



Pharmaceutical Diversion in Medicare

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Washington, DC 20201





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

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



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



SENIOR MEDICARE
PATROL



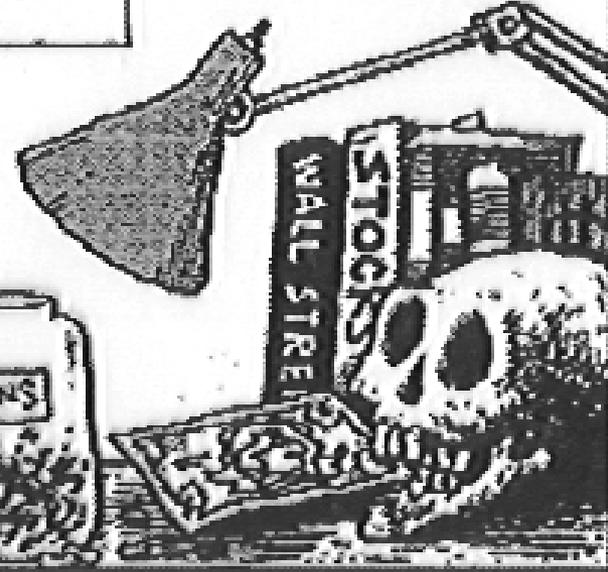
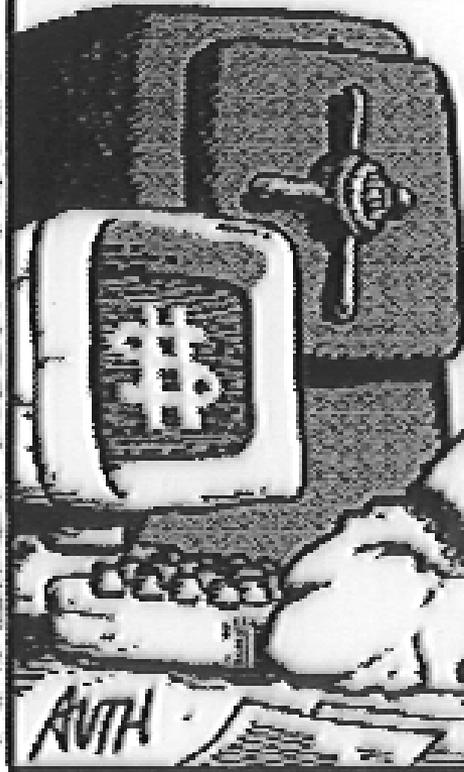
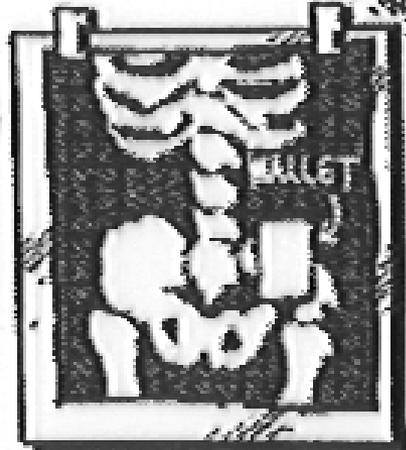
DATA ANALYTICS



89% OF U.S. HOSPITALS FOUND DOUBLE-BILLING FOR INPATIENT CARE

HEY! SOMETHING'S WRONG
HERE! WE ONLY BILLED
THIS SUCKER ONCE!

THE
FAST
DUE BILL P
AY NOW OR ELSE!



