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Wise County

- Approximately 70% of caseload is drug related
- Most cases involve Schedule III narcotics, Lortab, Suboxone, etc....
- One of the highest overdose rates in the Commonwealth
- Approximately 2,000 active felony cases; highest in state compared to population

Southwest Regional Drug Task Force Counties - Lee, Scott, Wise and Dickenson

- Have approximately 1% of Virginia's population
- 25% of the total amount spent statewide by the Virginia State Police to purchase illegally distributed prescription drugs is used in these four counties
- Each year since mid-1990's, 70 to 85% of all drug cases involve prescription drugs

Western District of Virginia

- Steady increase in prescription drug cases
- Prosecution of physicians
 - Wise County
 - Dickenson County
 - Buchanan County
 - Wythe County
 - Tazewell County

Virginia Prescription Drug Laws – Possession

- § 18.2-250.
- It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act

Federal Prescription Drug Laws

- **21 USC § 841(a)(1)**

- It is unlawful for any person knowingly or intentionally to distribute or dispense a controlled substance
 - Exception for a person who dispenses or distributes a controlled substance pursuant to a valid prescription for a legitimate medical purpose in the usual course of professional medical practice

- **21 USC § 843(a)(3)**

- It is unlawful for any person knowingly or intentionally to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge

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Virginia Prescription Drug Laws - Possession

Class	Examples	Punishment
Schedule I	LSD, Heroin, Bath Salts	Up to 10 years and \$2,500
Schedule II	Percocet, Methadone, Ritalin, Oxycodone, Cocaine	Up to 2 years and \$2,500
Schedule III	Hydrocodone	Up to 6 months and \$1,000
Schedule IV	Valium, Xanax	\$500 fine
Schedule V	Certain Cough Medicines, etc.	\$250 fine

Virginia Prescription Drug Laws - Distribution

- § 18.2-248
- Except as authorized in the Drug Control Act, it shall be unlawful for any person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance.

Virginia Prescription Drug Laws - Distribution

Class	Examples	Punishment
Schedule I	LSD, Heroin, Bath Salts	5-40 years and \$500,00
Schedule II	Percocet, Methadone, Ritalin, Oxycodone, Cocaine	5-40 years and \$500,000
Schedule III	Hydrocodone	1-10 years and \$2,500
Schedule IV	Valium, Xanax	1-5 years and \$2,500
Schedule V	Certain Cough Medicines, etc.	12 months and \$2,500

Virginia Prescription Drug Laws – Distribution “Not for Profit”

Class	Examples	Punishment
Schedule I	LSD, Heroin, Bath Salts	10 years and \$2,500
Schedule II	Percocet, Methadone, Ritalin, Oxycodone, Cocaine	10 years and \$2,500
Schedule III	Hydrocodone	12 months and \$2,500
Schedule IV	Valium, Xanax	12 months and \$2,500

Federal Prescription Drug Laws - Distribution

Class	Examples	Punishment
Schedule II	Percocet, Methadone, Ritalin, Oxycodone, Fentanyl, Opana	0 to 20 years 20 to life (if death or serious bodily injury resulted from drug illegally distributed)
Schedule III	Hydrocodone, Suboxone	0 to 10 years
Schedule IV	Valium, Xanax	0 to 5 years
Schedule V	Certain Cough Medicines, etc.	0 to 1 year

What is SUBOXONE?

OFFICE BASED TREATMENT FOR OPIOID ADDICTION

- In a move away from clinic based therapy (methadone), the Drug Addiction Treatment Act of 2000 (DATA) allows physicians who receive specialized training to treat opiate addiction in their offices with Schedule III, IV and V medications approved by the FDA.

What is SUBOXONE?

OFFICE BASED TREATMENT FOR OPIOID ADDICTION

- In 2002, the FDA approved buprenorphine in two formulations to be used in opiate addiction therapy: **SUBOXONE** and **SUBUTEX**.

What is SUBOXONE?

OFFICE BASED TREATMENT FOR OPIOID ADDICTION

- Subutex is buprenorphine hydrochloride.
- Suboxone is buprenorphine hydrochloride and naloxone hydrochloride.



What is SUBOXONE?

OFFICE BASED TREATMENT FOR OPIOID ADDICTION

- Naloxone, one of the two main ingredients in Suboxone, is an opioid antagonist that is supposed to deter abuse by intravenous injection.
- Unpleasant withdrawal symptoms are supposed to result if Suboxone is taken intravenously by opiate addicts, but there is no such effect when it is taken sublingually as instructed.

What is SUBOXONE?

OFFICE BASED TREATMENT FOR OPIOID ADDICTION

- Doctors who treat opiate addicts with Suboxone are required to undergo some training, and receive a special DEA number (an “X” number, which is their regular DEA # with and X in front of it).
- The first year, approved doctors are allowed to treat up to 30 patients. After the first year, they can apply to treat up to 100 patients.

What is SUBOXONE?

