



# Medicare/Medicaid Pharmaceutical Diversion

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# Disclaimer

I have no financial relationships to disclose.





# Learning Objectives

- Understand the mission of HHS/OIG
- Recognize that drug diversion and health care fraud includes both controlled and non-controlled medications
- Learn the common healthcare fraud/ drug diversion schemes and common methods how this is accomplished
- Describe the various drugs frequently found in drug diversion/healthcare fraud schemes





# Prescription Drug Abuse

- Described by the CDC as a epidemic.
- Prescription Drug Abuse is a Transnational issue.



# Where Does OIG Get Referrals?



INDUSTRY



HOTLINES



LAW ENFORCEMENT PARTNERS



SENIOR MEDICARE PATROL



DATA ANALYTICS





# Example HHS Programs

- Medicare (CMS)
- Medicaid (CMS)
- Center for Disease Control (CDC)
- Indian Health Services (IHS)
- National Institutes of Health (NIH)
- Substance Abuse & Mental Health Services Admin (SAMHSA)
- Agency for Healthcare Research and Quality (AHRQ)
- Food and Drug Administration (FDA)





# OIG Collaborative Effort

- Tactical Diversion Squads (with DEA)
- Strike Force Units (FBI on HEAT initiative)
- With state, local LE
- Use/encourage Prescription Drug Monitoring Programs (PDMP)
- Support education of industry, patients, providers, pharmacists - Can't prosecute our way out of this problem





# HHS Office of Inspector General: Background

- **Mission:** Protect the integrity HHS programs as well as the health and welfare of program beneficiaries
- Fight fraud, waste, abuse in Medicare & Medicaid, plus 300 other HHS programs
- Largest Inspector General's office in Federal Government
- Office of Investigations performs criminal, civil and administrative enforcement





# HHS/OIG: Components

- **Office of Evaluations & Inspections:**
  - Conducts and publishes studies on various vulnerabilities in Medicare/Medicaid. Reports on OIG website with recommendations. Several drug related reports.
- **Office of Audit:**
  - Conducts independent audits of HHS programs/grantees. Also create reports and make recommendations.
- **Office of Council to IG:**
  - Provides legal counsel to IG and other components. Performs civil monetary penalties, provider self disclosures, collaborates with DOJ on national cases.
- **Office of Management and Policy:**
  - Provides mission and administrative support to the OIG
- **Office of Investigations:**
  - Law enforcement arm of OIG, which uses both traditional law enforcement techniques along with contemporary data analytic tools to identify trends and targets for investigations and prosecution





# Medicare and Part D Facts

- 55 million Beneficiaries enrolled in Medicare
- 46 million are aged qualifiers
- 9 million are disability qualifiers
- 40 million Beneficiaries enrolled in Part D



# Increasing Trend in Medicare Pharmaceutical Payments

## Medicare Part D Expenditures

- **2012 - \$66.9 Billion**
- **2022 - \$165 Billion**
  - Projection by Centers for Medicare and Medicaid Services,  
Office of the Actuary



# OIG Statistics

OIG Action	FY08	FY09	FY10	FY11	FY12	Total
Criminal Actions	575	671	647	723	778	<b>3,394</b>
Civil Actions	342	394	378	382	367	<b>1,863</b>
Exclusions	3,129	2,556	3,340	2,662	3,131	<b>14,818</b>
HHS Investigative Receivables	\$2.3 Billion	\$3.0 Billion	\$3.2 Billion	\$3.6 Billion	4.3 Billion	<b>\$16.6 Billion</b>
Non-HHS Investigative Receivables	\$846.3 Million	\$1.0 Billion	\$576.9 Million	\$952.8 Million	1.7 Billion	<b>\$5.0 Billion</b>
Total Investigative Receivables	\$3.2 Billion	\$4.0 Billion	\$3.8 Billion	\$4.6 Billion	6.0 Billion	<b>\$21.7 Billion</b>





# Different Drug Jurisdictions

- **DEA:** Controlled substance laws and regulations of the United States
- **HHS/OIG:** Pharmaceuticals billed to federal healthcare programs
  - Those paid by Medicare, Medicaid
  - Includes Controlled Substances paid by federal programs
  - But also includes Non-Controlled Substances





