

Practitioner Diversion Awareness Conference

Methods of Diversion

Dwight A. Cokely, Staff Coordinator





LEGAL DISCLAIMER

The following presentation was accompanied by an oral presentation on **January 13 & 14, 2020**, and does not purport to establish legal standards that are not contained in statutes, regulations, or other competent law. Statements contained in this presentation that are not embodied in the law are not binding on DEA. Summaries of statutory and regulatory provisions that are summarized in this presentation do not purport to state the full extent of the statutory and regulatory requirements of the cited statutes and regulations. **I have no financial relationships to disclose.**



Fair Use Act Disclaimer

This presentation is for educational purposes only. This presentation may not be further copied or used, with the embedded images and videos, without an independent analysis of the application of the Fair Use doctrine.

Fair Use

Under section 107 of the Copyright Act of 1976, allowance is made for “Fair Use” for purposes such as criticism, comment, news reporting, teaching, scholarship, education and research.

Fair Use is a use permitted by the copyright statute that might otherwise be infringing. Any potentially copyrighted material used in this presentation has been reviewed and found to be used in a manner consistent with Fair Use. A completed Fair Use checklist is attached.



Course Objectives

- **Laws and Regulations - Review the responsibilities and regulations that apply to practitioners.**
- **Practitioner Methods of Diversion - Identify and discuss the schemes used to acquire controlled substances.**



Course Objectives

- **Staff Methods of Diversion - Identify and discuss the schemes used to acquire controlled substances.**
- **Patient Methods of Diversion - Identify and discuss the schemes used to acquire controlled substances.**
- **Effective Controls - List safeguards that a practitioner can use to protect his/her medical practice.**



Questions to Discuss

At the completion of this block of instruction you will be able to answer the following questions:

- 1. Is a pharmacist obligated to fill a prescription that is presented by a patient or demanded to be filled by a practitioner?**
- 2. All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances?**



Questions to Discuss

- 3. What is the best safeguard to identify if a patient is doctor shopping?**
- 4. Who has the potential to divert controlled substances?**
- 5. By using EPCS, a practitioner can minimize the potential of altered/forged prescriptions?**



Objective #1

Laws and Regulations Related To Practitioners



Practitioner

- **As a practitioner, your role in the proper prescribing, administering, and dispensing of controlled substances is critical to patients' health and to safeguard society against the diversion of controlled substances.**
- **The DEA is committed to working jointly with the medical community to ensure that legitimate controlled substances are not being diverted for illegal use.**



Regulations Applicable to Practitioners

- **All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances.**
[21 CFR §1301.71\(a\).](#)
- **The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner.**
[21 CFR §1306.04\(a\).](#)



Regulations Applicable to Practitioners

- **Prescription for a controlled substance must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice but a corresponding responsibility rests with the pharmacist who fills the prescription.**

[21 CFR 1306.04\(a\).](#)



Regulations Applicable to Practitioners

- **Just because a prescription is presented by a patient or demanded to be filled for a patient by a doctor's office or a doctor, a pharmacist is **NOT** obligated to fill the prescription!**



