

Controlled Substance Prescribing and Medical Licensure

Survival Tips for Physicians and PA's

Presented by:
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Executive Director
Wyoming Board of Medicine

The Fine Print

● *Disclosure of Potential Commercial Bias*

- Pursuant to ACCME Standards for Commercial Support – Standards to Ensure Independence in CME Activities, the Presenter has no Relevant Financial Relationships with any Commercial Interests.

● *Disclaimer*

- Presentation is not official policy of the Wyoming Board of Medicine
- Each case will be evaluated on the particular facts
- Not a physician – giving a regulatory perspective

Goals-Today & Future

- Board policy
- C.S. “danger zones” for physicians and PA's
- Licensure laws and C.S. prescribing
- Survival strategies
- Tools and resources

The Slippery Slope...

Use

vs.

Misuse

vs.

Abuse

BOM Pain Management Policy

"Please note that the Board has never sanctioned a physician or physician assistant for appropriate and well-documented pain management.

We have investigated cases involving large amounts of controlled substances; however, in all cases where the physician and/or physician assistant involved

presented an adequate diagnostic basis for the therapy and thorough records in support of their treatment, the investigations were closed without further action."

***Pain Letter
April 2009***

Seven Criteria for Pain Treatment



- Evaluation of the Patient
- Treatment Plan
- Informed Consent and Agreement for Treatment
- Periodic Review
- Consultation
- Medical Records
- Compliance with C.S. Laws and Regulations

The Bottom Line...

**The Board of Medicine
wants you to give care...**

**We don't
want your
license!**

What's the Risk?



U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

411 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106-4678
(215) 561-5200

For Immediate Release

February 8, 2010

DR. MARK C. JACKSON SETTLES WITH UNITED STATES OVER ILLEGAL PRESCRIPTION OF CONTROLLED SUBSTANCES

PHILADELPHIA - Dr. Mark C. Jackson has agreed to pay \$40,000 in fines to the U.S. government over three years and has agreed to restrictions on his future prescription practices in order to settle allegations that he prescribed drugs over the internet, including prescription diet drugs and sleep aids, without meeting or speaking with the individuals to whom the drugs were being prescribed. The settlement agreement was announced today by United States Attorney Michael L. Levy and Drug Enforcement Administration Special Agent-in-Charge John J. Bryfonski.

What's the Risk?

HEADLINE: PAIN DOCTOR FINED FOR PRESCRIBING TOO MANY PILLS;
STATE BOARD ISSUES REPRIMAND

BYLINE: Denise C. Lade and Bob Lahendola Staff Writers

BODY:

A Wellington pain doctor Friday became the latest to be punished for prescribing excessive amounts of narcotic pills when he was fined \$15,000 and reprimanded by the Florida Board of Medicine.

Dr. Robert Lenz, an anesthesiologist who ran his own pain office, wrote scripts for up to 360 pain pills per month over two years for a man in his mid-20s who later was found dead of an overdose, regulators said in documents from his disciplinary case.

Also, the medical board was expected to vote Thursday on a settlement that would impose a \$10,000 fine on a second doctor for prescribing large amounts of pain pills without documenting a good reason, so is required.

Lenz's attorney, Alex Butler, had argued to regulators that Lenz did nothing wrong and kept the patient stable.

It wasn't that it dealt as early as which the worked how it would handle this case it, penalties against pain doctors found to have acted improperly. Unsupervised pain clinics and doctors in Broward and Palm Beach counties have been under fire for being what police call the source for millions of narcotic pain pills abused by addicts and drug dealers throughout the Southeast.

A year ago, Lenz was fined \$10,000 for prescribing potentially lethal amounts of pain pills to two patients he didn't properly examine or monitor for as long as four years, the complaint documents state.

What's the Risk?

HEADLINE: PAIN DOCTOR FINED FOR PRESCRIBING TOO MANY PILLS;
STATE BOARD ISSUES REPRIMAND

SECTION: STATE AND REGIONAL NEWS

ACC-NO: 20091205-FL-State-punishes-2-pain-doctors-for-excess-pills-1205

LENGTH: 516 words

HEADLINE: State punishes 2 pain doctors for excess pills; Board of Medicine getting tougher on pain doctors

BYLINE: Bob Lahendola, Sun Sentinel, Fort Lauderdale, Fla.

BODY:

Dec. 5—A \$15,000 fine is not a tough enough penalty for a Wellington pain doctor who routinely prescribed excessive amounts of narcotic pills, the Florida Board of Medicine said Friday.

Instead, the board voted to double the penalty to \$30,000 for Dr. Robert Lenz, an anesthesiologist and pain office owner who wrote scripts for up to 360 pain pills per month over two years for a man in his mid-20s who later was found dead of an overdose.

What's the Risk?



Department of Justice

United States Attorney Kelly H. Rankin
District of Wyoming

FOR IMMEDIATE RELEASE
Tuesday, September 29, 2009

CONTACT: John R. Powell
United States Attorney Spokesman
PHONE: 307-772-2124

Cheyenne, Wyoming - On September 28, 2009, Daniel Eugene Hauck, a dentist who operates a clinic in Riverton, Wyoming, was sentenced by United States District Court Judge Alan B. Johnson for conspiracy to distribute and dispense the powerful and addictive painkillers oxycodone and hydrocodone to persons he did not examine, without a legitimate medical purpose and outside the usual course of professional practice; making false statements and false representations to investigators during an inspection of the United States Drug Enforcement Administration; and making a false statement to a firearms dealer. Hauck was sentenced to a term of 33 months imprisonment with a recommendation he participate in the United States Bureau of Prisons' 500 Hour Residential Drug Abuse Treatment Program, a \$1300 fine and a 5 year term of supervised release.

