The Regulatory Agency
Will See You Now

Kevin L. Zacharoff, MD

Disclosures

Nothing to Disclose
Learning Objectives

• Identify pain treatment-related regulatory agencies
• Discuss the changing role of regulatory agencies in today’s pain management environment
• Review similarities and differences between regulatory approaches to prescribing practices
• Discuss the negotiation between regulatory forces and practical clinical aspects of managing patients with chronic pain

What is a Regulatory Agency?

• A regulatory agency is a public authority or government agency responsible for exercising some kind of autonomous authority over some area of human activity in a regulatory or supervisory capacity
  — Also know as:
    • Regulatory authority
    • Regulatory body
    • Regulator
Regulatory Scrutiny?

The Facts
It’s a Crowded Field

Who Does What?

- **Centers for Medicare and Medicaid (CMS)**
  - **Oversee most of the regulations** related directly to the healthcare system
  - Provides government-subsidized medical coverage through a number of programs:
    - Medicare
    - Medicaid
    - State Children’s Health Insurance Program (SCHIP)
    - Health Insurance Portability and Accountability Act (HIPPA)

Who Does What?  

The Facts

• The Agency for Healthcare Research and Quality (AHRQ)
  – Conducts research
  – Develops education
  – Generates measures and data
  – Goals include:
    • Reducing costs
    • Improving safety
    • Decreasing medical errors


Who Does What?  

The Facts

• The Joint Commission
  – The Joint Commission accredits and certifies nearly 21,000 healthcare organizations and programs in the United States
  – Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization’s commitment to meeting certain performance standards

Who Does What?  The Facts

• The National Committee for Quality Assurance (NCQA)
  – Helps to build consensus around important healthcare quality issues and to decide what’s important, how to measure it, and how to promote improvement by working with:
    • Large employers
    • Policymakers
    • Healthcare providers
    • Patients
    • Health plans

[NCQA Logo]

Who Does What?  The Facts

• The Office of National Drug Control Policy (ONDCP)
  – Works to reduce drug use and its consequences by leading and coordinating the development, implementation, and assessment of US drug policy
  – In addition to its vital ongoing work, ONDCP also provides administrative and financial support to the President’s Commission on Combating Drug Addiction and the Opioid Crisis

[ONDCP Logo]
Who Does What? The Facts

• The Environmental Protection Agency (EPA)
  – Mission is to protect human health and the environment
  – Plays an integral role in US policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry, and international trade
  – Ensuring that federal laws protecting human health and the environment are enforced fairly and effectively


Who Does What? The Facts

• The Drug Enforcement Administration (DEA)
  – Enforces controlled substances laws and regulations as they pertain to the manufacture, distribution, and dispensing of legally produced controlled substances
  – Brings criminal and civil justice actions against organizations and principal members of organizations, involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for illicit traffic in the US

Who Does What?  The Facts

• The Federation of State Medical Boards (FSMB)
  – Represents the 70 state medical and osteopathic regulatory boards (state medical boards)
  – Supports its member boards as they fulfill their mandate of protecting the public’s health, safety and welfare through the proper licensing, disciplining, and regulation of physicians and, in most jurisdictions, other healthcare professionals


Who Does What?  The Facts

• The Centers for Disease Control and Prevention (CDC)
  – Main goal is to protect public health and safety through the control and prevention of disease, injury, and disability in the US and internationally
  – Focuses mainly on infectious disease, food borne pathogens, environmental health, occupational safety and health, health promotion, injury prevention and educational activities designed to improve the health of United States citizens
  – Researches and provides information on non-infectious diseases is a founding member of the International Association of National Public Health Institutes

Who Does What?  

The Facts

- The Food and Drug Administration (FDA)
  - Responsible for **protecting the public health** by ensuring the safety, efficacy, and security of human and veterinary drugs, biological products, and medical devices
  - Ensures the safety of our nation's food supply, cosmetics, and products that emit radiation

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So What?

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So What? The Facts

America’s Opioid Crisis
The stunning spread of the opioid painkiller and heroin epidemic in two maps over 10 years.

Drug mortality, 2005

Drug mortality, 2014

A challenge for cities, counties and states
The rise in prescription opioid and heroin addiction is causing an increase in overdoses, as well as many cases of HIV/AIDS, and hepatitis C.