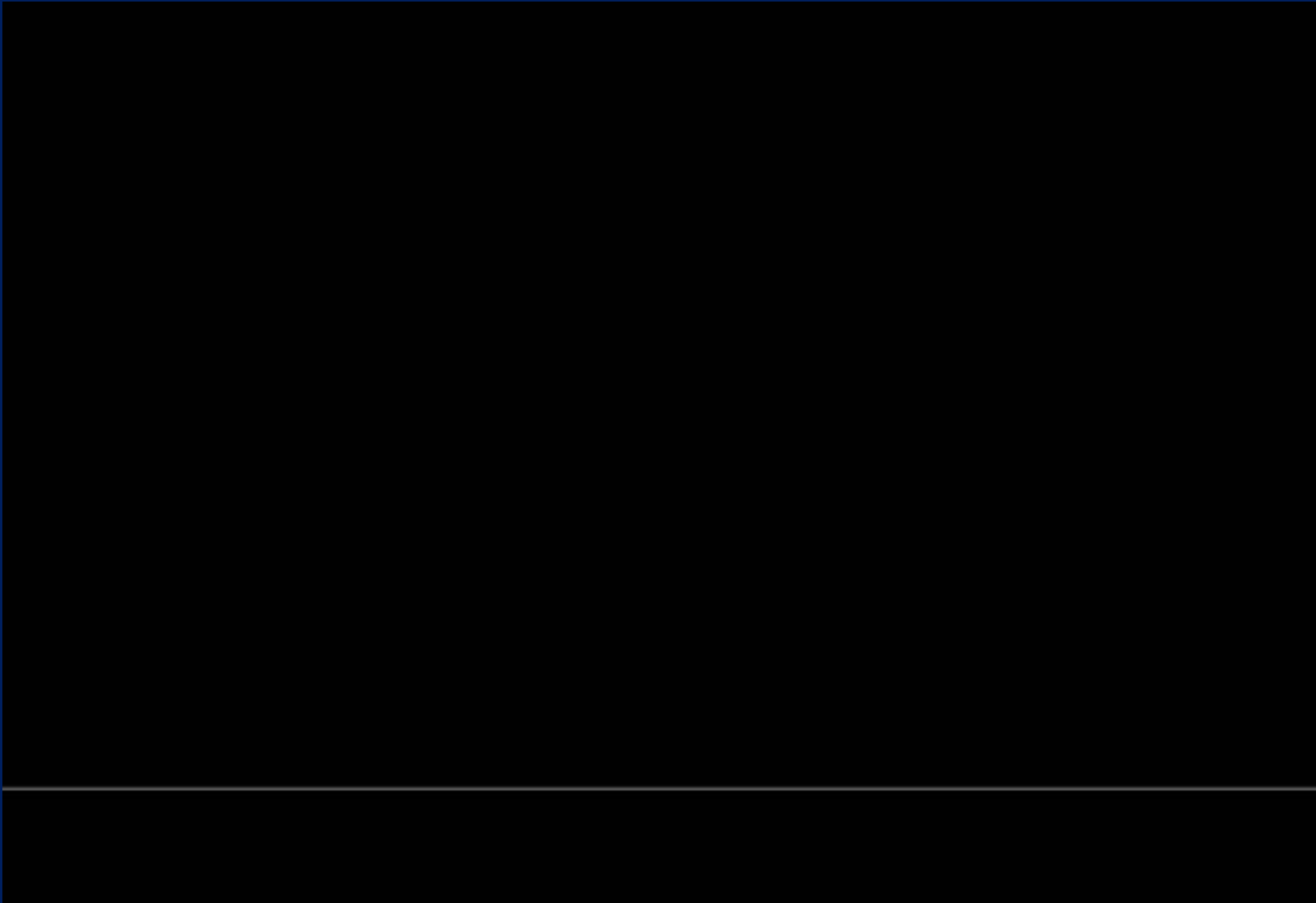
Laws Applicable to Doctors

1. According to the CSA, a doctor may **administer prescribe** or **dispense** a controlled substance if the following exists:

a. Legitimate medical purpose



b. Prescribed “within the usual course of professional practice”





Establishing Doctor/Patient Relationships

- **Patient has a medical complaint.**
- **Doctor takes medical history.**
- **Physical examination is performed.**
- **Logical connection between the above three and the drug being prescribed.**



Good Practices

- **Complete medical history**
- **Medical examinations**
- **Appropriate tests**
- **Diagnosis**
- **Treatment plan**
- **Appropriate follow-up**





Objective #2

Methods Of Diversion By Practitioners



Motivations for Diversion

- **Money – Financial Gain**
- **Fear**
- **Stop Blackmail**
- **Sexual Favors**
- **Keep Business Going/Co-dependency**
- **Addiction – Supply Family Members**
- **Personal Use – Self Abuse**





Case Study Background

- **Doctors office was located in a town of approximately 3000 people in rural Ohio.**
- **Doctors office was in an old gas station.**
- **The undercover was DEA Agent from Parma (over 120 miles away).**
- **Patients would line up down the street to get into see the doctor.**



Undercover Office Visit





Problems With Undercover Visit

What did the doctor do wrong?