Unexpected Pitfalls

Conventional Wisdom Reality

- | | |
|--|--------------------------------------|
| • Inexperienced prescribers | • Experienced practitioners |
| • Pain specialists | • Family practice |
| • "Big City" | • Small Town, Wyo. |
| • "Bad Actor" – Money, scripts-for-sex, etc. | • Legitimate desire to help patients |
| • Supplying "junkies" | • Treating addiction* |

Good Intentions

- Chronic pain
- Drug addiction treatment*
- ADHD
- Sleep pattern disruption
- Work or recreation injury
- Weight loss
- Dental, other "non-medical" problems

Creative Thinking-1

- Appointments late in day, after hours
- Wants brand name drug
- Particularly well – or poorly – dressed
- Knows too much about C.S.
- Perfect recitation of symptoms
- Deliberately mispronounces drug name

Creative Thinking-2

- Overly friendly, complimentary, etc.
- Regularly misses therapy, other “non-prescribing” visits
- Doesn’t want to “mess” with tests
- Traveling and forgot meds
- Regular care giver is retired, out of town, etc.

Creative Thinking-3

- “You’re not going to believe this, but...”
 - Lost pills when I was fishing
 - The dog ate them
 - Pills were in my car/purse when stolen
 - My ex flushed ‘em
 - Someone cut the screen on my window
- My personal favorite:
 - Need a valid script as proof to get into a government drug addiction program

The Addiction Treatment Trap

- Addiction treatment isn’t for everyone
- Federal limits on C.S. for addiction
- Traps:
 - “Weaning” or “Step-down”
 - Suboxone – Pain vs. addiction
 - Methadone – CNS depression outlasts high
 - Naloxone in Suboxone can lead to overdose
 - Benzos to treat anxiety from addiction

The Self-Medication Trap

- “A physician who treats himself has a fool for a patient” – *William Osler*
- Traps:
 - Self-prescribing
 - Colleague/employee prescribing
 - Family member prescribing
 - Diversion prescribing
 - Scamming by colleagues(!)

The Multi-Med Trap

- Patients with co-occurring diagnoses
 - Pain
 - Anxiety
 - Sleep disruption
- Traps:
 - Cumulative effects without misuse or abuse
 - Devastating effects when misused or abused
 - Add alcohol, other C.S. = disaster

What's the Danger?

- Board inquiry
- Mandatory training/CME
- Sanctions including loss of license
- Criminal prosecution
- Jail/probation
- Ugly publicity...

Medical Practice Act Issues-1

- Failure to establish & document physician/patient relationship
- Rx without history and physical
- Failure to maintain medical records
- Repeated Rx of C.S. to known abuser*
- Repeated Rx of C.S. to self, family, etc.
- Pre-signing Rx pads

Medical Practice Act Issues-2

- Practicing outside scope of training, expertise, skills
- Practicing below the standard of care
- Unprofessional or dishonorable conduct
- Careless disregard for patient safety
- Willful use of inappropriate/unnecessary treatment

Medical Practice Act Issues-3

Ugly:

- False statements in practice
- Falsifying records/documents
- Prescribing over the Internet
- Physical/mental disability
- Use of drug/intoxicant interfering with patient care and public safety
- Conviction of a felony

The Toolbox-1

Protect yourself (and your license!):

- H&P, Records from other providers
- Photo I.D. from new patients
- Board of Pharmacy PDMP Reports
 - Verify history before first C.S. Rx
 - Verify filling as prescribed before refill
 - See what other C.S. the patient is getting and from whom

The Toolbox-2

Protect yourself (and your license!):

- Pain contracts
 - A contract is worthless if you don't enforce it
 - Set expectations, get informed consent
 - Stick to your guns
- Drug testing
 - Verify presence of C.S. you prescribed
 - Confirm absence of C.S. you didn't

The Toolbox-3

Protect yourself (and your license!):

- Strict policies – set 'em, post 'em, and stick to 'em!
 - No early refills, refills on Friday, etc.
- Pill counts
 - At appointments and even randomly
- Small pill count per each Rx

The Toolbox-4

● Protect yourself (and your license!):

- HIPAA Privacy Rules
 - *Can report crime occurring on premises*
- “Doctor shopping” is a crime in Wyo.
 - *Can report drug seekers to law enforcement*
- You’d call the police if there was a robbery or burglary in your office, wouldn’t you?

The Toolbox-5

● Protect yourself (and your license!):

- Safeguard Rx pads – they’re a “blank check” for drugs
- Write Rx like checks:
Twenty <20> not 20 alterable to 200
- Use “unalterable” numbers:
Disp #10 not Disp #10 alterable to Disp #70
And 1Ø not 10 alterable to 18

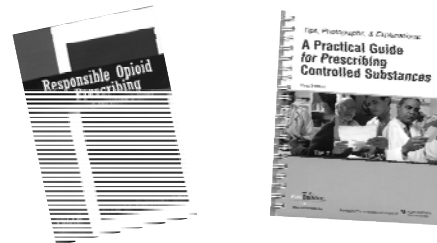
The Toolbox-6

● Protect yourself (and your license!):

- Use third party information sources
 - Medicaid “lock-in” letters
 - Insurer pharmacy benefit letters
 - Pharmacists
 - “Word on the Street”
- **Trust your “gut”**

The Toolbox-7

Get additional resources



But read with a critical eye

The “Ultimate” Tool?



**Just
say
“no”**

What do you do?

- Document, document, document...
- Be attentive – watch for signals
- Don't be overconfident
- “Trust but verify”
- Use the resources available to you
- Listen to that “little voice”
- When in doubt, ASK!

One more time...

***The Board of Medicine
wants you to give care...***

***We don't
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**Questions, answers,
and more questions...**

***Controlled Substance Prescribing and
Medical Licensure***

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