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Testimony of the Office of Behavioral Health
Maine Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In support of LD 2139, *An Act to Add Schedule V Substances to the Controlled Substances Prescription Monitoring Program*

Hearing Date: February 1, 2024

Senator Baldacci, Representative Meyer and members of the Joint Standing Committee on Health and Human Services, my name is Dr. Elisabeth Fowlie Mock, and I serve as the Policy Advisor to the Maine Prescription Monitoring Program to the Office of Behavioral Health in the Department of Health and Human Services. I am here today to testify in support of LD 2139, "*An Act to Add Schedule V Substances to the Controlled Substances Prescription Monitoring Program.*" Thank you to Representative Meyer for providing the Department the opportunity to put forward this proposal.

The Office of Behavioral Health proposed and supports this legislation as part of our administration of the state Prescription Monitoring Program. The PMP has the statutorily designated mission "to promote the public health and welfare and to detect and prevent substance misuse."

The Prescription Monitoring Program oversees a database of certain "controlled" prescription medications and only tracks outpatient prescriptions, for example the orange bottle of a controlled medication obtained from a pharmacy and taken home. The Federal DEA designates substances or medications as 'Controlled' when they have a higher risk of misuse and addiction or sedating side effects. Schedule I substances are not prescription medications thus not included. Schedule II contains opioids and stimulants. Schedules III and IV contain mostly sedatives, such as benzodiazepine nerve pills and sleeping medications. Schedule V contains several liquid medications that contain small amounts of opioids and some others.

LD 2139 will require that prescriptions for DEA Controlled Substance Schedule V ("five") be reported in the Prescription Monitoring Program (PMP) database by dispensing pharmacies. This will result in all prescription medications designated as 'controlled' on the federal level being included in the Maine PMP and would align the Maine PMP with 46 of 53 other state and territory PMPs. In addition, a separate statute requires prescribers to check the PMP before prescribing an opioid, yet this one class of opioid containing medications is currently exempt from inclusion in the PMP.

Maine currently faces three issues in being out-of-step with most other states: first, we see inconsistent prescription records for patients, with some pharmacies voluntarily reporting Schedule V prescriptions and others not; second, we see a rise in organized fraudulent prescribing, particularly after misuse of an opioid-containing Schedule V cough medication was widely promoted on social media; and third we are concerned about the potential harm and ramifications relating to the street value of these substances.

In conclusion, this minor change in statute will have a minimal administrative burden on pharmacies. It will further the Opioid Response Strategic Action Plan Priority C, to improve the safety of opioid prescribing and strengthen state laws to reduce illegal prescription drug diversion. It will have no anticipated fiscal impact.

Thank you for the opportunity to provide this testimony, and I'm happy to take any questions that you have.

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Appendix A

Excerpts from Arizona State Board of Pharmacy newsletter, October 2021, republished by the National Association of Pharmacy Boards, <https://nabp.pharmacy/wp-content/uploads/2021/10/October-2021-Arizona-Newsletter.pdf>

Summary of Promethazine with Codeine Diversion Trends

Over the past several years, Drug Enforcement Administration (DEA) offices across the country have seen a marked increase in investigations involving the diversion of promethazine with codeine [a schedule V prescription]. Commonly referred to as “Purple Drank,” “Sizzurp,” and “Lean,” this drug is extremely popular within the hip-hop culture, spawning rap lyrics, custom made jewelry, and entire clothing lines centered around promethazine with codeine. Prescription drug fraud trafficking rings employ highly coordinated and sophisticated techniques to create fraudulent promethazine with codeine prescriptions... [which] are often paired with an antibiotic or steroid to give an air of legitimacy to the fraudulent promethazine with codeine prescription. The profit potential of promethazine with codeine is exponential. The prices to fill the prescription at the pharmacy are relatively cheap, ranging from less than \$10 to \$35...A Reddit feed from February 2021 discusses pricing for different brands of promethazine with codeine, which vary from \$900 to over \$9,000 per pint bottle, depending on the brand name and the color of the syrup...Counterfeit promethazine with codeine is another emerging trend. Large volumes of single-entity promethazine are being diverted and adulterated with an illicit opioid, usually fentanyl or heroin, which is injected into the bottles through heating the plastic nub on the bottom. These bottles are then relabeled with promethazine with codeine labels and sold on the street as such.