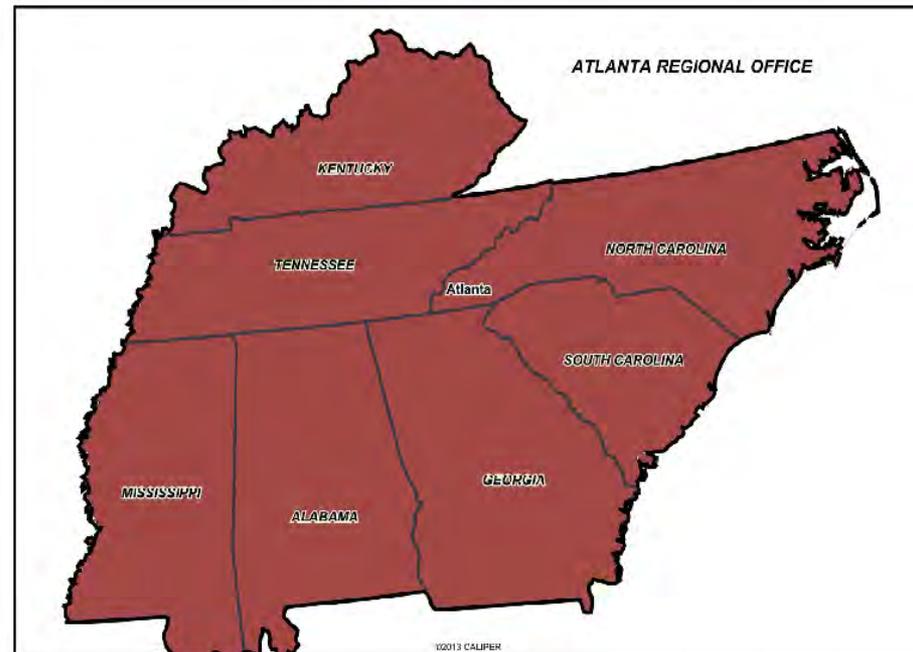
# Why Divert Non-Controlled?

- **Controlled Drugs:**
  - Diverted for recreational use
  - \$57B in societal costs
- **Non-Controlled:**
  1. High reimbursement—financial crime. Not dispensed, just billed. It's not “the government's money” – it's YOUR money.
  2. Some diverted to other countries
  3. Others mixed into street cocktails with controlled substances; are “POTENTIATORS”

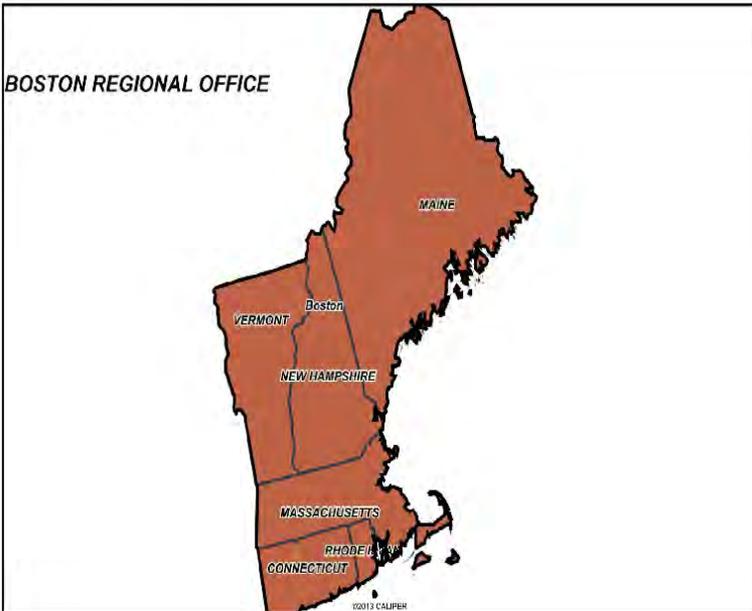


# Atlanta Regional Office

Part D – concentration in KY, TN, and GA, working with DEA tactical diversion squads. Pill Mill/Pain Management conduct.



