



Medicaid Program Integrity What Is a Prescriber's Role in Preventing the Diversion of Prescription Drugs?

Summary

Drug diversion is the illegal distribution or abuse of prescription drugs or their use for unintended purposes. The diversion of prescription drugs occurs at every point in the distribution chain. Drug diversion can result in drug addictions, overdoses, drug-related emergency room visits, and death and has contributed to a significant increase in substance abuse treatment admissions.

Cases of drug diversion vary widely, but the most common types include patient diversion, doctor shopping, illegal Internet pharmacies, drug theft, prescription pad theft and forgery, and illicit prescribing. The U.S. Drug Enforcement Administration (DEA) recognizes five classes of drugs that are frequently abused: anabolic steroids, depressants, hallucinogens, opioids, and stimulants.

Physicians and other providers may be involved in drug diversion activities, unknowingly or knowingly, because it is not always clear whether a patient is seeking drugs for illicit purposes (a drug-seeking patient). This fact sheet recommends several clinical procedures and precautions to protect the integrity of your business and to avoid being taken advantage of by drug-seeking patients.

The Affordable Care Act has resulted in significant changes to Medicaid, Medicare, and other health care programs. These changes include more stringent penalties for submitting false statements and false claims. Attempting to obtain a controlled substance by misrepresentation, fraud, forgery, or deception is a felony in most States and punishable by a prison term and fines.

Physicians and other prescribers often have the first opportunity to identify, control, and report drug diversion. If a prescriber suspects that drug diversion has occurred, they should document the activity and report it to the authorities.

What Is Drug Diversion?

Drug diversion is the illegal distribution or abuse of prescription drugs or their use for purposes not intended by the prescriber (for example: recreation, addiction, or financial gain). This may include deflection of prescription drugs from medical sources into the illegal market. The diversion of prescription drugs may occur at any time as prescription drugs are distributed from the manufacturer to chain store distribution centers and general wholesale distributors to pharmacies and clinical settings and ultimately to the patient. Members of the medical profession may also be involved in diverting prescription drugs for recreational purposes, relief of addictions, monetary gain, self-medication for pain or sleep, or to alleviate withdrawal symptoms.

Drug diversion can result in drug addictions, overdoses, drug-related emergency room visits, and death. According to the Centers for Disease Control and Prevention (CDC), since 2000, the age-adjusted drug poisoning death rate more than doubled, from 6.2 per 100,000 in 2000 to 13.1 per 100,000 in 2012. In addition to these disturbing statistics, nonmedical use of pharmaceuticals accounted for a 400 percent increase in substance abuse admissions from 1998 through 2008. That figure includes a threefold increase in treatment for opioid pain relievers specifically.

For several years, the Substance Abuse and Mental Health Services Administration (SAMHSA) has examined the initiation of use of prescriptions for nonmedical purposes. Table 1 compares the estimates for patients ages 12 and older from 2010 and 2014:

Table 1. Comparison of Past Year Initiation of Nonmedical Use of Select Prescription Drugs, Age 12 and Older, in Thousands, 2010 and 2014

Substance	2010	2014	% Change
Pain Relievers	2,013	1,425	-29.21%
Tranquilizers	1,244	1,133	-8.92%
Stimulants	626	690	10.22%
Sedatives	253	173	-31.62%

The latest data available from the National Highway Traffic Safety Administration (NHTSA) shows that of the fatally injured drivers reported in 2009, 3,952 tested positive for drug involvement. These deaths represented 18 percent of all fatally injured drivers.

The U.S. Government Accountability Office (GAO) issued a report in September 2009 related to controlled substance fraud in Medicaid programs in five selected States. The GAO found that, in these States, tens of thousands of Medicaid beneficiaries and providers were involved in potentially fraudulent or abusive purchases of controlled substances through Medicaid programs. Doctor shopping in these five States resulted in \$63 million in Medicaid payments for prescriptions alone, and prescriptions were filled for more than 1,800 beneficiaries who were deceased. In addition, the GAO found that Medicaid paid more than \$2 million in 2006 and 2007 for prescriptions for controlled substances that were written or filled by 65 providers barred from or excluded from Federal health care programs.

What Are the Most Common Types of Drug Diversion?

Common methods of prescription drug diversion vary widely, as Table 2 indicates.

