



**Kentucky Pharmacy
Diversion
November 16 & 17
2013**

Board of Pharmacy

- Welcome
- Board office, inspectors, and myself welcome calls from pharmacists, pharmacist interns, pharmacy technicians



Educational Purposes Only

- This presentation does not constitute legal advice. Issues of pharmacy law are fact specific. As such, specific questions should be referred to your legal counsel.
- The opinions expressed are those of the presenter and should be confirmed and/or researched by those utilizing them in their pharmacy practice.



Disclosure Statement

- I declare that neither I nor any immediate family member have a current affiliation or financial arrangement with any potential sponsor and/or organization(s) that may have a direct interest in the subject matter of the above stated continued education program.



OBJECTIVES PHARMACISTS

- Identify three “red flags” in assisting a pharmacist whether to fill or not fill a controlled substance prescription.
- Identify what the minimum consequence of a pharmacist convicted of a felony involving improper, inappropriate, or illegal dispensing of a controlled substance.



OBJECTIVES PHARMACISTS

- What is meant by Corresponding Responsibility of a pharmacist?



PRE-QUESTIONS?

- What are three “red flags” to assist a pharmacist whether to fill or not fill a controlled substance?
- What is the minimum consequence of a pharmacist convicted of a felony involving the improper, inappropriate, or illegal dispensing of a controlled substance?



PRE-QUESTIONS?

- What is meant by “Corresponding Responsibility” of a pharmacist?



OBJECTIVES PHARMACY TECHNICIANS

- Identify the three patient identifiers required for a controlled substance prescription and in order of use.
- Identify the individuals in a pharmacy that are caught diverting controlled substances.
- Identify the consequence of a pharmacy technician caught diverting controlled substances.



PRE-QUESTIONS

- What are the three patient identifiers required for a controlled substance prescription and the order of use?
- Who are the individuals in a pharmacy that may be caught diverting controlled substances?
- What is the consequence of a pharmacy technician caught diverting controlled substances.



Board of Pharmacy Purpose

- The purpose of the Board is to promote, preserve, and protect public health, welfare, and safety by and through effective control and regulation of the practice of pharmacy.



2012 KY DATA

1004 OVERDOSE FATALITIES IN
2012.

19 FEWER THAN 2011. THE FIRST
DECLINE IN OVER A DECADE.

888 UNINTENTIONAL

59 SUICIDES

57 UNDETERMINED.



2012 KY DATA

DEATHS ATTRIBUTABLE TO HEROIN
ROSE 550%

ALPRAZOLAM MOST DETECTED
SUBSTANCE AT 41.44% OF ALL ME
CASES



2012 KY DATA

YOUNGEST OD DEATH AGE 16

OLDEST 72

AVERAGE AGE 40

MALE 58%

FEMALE 42%



| Drug | August 2011 through May 2012 | August 2012 through May 2013 | Change |
|--------------------------------------|---|---|---------------|
| Hydrocodone | 198,610,849 | 179,657,782 | -9.5% |
| Oxycodone | 72,411,711 | 64,788,026 | -10.5% |
| Oxymorphone | 1,536,394 | 951,152 | - 38.1% |
| Alprazolam | 59,929,867 | 52,448,650 | -12.5% |
| Methylphenidate | 8,963,348 | 9,738,149 | + 8.6% |
| Amphetamine | 11,440,190 | 12,649,359 | + 10.6% |
| All Controlled Substances | 617,327,808 | 569,273,974 | -7.8% |

PRESCRIBERS

- Pharmacist calls and wants to know if they can fill a prescription(s) from a certain prescriber:
 1. Board will not instruct a pharmacist whether to fill or not fill any prescription.
 2. Professional judgment of pharmacist.



PRESCRIPTIONS RED FLAGS

1. Is there a patient-prescriber relationship?
2. Is there a patient-pharmacy relationship?
3. Is the prescriber located in the county?
4. Do you see the a lot of prescriptions with the same quantity, directions, from the same prescriber?



PRESCRIPTIONS RED FLAGS

5. Is the prescriber from one county, the patient from another county and the pharmacy is located in a third county?
6. Is the patient only paying cash?
7. Has anyone from the prescriber's office told you they are seeing 100 plus patients a day?



PRESCRIPTIONS RED FLAGS

8. Did you run a KASPER report on the patient and find multiple prescribers and pharmacies?



PATIENT/PRESCRIBER

- Answering questions from patients and or prescribers
- 1. If refusing to fill or refill a prescription tell them you are using your professional judgment. If you give reasons such as:
 - I do not have enough of the drug to fill



PATIENT/PRESCRIBER

- I only fill prescriptions for patients that live in this county.
- I only fill prescriptions for patients that I have filled for before.