THE WHISTLE BLOWER

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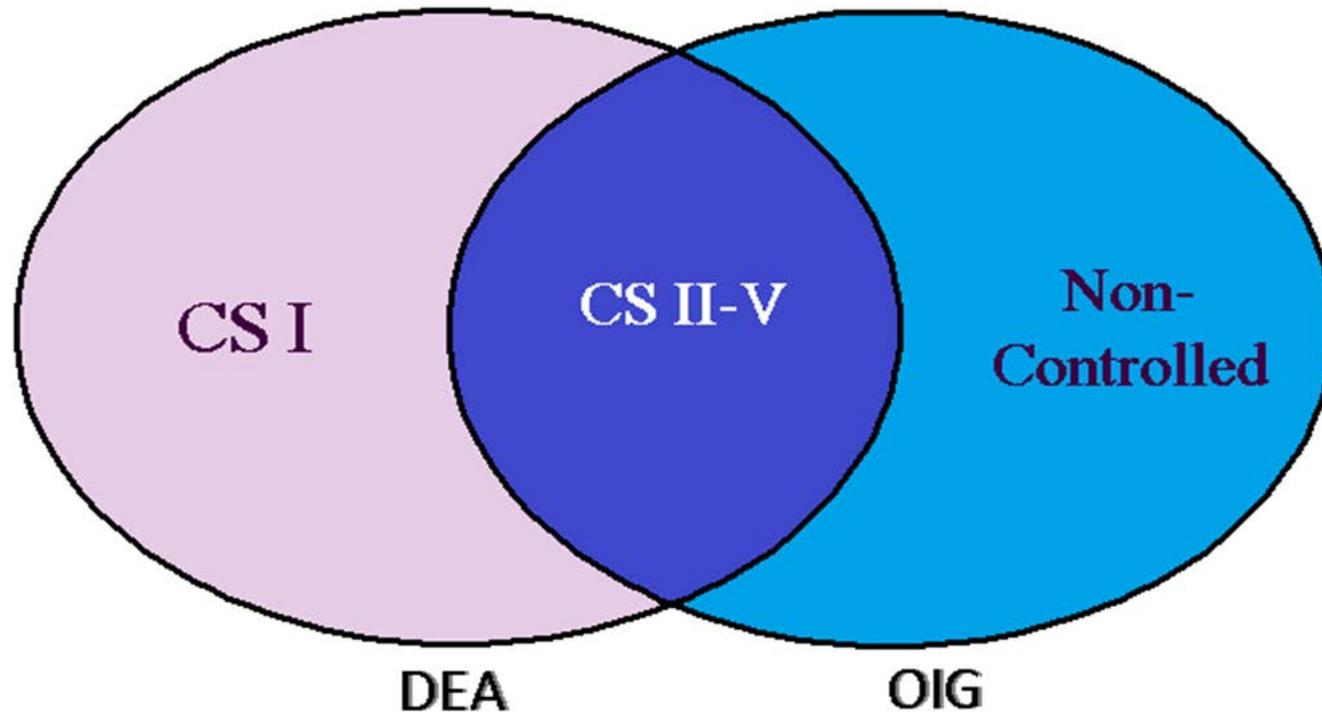


Different Drug Jurisdictions

- **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



DEA & HHS/OIG Authority



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.



AVTH

1-14-06 THE PHARMACEUTICAL INDUSTRY: UNUSUAL PRACTICES





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

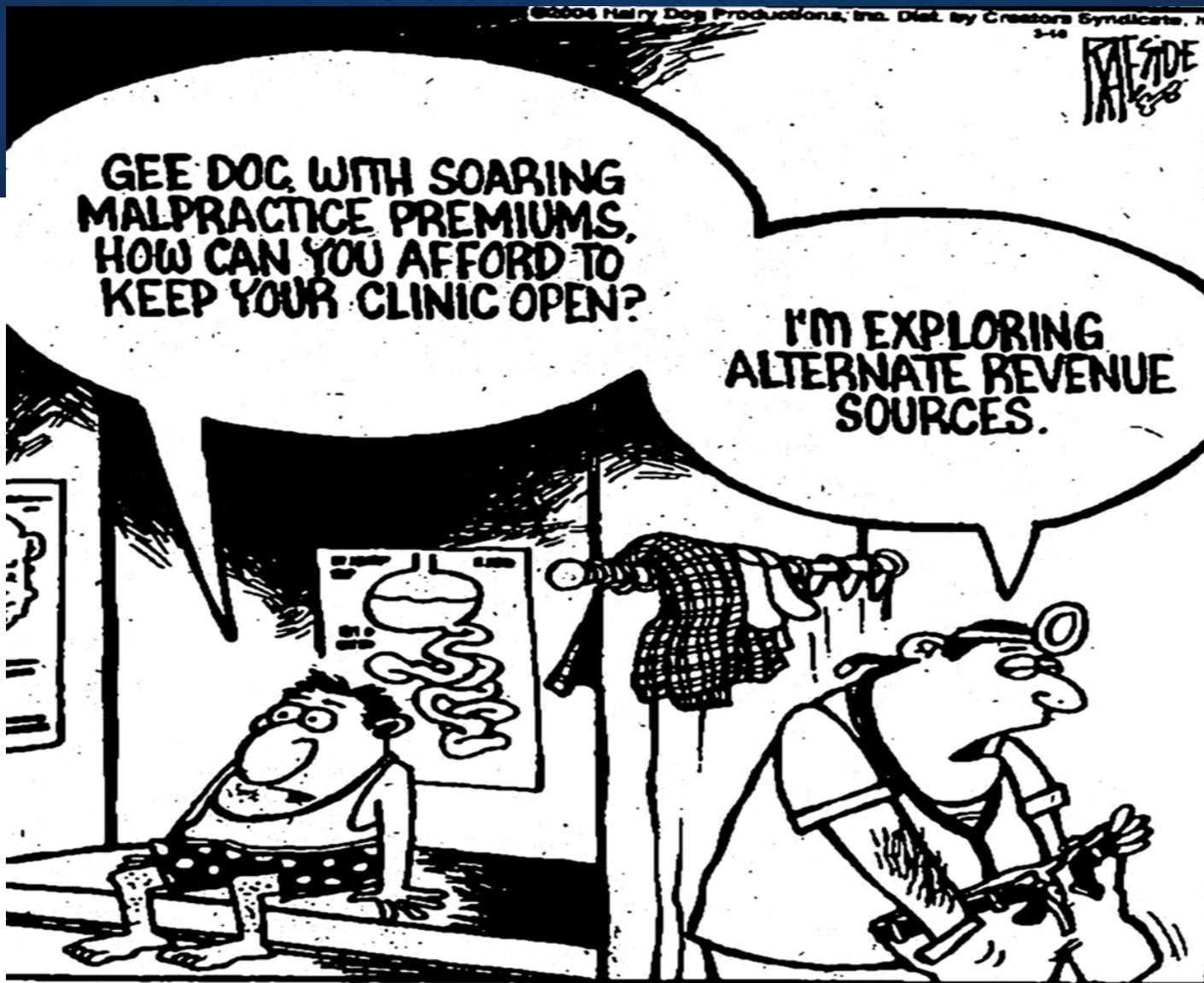
- Ghost Prescriptions
- Duplicate Prescriptions
- Ghost Refills
- Padded Prescriptions
- Compounding Schemes
- Buyback Schemes
- Kickback Schemes