- No medical exam.
- Doctor corrected his injury.
- No exam room.
- Parma – 120 miles away



Problems With Undercover Visit

- Patient hinted that he used the oxycodone in the past illegally.
- Patient directed what controlled substances he wanted.
- Patient offered more cash for more drugs. The doctor said **next time** after he was offered the extra cash.
- Patients were walking in and out during the exam.



Documentation

This is the patient chart from the undercover office visit that was played earlier.

- Progress notes written on “rapid memo.”
- A lot of the information on this memo was never told to the patient.
- This was the complete summary that the doctor would write for the patient visit.
- This was almost identical for all patients.

Rapid Memo

Patient's Name: RIDENHOUR, CURT		NARENDRA AGRAWAL, M.D.	
11249 Wascloud Drive, PARMA, OH		815 HARDING WAY WEST	
ph (216) 664-5328		GALION, OHIO 44833	
		419-468-3696	
		419-468-2321	

To: DOB: 07/08/74.	Date: 08/20/08
Continuity of Care: Physicians Instructions - follow up care	Subject: Informed Consent Treatment Agreement

Confidential For Your Eyes Only High Priority Proprietary Shred

- ① Patient visited my Office Today, Medical history was obtained Patient was evaluated and examined.
- ② Medical Diagnosis/Purpose - ① Acute ④ Wrist Spasm and general purpose - ② R/O Chronic Benign Pain
- ③ Patient makes informed/Educated choice and consents for drug therapy - failed and alternative treatments discussed. Risks/benefits alternative discussed
- ④ Patient accepts ADDICTION warnings
- ⑤ Patient agrees for Safe Falem up Appointment powder MD and Pharmacy, 2:30pm. Thursday UDI when requested 09/18/08 . 8/20/08
- ⑥ All questions answered

Narendra Agrawal M.D. Curt Ridenhour
08/20/08

AUG 20 PM 2:29

715 SC1158



Signs Of Practitioner Diversion

Doing one or more of these does not make prescribing illegal. It is the totality of the circumstances. This list is not all inclusive.

- 1. Does the practitioner follow state laws when prescribing controlled substances?**
- 2. Does the practitioner conduct cursory medical exams or any medical exam at all?**



Signs Of Practitioner Diversion

- 3. Does the doctor do diagnostic testing or refer the patient out for diagnostic testing (x-ray, MRI, etc.)?**
- 4. Is the practitioner referring patients to other specialists (surgery, physical therapy, etc.)?**
- 5. Are the initial office visits or follow-up visits brief?**



Signs Of Practitioner Diversion

- 6. Does the practitioner prescribe multiple drugs within the same drug category?**
- 7. Does the practitioner prescribe excessive quantities of controlled substances relative to the medical condition the prescription is purported to treat?**
- 8. Do patients travel a great distance to see the practitioner?**



Signs Of Practitioner Diversion

9. Does the practitioner ignore signs of abuse?

- **Patient appears to be under the influence.**
- **Patient asks for the controlled substances he wants.**
- **Patient is doctor shopping in PMP.**
- **Practitioner is warned by family members that the patient is abusing or selling his controlled substances.**
- **Ignoring toxicology reports.**



Signs Of Practitioner Diversion

10. Does the practitioner start on a low dose or low level controlled substance and then over time work up to higher levels, or does the practitioner just start the patient on a high dose narcotic?

11. Does the practitioner continue to prescribe controlled substances to patients even though it would be ineffective for treatment purposes?



Signs Of Practitioner Diversion

12. Does the practitioner only treat patients with narcotic controlled substances?

13. Does the practitioner allow the non-medical staff to determine the narcotic to be prescribed, the practitioner just signs the prescription?



Signs Of Practitioner Diversion

14. Does the practitioner coach patients on what to say so that the patient can get the narcotics they want?

15. Does the practitioner violate his own pain management policies and guidelines?

16. Does the practitioner ignore warnings from insurance companies, law enforcement, other practitioners, family members, etc?