PATIENT/PRESCRIBER

2. Do not tell patient or prescriber that you have heard that the prescriber is under investigation. Especially that the Board of Pharmacy said the prescriber was under investigation.



DEA CORRESPONDING RESPONSIBILITY

1306.04 Purpose of issue of prescription.

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.



DEA CORRESPONDING RESPONSIBILITY

The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.



DEA CORRESPONDING RESPONSIBILITY

An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (29 U.S.C. 829) and the person



DEA CORRESPONDING RESPONSIBILITY

knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.



PHARMACIST-IN-CHARGE

- 201 KAR 2:205 means a pharmacist licensed in the Commonwealth of Kentucky, or in the appropriate jurisdiction of an out-of-state pharmacy holding a Kentucky Board of Pharmacy permit, who accepts responsibility for the operation of a pharmacy in conformance with all laws and administrative regulations pertinent to the practice of pharmacy and the distribution of prescription drugs and **who is personally in full and actual charge of the pharmacy.**



PHARMACIST-IN-CHARGE

- Dos and Don'ts
 1. Do not: allow one pharmacist, pharmacist intern, or pharmacy technician to order and check-in drugs.
 2. Do: verify perpetual inventory periodically to be sure correct.



PHARMACIST-IN-CHARGE

- Dos and Don'ts
- 3. Do: periodically check high volume Schedule III, IV, and V inventory.
- 4. Do: watch for additions/deletions to drugs in the perpetual inventory.
- 5. Do: watch for behavioral changes in employees in the pharmacy.



HB1/HB 217

1. Procedure for temporarily suspending pharmacist license.
2. Procedure for expedited review of complaints against pharmacists in dispensing of controlled substances.



HB1/HB 217

3. Permanent ban on pharmacists being able to dispense controlled substances convicted of a felony of improper, inappropriate, or illegal dispensing controlled substances.
4. Restrictions on pharmacists, short of a permanent ban, for convicted of misdemeanor of improper, inappropriate, or illegal dispensing controlled substances.



HB1/HB 217

5. At a minimum shall place same restriction on pharmacist license as is placed by another state board for improper, inappropriate, or illegal dispensing of controlled substances in the other state.
6. **All applicants for initial pharmacist licensure by examination or reciprocity shall submit to both Kentucky State Police and FBI.**



HB1/HB 217

7. All applicants for initial pharmacist licensure by examination or reciprocity shall submit to query of the National Practitioner Data Bank of the United States Department of Health and Human Services.
8. All Kentucky licensed pharmacists that work in a pharmacy that dispenses controlled substance to patients in Kentucky shall be required to be registered with KASPER



HB1/HB 217

- 9. Pharmacies shall report to KASPER all controlled substance prescriptions dispensed within 1 day by July 1, 2013.



HB1/HB 217

10. A pharmacy must immediately report any robbery or theft of a controlled substance to local law enforcement agency serving the geographic area in which the pharmacy is located and shall report to the Kentucky State Police within 3 business days.

HB 217 2013

Delete shall report to the Kentucky State Police within 3 business days.



HB1/HB 217

11. A pharmacist-in-charge shall report the theft or loss of controlled substances to the Board.

12. A pharmacy does not have to query a patient when the patient presents a new prescription each time. A pharmacist is to use his/her professional judgment.



Controlled Substance Prescription

What is the requirement regarding the patient identification number for a controlled substance prescription?

1. Patient's Social Security number must be obtained
2. If patient does not have a SSN, patient's driver's license must be obtained
3. If patient has not been assigned a SSN or Driver's license, the number 000-00-0000 shall be used



Controlled Substance Prescription

- **4. If a patient is an animal the number 000-00-000 shall be used in the Social Security number field.**



STATISTICS

- Pharmacists, pharmacy interns, pharmacy technicians caught diverting:

| Year | R.Ph. | Pharmacy Technicians |
|------|-------|----------------------|
| 2013 | 2 | 14 |
| 2012 | 9 | 21 |
| 2011 | 6 | 21 |
| 2010 | 6 | 19 |
| 2009 | 3 | 12 |
| 2008 | 6 | 0 |

Pharmacy Technicians

- Pharmacy Technicians
 - A pharmacy technician caught diverting drugs from a pharmacy will have their pharmacy registration revoked.
 - A pharmacy technician who previously had been caught diverting drugs from a pharmacy before or after April 1, 2009 will be denied registration as a pharmacy technician.
 - Pharmacy technician has 30 days from the date first employed in which to file an application for pharmacy technician registration with the Board.



CONTACT INFORMATION

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