

The Law of Pain Management

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Pain Management Legislation

- Legislatures – laws
- Use of controlled substances for intractable and chronic pain.
- Undertreatment and overtreatment
- Inappropriate medical board disciplining
- Proposed legalization of physician-assisted suicide.

Federal intractable pain policy

- Federal Regulations – early 1970s
- Federal Government does not Regulate the Practice of Medicine; States do.
- Controlled Substances Act (CSA) – Upheld: *U.S. v. Moore*, 423 U.S.122 (1975).
- Practitioner & Pharmacist - ***Responsible.***

Enforcement of Controlled Substances Act (CSA)

- No specific federal guidelines
- Proposed DEA Rules
- Attorneys General concerns
- FDA : Risk Evaluation and Mitigation Strategy (REMS) - ***Education***
- Burden on Drug Manufacturers
- AMA Policy

Pain Management: State Law

- State Law variable
- State Medical Licensing Rules
- Physician “opioid use reviews”:
 - State justice departments,
 - Triplicate prescription programs,
 - Professional licensing boards, and
 - Local law enforcement agencies.

Federation of State Medical Boards

FSMB Model Policy for Safe Opioid Prescribing:

1. Patient evaluation
2. Treatment plan
3. Informed consent & agreement for treatment
4. Periodic review
5. Consultation
6. Medical Records
7. Compliance with Controlled Substances Laws and Regulations

PAIN (5th Vital Sign)

- Patients with advanced malignancies die without adequate pain relief.
- Older persons suffer from pain, often under recognized and under treated.
- End of life a dehumanizing event.

Introduction: Opioid Analgesics

- One million DEA registered prescribers; 700,000 prescribe opioids
- Four million patients are prescribed opioids annually; 10 million abuse Rx
- 9% become dependent or addicted
- 60% of hospital costs related to opioid overdoses are paid for with public funds.
- Public Health: (1) Pharmacovigilance & (2) Risk Management

Opioid Analgesics

- Opioid Analgesics are Effective
- High Risk for Abuse
- War on Drugs & War on Pain
- Pain Patients & Physicians Hard-Hit
- Doctors Reluctant to Treat Severe Pain
 - Drug Use Reviews
 - Fraud & Abuse Enforcement

Drug Abuse Escalating in U.S.

- Prescription drug abuse has soared to new levels
- Prescription drug monitoring programs already running in 33 states.
- Nine other states have passed legislation to establish such programs.
- Share monitoring information across state lines.

THE BIG QUESTION

- What steps should the Prescriber of Controlled Substances (Opioid Analgesic Drugs) do to comply with Federal and State Law?

PAIN PRESCRIPTION OFTEN APPROPRIATE

- No recognized standard of care
- Pain Prescription is often appropriate
- Withholding pain medications when indicated may constitute inappropriate care
- Patients entitled to relief of pain
- Pain Meds highly addictive
- Physician balances risks

STEPS TO REDUCE LIABILITY

- Carefully document the reasons for prescribing controlled substances
- Consider the long-term prognosis
- reduce a patient's use of controlled substances
- risks, benefits, and alternatives to long-term use of controlled substances

DO NOT DEVIATE FROM STANDARDS OF PRACTICE

- In most states, prescribing controlled substances to maintain a drug addiction (outside of a licensed drug maintenance facility) is prohibited.
- The Health Insurance Portability and Accountability Act makes it virtually impossible to know such information if the patient doesn't share it
- In Oklahoma, physicians may access information about all pain prescriptions from other physicians.

HOW TO RECOGNIZE, DEAL WITH ADDICTION

- Track amount of medication
- Give the patient a strict verbal warning
- If the patient's need for drugs continues to increase, reassess the situation
- Consider referring the patient
- Note other signs of misuse of drugs
- Calls from the patient's family or friends

WHEN IS IT TIME FOR MORE ACTION

- repeated suspicious patient behavior
- call from a pharmacy that a prescription has been forged or altered, or that a patient is obtaining similar drugs from other sources
- documentation

That's All

Thank You