PHARMACY VISION 2020

CSHP SEMINAR 20 • OCTOBER 21-25

Disneyland RESORT

A Review of Long-Acting Opioid Analgesics and Risk Mitigation Strategies and its Relationship to Corresponding Responsibility

Keith Yoshizuka, PharmD, MBA, JD, FCSHP
Assistant Dean for Administration
Touro University California College of Pharmacy
CSHP President Elect

Thien Pham, PharmD, APh
Clinical Pharmacy Specialist – Pain Management
Tibor Rubin VA Medical Center
VA Long Beach Healthcare System

DISCLOSURES

Dr. Keith Yoshizuka, Pharm.D., MBA, JD, FCSHP

Financial Disclosures:

- Has no financial conflicts to disclose

Legal Disclosures:

- This program is intended for educational purposes only
- It is NOT intended to provide legal advice
- I am not your attorney
- There has been no attorney-client relationship established, and nothing said during this program is protected by that relationship
- Questions or requests for legal advice should be made where there is an attorney-client relationship

Dr. Thien Pham, Pharm.D., APh

- Is a consultant and expert legal witness for REMITIGATE, LLC.

LEARNING OBJECTIVES

- Define the doctrine of Corresponding Responsibility
- Identify "red flags" for controlled substances
- Define Strict Liability for PIC
- Explain how pharmacists might be liable for 2nd degree murder
- Describe opioid tolerance and identify which long-acting opioid formulations and dosage strengths are only indicated for opioid tolerant patients
- Given a case, apply risk mitigation strategies to avoid potential accidental opioid overdose and diversion

LONG-ACTING OPIOID-RELATED OVERDOSE AND MORTALITY

- Long-acting opioids were associated with a significantly greater risk for all-cause mortality, including death from causes other than overdose.[1]
- Patients initiated on long-acting opioids were more than twice as likely to overdose compared to those initiated with short-acting opioids especially within the first 2 weeks and at doses > 50 mg equivalents of morphine.[2]
- Opioid naïve elderly nursing home patients were more likely to be initiated on a fentanyl patch compared to other long-acting opioids.[3]

1. Ray WA, et al. JAMA. 2016.
2. Miller M, et al. JAMA Intern Med. 2015.
3. Dosa DM, et al. J Pain Symptom Manage. 2009.

FEDERAL DEFINITION OF CORRESPONDING RESPONSIBILITY[4]

Title 21 Code of Federal Regulations, Food and Drugs

§1306.04 Purpose of issue of prescription.

(a) 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. 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**. 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 (21 U.S.C. 829) and the person 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.

4. 21 CFR 1306.04(a)

CALIFORNIA DEFINITION OF CORRESPONDING RESPONSIBILITY[5]

California Health and Safety Code - HSC

§11153. Responsibility for Legitimacy of Prescription; Corresponding Responsibility of Pharmacist;

Knowing Violation

(a) **A prescription for a controlled substance shall only be issued for a legitimate medical purpose** by an individual practitioner acting in the usual course of his or her professional practice. 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**

5. HSC 11153(a)

HOW IS THE PHARMACIST'S RESPONSIBILITY DIFFERENT THAN THE PRESCRIBER'S

- Pharmacists must make a separate, independent determination that the prescription for a controlled substance is for a legitimate medical purpose
- It is not sufficient to merely obtain the prescriber's diagnosis or to verify with the prescriber that the prescription is legitimate
- It is very difficult to make this determination based upon a single incident, but repeated encounters and trends tend to raise **Red Flags** that the pharmacist must scrutinize

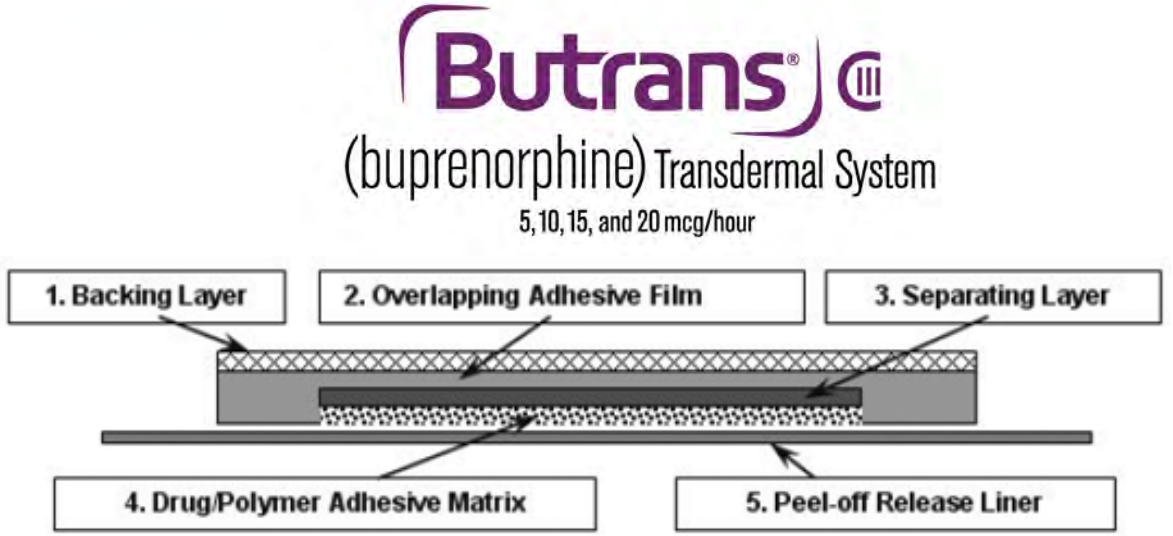
POTENTIAL RED FLAGS WHEN FILLING CONTROLLED SUBSTANCE PRESCRIPTIONS[6,7]

- Multiple controlled substance prescriptions
- Long distances from prescriber or patient
- Suspicious combinations of controlled substances
- Frequent/early refills of controlled substances
- Same prescriptions from the same prescriber for different patients without regard to age, weight, or other factors
- Multiple patients at the same address
- Multiple prescribers for the same controlled substance
- Cash payments

6. https://pharmacy.ca.gov/publications/corresponding_responsibility.pdf
7. https://www.deadiversion.usdoj.gov/fed_regs/actions/2018/index.html

LONG-ACTING OPIOID ANALGESICS

BUPRENORPHINE



Trade name: Butrans®

Dosage Form: transdermal patch

FDA Approved: 2012

DEA Regulation: CIII

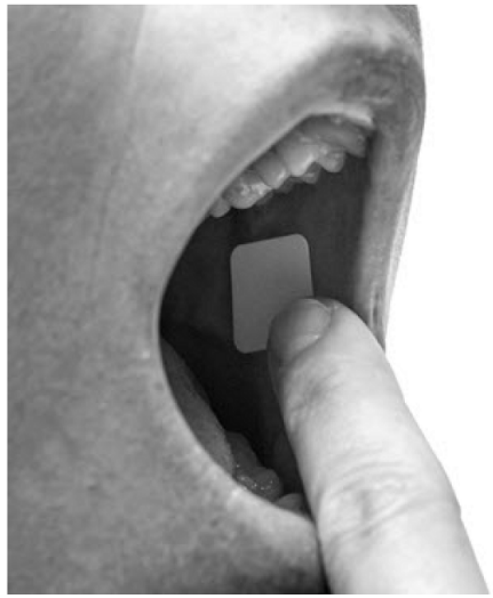
Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q7 days

Abuse Deterrent Properties: None

8. BUTRANS (buprenorphine) transdermal system [package insert]. 2019.

BUPRENORPHINE



Trade name: Belbuca®

Dosage Form: soluble (buccal) film

FDA Approved: 2015

DEA Regulation: CIII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q24 to 12H

Abuse Deterrent Properties: None

9. BELBUCA (buprenorphine hydrochloride) soluble film [package insert]. 2019.

TAPENTADOL

Trade name: Nucynta ER®

Dosage Form: ER tablets

FDA Approved: 2012

DEA Regulation: CII

Indication:

- pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate
- neuropathic pain associated with diabetic peripheral neuropathy (DPN)

Dose Frequency: Q12H

Abuse Deterrent Properties: INTAC

10. NUCYNTA ER (tapentadol hydrochloride) [package insert]. 2019.

HYDROCODONE

Trade name: Hysingla ER®

Dosage Form: ER tablets

FDA Approved: 2014

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q24H

Abuse Deterrent Properties: RESISTEC

11. HYSINGLA ER (hydrocodone bitartrate) [package insert]. 2019.
12. https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/abuse-deterrent-opioid-analgesics

HYDROCODONE

Trade name: Zohydro ER®

Dosage Form: ER capsules

FDA Approved: 2013

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q12H

Abuse Deterrent Properties: None

13. ZOHYDRO ER (hydrochloride bitartrate) [package insert]. 2019.

HYDROMORPHONE

Trade name: (Formerly) Exalgo®

Dosage Form: ER tablets

FDA Approved: 2012

DEA Regulation: CII

Indication: opioid-tolerant patients for the management of pain severe enough to require daily, around-the clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q24H

Abuse Deterrent Properties: OROS

14. EXALGO (hydromorphone hydrochloride) [package insert]. 2020.

MORPHINE

Trade name: MS Contin®

Dosage Form: ER tablets

FDA Approved: 2012

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q8 to 12H

Abuse Deterrent Properties: None

15. MS CONTIN (morphine sulfate) [package insert]. 2017.

MORPHINE

Trade name: Kadian®

Dosage Form: ER capsules

FDA Approved: 2012

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q24H

Abuse Deterrent Properties: Yes(?)

16. KADIAN (morphine sulfate) [package insert]. 2019.

MORPHINE

Trade name: MorphaBond ER®

Dosage Form: ER tablets

FDA Approved: 2015

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q8 to 12H

Abuse Deterrent Properties: SentryBond

17. MORPHABOND ER (morphine sulfate) [package insert]. 2019.
12. https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/abuse-deterrent-opioid-analgesics

OXYCODONE

Trade name: Oxycontin®

Dosage Form: ER tablets

FDA Approved: 2014

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate in:

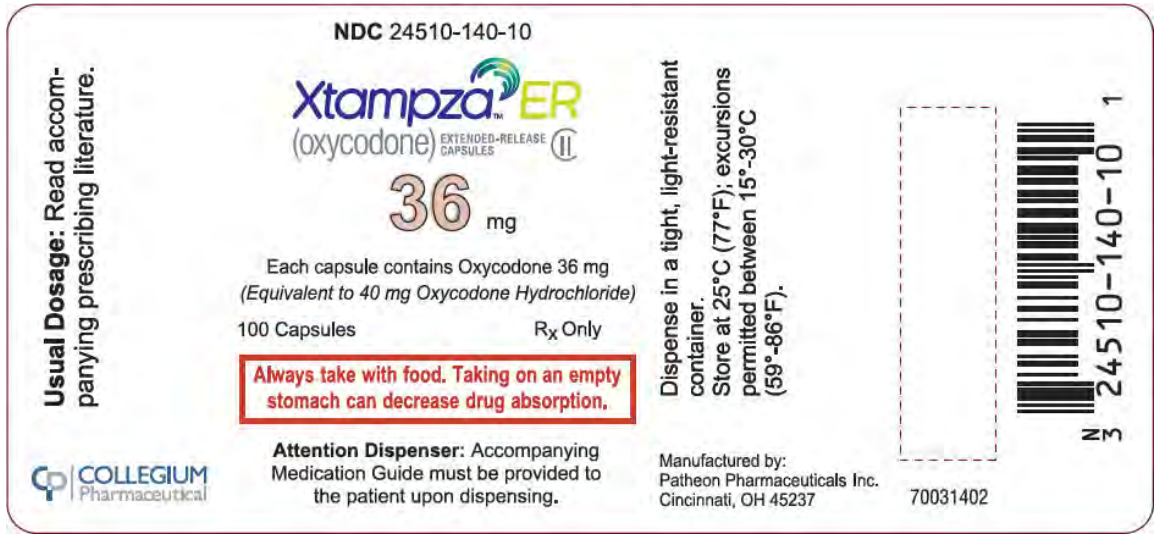
- Adults
- Opioid-tolerant pediatric patients ≥ 11 years old taking ≥ 20 mg oxycodone

Dose Frequency: Q12H

Abuse Deterrent Properties: RESISTEC

18. OXYCONTIN (oxycodone hydrochloride) [package insert]. 2019.
12. https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/abuse-deterrent-opioid-analgesics

OXYCODONE



Trade name: Xtampza ER®

Dosage Form: ER capsules

FDA Approved: 2016

DEA Regulation: CII

Indication: management of pain severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

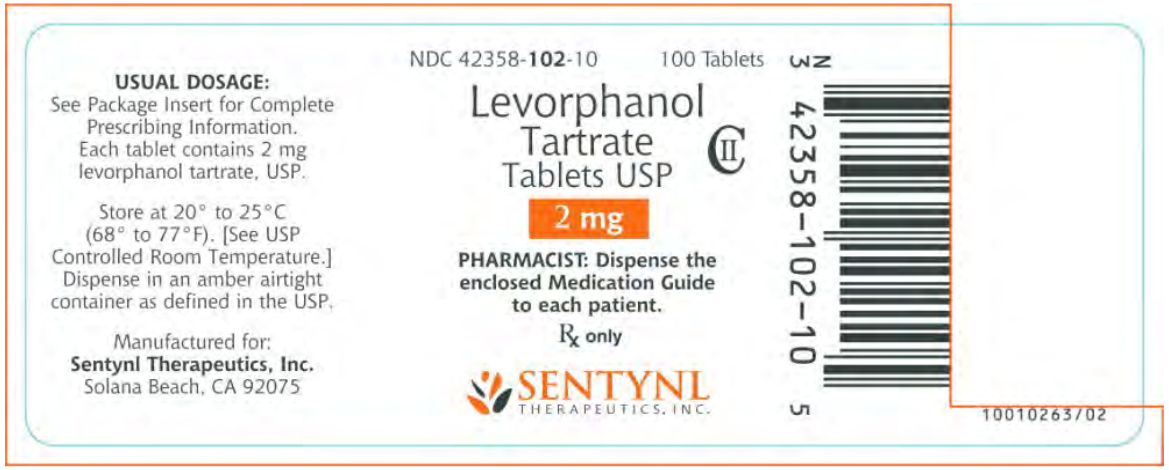
Dose Frequency: Q12H

Abuse Deterrent Properties: DeterRx

19. XTAMPZA ER (oxycodone) [package insert]. 2019.

12. https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/abuse-deterrent-opioid-analgesics

LEVORPHANOL



Trade name: (Formerly) Levo-Dromoran®

Dosage Form: IR tablets

FDA Approved: 1953

DEA Regulation: CII

Indication: management of pain severe enough to require an opioid analgesic and for which alternative treatments are inadequate

Dose Frequency: Q6 to 8H

Abuse Deterrent Properties: None

20. LEVORPHANOL (levorphanol tartrate) [package insert]. 2019.

METHADONE

Trade name: Dolophine®

Dosage Form: IR tablets

FDA Approved: 1947

DEA Regulation: CII

Indication:

- Moderate to severe pain not responsive to non-narcotic analgesics
- Detoxification treatment of opioid addiction (heroin or other opioids)
- Maintenance treatment of opioid addiction in conjunction with appropriate social and medical services

Dose Frequency: Q8 to 12H

Abuse Deterrent Properties: None

21. DOLOPHINE (methadone hydrochloride) [package insert]. 2014.

COMPARISON OF METHADONE INDICATIONS

	Medication Assisted Therapy	Chronic Pain
Formulations	Oral Tablets, Solutions	Oral Tablets, Solutions
Common Dose Ranges	40 to 120mg/day	2.5 to 40mg/day
Dosing Frequency	Once daily	Q8 to 12H
Route of Administration	Oral	Oral
Monitoring	Adherence Dependence/Withdrawal Side Effects Urine/Oral fluid drug test	QTc "5A's" Urine/Serum drug tests
PDMP	Maybe	Yes
Guidelines	APA[22], APS[23], ASAM[24], SAMHSA[25], VA/DoD[26]	APS[23], CDC[27], VA/DoD[28]