# Boston Regional Office



Part D - Shift in prescription drug fraud from beneficiary fraud (“doctor shopping”) to overprescribing physicians.

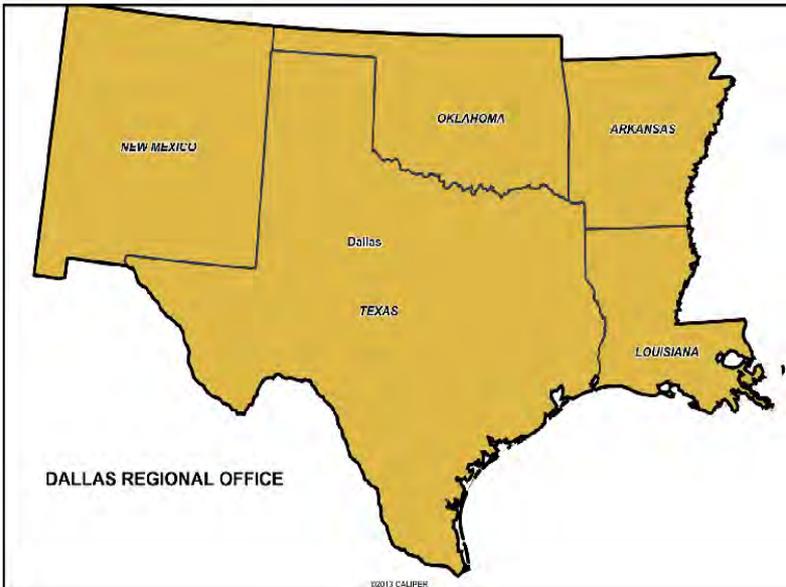


# Chicago Regional Office

- Part D – MI seems to be an “exporter” state in multi-state diversion schemes.



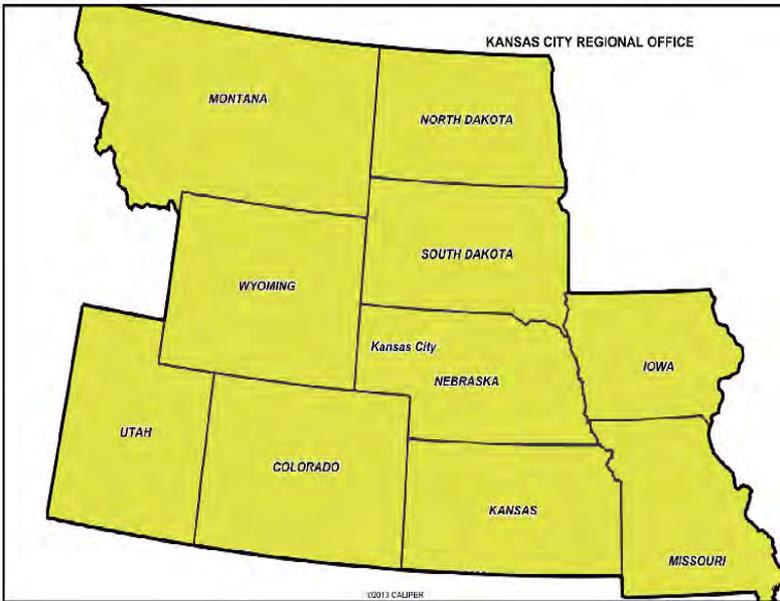
# Dallas Regional Office



- Part D – overprescribing conduct, pill mills/pharmacy fraud schemes



# Kansas City Regional Office



- Part D – physicians dispensing imported, non-FDA approved drugs.



# Los Angeles Regional Office



- Part D – physicians and recruiters previously involved in HHA and DME are shifting to prescription drug schemes, pain medications and anti-psychotics.



# Miami Regional Office



- Part D- widespread pill mill activity, rogue pharmacies etc. Emerging trend in pharmacy compounding schemes.



# New York Regional Office



- Part D – refills never dispensed, prescription shorting, generic for brand, diversion/pill-mills.