Signs Of Practitioner Diversion

17. Does the practitioner receive other compensation for narcotic prescriptions (sex, guns, drugs etc)?

18. Does the doctor still charge the patient for a visit if they do not get a narcotic prescription?

19. Patient deaths.

20. Doctors use inventory for personal use.



Objective #3

Methods of Diversion By Staff/Employees



Methods of Diversion

(Employee/Staff Involvement)

1. Steals prescriptions or forges doctor prescriptions.
2. Steals and adjusts doctor's inventory.
3. Calls in fake prescriptions.
4. Falsifies verifications when pharmacist calls the doctor's office.
5. Pretends to dispose of drugs.
6. Replaces medication with placebo.







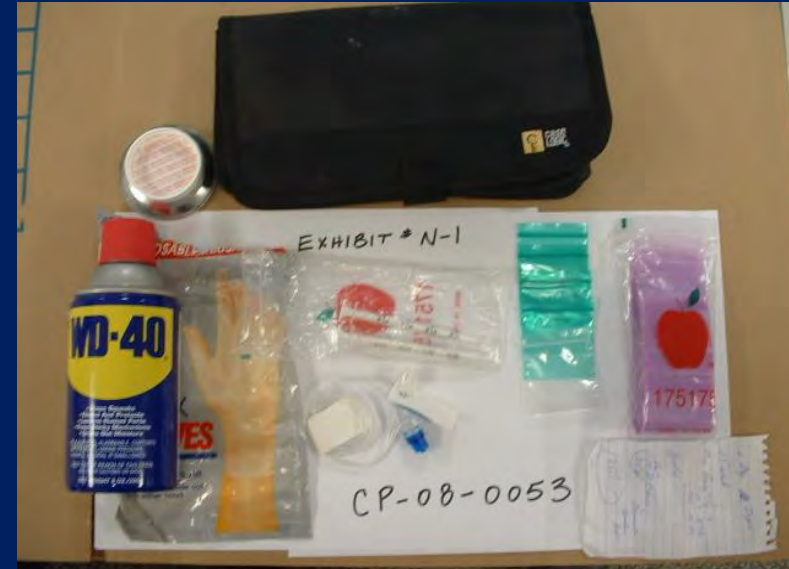
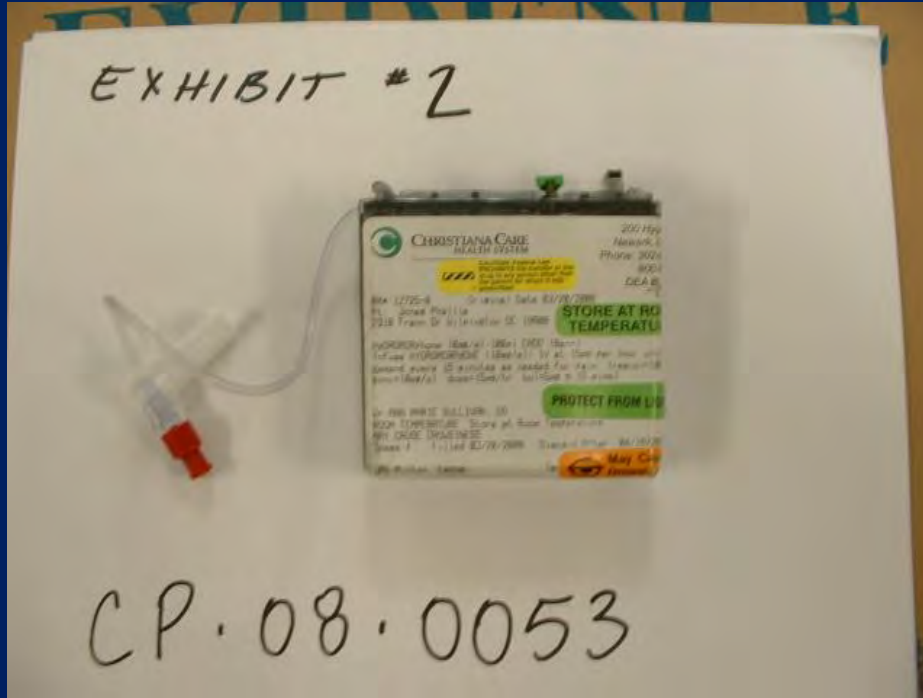
Methods of Diversion

(Employee/Staff Involvement)