REGULATORY EXCEPTIONS FOR METHADONE

Regulatory exceptions to the General Requirement for certification to provide opioid agonist treatment:

- Inpatient care with patient admitted for any condition other than concurrent opioid addiction[22], to facilitate the treatment of the primary admitting diagnosis
- Emergency period of no longer than 3 days while definitive care for the addiction is being sought in an appropriately licensed facility[23]
  - Cannot be renewed or extended

29. 21 CFR 1306.07(c)
30. 21 CFR 1306.07(b)

FENTANYL

Trade name: Duragesic®

Generic name: fentanyl transdermal system

Dosage Form: transdermal patch

FDA Approved: 1968

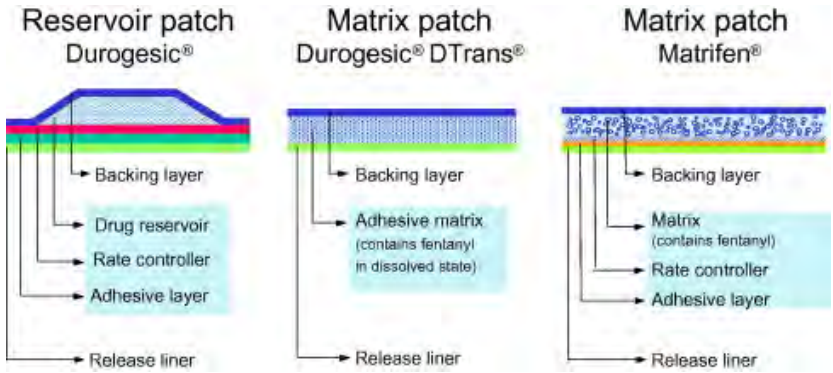
DEA Regulation: CII

Indication: management of pain in opioid-tolerant patients, severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate

Dose Frequency: Q72H

Abuse Deterrent Properties: None

DURAGESIC®
(FENTANYL TRANSDERMAL SYSTEM) CII



31. DURAGESIC (fentanyl transdermal system) [package insert]. 2019.

OPIOID NAÏVE vs. TOLERANT

- Opioid Tolerant
  - Patients who chronically receive opioids on a daily basis for ≥ 7 days of
    - ≥ 60 mg PO Morphine/day
    - ≥ 8 mg PO Hydromorphone/day
    - ≥ 30 mg PO Oxycodone/day
    - ≥ 25 mg PO Oxymorphone/day
    - ≥ 25 mcg transdermal Fentanyl/hour
    - Or equianalgesic dose of any other opioid combination
- Opioid Naïve
  - Patients who do **NOT** meet the definition of opioid tolerant

32. Extended-Release (ER) and Long-Acting (LA) Opioid Analgesics Risk Evaluation and Mitigation Strategy (REM). U.S. Food and Drug Administration. June 2015.

LONG-ACTING OPIOID TOLERANT DOSES		
Generic	**Brand**	**Doses**
Morphine	MS Contin[15] Kadian[16] MorphaBond ER[17]	Single dose 100, 200 mg or ≥ total daily dose 120 mg Single dose 80, 100, 200 mg or ≥ total daily dose 120 mg Single dose 100 mg or ≥ total daily dose 120 mg
Hydrocodone	Hysingla ER[11] Zohydro ER[13]	Single daily dose 80, 100, 120 mg Single dose 50 mg or total daily dose > 80 mg
Hydromorphone	Exalgo[14]	All (8, 12, 16, 32mg)
Oxycodone	Oxycontin[18] Xtampza ER[18]	Single dose 60, 80 mg or total daily dose > 80 mg Single dose > 36 mg or total daily dose > 72 mg
Fentanyl	Duragesic[31]	All (12, 25, 37.5, 50, 75, 100 mcg/hr patch)
Buprenorphine	Butrans[8] Belbuca[9]	7.5, 10, 15, 20 mcg/hr patch 600, 750, 900 mcg mcg buccal film

COUNSELING POINTS FOR LA/ER OPIOIDS

- For the management of severe chronic pain
- Take scheduled at same time each day and **NOT** to be take PRN
- Swallow capsule/tablet whole
  - Do **NOT** moisten, dissolve, break, cut, crush, or chew
- Patches rotated sites of application and **NOT** to be cut applied heat
- Common side effects: constipation, nausea/vomiting, lightheadedness, dizziness, drowsiness, somnolence, pruritus, cognitive impairment
- Signs and symptoms of opioid overdose
- Safe storage (ex. Medication lock box)
- Proper disposal (ex. DEA National Prescription Drug Take Back Day)

OPIOID RISK MITIGATION STRATEGIES

Prescription Drug Monitoring Program (PDMP)

Urine Drug Testing (UDT)

Naloxone Opioid Overdose Kits

CLINICAL PRACTICE GUIDELINES

Opioid Treatment Guidelines

Clinical Guidelines for the Use of Chronic Opioid Therapy in Chronic Noncancer Pain

Roger Chou,[1] Gilbert J. Fanciullo,[2] Perry G. Fine,[3] Jeremy A. Adler,[4] Jane C. Ballantyne,[5] Pamela Davies,[6] Marilee I. Donovan,[7] David A. Fishbain,[8] Kathy M. Foley,[9] Jeffrey Fudin,[10] Aaron M. Gilson,[11] Alexander Kelter,[12] Alexander Mauskop,[13] Patrick G. O'Connor,[14] Steven D. Passik,[15] Gavril W. Pasternak,[16] Russell K. Portenoy,[17] Ben A. Rich,[18] Richard G. Roberts,[19] Knox H. Todd,[20] and Christine Miaskowski,[21] for the American Pain Society–American Academy of Pain Medicine Opioids Guidelines Panel

GUIDELINES FOR PRESCRIBING CONTROLLED SUBSTANCES FOR PAIN

MEDICAL BOARD OF CALIFORNIA

NOVEMBER 2014

CDC Guideline for Prescribing Opioids for Chronic Pain–United States, 2016

Deborah Dowell, MD, MPH; Tamara M. Haegerich, PhD; Roger Chou, MD

FEDERAL/STATE LAWS & REGULATIONS

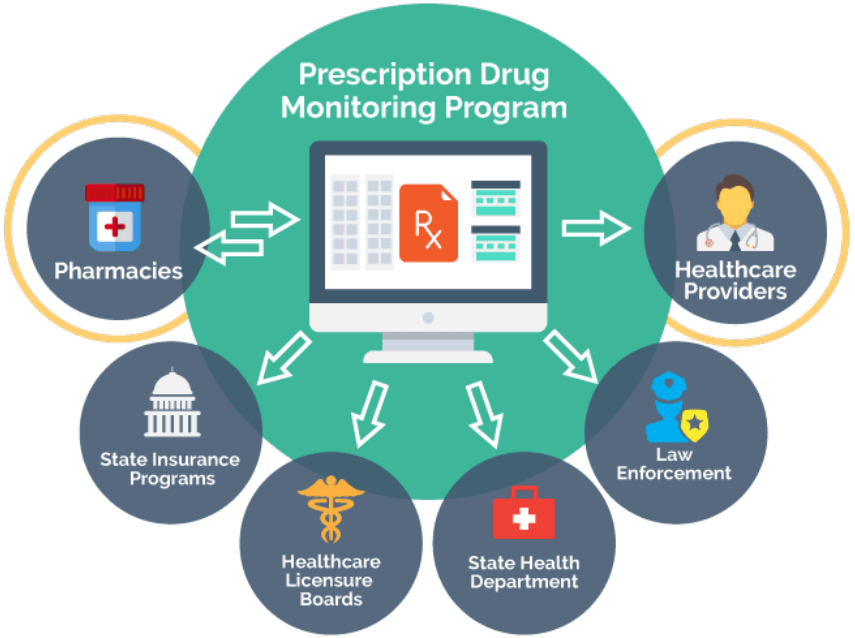
U.S. DEPARTMENT OF JUSTICE ★ DRUG ENFORCEMENT ADMINISTRATION

DIVERSION CONTROL DIVISION

California LEGISLATIVE INFORMATION

RECOMMENDED PDMP REVIEW

Frequency	APS/AAPM[33] (2009)	Medical Board of CA[34] (2014)	CDC[27] (2016)	VA/DoD[28] (2017)	CA HSC 11165.4(a)(1)(A)(i)[35] (2020)
Initial	Maybe	Yes	Yes	Yes	Yes
Follow-up	Maybe	Frequently	Q1 to 3 months	Q3 months	Q4 months



PROVISIONS OF THE LAW

Health Insurance Portability and Accountability Act (HIPAA) & Attendant Regulations

- 42 U.S.C. §§ 1320d to 1320d-8, and 45 CFR 164, et seq.