Deaths from opioids

78 Americans die daily from drugs; an added 78,000 in the US.

National overdose deaths

Table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Heroin</th>
<th>Alcohol</th>
<th>Opioid</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>35,000</td>
<td>15,000</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>2014</td>
<td>47,000</td>
<td>19,000</td>
<td>12,000</td>
<td>16,000</td>
</tr>
</tbody>
</table>

So What? The Implications
Dear Arizona Physicians:

On June 5, 2017, Governor Ducey declared a state of emergency due to the opioid epidemic in response to this statewide crisis. In his letter, Governor Ducey issued Executive Order 2017-04, Enhanced Surveilliance Advisory.

Attached please find a link to a letter from Cara Christ, M.D. M.S., Director of the Department of Health Services, informing the medical community of the new requirements related to reporting suspected opioid overdoses and deaths.

This is one of the first steps in gathering important data to assist in assessing the problem and devising strategies to combat this serious health epidemic.

Very truly yours,

[signature]

Patricia McBory, J.D.
Executive Director
Arizona Medical Board

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Governor Ducey Declares Statewide Health Emergency In Opioid Epidemic

June 5, 2017

News Release

Newly released data from the Arizona Department of Health Services shows in 2016, 790 Arizonans died from opioid overdoses— an average of more than two people per day. The trend shows an alarming increase of 74 percent over the past four years. Today’s declaration by the governor directs the Arizona Department of Health Services to rapidly respond to this public health emergency.

- prevent prescription opioid drug abuse through appropriate prescribing practices,
- develop guidelines to educate healthcare providers on responsible prescribing practices,
- expand access to treatment, especially Medication Assisted Treatment (MAT), and
- reverse overdoses through the distribution of naloxone.

Dear Partner,

On June 5, 2017, Arizona Governor Doug Ducey declared a Public Health State of Emergency due to the opioid epidemic. The declaration动员ed Arizona Department of Health Services to lead the statewide emergency response.

Pursuant to A.R.S. §36-2942, an Enhanced Surveillance Advisory has been issued to track opioid availability and morbidity. Required reporting within 24 hours of the items below will go into effect June 18, 2017.

### Required Reporters

<table>
<thead>
<tr>
<th>Health Professional Category</th>
<th>Health Condition to be Reported</th>
<th>Reporting System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Healthcare professionals licensed under A.R.S. Title 32 and 36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrators of a healthcare institution or Correctional facility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Emergency Medical Services/Ambulance agencies (first response agencies, ground and air ambulance agencies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law enforcement officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Medical examiners</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pharmacists</td>
<td>Substance dosage dispensed</td>
<td>NEDIS</td>
</tr>
</tbody>
</table>

### Reporting System

- NEDIS: www.maricopa.gov/opioidtraining
- New Account: HelpDesk@Maricopa.gov
- NEDIS: www.maricopa.gov/opioidtraining
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**NYS – PMP**

- **Internet System for Tracking Over-Prescribing**
  - Effective August 27th, 2013, all prescribers are required to consult the Prescription Monitoring Program (PMP) Registry when writing prescriptions for Schedule II, III, and IV controlled substances.
  - The registry provides practitioners with direct, secure access to view dispensed controlled substance prescription histories for their patients.
  - The PMP is available 24 hours a day/7 days a week via an application on the Health Commerce System (HCS) at [https://commerce.health.state.ny.us](https://commerce.health.state.ny.us).
  - Reports include all controlled substances that were dispensed in New York State and reported by the pharmacy/dispenser for the past six months.
  - This information allows practitioners to better evaluate their patients’ treatment with controlled substances and determine whether there may be abuse or non-medical use.
So What? The Implications

ELECTRONIC PRESCRIBING

Q2: Is Electronic Prescribing mandatory for New York State practitioners?
A2: As of March 27, 2017, it will be mandatory for practitioners, excluding veterinarians, to issue electronic prescriptions for controlled and non-controlled substances. Electronic prescribing of controlled substances will require additional security features and registration of the certified software application with the Bureau of Narcotic Enforcement.

