



# Pharmacy Diversion Awareness Conference

## 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 drugs frequently found in drug diversion/healthcare fraud schemes





# Pre-Test Questions to Consider

- Does HHS/OIG have oversight for controlled drugs, non-controlled drugs, or both?
- Pharmacist-owner who gives a local physician two tickets to next months playoff game in exchange for sending patients to your pharmacy.
- Diversion can occur of both controlled and non-controlled drugs.





# 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 over 100 HHS programs
- Largest Inspector General's office in Federal Government
- Office of Investigations performs criminal, civil and administrative enforcement





# 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)





# 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, provide advisory opinions to industry.
- **Office of Management and Policy:**
  - Provides mission and administrative support to the OIG
- **Office of Investigations:**
  - Law enforcement arm of OIG. Traditional law enforcement techniques with contemporary data analytic tools to identify trends and targets for investigations and prosecution







# 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.







# 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



# OIG Statistics

## Office of Inspector General Statistics

OIG Action	FY10	FY11	FY12	FY13	FY14	Total
Criminal Actions	647	723	778	960	971	<b>4,079</b>
Civil Actions	378	382	367	472	533	<b>2,132</b>
Exclusions	3,340	2,662	3,131	3,214	4,017	<b>16,364</b>
HHS Investigative Receivables	\$3.2 Billion	\$3.6 Billion	\$4.3 Billion	\$4.0 Billion	2.9 Billion	<b>\$ 18.2 Billion</b>
Non-HHS Investigative Receivables	\$576.9 Million	\$952.8 Million	\$1.7 Billion	\$1.02 Billion	1.1 Billion	<b>\$5.3 Billion</b>
Total Investigative Receivables	\$3.8 Billion	\$4.6 Billion	\$6.0 Billion	\$5.0 Billion	4.1 Billion	<b>\$ 23.6 Billion</b>



# Increasing Trend in Medicare Pharmaceutical Payments

## Medicare Part D Total Expenditures

- **2013 - \$69.7 Billion (10% of Medicare Spending)**
- **2023 - \$171.7 Billion (Projection)**
  - 2014 Boards of Trustees Annual Report





# 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





# Examples

- Pharmacy paid money to physician to write for expensive brand medications without regard for medical necessity
- Pharmacy receiving dinners, cash, rebates and discounts from drug companies
- Pharmacy hired “marketing firm” to hire recruiters to find patients and physicians to write for expensive compounding cream