California Confidentiality of Medical Information Act

- CA Civil Code §§ 56 to 56.16

California Information Practices Act

- CA Civil Code § 1798, et seq.

CURES Legislation

- CA Health and Safety Code § 11165, et seq.

CURES PDMP INFORMATION

- Controlled Substance Schedule II, III, IV
- Information
  - Patient: name, date of birth, address
  - Prescriber: name, DEA number
  - Pharmacy: name, license number
  - Prescription: date dispensed, Rx number
- Patients may obtain PDMP history from Information Practices Act (IPA)
- Patient Alerts

36. https://oag.ca.gov/cures/faqs

CURES PDMP ALERT TYPE

1. Current prescribed more than 90 morphine mg equivalency per day
2. Obtained prescriptions from 6 or more prescribers or more pharmacies during last 6 months
3. Currently prescribed 40 or more morphine milligram equivalents of Methadone daily
4. Currently Prescribed Opioids more than 90 consecutive days
5. Currently Prescribed Both Benzodiazepines and Opioids

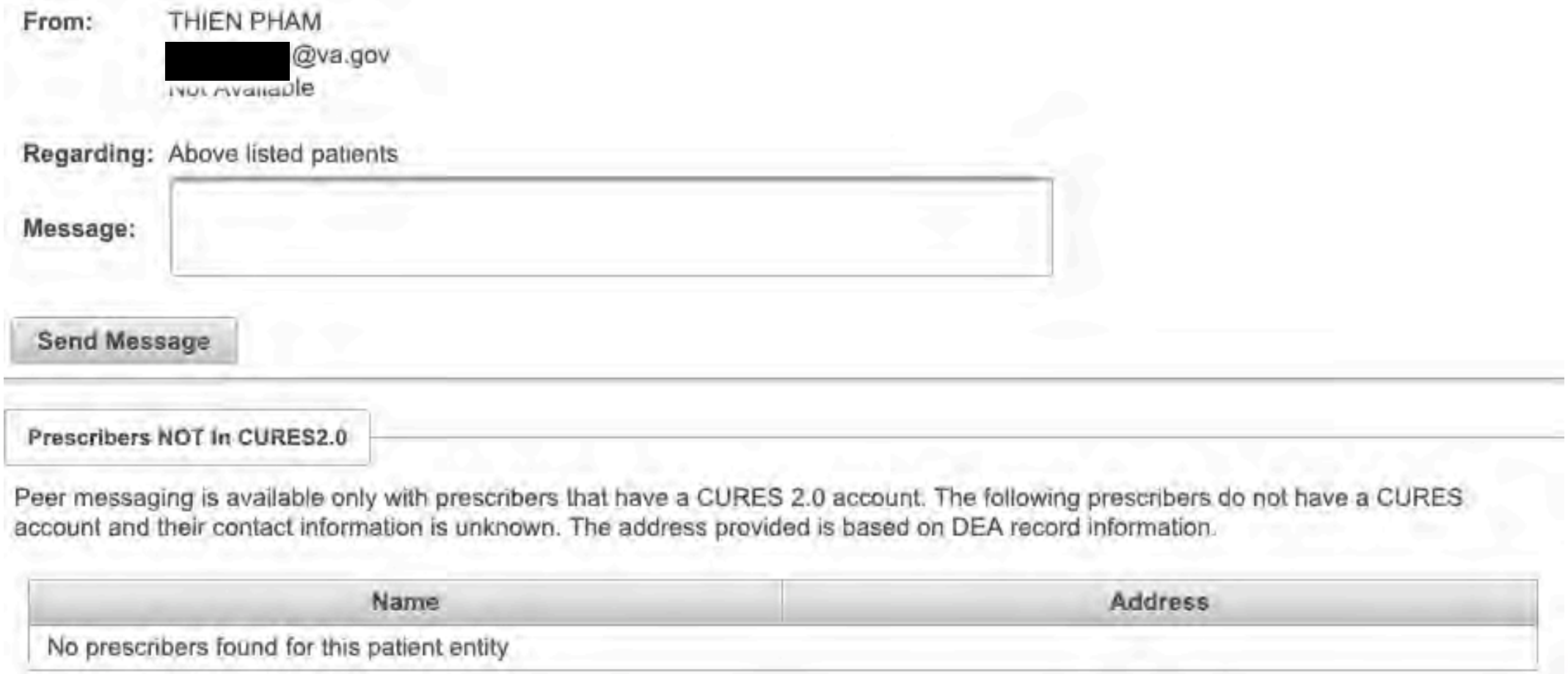
36. https://oag.ca.gov/cures/faqs

CURES PDMP DATA LIMITATIONS[34]

- Prescription data ≤ 12 months
- No Schedule V until January 1, 2021[35]
- California Rx **ONLY** for now, pending revised regulations and negation with other states for shared database[36]
- (Limited) Federal prescription data (ex. VHA, DoD)
  - *Patient Alerts
- Prescription data reported to DOJ by pharmacies and direct dispensers
  - Patients must notify pharmacy of incorrect information/errors
- May **NOT** include opioids from maintenance/dependence treatment programs
- Microsoft Internet Explorer version 11.0 or higher, Mozilla Firefox, Google Chrome, Safari

36. https://oag.ca.gov/cures/faqs
37. AB 528 (20190 HSC § 11164.1, 11165, 11165.1, and 11165.4
38. AB 1751 (2018) HSC §11165

CURES PDMP PRESCRIBER/PEER MESSAGING



From: THIEN PHAM
[redacted]@va.gov
Not Available

Regarding: Above listed patients

Message:

