer the matter to the PRU.

MEDICARE SERVICES AUSTRALIA

Medicare collects information about the prescriptions claimed on the Pharmaceutical Benefits Scheme (PBS) and claims for doctor's consultations. Provided police have sufficient grounds to obtain it, this information can assist in proving offences such as supply as it will show if a person has obtained quantities of medication in excess of any possible medical need.

Those who are obtaining and accumulating medication by doctor shopping in order to on-sell it on the black market are often skilled at doing so. They may have a legitimate medical complaint and are able to convincingly present to a doctor, who will be unaware that they have already obtained medication from other doctor/s. While failing to disclose having already received medication from another doctor is an offence (cl.63, PTG Regulation and s.18, DMTA), it can be difficult to prove. 'False representation' or faking or exaggerating symptoms to obtain medication is also an offence (s.12(1) and 16(3)(a) of the PTGA and s.16 and s.17 DMTA), however, this too can be difficult to prove for a range of reasons, including the fact that the person may have a legitimate medical condition.

Information held by Services Australia may assist in satisfying the proofs of supply offences. They may also be committing other offences such as prescription fraud, in which case this information may also be useful.

Medicare information will reveal the amount of PBS medication received and when, and it will show if the person visited several doctors over a short period of time or the same doctor on a very regular basis.

This information may assist in providing corroborative evidence of supply offences involving people who have obtained quantities of medication in excess of any possible medical need in order to sell it on the black market.

Medicare and Pharmaceutical Benefits Scheme (PBS) claims information is held by Services Australia and can be requested through an RFI on BluePortal.

Further information can be found at the end of this document.

PHARMACEUTICAL REGULATORY UNIT NSW MINISTRY OF HEALTH

The PRU is responsible for ensuring that prescribers (doctors, nurses, dentists and veterinary practitioners) and pharmacists are prescribing and dispensing medication in a lawful and professional manner, in accordance with the PTGA and Regulations, and have three key functions in this respect:

- ▶ providing information and support to prescribers and pharmacists about the requirements of the PTGA and Regulation
- ▶ conducting investigations and
- ▶ issuing authorities under the PTGA to prescribe certain Schedule 8 drugs.

A key role of the PRU is to investigate the alleged illegal, inappropriate or unprofessional supply, administration or prescribing of medicines and poisons. Examples of the matters the PRU investigate include allegations about:

- ▶ doctors prescribing pharmaceuticals (such as opioid analgesics or benzodiazepines) in quantities or for purposes that are not in accordance with recognised therapeutic standards
- ▶ doctors prescribing Schedule 8 drugs (opioid analgesics such as oxycontin and MS Contin) to 'drug dependent' people without an authority under the PTGA
- ▶ doctors, pharmacists or other health professionals who may themselves have a drug dependency
- ▶ pharmacists supplying drugs without a prescription and
- ▶ pharmacists supplying drugs in quantities or for purposes that are not in accordance with recognised therapeutic standards.

The PRU receive allegations, information and intelligence from a range of sources, including concerned colleagues (doctors, nurses, pharmacists etc.), members of the community and police.

Information received from police can assist the PRU in their intelligence gathering and investigative role.

If you have concerns about the quantities of a particular medication being prescribed by a doctor or other medical professional or concerns about the professional practice of a pharmacist, contact the PRU for preliminary advice:

General Queries (including calls for the Duty Pharmaceutical Officer)

Telephone: (02) 9391 9944 (select Option 1)

Fax: (02) 9424 5860

Email: MOH-
PharmaceuticalServices@health.nsw.gov.au

The duty pharmaceutical officer at the PRU will assess the information you provide using their expert knowledge and will examine it alongside any existing intelligence holdings they may have. The PRU duty pharmaceutical officers are qualified to assess issues such as whether the quantities of medication being prescribed are appropriate. When you contact the PRU, you may discover that a particular doctor or pharmacist is already under investigation.

If the information you provide triggers a PRU investigation on a scale such that it would have implications for police, or if it would be beneficial for police to be advised of its progress, the PRU will keep you updated.

Note that the PRU does not investigate the illegal activities of patients, such as doctor shopping or prescription fraud. For these types of investigations, request the information from Services Australia through RFI as previously outlined.