So What? The Implications

Mandatory Prescriber Education Guidance

Prescribers licensed under Title Eight of the Education Law in New York to treat humans and who have a DEA registration number to prescribe controlled substances, as well as medical residents who prescribe controlled substances under a facility DEA registration number, must complete at least three (3) hours of course work or training in pain management, palliative care, and addiction. The course work or training must be completed by July 1, 2017, and once every three years thereafter, pursuant to Public Health Law §4900-a(5).

The course work or training may be live or online. The course work or training must include the following eight (8) topics:

- New York State and federal requirements for prescribing controlled substances;
- Pain management;
- Appropriate prescribing;
- Managing acute pain;
- Palliative medicine;
- Prevention, screening and signs of addiction;
- Responses to abuse and addiction; and
- End of life care.
So What?

The Implications

In case you missed it — New PA PDMP requirements for prescribers.

New legislative changes to the Pennsylvania Prescription Drug Monitoring Program (PA PDMP) went into effect on Jan. 1, 2017.

Here is what you need to know:

- **Prescribers** must now query the PA PDMP each time a patient is prescribed an opioid drug product or benzodiazepine by the prescriber. There are exceptions for emergency departments and for patients who are admitted to a health care facility, and these can be found on our website’s Frequently Asked Questions page.

- **Dispensing practitioners** must now submit data to the PA PDMP no later than the close of the subsequent business day (Monday through Friday) after dispensing the controlled substance, as opposed to the previous requirement of within 72 hours.

So What?

The Facts

Pennsylvania Prescription Drug Monitoring Program Now Sharing Data with 11 Other States and D.C.

The Pennsylvania Prescription Drug Monitoring Program (PA PDMP) has now connected with 11 other states in an effort to foster data sharing among PDMPs. Interstate sharing of data helps prescribers and pharmacists get a more complete picture of their patients’ controlled substance prescription histories, regardless of which state they filled their prescription in.

Users of the PA PDMP can now see if their patients have filled controlled substance prescriptions in: Connecticut, Illinois, Louisiana, Massachusetts; New Jersey, New York, Ohio, Texas, Virginia, West Virginia, and Washington D.C. Additionally, a one-way sharing connection has been established with Maryland, enabling their program users to search the PA PDMP. The PA PDMP Office invites all other states to begin sharing data, and anticipates that Pennsylvania will connect with more state PDMPs in the upcoming weeks.
So What?  The Implications

So What?  The Implications

• Maine
  – January 1, 2017
    • Mandatory check of PDMP
    • Limits on opioid prescribing for acute and chronic pain
  – July 1, 2017
    • Mandatory electronic prescribing
    • Patients with active prescriptions in excess of 100 morphine milligram equivalents must be tapered
  – December 31, 2017
    • CME requirement for prescribers
The Role of Regulatory Agencies

The Role of Regulatory Agencies

The Facts

CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS) OPIOID MISUSE STRATEGY 2016

CMS has made attacking this devastating epidemic a top priority and is providing help and resources to clinicians, beneficiaries, and families. This is an ongoing CMS strategy, as part of the HHS Opioid Initiative launched in March 2015, to combat misuse and promote programs that support treatment and recovery support services. The CMS effort includes four priority areas:

1. Implement more effective person-centered and population-based strategies to reduce the risk of opioid use disorders, overdoses, inappropriate prescribing, and drug diversion;
2. Expand naloxone use, distribution, and access, when clinically appropriate;
3. Expand screening, diagnosis, and treatment of opioid use disorders, with an emphasis on increasing access to medication-assisted treatment; and
4. Increase the use of evidence-based practices for acute and chronic pain management.

The Role of Regulatory Agencies

The Facts

- Supporting the Department of Health and Human Services Initiative
  - Increasing the evidence base with research and data
  - Investing ~$12 million over next 3 years to explore how to best support rural primary care practices using medication-assisted therapy and overcoming educational barriers


The Role of Regulatory Agencies

The Implications

SAFE USE OF OPIOIDS IN HOSPITALS

- Create and implement policies and procedures for the ongoing clinical monitoring of patients receiving opioid therapy
- Create and implement policies and procedures that allow for a second level review by a pain management specialist or pharmacist
- Track and analyze opioid-related incidents
- Use information technology to monitor prescribing
- Advise clinicians who prescribe pain medications to use both pharmacologic and non-pharmacologic alternatives
- Educate and assess the understanding of staff
- Educate and provide written instructions to patients on opioids
- Assess the organization’s need for training based on the analysis of reported adverse events, near misses and staff observations
The Role of Regulatory Agencies