Send Message

Prescribers NOT in CURES2.0

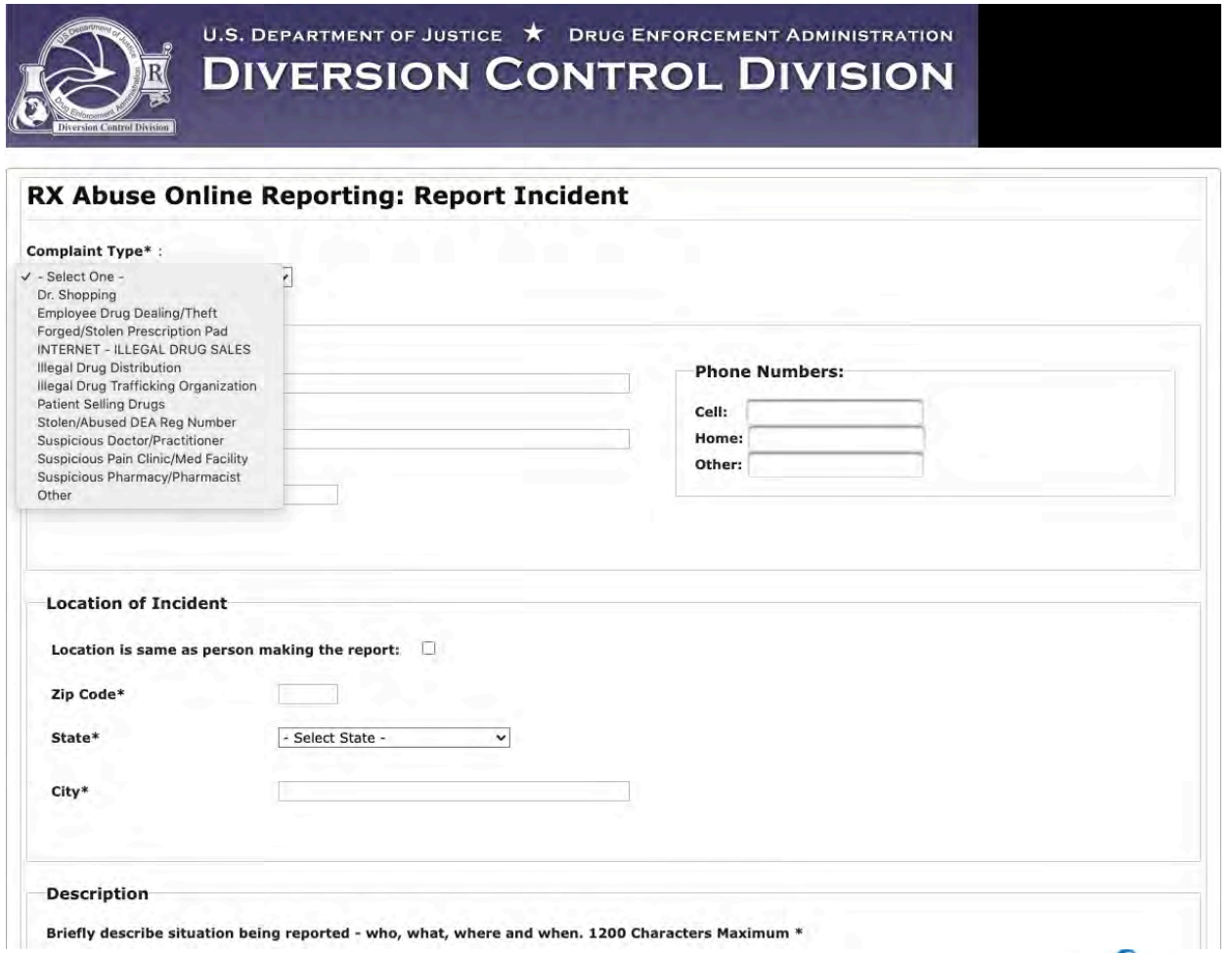
Peer messaging is available only with prescribers that have a CURES 2.0 account. The following prescribers do not have a CURES account and their contact information is unknown. The address provided is based on DEA record information.

Name	Address
No prescribers found for this patient entity	

36. https://oag.ca.gov/cures/faqs

DEA RX ABUSE ONLINE REPORTING

- Dr. Shopping
- Employee Drug Dealing/Theft
- Forged/Stolen Prescription Pad
- INTERNET – ILLEGAL DRUG SALES
- Illegal Drug Distribution
- Illegal Drug Trafficking Organization
- Patient Selling Drugs
- Stolen/Abused DEA Reg Number
- Suspicious Doctor/Practitioner
- Suspicious Pain Clinic/Med Facility
- Suspicious Pharmacy/Pharmacist
- Other



39. https://apps2.deadiversion.usdoj.gov/rxaor/spring/main?execution=e1s1

RECOMMENDED DRUG TESTING

Frequency	APS/AAPM[33] (2009)	Medical Board of CA[34] (2014)	CDC[27] (2016)	VA/DoD[28] (2017)
Initial	Not addressed	Yes	Yes	Yes
Follow-up	Quarterly - Biannually	Periodically	Annually	Q3 months

COMPONENTS OF A URINE DRUG TEST

The Federal Five

- Amphetamines/Methamphetamines
- Cocaine
- Marijuana/THC
- Opiates
- Phencyclidine

Clinical Substances

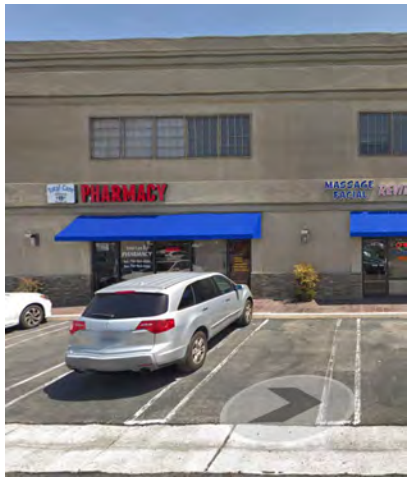
- Barbiturates
- Benzodiazepines
- Semisynthetic Opioids
  - Buprenorphine
  - Oxycodone
- Synthetic Opioids
  - Fentanyl
  - Methadone

40. 21 CFR 1306.07(c)
41. DHHS, SAMHSA. Fed Regist. 2008;73:71907.

PROVIDER SANCTIONS

CORRESPONDING RESPONSIBILITY: PACIFICA PHARMACY[42]

- Thang Q Tran owned Pacifica Pharmacy in Huntington Beach
- Multiple violations of filling controlled substance prescription without a legitimate medical purpose, expired drugs, discrepancies in inventory, and missing information of pre-filled containers
- People would get their prescription filled, then sell it to dealers in the parking lot
- Pharmacy license and pharmacist's license were both revoked



42. https://www.pharmacy.ca.gov/enforcement/fy1011/ac103802

CORRESPONDING RESPONSIBILITY: LM CALDWELL PHARMACIST[43]

- LM Caldwell Pharmacist had two locations in Santa Barbara
- Upon inspection and investigation, the pharmacies could not account for 134,116 tablets of hydrocodone & acetaminophen (10/325) and 165 tablets of Oxycodone SR 80mg
- The pharmacy could not account for hard copies of multiple controlled substance prescriptions
- Multiple incidents of prescriptions filled without a legitimate medial purpose
- Licenses were voluntarily surrendered

43. https://www.pharmacy.ca.gov/enforcement/fy1314/ac134867

STRICT LIABILTIY FOR THE PHARMACIST-IN-CHARGE

- The Pharmacist-In-Charge (PIC) is strictly liable for all activities occurring within the pharmacy
- Assertion of constructive knowledge: the PIC either knew what was going on, or should have known
- Sternberg v Cal. State Bd of Pharmacy[44]
  - Andrew Sternberg was PIC at a pharmacy where the technician stole more $1 million worth of Norco® (street value) over two years
  - Dr. Sternberg was cited for failure to exercise control over the pharmacy's inventory and establish proper security procedures to detect diversion
  - Dr. Sternberg's unsuccessful defense argued that he was not a party to the theft and was not aware that the thefts were occurring.
  - The Court of Appeals affirmed the Board of Pharmacy's finding of strict liability

44. Sternberg v. California State Board of Pharmacy (2015) 239 Cal.App.4th 1159

CRIMINAL LIABILITY: DR. HSIUYING "LISA" TSENG[45]

- Dr. Lisa Tseng had a clinic in Rowland Heights, East of Los Angeles
- First physician convicted of recklessly prescribing drugs in the United States
- She received nine telephone calls from authorities regarding her patients who had overdosed, and one in her office
- Convicted of three counts of second degree murder
- Sentenced to 30 years to life
- Court of Appeals affirmed conviction

45. https://law.justia.com/cases/california/court-of-appeal/2018/b270877.html

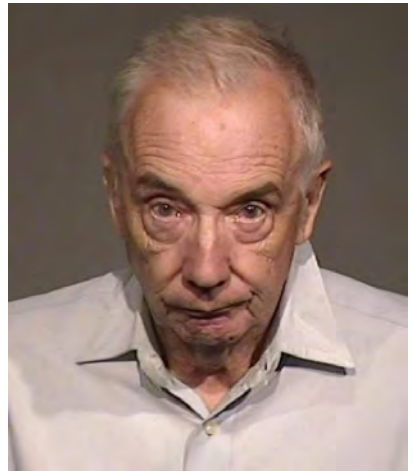
CRIMINAL LIABILITY: DR. JASNA MRDJEN[46]

