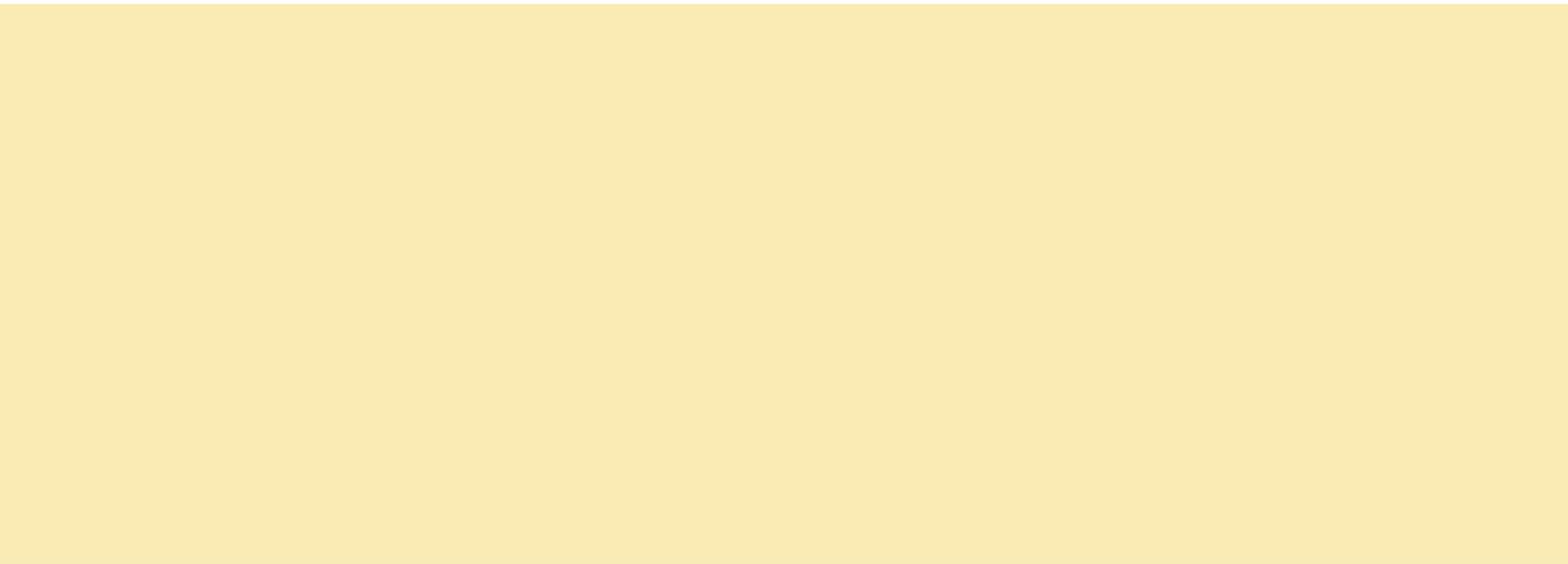


Partners in Integrity

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





CONTENT SUMMARY

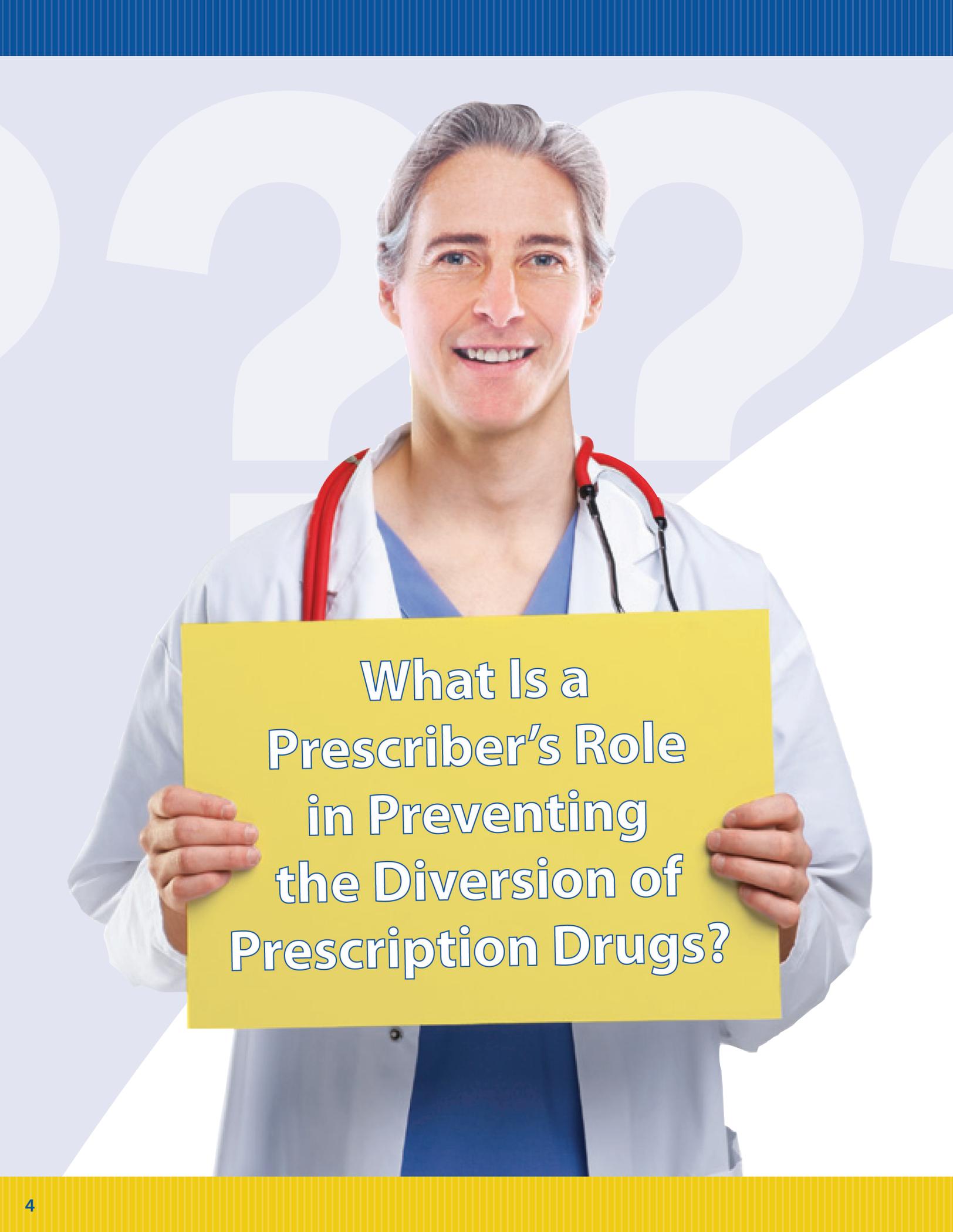
Drug diversion is the illegal distribution or abuse of prescription drugs or their use for unintended purposes. The diversion of prescription drugs may occur at any point as prescription drugs are distributed from the manufacturer to wholesale distributors, to pharmacies, and ultimately to the patient. 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: narcotics, stimulants, depressants, hallucinogens, and anabolic steroids.

Physicians and other providers may be involved in drug diversion activities, unknowingly or knowingly, because it is not always clear whether several precautions to avoid being taken advantage of by drug-seeking patients. Recommended clinical practices include protecting access to prescription pads, adhering to strict refill policies, and thoroughly documenting when prescribing narcotics. Prescribers can also curb drug diversion by adhering to prescribing principles for opioids and other controlled substances.

The Affordable Care Act (health care reform) 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, including the submission of knowingly false information related to the ordering or prescribing of prescription drugs. 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, the activity should be documented, and a report should be made. Notify the U.S. Department of Health and Human Services, Office of Inspector General; local law enforcement; or local fraud alert networks of suspected drug diversion. To report theft or loss of controlled substances, notify the DEA.