# 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**





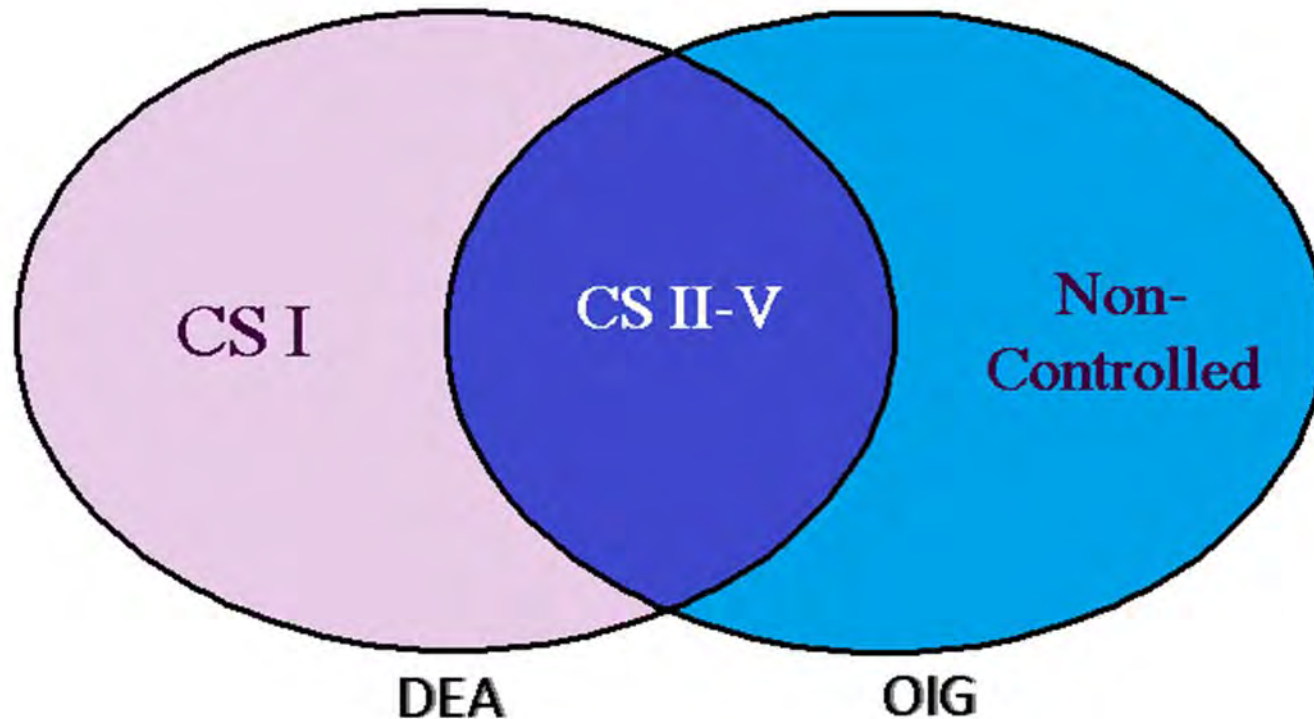


# Different Drug Jurisdictions

- **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



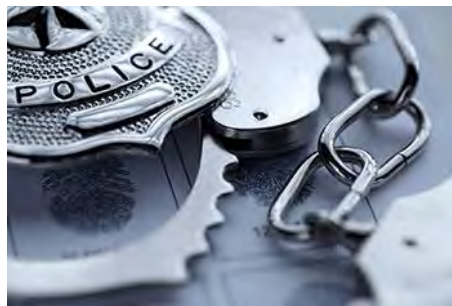
# Where Does OIG Get Referrals?