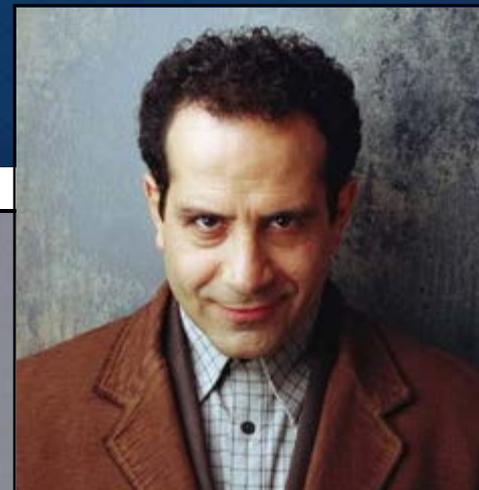
Other Issues:

- stolen identities
- prescription shorting
- coupons
- narcotics without prescriptions (backdoor sales)









DISP PHARMACIST
AMIN, SEAN

TELEPHONED

MONK, ADRIAN
1256 DETECTEVE LN
SAN FRANCISCO, FL 33612

Rx No. 4013379

30.50 HD

DATE- 03/24/06
TRANS- 0057567

H1600007

NDC 00024-5521-31 AMBIEN CR 12.5 MG TABLET

SIG TAKE (1) TABLET DAILY.

QTY- 7
UNIT- TAB
DISP- 7
REFILLS 00

PRICE 30.50 00 REFILLS SANFI
KANTZLER, M BK0668410
OS0005165

CLASS 4C DAYS SUPPLY 7

SUBSTITUTION PERMITTED
DISPENSE AS WRITTEN YES

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

DEA NBR. BK0668410
WEL NBR.
STATE LICENSE OS0005165

MONK, ADRIAN 4013379
1256 DETECTEVE LN 03/24/06
SAN FRANCISCO, FL 33612
813-269-2525
AMBIEN CR 12.5 MG TABLET 7 TAB
00024-5521-31
TAKE (1) TABLET DAILY.



DISP PHARMACIST
AMIN, SEAN
TELEPHONED

VANDALEA, ART
12345 SIENFIELD AVE
NBC, FL 34449
H1203004

VANDALEA, ART
H1203004
12345 SIENFIELD AVE
NBC, FL 34449

NDC 00051-0022-11 MARINOL 5 MG CAPSULE
UNIT- 15
DISP- CAP 15
REFILLS 00

SIG USE AS DIRECTED.