OFFICE BASED TREATMENT FOR OPIOID ADDICTION

- Not surprisingly, it turns out that Suboxone, Subutex, and other forms of buprenorphine CAN BE ABUSED.
- And it is being abused – indictments for illegal use, sale and possession have increased dramatically over the past few years.
- Buprenorphine is very dangerous when combined with other CNS depressants (alcohol, benzodiazepines, etc.)
- Some doctors who prescribe Suboxone and Subutex are attracting the same kind of patients, and run the same type of practice, as “pill doctors” or “pill mills.”

ABUSE AND ILLEGAL DISTRIBUTION OF SUBOXONE

- Suboxone sells for \$25 to \$30 per strip “on the street.”
- Suboxone is widely abused.

Applicability

- The restrictions on disclosure in the regulations apply to any information, whether recorded or not, which
 - **would identify a patient** as an alcohol or drug abuser either directly, by reference to other publicly available information, or through verification of such identification by another person; and
 - is drug abuse or alcohol abuse information obtained by a federally assisted program, **for the purpose of treating** alcohol or drug abuse, making a diagnosis for that treatment, or making a referral for that treatment.

PURPOSE OF LAW

- ① Encourage drug addicts to seek treatment.
- ① Discourage the use of addicts' drug treatment as evidence of illegal drug activity.
- ① **THE LAW IS NOT INTENDED TO PROTECT DOCTORS.**

When the Rules Apply

Does the doctor hold himself out as providing substance abuse treatment?

Look at advertising,
signs, brochures

Does he have a
DEA license to
prescribe
Suboxone? or is it a
Methadone Clinic?

COURT ORDERS AUTHORIZING DISCLOSURE AND USE

- A court order authorizes disclosure or use of patient information which would otherwise be prohibited – the order does not compel disclosure.
- A subpoena or similar legal mandate must be issued in order to compel disclosure.
- The mandate can be entered at the same time as, and can accompany, the authorizing court order.

What does all this really mean?

- In most cases, a court order is needed:
 - With a search warrant;
 - Before undercover work is done; and
 - Before doing surveillance of patients.

What does all this really mean?

- ⦿ No videotaping or photographing of patients until a court order is obtained.
- ⦿ Be careful of other agencies you might be working with who might have cases/charges/investigations involving someone who is a patient – that are separate and apart from your investigation of the doctor.

What does all this really mean?

- ⦿ No videotaping or photographing of patients until a court order is obtained.
- ⦿ Law enforcement should be careful of sharing information disclosed by court order with agencies who might have cases/charges/investigations involving a patient.

SUBOXONE

- ⦿ Remember - THE LAW IS NOT INTENDED TO PROTECT DOCTORS.
- ⦿ Unscrupulous doctors who use Suboxone as an easy way to make money and do not comply with the law are subject to prosecution for illegal distribution of controlled substances and fraud.

Drug Enforcement Administration Tactical Diversion Squads (TDS)

- ⦿ Were reorganized in the late 1990's as prescription drug abuse tripled between 1999 and 2007. An important function of these squads is to maximize the effectiveness of multi-jurisdictional prosecutions of doctors, pharmacies and drug distributors.

Drug Enforcement Administration Tactical Diversion Squads (TDS)

- ◎ Special Agents with enforcement experience work in conjunction with Diversion Investigators with regulatory and registration experience to produce criminal cases when a regulatory case is not sufficient.

Drug Enforcement Administration Tactical Diversion Squads (TDS)

- ◎ TDS cases target rogue pain clinics and pharmacies, as well as the doctors illegally prescribing medications. Asset seizure plays an important role as a punishment and deterrent in these cases.

Drug Enforcement Administration Tactical Diversion Squads (TDS)

- ⦿ TDS also works in conjunction with the FBI Health Care Fraud Unit and Health and Human Services OIG to build cases involving fraudulent billing and defrauding the Medicaid/Medicare system.

Prosecution of Health Care Providers

Key Element is **Intent**

- ⦿ **One way to convict is to prove doctor or pharmacist knew, or was **willfully blind** to the fact that, the “patient”:**
 - (1) had no legitimate need for the prescription drug,
 - (2) was abusing the prescription drug, or
 - (3) was selling the prescription drug

Impediments

- Usually a valid prescription/medical documentation
- Limited resources/funding
- Widespread availability
- Lack of adequate treatment facilities
- State Guidelines require multiple counts for incarceration
- Relatively light punishment for Schedule III compared to Schedules I and II
- Communication between law enforcement agencies
- Lack of Prescription Monitoring Program use/requirements

Solutions

- Prosecutions of physicians and pharmacists for illegal distribution (including for Schedule III drugs)
 - The drugs can not get “on the street” without the physicians and pharmacists
- Increased punishment for distributing Schedule III narcotics

Solutions

- Communication between law enforcement and other service providers such as Probation and Parole, Social Services, Mental Health Agencies, Substance Abuse Treatment Providers, and the public.
- Required PMP usage by Prescribers – more efficient treatment and law enforcement
- Treatment facilities
- Education
- Resources – ex: Drug Diversion
- Drug Courts