INDUSTRY



HOTLINES



LAW ENFORCEMENT PARTNERS



SENIOR MEDICARE  
PATROL



DATA ANALYTICS



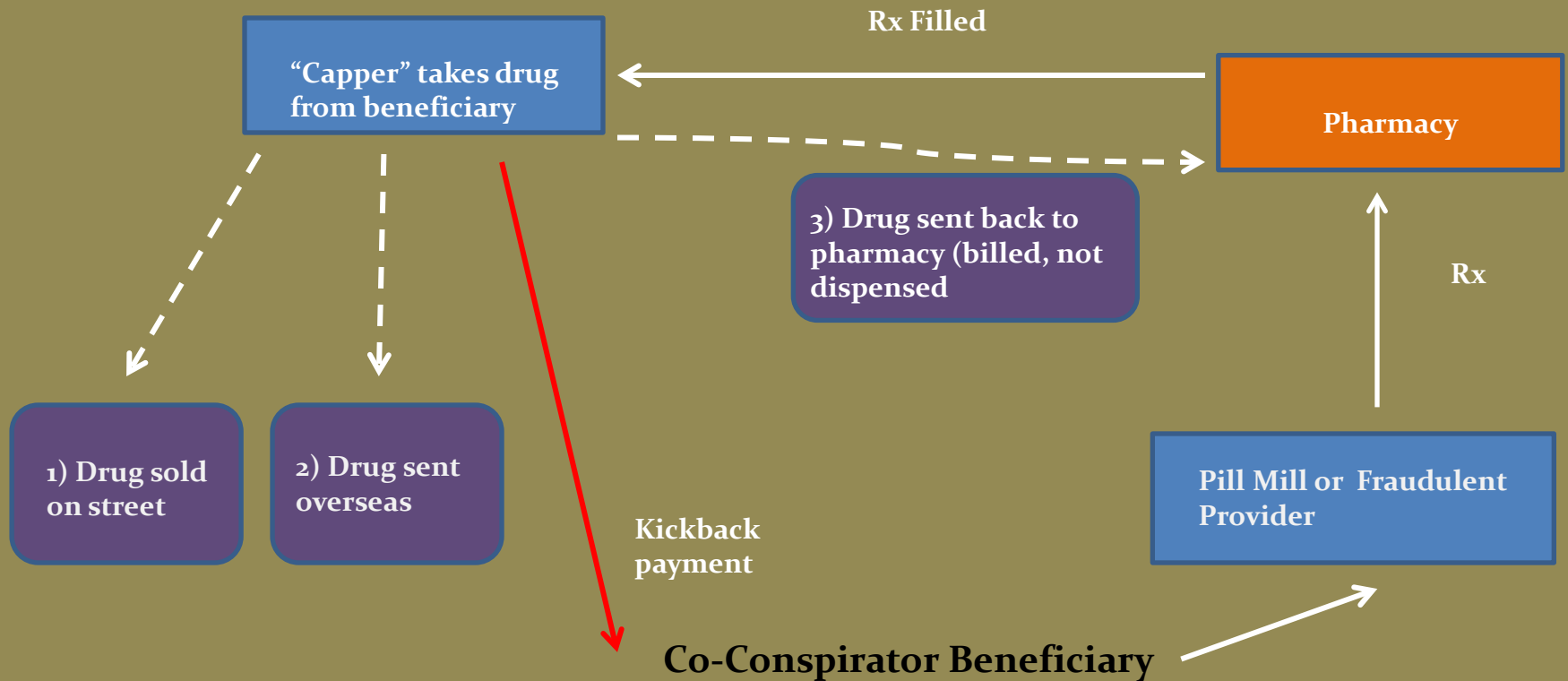


# Why Divert Non-Controlled?

- **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”



# Drug Recycling Scheme





# Re-shelving of “dispensed” Drug

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







# Common Pharmacy Schemes

- Billed but not dispensed
- Fictitious scripts/name
- Auto refills
- Add-on scripts
- Dispense generic/bill for brand
- Paying patients for scripts
- Payment for referrals

## Other Issues:

- Medical Identity Theft
- Prescription shorting
- Narcotics without prescriptions (backdoor sales)





# Erowid Recipe Blog

Erowid Experience Vaults: Percocet, Fioricet, Elavil & Lyrica - Knocked Out!!! - 77361 - Mozilla Firefox

File Edit View History Bookmarks Tools Help

Erowid Experience Vaults: Percocet, Fiori... +

www.erowid.org/experiences/exp.php?ID=77361

Google

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#### Knocked Out!!!

Percocet, Fioricet, Elavil & Lyrica

by [webguy16](#)

Citation: webguy16. "Knocked Out!!!: experience with Percocet, Fioricet, Elavil & Lyrica (ID 77361)". [Erowid.org](#). Mar 21, 2010. [erowid.org/exp/77361](#)

DOSE:	300 mg	oral	<a href="#">Pharms - Pregabalin</a>	(pill / tablet)
	200 mg	oral	<a href="#">Pharms - Amitriptyline</a>	(pill / tablet)
	10 mg	oral	<a href="#">Pharms - Oxycodone</a>	(pill / tablet)
	1 tablet	oral	<a href="#">Acetaminophen</a>	(pill / tablet)

BODY WEIGHT:	160 lb
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1945-- I just took 300mg lyrica, 200mg elavil, 10mg percocet, and 1 fioricet. I also have one of those power energy shots that im thinking of taking when i get really tired. Looking back at all of that typed out makes me think that it may not have been my best idea ever, but i guess im just going to have to see where this takes me...

1950-- Already bored of waiting for the effects to kick in, i guess that i will just go smoke a bowl (marijuana) while i wait.

2000-- Starting to feel a little warm in the face and lightheaded... a little bit of tingling. Its pretty faint and not easy to describe, but it is noticeable. I have been reading some of the other experiences and i just want to mention this incase something crazy happens and i die or something, I love you mom and am so proud of my two brothers that i cant even describe it.

2011-- I find myself feeling really tingly and also really warm and fuzzy. Im spacing out alot and forgetting to keep typing, im normally a really quick typist but im finding it really really hard to focus on it at all, its now 2018 and i am still typing...

2033-- My thinking and even my movement seams really slow and sluggish, like things are delayed or something, it also feels really hard to move, like i weigh about another 100 pounds. Even my eyes seam very slow when i move them from one place to another or when i try to read. 2040 is the time right now, so it took about 7 minutes in order to type this...

