Diversion Issues

Pharmacy fraud involving controlled and non-controlled medications
Learning objectives

• Understand the mission of HHS/OIG
• Recognize that drug diversion and health care fraud include both controlled and non-controlled medications
• Learn common health care fraud and drug diversion schemes and how they are accomplished
• Describe the drugs frequently found in drug diversion and health care fraud schemes
Our mission

- Protecting the 300 programs at the Department of Health and Human Services, including:
  - Medicare
  - Medicaid
  - Centers for Disease Control
  - National Institutes of Health

- Protecting the health and safety of America’s 55+ million Medicare beneficiaries and 65+ million Medicaid recipients
Demonstrated results

- FY 2014
  - $4.9 billion in recoveries
  - 4,017 exclusions
  - 544 civil actions
  - 971 convictions

- FY 2013
  - $4.77 billion in recoveries
  - 3,214 exclusions
  - 390 civil actions
  - 960 convictions
Collaborative efforts

• HHS/OIG
  • Health care fraud involving:
    • Drugs billed to Medicare and Medicaid (controlled and non-controlled)
    • Drug trafficking organizations and organized crime groups involved in pharmacy fraud
    • Non-FDA (often foreign source) drugs billed to federal health care programs

• DEA
  • Drug trafficking involving:
    • Schedule I controlled substances (i.e., “street” drugs)
    • Prescription drug diversion (especially those involving cash payments)
    • Organized crime groups based outside the United States (e.g., Colombia, Mexico, etc.)
Overlapping jurisdictions

CS I

CS II-V

DEA

OIG

Non-Controlled
Diversion of controlled substances

- Every patient receives the same or similar drugs in the same quantities
- Patients receive a “cocktail” of drugs like “The Holy Trinity”:
  - Hydrocodone / Oxycodone
  - Xanax
  - Soma
- Patients sometimes live a long distance from the doctor or pharmacy
- Patients know one another (friends, family members)
- Patients arrive in a group but act as if they do not know one another
- Patients are anxious, nervous and hurried
Just say “No”

• You can **refuse** to fill a prescription that in your professional opinion is dangerous to the patient.

• You can **refuse** to fill prescriptions from a provider that shows a pattern of catering to drug seeking patients.

• You **should** report a prescription you believe to be forged or altered.

• **Never** give a questionable prescription back to the patient...he or she will simply take it to another pharmacy.

• **Never** shred or otherwise destroy a questionable prescription....it is evidence of a crime!
Just say “No”

• The pharmacist who deliberately ignores a questionable prescription when there is reason to believe it was not issued for a legitimate medical purpose may be prosecuted along with the issuing practitioner, for knowingly and intentionally distributing controlled substances.

• “...defendant deliberately and consciously closed his eyes to what he had every reason to believe...”
  • (United States v. Kershman, 1977)
Growth of Medicare Part D

Medicare Part D Expenditures

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

- Billing for meds that are never picked up
- Billing for refills that are never dispensed
- Returning meds to stock without refunding insurance
- Billing for name-brand drugs while dispensing generic
Forged and altered prescriptions

• Prescriptions produced in the names of actual physicians then forged that look authentic

• If the prescription is for a controlled substance, this is both a Title 21 violation and medical identity theft
Non-controlled drug schemes
Organized crime and identity theft

• Organized crime groups play an active role in health care fraud

• Schemes generally involve medical identity theft involving patients and physicians
Drugs of abuse

- **Controlled:** Oxycodone, Hydrocodone, Opana, Dilaudid, Suboxone
- **Non-Controlled:**
  - Antipsychotics: Abilify, Zyprexa, Seroquel
  - Diabetic: Januvia, Actos
  - Respiratory: Spiriva, Advair
  - Statins: Lipitor, Crestor, Zetia
  - HIV: All anti-retrovirals, protease inhibitors
  - Topical: Solaraze, Lidoderm
Lessons learned

• You **must** fill a prescription that was actually written by a licensed medical professional
  • FALSE

• Drug diversion only involves controlled substances
  • FALSE

• Organized crime groups are only focused on “street” drugs
  • FALSE
Lessons learned

• Prescriptions for Crestor and Nexium are not worth a second look
  • FALSE

• Once you identify a prescription is forged you should immediately destroy it
  • FALSE

• What do you do when a physician writes the exact same prescription for every one of his patients:
  • #120 Hydrocodone
  • #90 Xanax
  • #90 Soma