- Dr. Jasna Mrdjen of Mountain View had a pain management clinic in Los Gatos (Silicon Valley)
- She plead no contest to 9 counts of prescribing controlled substances without a legitimate medical purpose, 2 counts of dispensing a controlled substance to an addict, 1 count of conspiracy and 1 count of involuntary manslaughter
- She was sentenced to four years in the state prison

46. https://www.mercurynews.com/2017/05/24/san-jose-ex-doctor-gets-four-years-for-involuntary-manslaughter/

CRIMINAL LIABILITY: DR. THOMAS MCNEESE KELLER[47]

- Dr. Keller was a neurosurgeon and pain specialist in Santa Rosa
- He was charged with four counts of second degree murder following the overdose deaths of five of his patients
- He was acquitted of two of the charges, but the jury failed to reach a verdict on the other charges earlier this year



47. https://www.pressdemocrat.com/article/news/jury-acquits-santa-rosa-pain-doctor-of-two-murder-charges-but-hung-on-rema/

CRIMINAL LIABILITY: DR. WILLIAM HUSEL[48]

- Dr. William Husel was a physician at the Mount Carmel Medical Center in Ohio
- He is accused of first degree murder following the deaths of 25 intensive care patients receiving at least 500 mcg of fentanyl
- His trial, originally scheduled for June 1st this year, is being delayed because of the COVID pandemic
- 23 nurses, pharmacists, and managers involved were fired

48. https://radio.wosu.org/post/murder-trial-delayed-william-husel#stream/0

CRIMINAL LIABILITY: YOU[49]

- Since the Lisa Tseng case in 2015, criminal liability charges against prescribers have proliferated
- Given that the Doctrine of Corresponding Responsibility is reiterated in both state and federal law, doesn't it make sense that the pharmacy may face corresponding criminal liability as well as responsibility?
- Thus far, I am only aware of administrative and civil liabilities being pursued against pharmacists.
- For criminal liability, the question is no longer if, but when

49. https://www.medscape.com/viewarticle/882358

AB 714, WOOD. OPIOID PRESCRIPTION DRUGS: PRESCRIBERS

(SIGNED BY THE GOVERNOR 9/5/19)

§741. (a) Notwithstanding any other law, when prescribing an opioid or benzodiazepine medication to a patient, a prescriber shall do the following:

(1) Offer the patient a prescription for naloxone for opioid-induced respiratory depression when one or more of the following conditions are present:

(A) ≥ 90 mg MEDD

(B) Opioid prescribed within a year from a benzodiazepine

(C) Patient presents with an increased risk for opioid overdose (ex. history of opioid overdose, opioid use disorder, at risk for returning to a high dose to which the patient is no longer tolerant.

50. AB-714 Opioid Prescription Drugs: prescribers. (2019-2020)

AB 714, WOOD. OPIOID PRESCRIPTION DRUGS: PRESCRIBERS

(SIGNED BY THE GOVERNOR 9/5/19)

(2) Provide education on opioid overdose prevention and the use of naloxone for the reversal of opioid-induced respiratory depression

(3) Provide education on opioid overdose prevention and the use of naloxone for the reversal of opioid-induced respiratory depression to one or more persons designated by the patient

(b) A prescriber is not required to provide the education specified in paragraphs (2) or (3) of subdivision (a) if the patient receiving the prescription declines the education or has received the education within the past 24 months.

50. AB-714 Opioid Prescription Drugs: prescribers. (2019-2020)

AB 714, WOOD. OPIOID PRESCRIPTION DRUGS: PRESCRIBERS

(SIGNED BY THE GOVERNOR 9/5/19)

EXEMPTIONS

(c) This section **does not apply to a prescriber** under any of the following circumstances:

(1) When prescribing to an inmate or a youth under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice within the Department of Corrections and Rehabilitation

(2) Ordering medications to be administered to a patient while the patient is in either an inpatient or outpatient setting

(3) Terminally ill

50. AB-714 Opioid Prescription Drugs: prescribers. (2019-2020)

SB 1109, BATES. CONTROLLED SUBSTANCES: SCHEDULE II DRUGS: OPIOIDS

In addition to prescription labeling requirements, whenever a prescription drug containing an opioid is dispensed to a patient for outpatient use, the pharmacy … dispensing the drug shall prominently display on the label, flag or other notification mechanism attached to the container, a notice that states:

“Caution: Opioid. Risk of overdose and addiction.”

IMPORTANT NOTE: While the title of the bill appears to apply only to Schedule II opioids, all opioid-containing drugs, even Schedule V, must carry the warning!

51. SB 1109 (2018) BPC §740

SB 482, LARA. CONTROLLED SUBSTANCES: CURES DATABASE

- Requires a healthcare provider to check the CURES database before prescribing a controlled substance in Schedules II, III, or IV; and every four months thereafter if the controlled substance remains part of the treatment of the patient
- Exempts veterinarians and pharmacists from this requirement
- However, pharmacists acting as mid-level prescribers (pharmacists who write prescriptions for controlled substances, not just dispense) would be prudent to follow this as a standard of practice (civil liability)
- Effective October 2, 2018

51. SB 1109 (2018) BPC §740

AB 1535, BLOOM. PHARMACISTS: NALOXONE HYDROCHLORIDE

(SIGNED BY THE GOVERNOR 9/15/14)

Added to Business and Professions Code

§4052.01. (a) A pharmacist may furnish naloxone hydrochloride in accordance with standardized procedures or protocols developed and approved by both the board and other appropriate entities. In developing those standardized procedures or protocols, the board and the Medical Board of California shall include the following:

(1) Ensure education on opioid overdose prevention, recognition, and response, safe administration of naloxone hydrochloride, potential side effects or adverse events, and the imperative to seek emergency medical care for the patient.

(2) Ensure education regarding the availability of drug treatment programs.

52. AB-1535 Pharmacists: naloxone hydrochloride. (2013-2014)

AB 1535, BLOOM. PHARMACISTS: NALOXONE HYDROCHLORIDE

(SIGNED BY THE GOVERNOR 9/15/14)

(3) Notification of the patient's primary care provider with patient consent of any drugs or devices furnished to the patient, or entry of appropriate information in a patient record system shared with the primary care provider, as permitted by that primary care provider, and with patient consent.

(b) A pharmacist **shall not** permit the person to waive the consultation required by the board and the Medical Board of California.

(c) Prior to performing a procedure authorized under this section, a pharmacist shall complete a training program on the use of opioid antagonists that consists of at least one hour of approved continuing education on the use of naloxone hydrochloride.

49.

52. AB-1535 Pharmacists: naloxone hydrochloride. (2013-2014)

NALOXONE

Trade name: Narcan®

Dose: (2) 4mg

Dosage Form: (2 single use) nasal spray

FDA Approved: 2018

Indication: emergency treatment of known or suspected opioid overdose, as manifested by respiratory and/or central nervous system depression

Dose Frequency: Administer intranasally once, repeat every 2-3 minutes PRN

53. NARCAN (naloxone hydrochloride) nasal spray [package insert]. 2018.

OAKEY v. MAY MAPLE PHARMACY, INC.

TL is a 19 y.o. Hispanic FEMALE with PMH of pain and anxiety who **DIED** December 1, 2009 of an opioid-related overdose.