Well, after that last entry i just kind of passed out, i remember seeing something out of the corner of my eyes and trying to grab for it but never actually catching it. Once i passed out i was GONE, people tried to wake me and i was completely unresponsive, they almost called 911 but decided against when they could see i was still breathing. So... yea.. i am going to do it again pretty soon probably...

Exp Year: 2008

Gender: Male

Age at time of experience: Not Given

Added: Mar 21, 2010

ID: 77361

Views: 17177



# Polypharmacy Cocktails Potentiators

- Abilify + Seroquel Snort (“jailhouse heroin”)
- Soma + Codeine (“Soma Coma”)
- Seroquel + Zyprexa + Ativan + ETOH + Cocaine
- HIV Protease Inhibitors + Percocet
- Caffeine + ETOH + Eyeball
- Promethazine/Codeine + Tampon
- ETOH + Albuterol Inhaler
- Adderall + Albuterol + Sleep deprivation
- Adderall + Lexapro + Cannabis
- Meth/Ecstasy/Viagra (Rectally)=“Royal Flush”





# Case Examples

- “Pain management” physician prescribing schedule II narcotics
- Referral by MEDIC contractor
- No medical history taken
- Prescribing large dosages, frequencies
- Stopped taking Medicare; only accepted their cash
- Multiple deaths linked to him
- Other frauds



# Inside Pharmacy







## Case Example 2

- KY narcotics officers executed traffic stop.  
Armenians Suren Sargsyan & Smbat Muradyan
- Inside car was forged and blank Rx for 3 CA MD's
- Also copies of IDs of multiple CA residents
- A gun
- Multiple non-controlled prescription drugs
- Scheme to get Rx filled; ship drugs back to CA
- Employ Ernest Bowman to get Rx filled at pharmacy