YOUR LOCAL HEALTH COMMUNITY BUILDING RELATIONSHIPS

If you have already contacted the PRU about a medical professional and continue to have concerns and want to pursue the matter further, you can lodge a complaint with the **Health Care Complaints Commission (HCCC)** on (02) 9219 7444 or toll free on 1800 043 159.

The HCCC are required to investigate any complaints they receive about specific medical professionals.

Complaints about veterinary practitioners can be made to the **Veterinary Practitioners Board of NSW** on 8338 1177.

Information the PRU may provide police

In limited circumstances, the PRU may also be able to provide information to police. While the PRU do not investigate the illegal activities of patients, they may obtain information relevant to police in the course of other enquires. If the PRU obtain prima facie evidence that a patient is committing an offence under the DMTA, the PRU may provide this information to the Crime Manager at the relevant PAC/PD.

If the PRU obtain information indicating that a doctor or pharmacist may be engaged in any criminal activity relating to illicit pharmaceutical supply, this information may also be forwarded to the relevant PAC/PD.

Pharmacy records

As part of their role in ensuring that pharmaceuticals are stored and dispensed in accordance with the law, the PSU inspectors are authorised to inspect pharmacies and other premises under s.43 of the PTGA.

While police are classified as inspectors under s.42, the inspection powers in this Act are fairly limited and are not for the purpose of investigating people who may be involved in illegally buying or selling pharmaceuticals, they are only *for the purpose of detecting breaches of the Act by a pharmacist or prescriber*. In the rare event that police may be involved in an inspection, the only records able to be examined and copied by police are the stocktaking records of regulated goods (under the PTGA, section 43 (2) (c) and (d)).

Raising awareness of the illegal market and improving communication with the health sector is an important strategy in responding to the black market.

If you have a problem with the illegal supply of pharmaceuticals in your Command, building relationships with local health professionals and engaging the health sector is beneficial in raising awareness and gaining support and assistance in responding to this issue.

Doctors and pharmacists deal with patients on a one-on-one basis and are far removed from the environments in which police work. Health professionals are often unaware that pharmaceuticals are being on-sold in the community and may not be aware of some of the harms it is causing, such as fatal and non-fatal overdoses, the intimidation of vulnerable members of the community and crimes such as break and enters. It may also be useful to provide general information on the modus operandi of doctor shoppers and to discuss the high levels of doctor shopping activity which some people engage in. The PRU may be able to assist in providing advice on presentation content and other issues that could be included.



About Medicare and Pharmaceutical Benefits Scheme claims information

This information sheet explains what Medicare and Pharmaceutical Benefits Scheme (PBS) claims information is held by Services Australia in the Medicare and PBS Patient History reports.

Medicare information

Medicare records include services that qualify for Medicare benefits and for which claims have been processed. They do not include clinical notes, information about services that occurred before 1 February 1984 or Medicare claims that qualify for a benefit under the DVA National Treatment Account.

Services Australia does not hold information about services that have been provided to public patients at public hospitals and generally does not keep next of kin, relationship or dependant details.

The accuracy of Medicare records depends on patients being identified to Services Australia by their correct Medicare number and practitioners being identified by their correct Medicare provider number on claims for payment.

PBS information

PBS records are only available from 1 January 1991, when Medicare became responsible for the administration of the PBS. Where PBS records are available, they include only those items that are subsidised under the PBS and for which a claim has been processed.

A PBS claims history report does not include the following information:

- items supplied under the Repatriation Pharmaceutical Benefits Scheme (RPBS)
- over the counter medicines that are obtained without a prescription
- prescriptions that do not qualify for a PBS subsidy, for example, private prescriptions (non-PBS prescriptions) and some medication supplied by public hospitals
- PBS items supplied to patients where claims have not yet been submitted by the pharmacy or not yet processed by Services Australia.

The accuracy of PBS records depends on the information provided to Services Australia by pharmacies. For example, patients need to be identified by their correct entitlement and/or Medicare numbers and prescribers by their correct prescriber numbers.

How far back is information available?

Medicare and PBS claims information is available for the last five years at the time of extraction.

