Pharmaceutical Diversion in Medicare

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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 drug cocktails frequently found in drug diversion/healthcare fraud schemes
Pre-Test Questions to Consider

• Does the U.S. Department of Health and Human Services, Office of Inspector General, have oversight for controlled drugs, non-controlled drugs, or both?

• A pharmacist-owner who gives a local physician two tickets to next months playoff game in exchange for sending patients to get scripts filled is an example of what?

• Diversion of controlled drugs exhibits a human/social toll, while diversion of non-controlled drugs takes a financial toll. (True/False)
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
## OIG Statistics

<table>
<thead>
<tr>
<th>OIG Action</th>
<th>FY08</th>
<th>FY09</th>
<th>FY10</th>
<th>FY11</th>
<th>FY12</th>
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<tr>
<td>Criminal Actions</td>
<td>575</td>
<td>671</td>
<td>647</td>
<td>723</td>
<td>778</td>
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<td>Civil Actions</td>
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<td>394</td>
<td>378</td>
<td>382</td>
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<td>Non-HHS Investigative Receivables</td>
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<td>Total Investigative Receivables</td>
<td>$3.2 Billion</td>
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<td>$4.6 Billion</td>
<td>6.0 Billion</td>
<td>$21.7 Billion</td>
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</table>
National Crisis
Exclusion Authorities

- Social Security Act, Sections 1128 and 1156
- Approximately 3000 actions per year
- 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
Recent OIG Drug Reports

• Inappropriate Medicare Part D Payments for Schedule II Drugs Billed as Refills
  – $25M

• Prescribers with Questionable Patterns in Medicare Part D
  – 736 general care physicians

• Retail Pharmacies with Questionable Part D Billing
  – Over 2600 pharmacies identified

• Medicare Inappropriately Paid for Drugs Ordered by Individuals Without Prescribing Authority
  – Massage Therapists, Athletic Trainers, Home Repair Contractors, etc.
Collaborative Effort

- Work with DEA and TDS Task Force Units
- Work with FBI on HEAT initiative (Strike Force operations in select cities)
- Work with state, local law enforcement
- Use/encourage Prescription Drug Monitoring Programs (PDMP)
- Support education of industry, patients, providers, pharmacists - can’t prosecute our way out of this problem
Where Does OIG Get Referrals?

INDUSTRY

HOTLINES

LAW ENFORCEMENT PARTNERS

DATA ANALYTICS

SENIOR MEDICARE PATROL
89% of U.S. hospitals found double-billing for inpatient care.

Hey! Something's wrong here! We only billed this sucker once!

The whistle-blower.
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
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
The doctor himself may not be free, but he can be had pretty cheaply.
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.
Common Schemes

- Ghost Prescriptions
- Duplicate Prescriptions
- Ghost Refills
- Padded Prescriptions
- Compounding Schemes
- Buyback Schemes
- Kickback Schemes

Other Issues:
- stolen identities
- prescription shorting
- coupons
- narcotics without prescriptions (backdoor sales)
Gee Doc, with soaring malpractice premiums, how can you afford to keep your clinic open?

I'm exploring alternate revenue sources.
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<th>S.N.O.</th>
<th>PRODUCT NAME</th>
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RX No. 4013379

30.50 HD

DATE- 03/24/06
TRANS- 0057567

MONK, ADRIAN
1256 DETECTIVE LN
SAN FRANCISCO, FL 33612

NDC 00024-5521-31 AMBIEN CR 12.5 MG TABLET

SIG TAKE (1) TABLET DAILY.

CLASS 4C
DAYS SUPPLY 7

SUBSTITUTION PERMITTED
YES

DR. KANTZLER, M
5320 DUHME RD
MADEIRA BEACH, FL 33708

DEA NBR. BK0668410
WEL NBR. OS0005165
TATE LICENSE

PRICE 30.50 00 REFILLS SANFI
0024-5521-31 AMBIEN CR 12.5 MG TABLET
7 TAB
TAKE (1) TABLET DAILY.

MONK, ADRIAN 4013379
1256 DETECTIVE LN
SAN FRANCISCO, FL 33612
813-269-2525
AMBIEN CR 12.5 MG TABLET
00024-5521-31
TAKE (1) TABLET DAILY.

PRICE 30.50 00 REFILLS SANFI
KANTZLER, M
BK0668410
OS0005165
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**Marinol**

*Caution:* Read the following before taking:

- **Indications:** Use this medicine in adults to treat pain that is moderate to severe that continues for a long time or occurs after a while.
- **Contraindications:** Do not take if you are allergic to this medicine. Do not take if you have a known allergy to any bitter, such as naturally occurring bitters, or if you are allergic to a bitter by any other name.
- **Precautions:** Use with care if you have a history of liver disease or have been treated with a large amount of liver medication (such as a liver transplant).
- **Drug Interactions:** Do not take this medicine with other medicines that may cause drowsiness or affect your ability to drive or operate machinery.
- **Overdose:** Overdose can cause death. If you think you've taken too much, call your doctor or go to the nearest hospital.
- **Missed Dose:** Take as soon as you remember it. If it's almost time for your next dose, skip the missed dose and take your regular dose. Do not take extra doses.