Table 2. Common Methods of Prescription Drug Diversion

Diversion Method	Definition
Selling Prescription Drugs	Patients and other individuals selling prescription drugs that were obtained legally
Doctor Shopping	Soliciting multiple physicians using a variety of false pretenses to receive prescriptions for controlled substances
Illegal Internet Pharmacies	Rogue websites under the guise of legitimate pharmacies that may provide controlled substances to individuals without prescriptions and evade State licensing requirements and standards by operating across State and international borders
Drug Theft	Thefts may occur at any step of the prescription drug supply chain—from a manufacturer to a patient, including stealing from relatives, friends, or health care professionals (for example: nurses, doctors, pharmacists, and other providers)
Prescription Pad Theft and Forgery	Printing or stealing prescription pads to write fraudulent prescriptions or altering a prescription to obtain an unauthorized quantity of prescribed drugs
Illicit Prescribing	Providing unnecessary prescriptions or prescribing larger quantities of tablets or capsules than what are medically necessary—commonly known as “pill mills”

A patient may share pain medication with a family member to help alleviate pain or may steal a prescription pad to obtain drugs illegally. Physicians and other providers may be involved in drug diversion activities unknowingly, because it is not always clear when a patient is seeking drugs under false pretenses. Drug diversion may also occur when a provider is actively involved in the intentional prescribing of controlled drugs for illegal purposes.

One example of provider-initiated fraud involved a physician who was charged in August 2010 for prescribing oxycodone to patients who then resold the drugs to third parties. Those third parties distributed more than 11,000 oxycodone pills in a scheme resulting in \$1 million in claims to the Medicaid program. In December 2012, the physician was sentenced to 36 months in prison after pleading guilty to charges. The U.S. Attorney involved stated:

Like heroin, oxycodone is a powerful, highly addictive, and potentially lethal drug. In the proper hands, it can play an important role in pain management, but [this doctor] saw an opportunity to profit from the drug’s popularity with recreational users. By writing bogus prescriptions that were filled using Medicaid dollars, she not only engaged in drug trafficking and fraud, she also endangered users at risk of becoming addicts and harming themselves through drug abuse. She violated the central tenet of being a doctor—to first do no harm—and cheated an already-strapped Medicaid system out of almost a million dollars.

Drug diversion in the Medicaid program affects more than the cost of prescription drugs. Additional costs can often occur related to doctor’s visits, emergency treatment, rehabilitation centers, and other health care needs. In 2011, the Drug Abuse Warning Network (DAWN) reported that 35 percent of drug-related emergency department visits involved the nonmedical use of pharmaceuticals.

What Are the Drug Classes With the Highest Potential for Drug Diversion and Abuse?

The DEA categorizes certain drugs as controlled substances depending on the drug’s intended medical use as well as the potential for abuse/dependence: anabolic steroids, depressants, hallucinogens, narcotics, and stimulants. The National Institute on Drug Abuse (NIDA) and DEA have identified drug classes with a high potential for diversion and abuse, and these are summarized in Table 3.

Table 3. Drug Classes With a High Potential for Diversion and Abuse

Drug Class	Examples of Drugs Within a Drug Class
Anabolic Steroids	methyltestosterone, testosterone
Central Nervous System Depressants	Barbiturates: pentobarbital Benzodiazepines: alprazolam, diazepam
Hallucinogens	ketamine
Opioids	diphenoxylate, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone
Stimulants	amphetamine, dextroamphetamine, methamphetamine, methylphenidate

What Precautions Can Prescribers Take to Minimize Drug Diversion?

A prescriber should take precautions to avoid drug-seeking patients taking advantage of them. Precautions include:

- Exercising caution with patients who use or request combination or “layered” drugs for enhanced effects (for example: antipsychotics with opioids or benzodiazepines);
- Documenting thoroughly when prescribing narcotics or choosing not to prescribe;
- Protecting access to prescription pads;
- Keeping a DEA or license number confidential unless disclosure is required by State law;
- Ensuring that prescriptions are written clearly to minimize the potential for forgery;
- Moving to electronic prescribing so that paper prescriptions are not required;
- Adhering to strict refill policies and educating office staff;
- Using State Prescription Drug Monitoring Programs (PDMPs) to monitor patient prescribing before refilling or adding new medications;
- Referring patients with extensive pain management or prescription controlled medication needs to specialized practices;
- Communicating with pharmacists or other providers, and pharmacy benefit managers (PBMs), and collaborating with them when suspicious behaviors are observed;
- Collaborating with PBMs and managed care plans (MCPs) as they seek to determine the medical necessity of prescriptions for controlled substances; and

- Educating patients on proper disposal of controlled substances, including taking any unused medications to an authorized collector or National Prescription Drug Take-Back Day event. For further information about disposing of medications, visit [fda.gov/Drugs/ResourcesForYou/Consumers/BuyingUsingMedicineSafely/EnsuringSafeUseofMedicine/SafeDisposalofMedicines/ucm186187.htm](https://www.fda.gov/Drugs/ResourcesForYou/Consumers/BuyingUsingMedicineSafely/EnsuringSafeUseofMedicine/SafeDisposalofMedicines/ucm186187.htm) on the U.S. Food and Drug Administration website.