- 7. Takes advantage of older/busy doctors.**
- 8. Uses the DEA number of a retired doctor.**
- 9. Orders inventory without doctor's knowledge.**
- 10. Sets up break-ins, burglaries or armed robberies.**



Hydromorphone Drip Bag- Sugar Cubes



Source: Hospital
Price per cube: \$15/cube
Drops per cube: 10

Objective #4

Methods Of Diversion By Patients



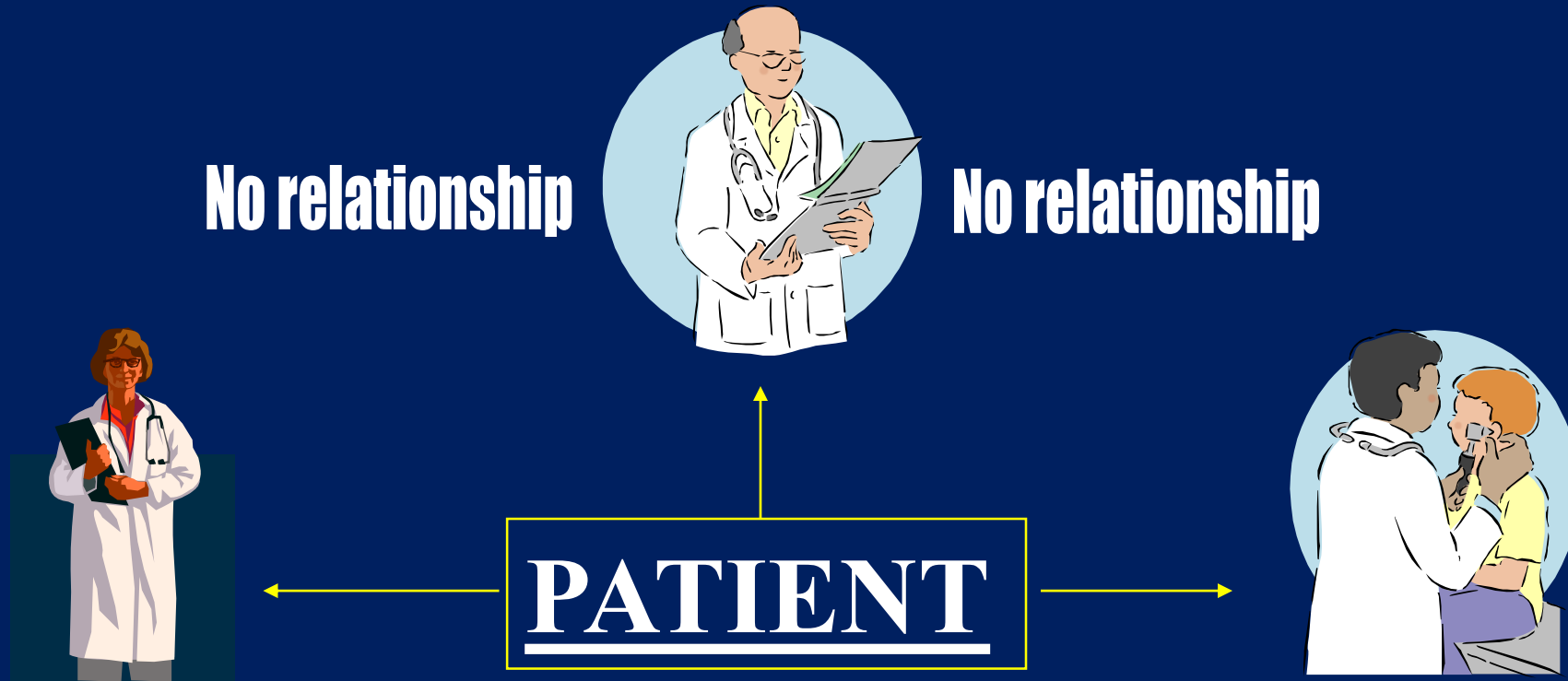
Methods of Diversion

(Patient Involvement)

- 1. Patients who want appointments towards the end of office hours or arrives after regular business hours.**
- 2. Patients who demand immediate attention.**
- 3. Patients who are not interested in an examination or undergoing diagnostic tests.**
- 4. Patients who are unwilling to give permission to obtain past medical records.**