SUBSTITUTION PERMITTED CLASS 3C DAYS SUPPLY 15
DISPENSE AS WRITTEN YES

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

DEA NBR. BK0668410
WEL NBR.
STATE LICENSE OS0005165

VANDALEA, ART 4014805
12345 SIENFIELD AVE 04/27/06
NBC, FL 34449
727-000-0000
MARINOL 5 MG CAPSULE 15 CAP
00051-0022-11
USE AS DIRECTED.

PRICE 192.54 00 REFILLS UNMED
KANTZLER, M BK0668410
OS0005165

Marinol[®]
(dronabinol) Capsules
21 mg 5 mg 10 mg
Good for up to
15 CAPSULES (2.5 mg)
or 15 CAPSULES (5 mg)
Check one of the following boxes: Dosage: 2.5 mg 5 mg

Redeem for product only when affixed to a valid, signed prescription for MARINOL.[®] No substitutions permitted. Submit claim to McKesson Specialty Arizona Inc. using form S10500. For pharmacy processing questions, please call the Help Desk at 1-800-750-9655.
Group #: H1203004 in # TA4962775
Expiration Date: 6/30/2007. Void where prohibited by law. Neither product dispensed hereunder nor this voucher shall be sold, traded or submitted to any third-party payer, private or public (e.g. Medicaid) for reimbursement. Not valid with respect to prescriptions for which reimbursement may be available under any state or federal healthcare program (including Medicaid, Medicare, CHAMPUS). Not valid if reproduced or submitted to other payer. Voucher may not be sold. Prescriber DEA required on prescription. Solvay Pharmaceuticals reserves the right to amend or revoke offer without notice. Please see P1 for complete prescribing information.
Limit One Voucher per patient.
Printed in the U.S.A. 2-06
Solvay Pharmaceuticals





DISP PHARMACIST
 TELEPHONED
 Rx No.
 The Rx Shop
 5322 DUHME ROAD MADEIRA BEACH, FL 33708
 PHONE: (727) 395-9360 FAX: (727) 395-9381
 CAUTION: Federal law prohibits transfer of this drug to any person other than patient for whom prescribed.
 4012862 SA 03/13/06
 SPRINGER, JERRY DR. KANTZLER, M
 33201 TRAVELERS INN LN ST PETE, FL 454-1119
 TAKE (1) TABLET DAILY.
 NDC QTY-
 AMBIEN CR 12.5 MG TABLET 7TAB UNIT-
 SIG NO REFILLS DISP-
 DISCARD AFTER: 03/13/07 SANFI
 NEW STORE # 727-398-5020
 SUBSTITUTED DAYS SUPPLY
 DISPENSE AS WRITTEN
 DR.
 DEA NBR.
 WEL NBR.
 STATE LICENSE

DATE-
 ANS-
 SPRINGER, JERRY 4012856
 33201 TRAVELERS INN LN 03/13/06
 ST PETE, FL 33782
 727-454-1119
 AMBIEN CR 12.5 MG TABLET 7 TAB
 00024-5521-31
 TAKE (1) TABLET DAILY.
 PRICE 25.95 00 REFILLS SANFI
 KANTZLER, M BK0668410
 OS0005165





Why Divert Non-Controlled?

- **Controlled Drugs:**
 - Diverted for recreational use
- **Non-Controlled:**
 1. High reimbursement. Not dispensed, just billed. Not addiction/recreation, pure profit motivation. Not “the Government’s money” it’s YOUR money.
 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