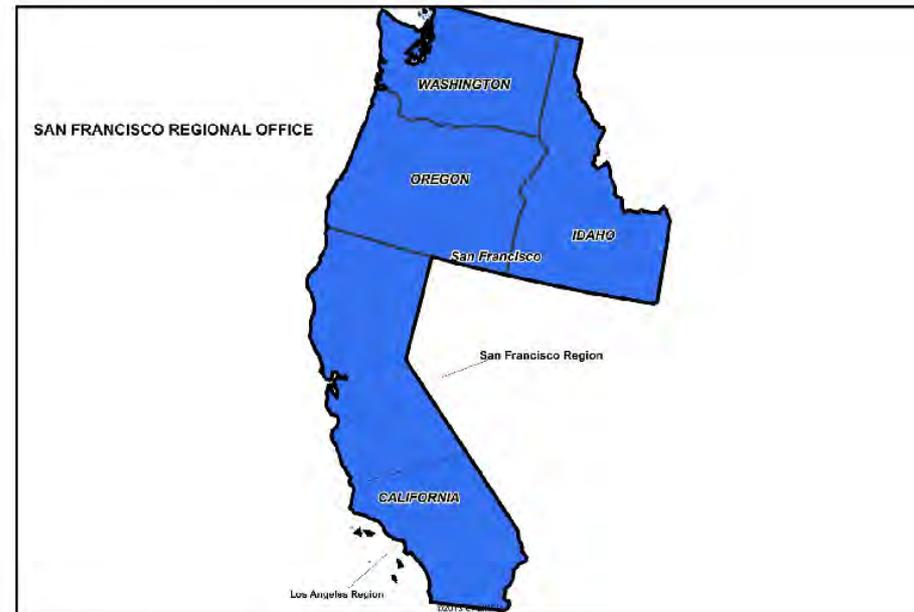
# Philadelphia Regional Office

Part D –pill-mills, working with DEA tactical diversion squads, non-controlled substances.



# San Francisco Regional Office

- Part D –working with DEA tactical diversion squads, Medicaid benefits are often the nexus. Physicians, beneficiaries, and pharmacy employees among subjects. Prescription drug events being tracked to proactively identify potential beneficiary subjects.





# Basis for Many Pharmaceutical Frauds Involve **KICKBACKS**

**Antikickback Statute - 42 U.S.C. Section 1320a-7b(b) provides:**

- (1) Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe or rebate) directly or indirectly, overtly or covertly, in cash or in kind –
  - (A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or
  - (B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.





# Interpretation

Statute is violated if person:

1. Knows the law prohibits offering or paying remuneration to generate business
2. Engages in prohibited conduct with specific intent to disobey the law





# Exclusion Authorities

- **Social Security Act (Sections 1128 and 1156)**
- **Approximately 4000 actions in 2014**
- **Duration from 3 years to Permanent**
- **47% Based on License Revocation/Suspension/Surrender**
- **48% Based on Convictions**
  - **Health Care Fraud or other Program Related Offense,**
  - **Patient Abuse/Neglect,**
  - **Controlled Substance**