**Storage:** Store at room temperature. Keep all medicines away from children.
Disp Pharmacist

Telephoned

The Rx Shop
5322 Duhrme Road
Madeira Beach, FL 33708
Phone: (727) 395-3360
Fax: (727) 395-3331

Caution: Federal law prohibits transfer of this drug to anyone other than patient for whom prescribed.

Rx No. 4012862

03/13/06

Singenr, Jerry

Dr. Kantzler, M

33201 Travelers Inn Ln
St Pete, FL 454-1119

Take (1) Tablet Daily.

NDC

Ambien CR 12.5 Mg Tablet

7 Tab

Sig

No Refills

Discard After: 03/13/07

Sanfi

New Store # 727-398-5020

Substitutes

Dispense As Written

Days Supply

Dr.

Dea Nbr.

Wet Nbr.

State License

Springer, Jerry 4012856

33201 Travelers Inn Ln
St Pete, FL 33782
727-454-1119
Ambien CR 12.5 Mg Tablet
00024-5521-31
Take (1) Tablet Daily.

Price 25.95 00 Refills Sanfi

Kantzler, M

Bk0668410

080005165

9/4/2013

Limited Official Use Only
DHHS/OIG
Why Divert Non-Controlled?

- **Controlled Drugs:**
  - Diverted for recreational use

- **Non-Controlled:**
  2. Some diverted to other countries
  3. Others mixed into street cocktails with controlled substances
OIG Popular Diverted Drugs

Examples

- **Controlled:** Oxycodone and hydrocodone products, Opana, Dilaudid, Suboxone, Soma
- **Non-Controlled:**
  - Antipsychotics: Abilify, Zyprexa, Seroquel
  - Cholesterol/Diabetic: Zetia, Actos
  - Respiratory: Spiriva, Advair
  - Statins: Lipitor, Crestor
  - HIV: All anti-retrovirals, protease inhibitors
  - Topical: Solaraze, Lidoderm
Red Flag Cocktails to Watch For

- Vicodin + Xanax + Soma = “Trinity”
- Soma + Codeine = “Soma Coma”
- Retronavir (HIV) + Oxycodone (new)
- Sporanox + Oxycodone
- Seroquel + Zyprexa + Ativan + Cocaine
- Meth/Ecstasy/Viagra (Rectally)=“Royal Flush”
Drug Recycling Scheme

“Capper” takes drug from beneficiary

1) Drug sold on street
2) Drug sent overseas

Kickback payment

3) Drug sent back to pharmacy (billed, not dispensed)

Pharmacy

Pill Mill or Fraudulent Provider

Co-Conspirator Beneficiary

Rx Filled

Rx
Re-shelving of “dispensed” Drug

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

• Detroit pharmacist owned 26 pharmacies
• Provided kickbacks to induce physicians to write prescriptions and present them to his pharmacies
• Pharmacist/owner arrested and sentenced to 17 years
• 26 Defendants Originally Charged
  – 20 Convicted or Pled Guilty, including
    • 11 of 12 Pharmacists
    • 2 of 4 Doctors
• 13 Additional Defendants Charged in March
  – Including 5 doctors, 4 Pharmacists, and a Home Health Agency owner
IN TOUGH TIMES, FLORIDA'S TOURISM INDUSTRY GETS CREATIVE...

HOW ABOUT THAT... COMPLIMENTARY PAIN PILLS ON THE PILLOW!
What to Do With Your Unwanted Fraudulent Pharmacy
Other Pharmaceutical Fraud to Watch For

1. Be wary purchasing from secondary wholesalers with unreal prices (often counterfeit, expired-repackaged, knock-offs)
2. Never give patients, providers, etc. any kind of remuneration in exchange for sending patients to your pharmacy
3. If you bill Medicare for brand, don’t dispense generic
4. Don’t allow corporate to pressure you into filling illicit/questionable scripts to meet “quotas”
5. Watch use of compounding billing code when no compounding actually occurred.
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
Post-Test Discussion

• Does the U.S. Department of Health and Human Services, Office of Inspector General, have oversight for controlled drugs, non-controlled drugs, or both?

• A pharmacist-owner who gives a local physician two tickets to next months playoff game in exchange for sending patients to get scripts filled is an example of what?

• Diversion of controlled drugs exhibits a human/social toll, while diversion of non-controlled drugs takes a financial toll. (True/False)
The treatment you need is extremely expensive & your policy doesn’t cover it. Accordingly, I’m going to prescribe an intensive program of insurance fraud.
Thank You