Which Prescribing Principles Can Curb the Diversion of Drugs With High Potential for Diversion and Abuse?

Prescribers can curb drug diversion by adhering to prescribing principles for opioids and other controlled substances, such as:

- Completing a full evaluation and assessment to verify the need for pain medication;
- Requesting a report of a patient’s medication history from the State PDMP before prescribing opioids to patients;
- Screening for substance abuse and asking about the medications a patient is taking and why;
- Prescribing opioids only if alternative therapies do not deliver adequate pain relief;
- Using pain assessment tools to monitor the effectiveness of controlled substances; and
- Seeking a consult from a pain or other specialist for doses of more than 120 milligram equivalents of morphine or other opioid derivative Schedule II drugs per day without substantial improvement in pain and function.

For more information about opiate risk assessment and screening tools, visit prescriberesponsibly.com/sites/default/files/pdf/risk/Opioid%20Risk%20Tool.pdf on the Internet.

What Is the Impact of the Affordable Care Act, and What Are the Penalties for Drug Diversion?

The Affordable Care Act has resulted in significant changes to Medicaid, Medicare, and other health care programs.

These changes include more stringent penalties for submitting false statements and false claims, which includes knowingly submitting false information related to ordering or prescribing prescription drugs. The Affordable Care Act requires that State Medicaid agencies suspend payments automatically for physicians and other providers who have credible allegations of fraud against them. In addition, if providers are terminated for cause by Medicare or any Medicaid agency, they must be terminated by Medicaid and the Children’s Health Insurance Program (CHIP) in all States.

Attempting to obtain a controlled substance by misrepresentation, fraud, forgery, or deception is a felony in most States and punishable by a prison term and fines. In addition, the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) uses a range of law enforcement tools that can impose various legal sanctions and actions on physicians and other providers, such as recoupment, restitution, civil monetary penalties, suspension or loss of provider license, exclusion from participation in Medicaid and other Federal health care programs, and imprisonment.

How Should Suspected Drug Diversion Be Reported?

If a prescriber suspects that drug diversion has occurred, the activity should be documented, and a report should be made. The agencies that should be notified for suspected drug diversion include:

- Local law enforcement and local fraud alert networks;
- DEA, for reporting theft or loss of controlled substances, at deadiversion.usdoj.gov/webforms/dtlLogin.jsp on the DEA Office of Diversion Control website; and
- HHS-OIG, by calling 1-800-HHS-TIPS (1-800-447-8477) or TTY 1-800-377-4950 or by visiting forms.oig.hhs.gov/hotlineoperations/ on the HHS-OIG website.

Additional Resources

- For information on fraud prevention and detection compliance guidance, visit oig.hhs.gov/fraud/ on the HHS-OIG website.
- For more information on drug diversion, visit deadiversion.usdoj.gov on the DEA Office of Diversion Control website.
- For more information and statistics on the prescription drugs of abuse, visit drugabuse.gov/drugs-abuse/prescription-drugs-cold-medicines on the NIDA website.
- For more information on strategies to reduce drug diversion in the Medicaid program, visit cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/MedicaidIntegrityProgram/downloads/drugdiversion.pdf on the Centers for Medicare & Medicaid Services (CMS) website.

How to Report Fraud

Contact your State Medicaid Fraud Control Unit (MFCU), State Medicaid agency (SMA), or HHS-OIG.

MFCU and SMA contact information: cms.gov/medicare-medicicaid-coordination/fraud-prevention/fraudabuseforconsumers/report_fraud_and_suspected_fraud.html

HHS-OIG Contact Information:

HHS-OIG
ATTN: Hotline
P.O. Box 23489
Washington, D.C. 20026
Phone: 1-800-HHS-TIPS (1-800-447-8477)
TTY: 1-800-377-4950
Fax: 1-800-223-8164
Email: HHSTips@oig.hhs.gov
Website: forms.oig.hhs.gov/hotlineoperations/



Disclaimers

This educational product was current at the time it was published or uploaded onto the web. Medicare policy changes frequently so links to the source documents have been provided within the document for your reference.

This educational product was prepared as a service to the public and is not intended to grant rights or impose obligations. This educational product may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

The Medicare Learning Network®, MLN Connects®, and MLN Matters® are registered trademarks of the U.S. Department of Health & Human Services (HHS).