

*Drug Diversion:  
Distractions, Dilemmas,  
Decisions, and Duties*

*DEA*

*Pharmacy Diversion Awareness Conference*

*April 17 & 18, 2016*

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Commissioner and Secretary*

# Objectives

- To understand Maryland Board of Pharmacy Composition and Committees
- To discuss compliance/disciplinary actions available to the Board.
- To describe relevant cases of drug diversion that have required Board action.
- To review options for avoidance/correction of drug diversion.

# QUIZ: Drug Diversion Is

1. An epidemic
2. An assault on public safety
3. A war on legitimate prescription needs
4. A threat at all levels of healthcare
5. Not limited to opioids
6. All the above

# Diversion: When A Good Drug Goes Bad



# Definition

Drug diversion can be defined as the diverting of legal drugs for illicit purposes. It involves the diversion of drugs from legal and medically necessary uses toward uses that are illegal and typically not medically authorized or necessary.

*Adapted from CMS statement, 2012*

# Diversion

- From legitimate use to personal need
- From legitimate use to allow illegal distribution
- Robbery
- Theft
- Burglary
- Creative accountability
- “Family and Friend Discount”

# Murphy's Law

## Drug Diversion Variant

- If it can happen it will;
- If it has not happened yet, it will;
- If it has not happened yet, are you sure?;
- If it cannot happen here, perhaps rethink that concept; and
- If it has happened, it may well happen again.



# Maryland Board of Pharmacy

## Mission Statement

“To protect Maryland consumers and to promote quality healthcare in the field of pharmacy through licensing pharmacists and registering pharmacy technicians, issuing permits to pharmacies and distributors, setting pharmacy practice standards and through developing and enforcing regulations and legislation, resolving complaints, and educating the public.”

# Board of Pharmacy

## Vision Statement

“Setting a standard for pharmaceutical services, which ensure safety and quality health care for the citizens of Maryland.”

# Board Staff

- Executive Director
- Deputy Director(s)
- Units
  - Operations
  - Compliance
  - Regulatory/ Legislative
  - Licensing
  - MIS/Data Integrity
  - Public Information

# Board Commissioners

## ■ Twelve commissioners

- 10 are practicing pharmacists
- 2 are public/consumer representatives

## ■ Pharmacists

- 2 Community Practice
- 2 Chain Drug Store
- 2 Acute Care
- 2 At Large
- 1 Home Infusion
- 1 Long Term Care

# Board Committees

- Disciplinary/Compliance
- Licensing
- Practice
- Public Relations
- Legislative/Regulatory
- Management Information Systems
- Others Ad Hoc

# Board Compliance/Licensing Monitor

## March 2016

- Pharmacists: 10,909
- Vaccinating Pharmacists: 4,166
- Pharmacy Technicians: 9,195
- Pharmacy Interns: 615
- Pharmacies: 2,089
- Distributors: 1,066

# Compliance Officer Statistics

## Month of February 2016

- New Complaints: 38
- Complaints Resolved: 21
- Final disciplinary actions taken: 2
- Reversals: 0
- Summary Actions Taken: 2

# Board Disciplinary Actions

- Public
- Non-Public
- Initiated by complaint or findings by Board or Drug Control inspections
- Initial Board action at Disciplinary Committee
- Case Resolution Conference may be initiated
- Full Board reviews and validates all actions

# Case Resolution Conference (CRC)

- Pre-charge CRC
- Charge CRC
- CRC
  - 2 Board Commissioners
  - Board Counsel
  - Board Compliance Officer
  - Respondent
  - Defense counsel as needed
- Consent Order determined
- Full Board reviews all Orders

# Board Disciplinary Actions Non-Public

- Letter of Education
- Letter of Admonishment
- Relevant Continuing Education Credits may be attached
  - Separate from those required for renewal
- Disciplinary Committee
- CRC

# Board Disciplinary Action Public

- Summary Suspension
- Suspension
- Revocation
- Fine
- Probation
- Show Cause Hearing
- Full Evidentiary Hearing

# Examples of Disciplinary Actions

*Practitioner/Licensee  
Information Protected*

# Pharmacist - 1

- Diversion for own use
- Fraudulent prescriptions for personal needs
- Oxycodone, both sustained- and immediate-acting dosage forms
- Discovered during Division of Drug Control audit
- Terminated by employer
- Reviewed by Disciplinary Committee
- CRC requested
  - Demonstrated commitment to rehabilitation; no drug or alcohol use x 12 months

# Action

- Suspension of license x 1 year
  - All but 6 months stayed
- Fine: \$5,000
- Probation x 5 years
  - Cannot work alone
  - Cannot work more than 40 hours/week
  - Cannot “float”
  - Mandatory random drug screening weekly
  - Mandatory rehabilitation program
  - May appeal for modification after 2 years

