ISTOP Compliance Issues

The Academy has been encouraging the Department of Health to relax enforcement of the ISTOP law which requires prescribers of controlled substances to consult the Prescription Monitoring Program Registry before writing a prescription for a controlled substance. We have reiterated our concerns as we have become aware of problems encountered by family physicians in attempting to open Health Commerce System (HCS) accounts as the first step in complying with the new law which becomes effective 8/27/13. The volume of applications and inquiries has resulted in a significant backlog of work for DOH making it impossible for many prescribers to have HCS accounts by the 8/27/13 effective date.

The link below to the DOH website has important information regarding compliance with the duty to consult by making a good faith effort to consult the registry even though access may be limited by technical difficulties.

http://www.health.ny.gov/professionals/narcotic/prescription_monitoring/

The updated Prescription Monitoring Program Registry is operational and has been available on-line since June 12, 2013. All users must access the PMP Registry through the Department of Health’s secure Health Commerce System ("HCS"). With the upcoming effective date of the ISTOP law requiring the use of the PMP Registry, a large late surge of practitioners are now submitting requests for HCS accounts. Although the Department of Health is working diligently to process all requests, this significant influx has resulted in a delay in processing accounts.

During this transition period, practitioners who are making a good faith effort to apply but are unable to establish HCS accounts, should continue to provide treatment to their patients in the same manner as they currently do, including the prescribing of controlled substances without accessing PMP Registry. We expect this transition period to last through October.

**ISTOP Update: Effective August 27, 2013- Prescribers Who Fall Under an ISTOP Exception Must Document the Specific Exception in Patient’s Medical Chart**

The ISTOP law which took effect Tuesday August 27th requires most practitioners to consult the Prescription Monitoring Program (PMP) Registry prior to prescribing a schedule II, III or IV controlled substance and requires the practitioner to document such consultation in the patient’s medical chart. The ISTOP law includes a number of exceptions to the PMP consultation requirement. If a practitioner falls under one of these exceptions when prescribing a schedule II-IV prescription, the ISTOP regulations still require that the practitioner document in the patient’s medical chart the reason such consultation was not performed. Such documentation shall include the specific exception as outlined in the regulations.

To assist practitioners in ensuring that they are properly documenting exceptions, below is the list of exceptions in the ISTOP regulations that should be noted by the practitioner:
Ten ISTOP Exceptions to the Duty to Consult the PMP Requirement to be Noted in the Patient's Medical Record:

1. Veterinarians;
2. A Practitioner Dispensing Methadone to an addict awaiting admission to a maintenance program;
3. A Practitioner Administering a Controlled Substance;
4. A Practitioner Prescribing or Ordering a Controlled Substance for a Patient of an Institutional Dispenser (defined as a hospital, veterinary hospital, clinic, dispensary, maternity home, nursing home, mental hospital or similar facility approved and certified by NYSDOH as authorized to obtain controlled substances by distribution and to dispense and administer such substances pursuant to the order of a practitioner) for use on the premises of or an emergency transfer from the institutional dispenser;
5. A Practitioner Prescribing a Controlled Substance in the Emergency Department of a general hospital when the quantity does not exceed a Five-Day Supply;
6. A Practitioner Prescribing a Controlled Substance to a Patient under the care of Hospice;
7. A Practitioner when:
   a) It is not reasonably possible for the practitioner to access the PMP in a timely manner;
   b) No other practitioner or authorized designee is reasonably available; and
   c) The quantity of controlled substance prescribed does not exceed a five-day supply.
8. A Practitioner acting in circumstances under which consultation of the PMP would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of such patient, provided that the quantity of the controlled substance does not exceed a five-day supply;
9. A situation where the PMP is not operational or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure; or
10. A practitioner to whom the Commissioner of Health has granted a waiver from the requirement to consult the PMP. A waiver could be issued by the Commissioner based upon a showing by a practitioner that his or her ability to consult the PMP is unduly burdened by:
    a) Technological limitations that are not reasonably within the control of the practitioner; or
    b) Other exceptional circumstance demonstrated by the practitioner.