Autopsy report revealed toxicology levels of:

- Oxycodone 980 ng/mL
- Oxymorphone 26 ng/mL
- Alprazolam 95 ng/mL

Allergies: NKDA

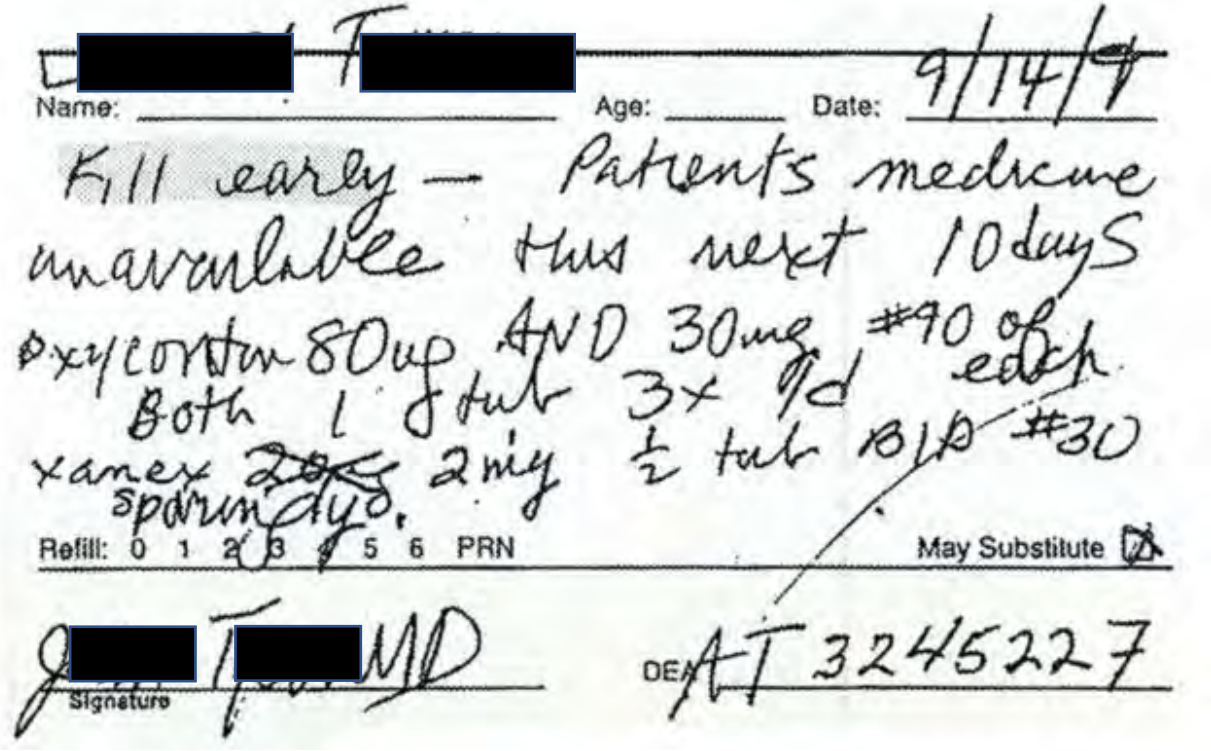
54. Oakey v. May Maple Pharmacy, Inc., 2017-NMCA-054, 399 P.3d 939.

OAKEY v. MAY MAPLE PHARMACY, INC. (CONT.)

"Fill early – Patients medicine unavailable this next 10 days"

Medications:

- Oxycontin 80mg 1 tab 3x/day #90
- Oxycontin 30mg 1 tab 3x/day #90
- Xanax 2mg ½ tab BID sparingly #30



54. Oakey v. May Maple Pharmacy, Inc., 2017-NMCA-054, 399 P.3d 939.

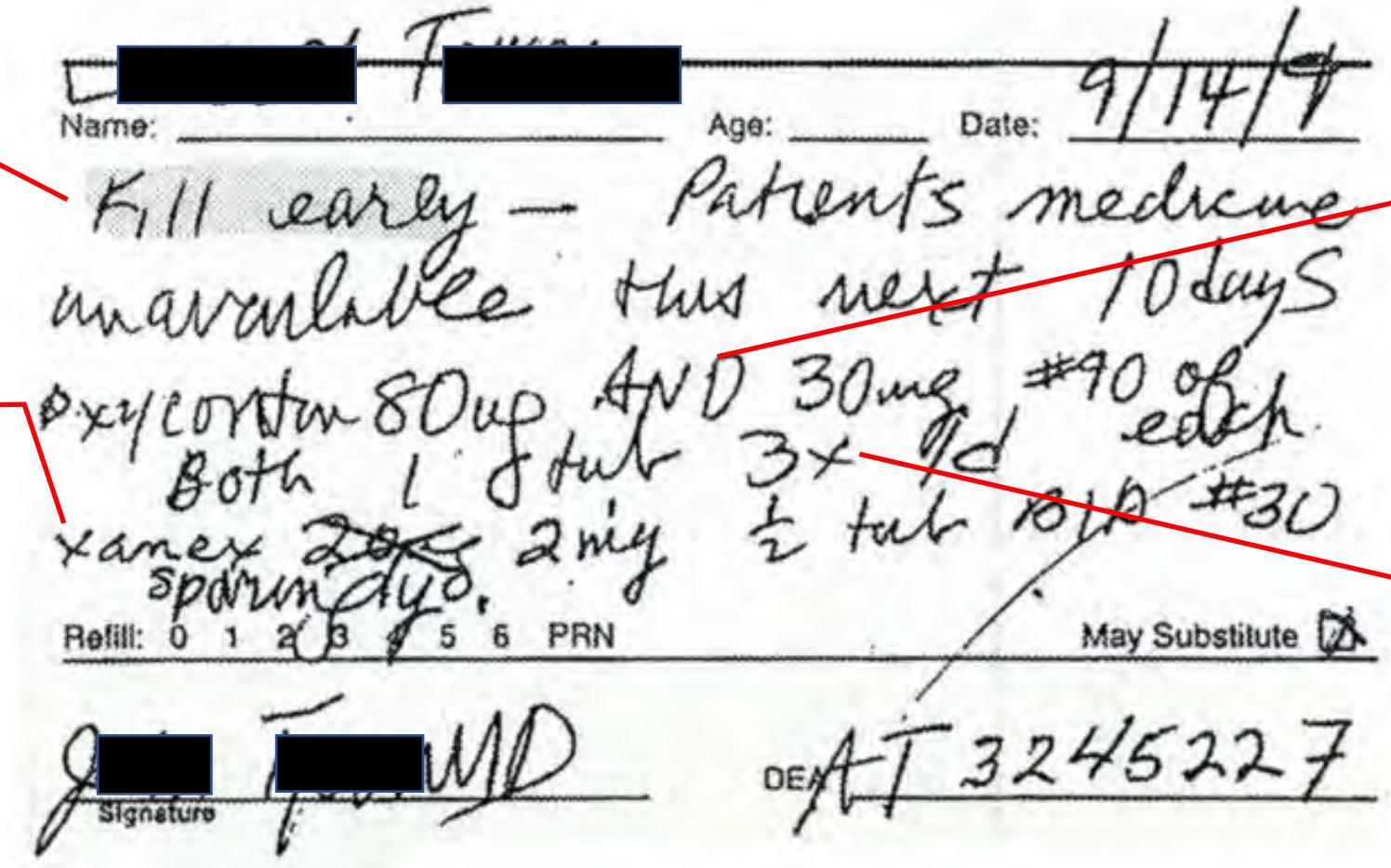
WHAT IS WRONG WITH THIS PRESCRIPTION?

EARLY FILL

CONCURRENT BENZO

EXCESSIVE QTY/MULTI DOSE

NON FDA-APPROVED DOSING



54. Oakey v. May Maple Pharmacy, Inc., 2017-NMCA-054, 399 P.3d 939.

POTENTIAL RED FLAGS IDENTIFIED IN THE MAY MAPLE PHARMACY, INC. CASE

- High dose/excessive quantities of opioids
- Concurrent prescribing of opioids and benzodiazepines
- Opioids dispensed 2-23 days early (on 7 occasions)
- Cash payments (over $1000 for 90 pills)
- Addendum note by Doctor On Call with the subject “Rx FRAUD?”
  - Even though would’ve been free by Medicaid if waited 3 day

54. Oakey v. May Maple Pharmacy, Inc., 2017-NMCA-054, 399 P.3d 939.

RISK MITIGATION STRATEGIES APPLIED TO THE MAY MAPLE PHARMACY, INC. CASE

- Clarify off-label dosing of Oxycontin
  - Verify opioid tolerance
- Check and document PDMP report review
- Counsel adherence, proper administration, and dose of LA/ER opioids
- Recognize signs of opioid use disorder and notify prescriber
- Offer naloxone opioid overdose kit
- Recommend drug testing (urine and serum)
- Consider reporting to DEA (if applicable)

KEY TAKEAWAYS

- LA/ER opioids may be safely prescribed for chronic pain with caution
- Understand and recognize opioid tolerance
- Use FDA-approved dose and frequency (ex. mg and Q6H vs. QID dosing)
- AVOID multiple capsules/tablets/patches, use available dosage strengths (where possible)
- Duty to counsel and perform risk mitigation strategies
- Recognize potential red flags and signs of opioid use disorder
- The pharmacist have a corresponding responsibility to ensure the prescription is for a legitimate medical purpose

POST-TEST ASSESSMENT QUESTIONS

The Doctrine of Corresponding Responsibility is a corresponding responsibility rests with the _____ must determine that the drug prescribed is for a legitimate medical purpose.