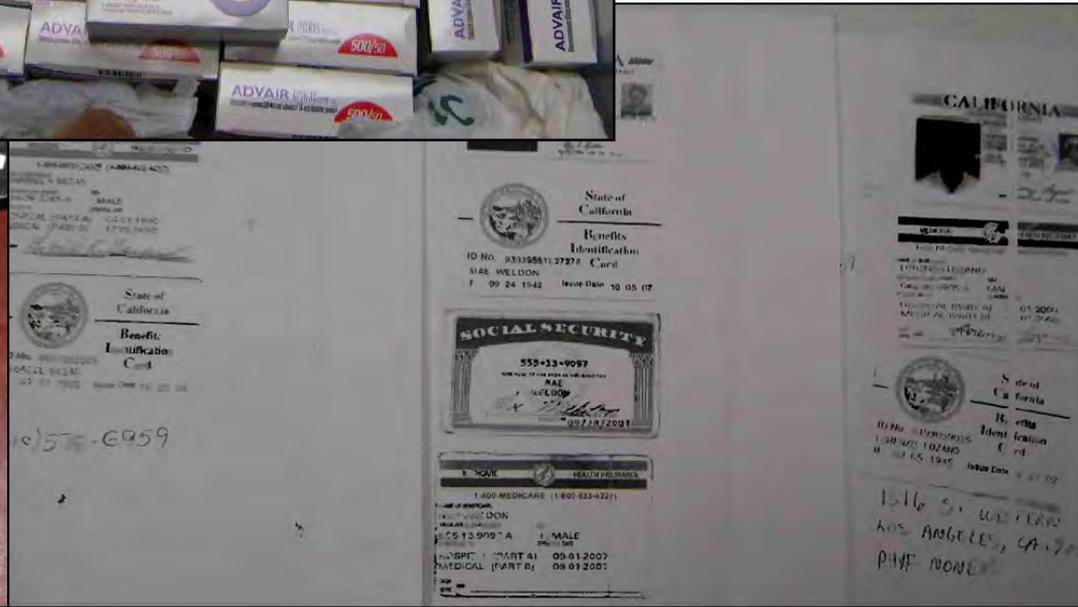


# Re-shelving of “dispensed” Drug

- **Over 200 pills jammed into a 90 count bottle**
- (mixes lot numbers and expiration dates!)



# Medical Identity Theft





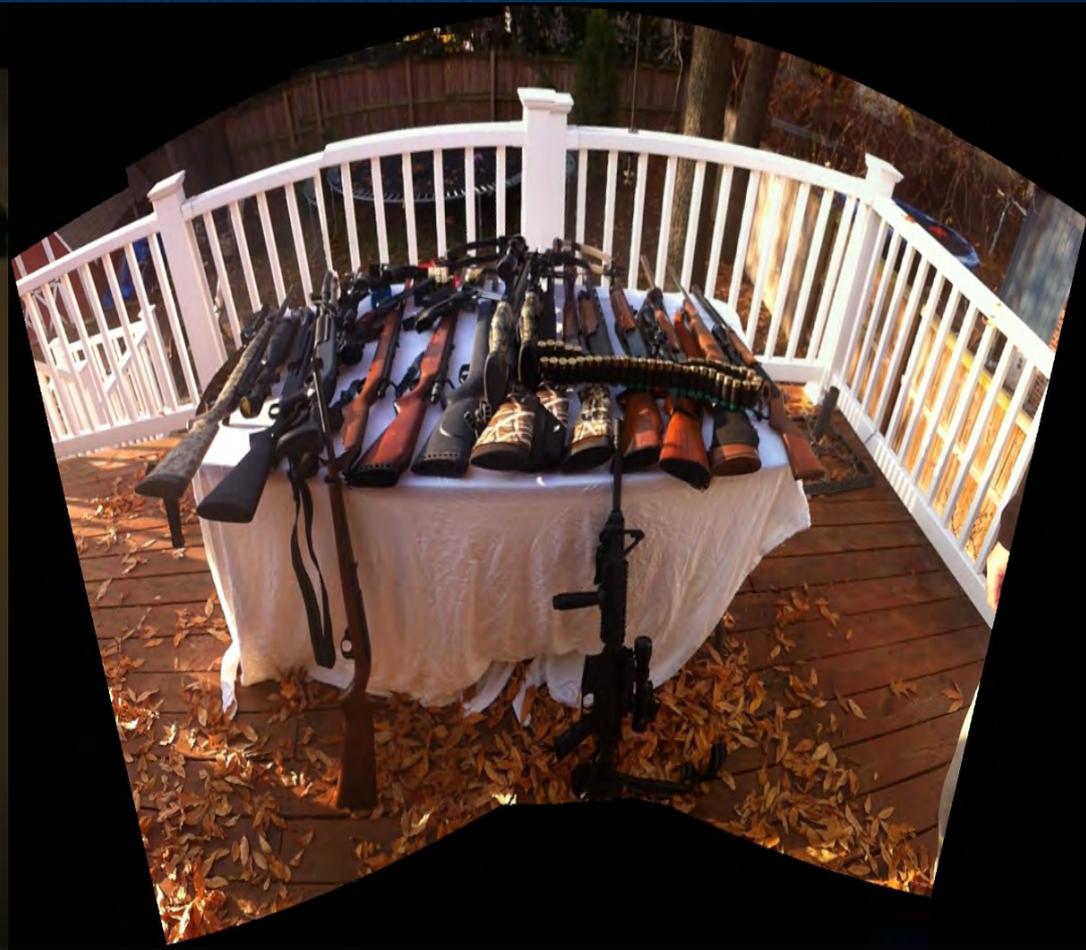
# HOW MUCH MONEY ?