Proposes new measures to assess potentially inappropriate use of opioids:

– Assesses whether health plan members 18 years and older receive:
  • Long-term opioids at high dose
  • Opioids from multiple prescribers or multiple pharmacies
  • Long-term, high-dose opioids from multiple prescribers and multiple pharmacies

The Role of Regulatory Agencies

President’s Commission on Combating Drug Addiction and the Opioid Crisis

Mission

– To study the scope and effectiveness of the federal response to drug addiction and the opioid crisis and to make recommendations to the President for improving that response including
  • Availability of addiction treatment and drug reversal
  • Best practices for prevention including education and PDMPs
### The Role of Regulatory Agencies

**Collecting and Disposing of Unwanted Medicines**

**What to do with Unwanted or Expired Medicines**

- Guidelines for **disposal**
- **Take-back** events or programs

### The Implications


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### The Role of Regulatory Agencies

**DEA Reduces Amount of Opioid Controlled Substances to be Manufactured in 2017**

- The United States Drug Enforcement Administration (DEA) has reduced the amount of almost every Schedule II opiate and opioid medication that may be manufactured in the United States in 2017 by 25 percent or more
- The purpose of quotas are to provide for the adequate and uninterrupted supply for legitimate medical need of the types of schedule I and II controlled substances that have a potential for abuse, while limiting the amounts available to prevent diversion


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The Role of Regulatory Agencies

- To provide state medical boards with an updated guideline for assessing physicians’ management of pain
- To determine whether opioid analgesics are used in a manner that is both medically appropriate and in compliance with applicable state and federal laws and regulations

The Role of Regulatory Agencies

- Consider treatment inappropriate including but **not limited to**:
  - Inadequate attention paid to **initial assessment and risk determination**
  - **Inadequate monitoring** of potential for aberrant drug-related behaviors and use of available tools
  - Inadequate attention to **patient education and informed consent**
  - Unjustified **dose escalation**
  - Excessive reliance on opioid analgesics (particularly **high doses**)

**Federation of State Medical Boards**

**MODEL POLICY ON THE USE OF OPIOID ANALGESICS IN THE TREATMENT OF CHRONIC PAIN**
Adopted as policy by the House of Delegates of the Federation of State Medical Boards in July 2013
The Role of Regulatory Agencies

• Guidelines
  – **Non-pharmacologic** therapy and **non-opioid** pharmacologic therapy are preferred for chronic pain
  – Before starting opioid therapy for chronic pain, clinicians should establish treatment goals with all patients
  – Discuss known **risks, benefits, and responsibilities** with patients
  – **Immediate-release opioids** first
The Role of Regulatory Agencies

• Guidelines (Cont’d)
  – Lowest effective dosage
    • Reassess risk/benefit if \( \geq 50 \) MME/day
    • Avoid or carefully justify \( \geq 90 \) MMD/day
  – In acute pain, lowest effective dose, lowest quantity
  – Re-evaluate risk/benefit in 1-4 weeks, then every 3 months
  – Utilize strategies that mitigate risk
    • Opioid risk assessment
    • Naloxone

The Role of Regulatory Agencies

• Guidelines (cont’d)
  – Check the PDMP
  – Urine drug testing before initiation
    • At least annually
  – Avoid concurrent opioids and benzodiazepines
  – Offer or arrange for evidence-based treatment for patients with opioid use disorder
The Role of Regulatory Agencies

• Mission:
  – Update information since IOM Report
  – The evolving role of opioid analgesics
  – Characterizing the epidemiology of the opioid epidemic
    • Evidence on strategies for addressing it

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The Facts


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The Role of Regulatory Agencies

– Identify actions to be taken by FDA and other agencies and organizations
  • Specifically incorporating individual and societal considerations into its risk/benefit analysis framework for approval and post-market surveillance
  – Identify research questions that need to be addressed to assist the FDA in implementing this framework
The Role of Regulatory Agencies