Doctor Shopping



i.e. Patient visits several doctors to obtain multiple prescriptions

***To protect your practice from this problem: use PDMP regularly**



Possible Signs of Drug Seekers

- 5. Fictitious Records.**
- 6. Carry own records.**
- 7. Wounds inflicted to self, family members, and pets.**
- 8. Request specific medication due to allergies.**
- 9. Vacationing in area, no local address.**
- 10. Request pain meds for a pet.**



Methods of Diversion

(Patient Involvement)

11. Patient recites textbook symptoms.

12. Patient gives very vague medical history.

13. Patient claims they failed to pack medication, lost it, or that it was stolen.

14. Patient claims that hospital or clinic, with past medical records, is out of business or burned down.



Methods of Diversion

(Patient Involvement)

- 15. Patient deceives doctors or seeks alternate doctors while normal doctor is out of the office.**
- 16. Patient exaggerates medical condition.**
- 17. Patient solicits Medicaid recipients to use Medicaid cards as payment method.**
- 18. Patient targets a lax doctor.**



Videotaped transaction to acquire a prescription



Methods of Diversion

(Patient Involvement)

19. Patient takes half and sells rest of their medication.

20. Patient offers to buy other patient's pills.

21. Patient looks for employment or volunteers at locations where drugs or prescriptions are exposed.

22. Patient alters prescriptions.



Objective #5

Effective Controls



Effective Controls

- **Cost effective controls:**
 1. **Follow policies and procedures – don't be lax**
 2. **Don't share passwords**
 3. **Verify destructions**
 4. **Question and report suspicious activities**
 5. **Limit access to drug inventory**
 6. **Train and update staff**



Effective Controls

7. Be vigilant of staff members
8. Use PDMP regularly
9. Conduct backgrounds of employees (FELONY)
10. Audits – discover discrepancies, losses or thefts in the inventory (2 persons)
11. Keep complete and accurate records
12. Security – store CS in a securely locked, substantially constructed cabinet [21 CFR § 1301.75](#)



Effective Controls

13. Prescriber personally verifies the prescription orders with pharmacist.
14. Electronic prescriptions (EPCS) – reduces the # of forged/altered/fraudulent scripts.
15. **Never** sign prescription blanks in advance.
16. Request DEA to terminate your DEA # so that no one can use it illegally.



Effective Controls

- **Contractual agreements: Doctor/Patient**
- **Drug testing at hiring**
- **Random drug testing**
- **Safeguard prescriptions**



Safeguarding Prescriptions

- **Keep prescription pads locked in a cabinet when not in use.**
- **Do not leave prescription pads around the office or in your jacket pockets during off hours.**
- **Maintain a record of your prescriptions.**



Safeguarding Prescriptions

- **Inspect and number your prescription pads.**
- **Be vigilant of those working near your office.**
- **Write actual amount prescribed (in words).**



Contacts for Reporting Drug Diversion

- **DEA local office and Tactical Diversion Squad**
- **Local Police, County, State**
- **State Board of Pharmacy, Medicine, Nursing, Dental**
- **Health Department**
- **HHS OIG if Medicare, Medicaid fraud**



Course Review

- **Reviewed the responsibilities and regulations that apply to practitioners.**
- **Identified and discussed the methods used to divert controlled substances.**
- **Listed the safeguards used to protect a practitioner's medical practice.**



Post Questions

- 1. A pharmacist is obligated to fill a prescription that is presented by a patient or is demanded to be filled by a practitioner.**
 - A. True**
 - B. False**



Post Questions

2. All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances.

- A. True**
- B. False**



Post Questions

- 3. What is the best safeguard to identify a patient who is doctor shopping?**
- A. Secure prescriptions**
 - B. Routinely use the PDMP**
 - C. Conduct routine examinations**
 - D. Never sign blank prescriptions**



Post Questions

- 4. Diversion of controlled substances can be conducted by:**
- A. Staff members**
 - B. Practitioners**
 - C. Patients**
 - D. All of the above**



Post Questions

5. By using EPCS, a practitioner can minimize the potential of altered/forged prescriptions.

- A. True**
- B. False**



*Thank-you for your time
and attention !*