# Inside Pharmacy



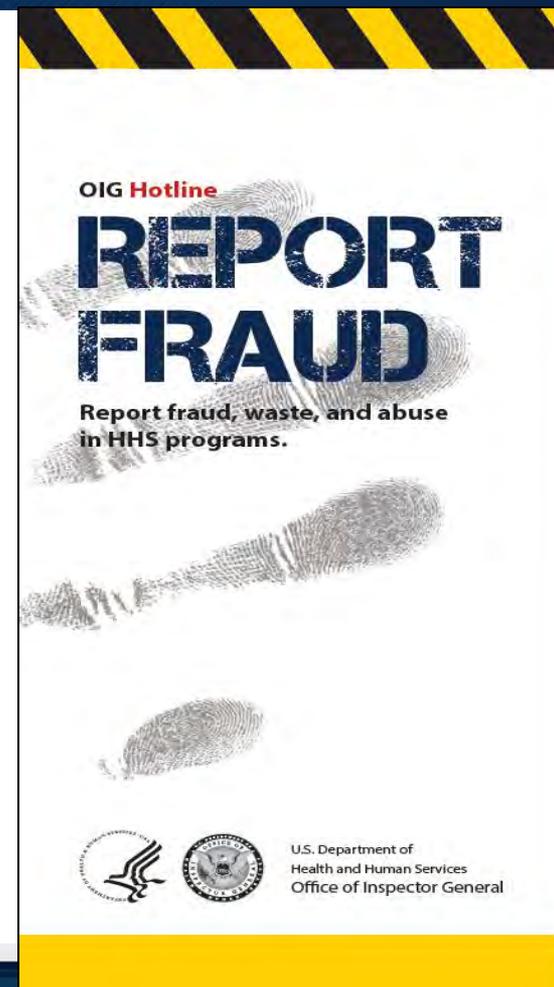
# Pharmaceutical Fraud Now Mimics Street Drug Activity





# What To Do if you Suspect Fraud or Diversion Activity?

- Use available databases to scrutinize scripts; including your state PDMP database
- If receive a clearly fraudulent script, forged script, ID theft; engage law enforcement immediately
- If you suspect a Medicare provider or beneficiary is diverting, contact
  - 800-HHS-TIPS or at
  - [oig.hhs.gov/report-fraud](http://oig.hhs.gov/report-fraud)



# OIG

## MOST WANTED FUGITIVES



**Armando Zamora**  
DOB: 03-02-1960  
Height: 5'8"  
Weight: Unknown

WANTED



**Abayomi Onajobi**  
DOB: 10-21-1969  
Height: 5'9"  
Weight: 195 lbs.

WANTED



**Firas Alky**  
DOB: 07-01-1972  
Height: 5'9"  
Weight: 228 lbs.

WANTED



**Errol Elrington**  
DOB: 07-01-1959  
Height: 5'10"  
Weight: 175 lbs.

WANTED



**Daniel Guerra**  
DOB: 06-13-1964  
Height: Unknown  
Weight: Unknown

WANTED



**Aiza Rodriguez**  
DOB: 03-21-1975  
Height: Unknown  
Weight: Unknown

WANTED



**Ilya Slepak**  
DOB: 12-01-1962  
Height: 5'11"  
Weight: 220 lbs

WANTED



**Jorge Portillo**  
DOB: 03-16-1976  
Height: 5'7"  
Weight: Unknown

WANTED



**Miguel Hernandez**  
DOB: 08-05-1956  
Height: 6'0"  
Weight: 205 lbs

WANTED



**Maria Moreira**  
DOB: 02-09-1967  
Height: 5'1"  
Weight: 130 lbs

WANTED



Gary Cantrell, Deputy Inspector  
General for Investigations



**REPORT A  
FUGITIVE**



## V. CONCLUSION



QUESTIONS?



Contact information

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