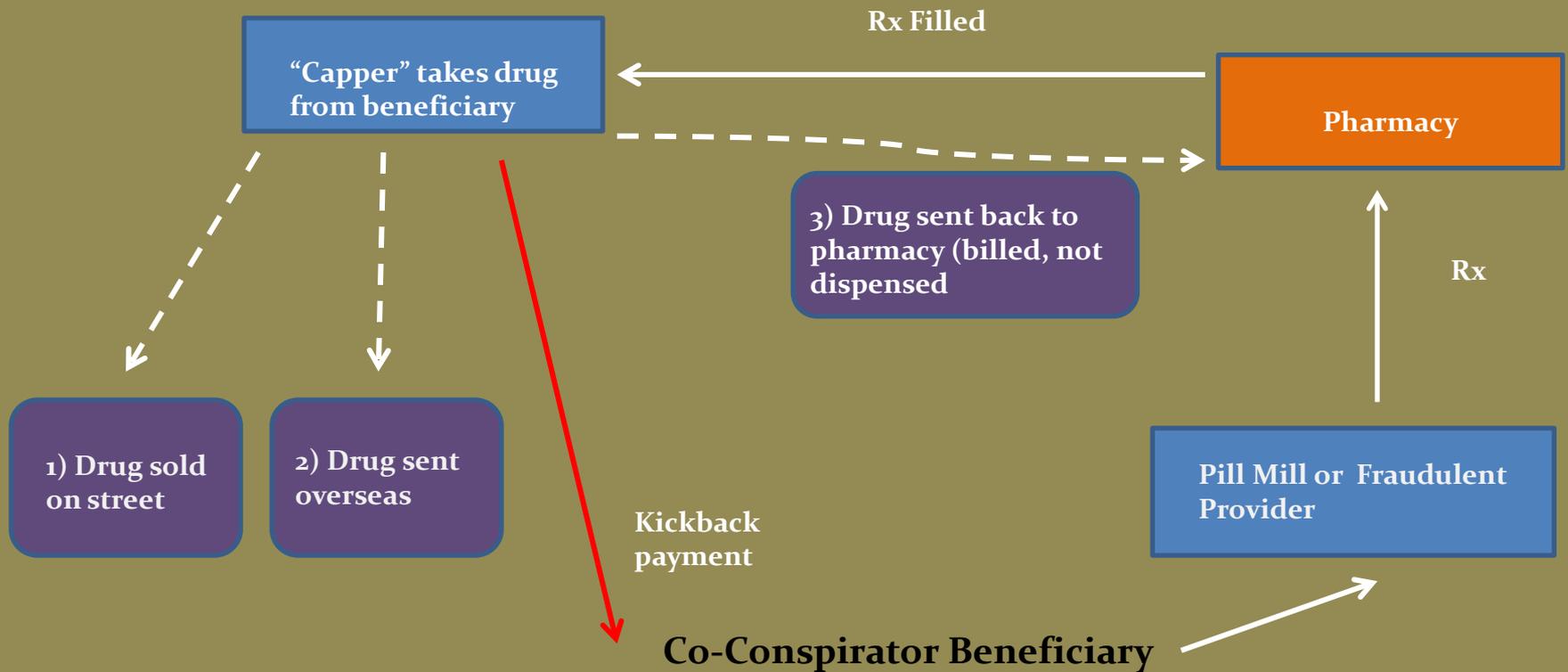


Red Flag Cocktails to Watch For

- 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





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...





Other Pharmaceutical Fraud to Watch For

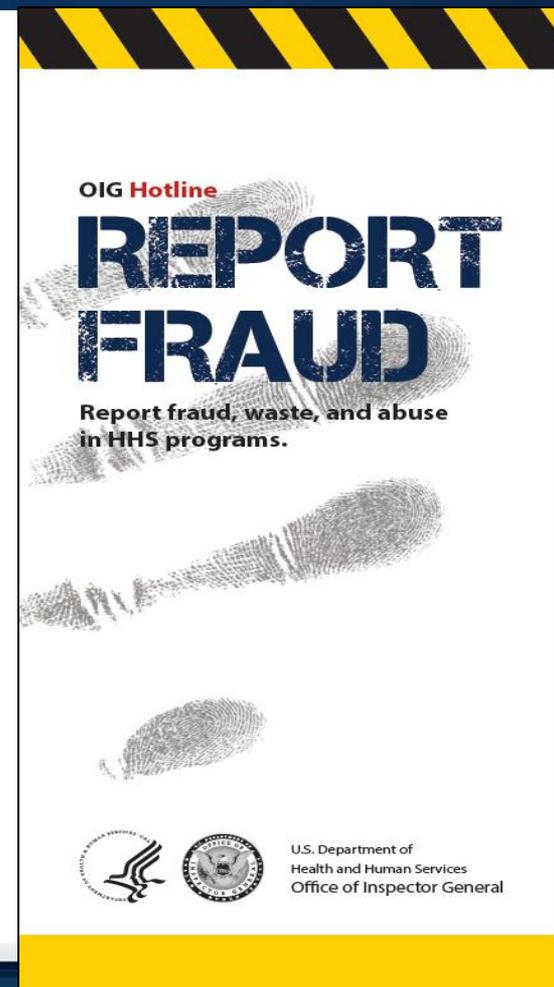
1. Be wary purchasing from secondary wholesalers with unreal prices (often counterfeit, expired-repackaged, knock-offs)
2. Never give patients, providers, etc. any kind of remuneration in exchange for sending patients to your pharmacy
3. If you bill Medicare for brand, don't dispense generic
4. Don't 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