The Facts

The Role of Regulatory Agencies

The Implications

• **Recommendations**
  – **Invest in research** to better understand pain and opioid use disorder
  – **Consider potential effects of policies and programs** for opioid analgesics on illicit markets
  – Improve **reporting**, invest in **data**, provide **transparency**
  – **Incorporate public health considerations** into FDA decision-making
The Role of Regulatory Agencies

The Role of Regulatory Agencies

• Recommendations (cont’d)
  – Strengthen post-approval oversight
  – Review currently approved opioid analgesics
  – Establish comprehensive educational materials for patients and healthcare providers
  – Facilitate reimbursement for comprehensive approaches
  – Improve PDMP use and data

The Role of Regulatory Agencies

• Recommendations (cont’d)
  – Evaluate impact of patient and public education
  – Expand education and treatment for opioid use disorder
  – Remove barriers to insurance coverage for Tx of opioid use disorder
  – Leverage pharmacists
  – Improve access to naloxone
Things May be Changing

Opioid Crisis: Scrap pain as 5th Vital Sign?
— Groups call on JC and CMS to re-evaluate policies that could lead to opioid overprescribing

The Implications

Hot Off the Press...

• 2018 Arizona Opioid Epidemic Act January 2018

Real lives. Real people. Between June 2017 - January 2018:

812 Arizonans died of a suspected opioid overdose

5,202 Arizonans suffered a suspected overdose on opioids

455 Arizona babies were born addicted to opioids

A potent drug mis-prescribed, overprescribed, and misused.

6,000,000+
The amount of opioids that four doctors wrote over a 12-month period in a county with a population of 200,000 people.

75%
The percentage of heroin users in treatment that started with painkillers, according to a 2014 study by the Journal of the American Medical Association.
Hot Off the Press...  

- **The Plan**
  - Targeting Pill Mills
  - Increasing **oversight and accountability**
  - Holding manufacturers accountable
    - Purdue Pharma
  - Good Samaritan law to protect naloxone administrator
  - Prescriber education
    - 20% of primary care physicians consider themselves well-prepared to identify high-risk patients
    - 40% of patients claim that they had the diagnosis and it was not identified by PCP

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Hot Off the Press...  

- **Limiting opioid doses prescribed**
  - <90 MME/day for non-expert clinicians
  - 5-day limits for first prescription for acute pain
  - The use of Red Caps
  - Access to naloxone

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Naloxone doses administered outside of the hospital by emergency medical services, law enforcement, and others from June 2017 through January 2018. 

3,429
86%

The percentage of patients who survived an overdose received Naloxone pre-hospital.
Case 1

Merrick doctor wants pain pill case tossed

Attorney: Belfiore, patients victims of pharmaceutical industry

Posted January 5, 2017

- A Merrick doctor under indictment for allegedly writing illegal prescriptions for patients is asking a federal judge to dismiss the case against him and go after those he thinks are really at fault — the pharmaceutical companies who promoted the drugs while downplaying their risks
- Wrote 5,000 prescriptions for 600,000 pain pills between January 2010 and March 2013
- According to federal officials, 5,000 is “an extremely high number of oxycodone prescriptions and oxycodone pills issued by a sole family practitioner, especially in light of the defendant’s specialty area: general family medicine and dermatology.”

Case 2

- 50-year-old woman formerly enjoyed a successful career as a consultant for a pharmaceutical company
  - “My husband and I worked hard and played hard”
  - Much of the “playing” included alcohol leading to alcoholism
  - A few years later husband develops cancer, and cancer pain
  - His opioid analgesics became an opportunity for this woman to start abusing them
  - She started to ask physicians she knew for prescriptions
  - “I would say, ‘these doctors treating my husband don’t know what they’re doing, so could you help me out and write a script for him?’” she recalls. “I had worked with these doctors for many years, and they trusted me. They’d write me anything until they eventually started to catch on.”
Conclusions

• There are a lot of cooks in the kitchen...

• How does this affect clinical practice?

Conclusions

• Start with state-level requirements
• Think DEA
• Pro-active education
• Discussion
• Consider societal outcomes
• Documentation
“Cure sometimes, treat often, comfort always.”
— Hippocrates

Questions?