**What Is a
Prescriber's Role
in Preventing
the Diversion of
Prescription Drugs?**

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⁽¹⁾ (for example: recreation, addiction, or financial gain). This may include “deflection of prescription drugs from medical sources into the illegal market.”⁽²⁾ The diversion of prescription drugs may occur at any point as prescription drugs are distributed from the manufacturer to wholesale distributors, to pharmacies, and ultimately to the patient.⁽³⁾ 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 the alleviation of withdrawal symptoms.

Drug diversion can result in drug addictions, overdoses, drug-related emergency room visits, and death. Drug diversion contributed to a fourfold increase in substance abuse treatment admissions from 1998 to 2008 for individuals ages 12 and over.⁽⁴⁾ “Since 2009, more people in the United States have died each year from drug poisoning than from motor vehicle crashes.”⁽⁵⁾

The latest data available from the National Highway Traffic Safety Administration 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.⁽⁶⁾ In 2012, the Substance Abuse and Mental Health Services Administration (SAMHSA) examined the use of prescriptions for nonmedical purposes and estimated that for ages 12 and older, 1.8 million persons initiated use of pain relievers, 1.4 million initiated tranquilizers, 676,000 initiated stimulants, and 166,000 initiated sedatives for nonmedical purposes.⁽⁷⁾

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.⁽⁸⁾ 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?

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	Robberies may occur at any step of the prescription drug supply chain—from a manufacturer to a patient or thefts 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 is medically necessary—commonly known as “pill mills”

Table 1.
Common
Methods of
Prescription
Drug
Diversion(9)

Common methods of prescription drug diversion vary widely (Table 1). For example, an individual 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. For example, in August 2010, a New York physician was charged with leading a drug ring that allegedly provided oxycodone prescriptions to patients with no medical need, arranged to resell the drug to third parties, and distributed more than 11,000 pills resulting in a \$1 million expense to the Medicaid program.(10)

WHAT ARE THE DRUG CLASSES WITH THE HIGHEST POTENTIAL FOR DRUG 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

Table 2.
Drug Classes
With a High
Potential for
Diversion
and
Abuse(12,13)

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 reported that 35 percent of drug-related emergency department visits involved the nonmedical use of pharmaceuticals only.(11)

The U.S. Drug Enforcement Administration (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 prescription drugs with a high potential for diversion and abuse, and these are summarized in Table 2.

WHAT CLINICAL PRACTICES CAN MINIMIZE DRUG DIVERSION?

A prescriber should take precautions to avoid being taken advantage of by drug-seeking patients. Precautions include:

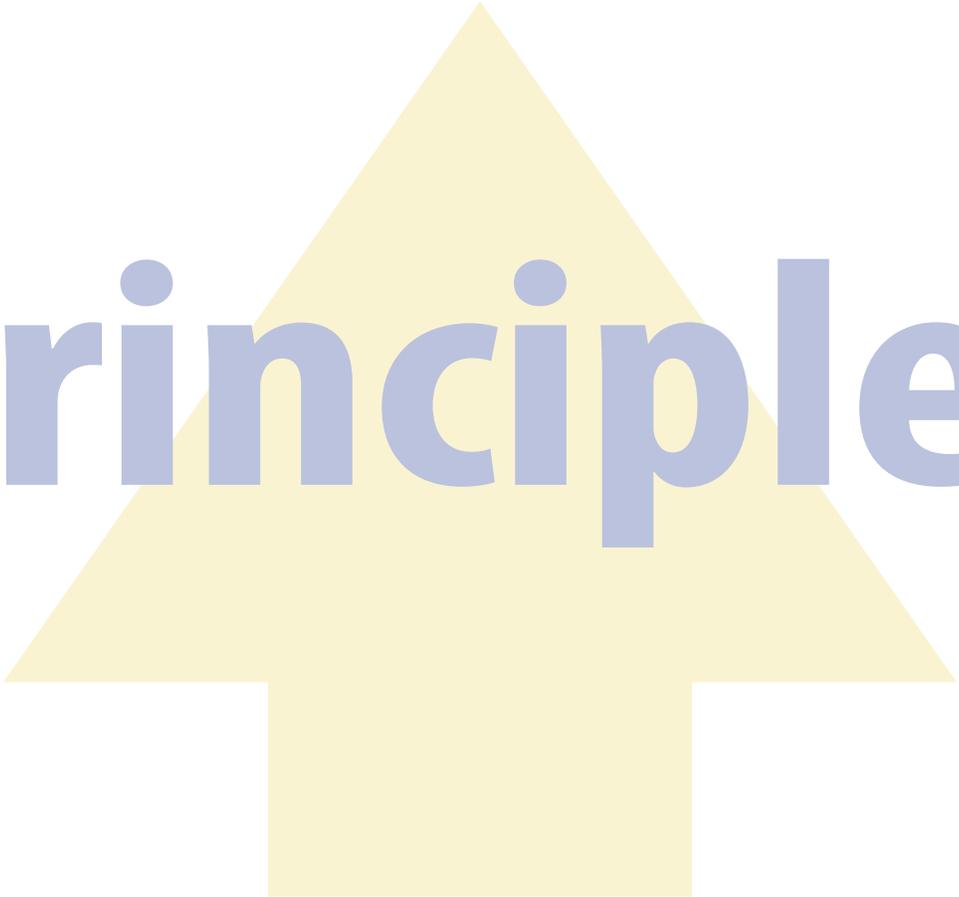
- 1 Exercising caution with patients who use or request combination or “layered” drugs for enhanced effects (for example: anti-psychotics with opioids or benzodiazepines);
- 2 Documenting thoroughly when prescribing narcotics or choosing not to prescribe;
- 3 Protecting access to prescription pads;
-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



WHICH PRESCRIBING PRINCIPLES CAN CURB 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, where available, 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.



principles



WHAT IS THE IMPACT OF THE AFFORDABLE CARE ACT, AND WHAT ARE THE PENALTIES FOR DRUG DIVERSION?

The Affordable Care Act (health care reform) 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 the submission of knowingly false information related to the ordering or prescribing of prescription drugs. The Affordable Care Act requires that State Medicaid agencies suspend payments automatically for physicians and other providers against which there are credible allegations of fraud. 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.(14)

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/or 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 <https://www.deadiversion.usdoj.gov/webforms/dtlLogin.jsp> on the DEA Office of Diversion Control website; and
- ➔ HHS-OIG National Hotline, by calling 1-800-HHS-TIPS (1-800-447-8477) or TTY 1-800-377-4950 or by visiting <https://forms.oig.hhs.gov/hotlineoperations/> on the HHS-OIG website.

For information on fraud prevention and detection compliance guidance, visit <http://www.oig.hhs.gov/> on the HHS-OIG website.



ADDITIONAL RESOURCES

For information on fraud prevention and detection compliance guidance, visit <http://oig.hhs.gov/fraud> on the HHS-OIG website.

For more information on drug diversion, visit <http://www.deadiversion.usdoj.gov> on the DEA Office of Diversion Control website.

For more information and statistics on the prescription drugs of abuse, visit <http://www.drugabuse.gov/drugs-abuse/prescription-drugs> on the NIDA website.

For more information on strategies to reduce drug diversion in the Medicaid program, visit <http://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/MedicaidIntegrityProgram/downloads/drugdiversion.pdf> on the Centers for Medicare & Medicaid Services (CMS) website.



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HOW TO **REPORT** FRAUD

Contact your State Medicaid Fraud Control Unit; State Medicaid agency; or HHS-OIG online at on <https://oig.hhs.gov/fraud/report-fraud/index.asp> the HHS-OIG website.

CONTACT HHS-OIG BY MAIL, PHONE, OR FAX:

Office of Inspector General U.S. Department of Health and Human Services
ATTN: HOTLINE
PO Box 23489
Washington, DC 20026

PHONE

1-800-HHS-TIPS
(1-800-447-8477)

TTY

1-800-377-4950

FAX

1-800-223-8164

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