A. Physician who furnishes the prescription
B. Pharmacist who furnishes the prescription
C. Pharmacist who fills the prescription
D. Pharmacist Intern who fills the prescription
E. Pharmacy Technician who fills the prescription

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POST-TEST ASSESSMENT QUESTIONS

Sanctioned by AB 1535, Pharmacists are authorized to furnish naloxone kits in accordance with standardized procedures or protocols (to include):

A. Provide education on opioid overdose recognition and prevention, naloxone administration, potential side effects, and to seek emergency medical attention
B. Provide education regarding the availability of drug treatment programs
C. A pharmacist shall not permit the person to waive the consultation on naloxone to whom the drug is being furnished to
D. Complete at least one hour of approved continuing education on the use of naloxone
E. All of the above

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POST-TEST ASSESSMENT QUESTIONS

What are the “Red Flags” to watch for when filling prescriptions for controlled substances?

A. Long distance between pharmacy, prescriber, and/or patient
B. Suspicious combinations of controlled substances
C. Large quantities of controlled substances
D. Early refills/multiple prescribers
E. All of the above

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E. All of the above

POST-TEST ASSESSMENT QUESTIONS

Which long-acting opioid single dose is only FDA-approved and indicated for opioid tolerant patients?

A. MS Contin 60mg
B. Oxycontin 40mg
C. Exalgo 8mg
D. Zohydro ER 40mg
E. All of the above

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POST-TEST ASSESSMENT QUESTIONS

Which risk mitigation strategies should be performed by pharmacists regardless of practice setting?

A. Review and document PDMP
B. Obtain signed Opioid Consent or Treatment Agreement
C. Order and interpret urine drug tests
D. Furnish naloxone kit
E. A and D

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REFERENCE LIST

1. Ray WA, Chung CP, Murray KT, et al. Prescription of Long-Acting Opioids and Mortality in Patients With Chronic Noncancer Pain. Jama. 2016;315(22):2415-23.
2. Miller M, Barber CW, Leatherman S, et al. Prescription opioid duration of action and the risk of unintentional overdose among patients receiving opioid therapy. JAMA internal medicine. 2015;175(4):608-15.
3. Dosa DM, Dore DD, Mor V, et al. Frequency of long-acting opioid analgesic initiation in opioid-naïve nursing home residents. Journal of pain and symptom management. 2009;38(4):515-21.
4. 21 CFR 1306.04(a)
5. HSC 11153(a)
6. Corresponding Responsibility. It's the Law. California State Board of Pharmacy. Accessed: https://pharmacy.ca.gov/publications/corresponding_responsibility.pdf
7. Drug Enforcement Administration. Resources. Federal Register Notices. Accessed: https://www.deadiversion.usdoj.gov/fed_regs/actions/2018/index.html
8. BUTRANS (buprenorphine) transdermal system [package insert]. 2019.
9. BELBUCA (buprenorphine hydrochloride) soluble film [package insert]. 2019.
10. NUCYNTA ER (tapentadol hydrochloride) [package insert]. 2019.
11. HYSINGLA ER (hydrocodone bitartrate) [package insert]. 2019.
12. Abuse-Deterrent Opioid Analgesics. Accessed: https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/abuse-deterrent-opioid-analgesics
13. ZOHYDRO ER (hydrochloride bitartrate) [package insert]. 2019.
14. EXALGO (hydromorphone hydrochloride) [package insert]. 2020.
15. MS CONTIN (morphine sulfate) [package insert]. 2017.
16. KADIAN (morphine sulfate) [package insert]. 2019.
17. MORPHABOND ER (morphine sulfate) [package insert]. 2019.
18. OXYCONTIN (oxycodone hydrochloride) [package insert]. 2019.
19. XTAMPZA ER (oxycodone) [package insert]. 2019.
20. LEVORPHANOL (levorphanol tartrate) [package insert]. 2019.
21. DOLOPHINE (methadone hydrochloride) [package insert]. 2014.
22. Kleber HD, Weiss RD, Anton RF, Jr., et al. Treatment of patients with substance use disorders. Amer J Psychia. 2007;164(4 Suppl):5-123.
23. Chou R, et al. Methadone safety: a clinical practice guideline from the APSC on Problems of Drug Dependence. J Pain. 2014;15(4):321-337.
24. Kampman K, Jarvis M. ASAM National Practice Guideline for the Use of Medications in the Treatment of Addiction Involving Opioid Use. J Addict Med. 2015;9(5):358-367.
25. SAMHSA. Medications for Opioid Use Disorder. Treatment Improvement Protocol (TIP) Series 63. HHS. Rockville, MD, 2018.
26. VA/DoD. Clinical Practice Guidelines for Management of Substance Use Disorders. 2015.
27. Dowell D, Haegerich TM, Chou R. CDC Guideline for Prescribing Opioids for Chronic Pain-United States, 2016. JAMA. 2016;315(15):1624-1645.
28. VA/DoD. Clinical Practice Guidelines for Opioid Therapy for Chronic Pain. 2017.
29. 21 CFR 1306.07(c)
30. 21 CFR 1306.07(b)
31. DURAGESIC (fentanyl transdermal system) [package insert]. 2019.
32. Extended-Release (ER) and Long-Acting (LA) Opioid Analgesics Risk Evaluation and Mitigation Strategy (REM). U.S. Food and Drug Administration. June 2015.
33. Chou R, Fanciullo GJ, Fine PG, et al. Clinical guidelines for the use of chronic opioid therapy in chronic noncancer pain. J Pain. 2009;10(2):113-130.
34. Medical Board of California. Guidelines for Prescribing Controlled Substances for Pain. November 2014.
35. CA Health and Safety Code § 11165.4.(a)(1)(A)(i)
36. PDMP CURES Frequently Asked Questions. Accessed: https://oag.ca.gov/cures/faqs
37. AB 528 (20190 HSC § 11164.1, 11165, 11165.1, and 11165.4
38. AB 1751 (2018) HSC §11165
39. https://apps2.deadiversion.usdoj.gov/rxaor/spring/main?execution=e1s1
40. 21 CFR 1306.07(c)
41. DHHS, SAMHSA. Fed Regist. 2008;73:71907.
42. https://www.pharmacy.ca.gov/enforcement/fy1011/ac103802
43. https://www.pharmacy.ca.gov/enforcement/fy1314/ac134867
44. Sternberg v. California State Board of Pharmacy (2015) 239 Cal.App.4th 1159
45. https://law.justia.com/cases/california/court-of-appeal/2018/b270877.html
46. https://www.mercurynews.com/2017/05/24/san-jose-ex-doctor-gets-four-years-for-involuntary-manslaughter/
47. https://www.pressdemocrat.com/article/news/jury-acquits-santa-rosa-pain-doctor-of-two-murder-charges-but-hung-on-rema/
48. https://radio.wosu.org/post/murder-trial-delayed-william-husel#stream/0
49. https://www.medscape.com/viewarticle/882358
50. AB-714 Opioid Prescription Drugs: prescribers. (2019-2020)
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