# Pharmacist - 2

- Fraudulent prescriptions filled for CDS
  - Oxycodone SR and IR
  - Hydrocodone with acetaminophen
- Apparent diversion for street re-sale by patients
- Initially presented by representative of pain management office in next-door practice, including affected patients

# Pharmacist - 2

- Requests for prescriptions ongoing over 11 months
- Facility person presented new prescriptions and drivers' licenses
- Pharmacist "validated" prescriptions with physician's office
- Discovered during BOP and DDC inspections

# Action

- Initial Summary Suspension implemented
- CRC Requested
- Resolution
  - Suspension maintained for 6 months, then stayed
  - Probation x 3 years
  - CE to identify fraudulent Rx
  - Take and pass MPJE
  - Fine: \$5,000

# Pharmacy Technician

- Technician modified electronic “pill count” for hydrocodone 10mg/ APAP 650 mg & hydrocodone 5 mg/ 325 mg
- 1074 “lost” doses
- Diverted the “deleted” count to friends who resold on the street
- Received cash payment for diverted drugs
- Terminated and legal action initiated

# Action

## ■ Circuit Court

- Nolle prossed for 3 counts
- Technician pled guilty on 4<sup>th</sup> count

## ■ Board Action

- Revocation
- No appeal

# Pharmacy

- Fraudulent Prescriptions over 18 months
- C-II through C-IV
  - 30,000 units of oxycodone in various doses and dosage forms
  - 24,000 dose of methadone
  - 20,000 doses of alprazolam
- Summary Suspension
- Appealed to CRC

# Action

- Suspension for 1 year
- \$10,000 fine
- Probation after suspension for 3 years
  - Assure all pharmacists are fully compliant with CDS prescribing and dispensing
  - Discontinue association with Methadone Clinic
  - Provide a Board Newsletter article about CDS risk awareness and avoidance.

# Where Can We Go?



# What to Do?

- Awareness of risk is an excellent defense against occurrence or recurrence.
  - Individual practitioner
  - System-related
  - Surprise!
- The best defense is an aggressive offense
  - Act before you have to react
  - If it happened before, it can happen again
- QA/QI Plan must address

# It Is A Delicate Balance

## ■ Benefits:

- Meeting legitimate, defined patient needs such as chronic or acute pain control
- Provide needed access to medications

## ■ Risks:

- Diversion, addiction, overdose
- Legal and licensure action

# What About Red Flags?

- A Pharmacy Inspector Makes a Suggestion



# Red Flag Warnings

- Cash Payments
  - No Insurance
  - Out of Network
- Pattern prescribing
  - Too many prescriptions for the same drugs, same quantities, from the same prescriber or practice;
- Prescribing combinations of frequently abused controlled substances
  - Pre-printed prescription;
- Scattered geography of patients;
- Shared addresses of patients on the same day;

# Red Flags II

- Overall volume of CDS Rx
  - Pattern out of the ordinary;
- Quantity and strength of drugs prescribed;
  - High dose; large quantity
- Patients with the same diagnosis code from the same prescriber or practice;
- Prescriptions written by prescribers not consistent with area of specialty
  - Dermatologist as Director of Pain Management
  - Improper Methadone Clinic

# Red Flags - III

- Patient insisting on one specific brand; e.g., OxyContin®
  - The generic just does not work;
  - I really need the OA not the OP version;
  - The only one that works is what I used to get; and
  - I'd rather pay cash because insurance will not cover.
- *Red Flag Information Based on DEA Final Orders, 2013*

# Always

- Know the patient or family member
- Contact the prescriber directly
- Obtain history and validating diagnosis
- Document all contacts
- Follow up fully on any incomplete information or calls
- Report, report!
- If in doubt, do not dispense

# PDMP

- Please Don't Mess Up My Prescription?
- Prescription Drug Monitoring Program!
  - Provide real-time electronic access to patients' CDS Rx history;
  - Identify aberrant drug using behavior;
  - Improve ability to identify possible substance use risk;
  - Improve ability to safely and effectively manage patients' clinical need for CDS; and
  - Increase confidence in all levels of prescribing and dispensing decisions.

*Based in part on Maryland Legislative Coalition statement 2015*

# Goals of PDMP

- Assist prescribing and dispensing professionals in identification and prevention of prescription drug abuse;
- Assist law enforcement and regulatory agencies in the identification and investigation of potential prescription drug diversion; and
- Promote a balanced use of prescription data that preserves the professional practice of healthcare providers and legitimate patient access to optimal pharmaceutical care

# CRISP

- The Chesapeake Regional Information System for our Patients (CRISP) makes CDS prescription data collected by the PDMP available to healthcare providers.
- The CRISP health information exchange (HIE) query portal is the authorized source for provider access to PDMP data.
- CRISP provides user registration and technical support services for providers accessing medication history and other clinical information available using HIE.
- Mandatory vs. Voluntary?

# Thank you!

"Idiopathic from the Latin meaning we are idiots because be can't figure out the cause."

■ Are there any questions?

*Gregory House; House, MD*