# Medical Identity Theft





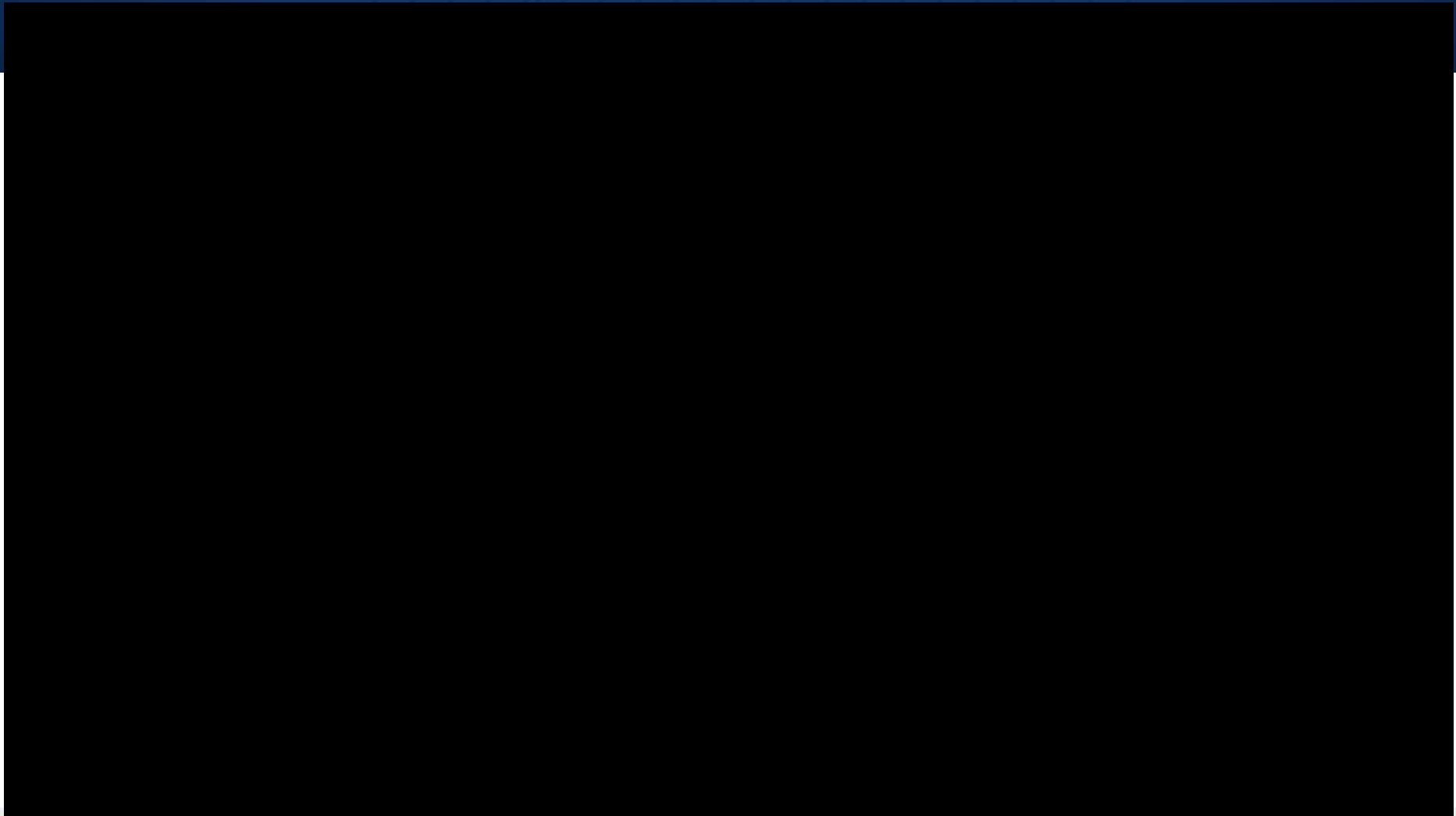
## Case Example 2

- Indictment for healthcare fraud & aggravated ID theft
- Sargsyan & Muradyan arrested getting off KY flight
- Bowman arrested during routine traffic stop
- Sargsyan deported to Armenia by ICE and suddenly died
- Bowman cooperated; 2 years probation
- Muradyan plead guilty; 27 months





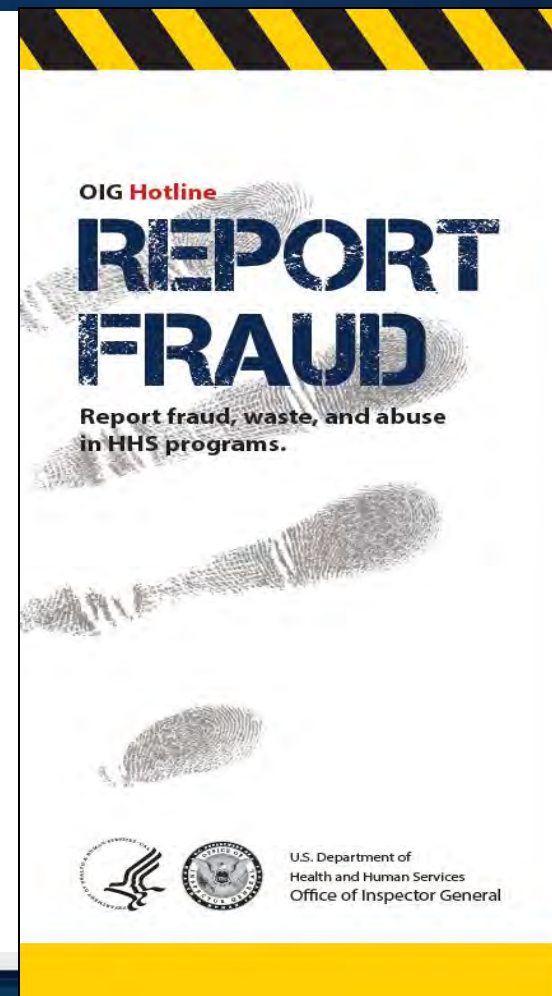
# Video





# 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)





# Post-Test Discussion

- Does HHS/OIG have oversight for controlled drugs, non-controlled drugs, or both?
- Pharmacist-owner who gives a local physician two tickets to next months playoff game in exchange for sending patients to your pharmacy.
- Diversion can occur of both controlled and non-controlled drugs.





Thank You

