2:30 p.m. - 3:15 p.m.



Legal issues from a physician's viewpoint

Carol A. Warfield, MD Lowenstein Distinguished Professor of Anesthesia Harvard Medical School

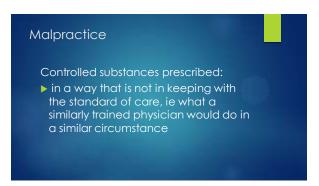


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Criminal Practice Controlled substances prescribed: ▶Not for a legitimate medical purpose, ▶Outside the of usual course of medical practice Criminals or Just Bad Doctors? deadiversion.usdoj.gov/crim_admin_actions/doctors_criminal_cases.pdf

Office of Diversion Control

Convictions of Doctors

- ▶ A listing of investigations of physician registrants in which DEA was involved that resulted in the arrest and prosecution of the registrant.
- ► Last Updated: June 25, 2014 although about 5 years behind
- ► Hundreds of doctors

The Good, the Bad and the Ugly

Guy Owens, MD, age 79, of New Britain, CT

- Pled guilty in the State of Connecticut Superior Court to two counts
 of illegal prescription / distribution of a narcotic and one count of
- A female patient had been receiving prescriptions for controlled substances from Owens for several years and had become addicted to them. In recent visits, Owens had demanded sexual contact or he would not continue to write her prescriptions. Over a three-month period, the patient had not paid Owens but instead had unwillingly participated in sexual acts with him in return for the prescriptions.
- Owens received a three year suspended prison sentence and three years probation.

Lawrence L. Parris, MD, age 58, of Bothell, WA

- Pled guilty in U.S. District Court, Western District of Washington, to one count of unlawful possession of a controlled substance. Partis unlawfully removed from a clinic where he worked and possessed for his own personal use, quantities of injectable bemerol, which he then consumed. The drugs were not possessed by Partis pursuant to a lawful prescription. Partis hid his actions by making folse entries in patient records indicating that the drugs had been administered to patients, whereas, in fact, they had been diverted to his own personal use.

Donald Auzine, MD, age 38, of Prairieville, LA,

- Auzine prescribed and dispensed controlled substances without a legitimate medical purpose and not in the usual course of medical practice.
- Auzine was sentenced to 37 months incarceration, followed by three years probation. He was also ordered to pay a fine of \$10,000.00.

Noel Chua, MD, age 46, of Kingsland, GA

- ▶ Found guilty by a jury in the Superior Court of Camden County, State of Georgia, of violating the Georgia Controlled Substances Act, the result of which was the
- Chua prescribed or ordered multiple controlled substances for the victim, said prescriptions not being for legitimate medical purpose and said act not being in the usual course of Chua's professional practice.







"Outside the Usual Course of Medical Practice and Not for a Legitimate Purpose" Not My examples: No doctor/patient relationship Never did a physical exam Never saw the patient No pain diagnosis Prescription in return for sex Poyment by the pil No medical records Prescribing for yourse! Prescribing so the patient can get high

Examples from Government witnesses:
 Not having the patient disrobe for a physical exam on each visit
▶ Being fooled by a drug addict who lies
▶ Being paid in cash
 Deciding to continue opioids despite an inconsistent UDS, dose escalation or early visit
➤ Templates in the medical record which are left blank
 Not doing enough (pill counts, UDS's, referrals, exams, labs, documentation, history, dose adjustment, visits)
Not using today's criteria for prescribing opioids 10-15 years ago.

Anatomy of a Criminal Case Step One: Doctor X prescribes to drug addicts who fake pain Step Two: One of the drug addicts overdoses Step Three: DEA sends undercover agents in to fake pain and pays other addicts to testify against doctor Step Four: Doctor X charged with multiple counts of drug dealing, conspiracy, racketeering, accessory to murder and/or first degree murder Step Five: Doctor X is arrested and assets are frozen Step Six: At trial, government expert testifies that Doctor X was not a good doctor and family of deceased addict testifies that he was a good boy Step Seven: Jury convicts Doctor X for being a bad doctor because a good doctor wouldn't have been fooled by a drug addict

Government's Contention: Doctor knows that patient is just using the opioids to get high and is foking pain but doctor sets up foke visits, fake exams, fake UDS's, fake history, fake documentation, fake imaging, fake blood tests, fake informed consent, fake contracts, fake pain scales and drawings and fake referrals just to get the \$100 visit fee from the patient. Addicts would stop using opioids if docs stopped prescribing Overdose crisis would not exist if docs would just stop prescribing opioids Well-meaning juries and experts confuse bad medicine with criminal activity Insurance companies

Now more aggressive in evaluating docsHigher utilization and increased costs

What Should Be Done	
 Physician Education (legal and medical) Remediation Probation Revocation of DEA license Revocation of medical license 	
What this is not about:	
Efficacy of apicids for chronic pain What kind of history and PE should be done Documentation Best practices Standards of Care Following guidelines Malpractice The overdose crisis	
P inc orologic utilis	
What this is about:	
 A doctor's right to make a judgement to prescribe opioids if deemed appropriate Addicts can fool docs and there's no foolproof way to stop it Bad practice vs Criminal Practice 	

I am not a big advocate of using opioids for chronic pain.	
I am a big advocate of a doctor's right to do so.	
Carol Warfield	