Pharmaceutical Diversion and Doctor Shopping

Detective Benjamin Shirley
Lexington Police Department
DEA Task Force Officer

OBJECTIVES

- Identify when communication with a practitioner is not deemed privileged
- Circumstances when a HIPAA covered entity can disclose PHI to law enforcement
- Overview of KASPER as it relates to protecting the practice and criminal investigation
- Proper procedures and requirements for reporting cases of diversion

Drug Diversion

"The diversion of licit (lawful) drugs for illicit (illegal) purposes. It involves the diversion of drugs from <u>legal</u> and <u>medically necessary</u> uses towards uses that are illegal and not medically authorized or necessary"

What is a registrant?

 Registrant – any person or entity that is issued a DEA certificate of registration, which authorizes the person or entity to handle controlled substances for a particular activity (i.e. manufacturer, distributor, dispensing, prescribing, administering, etc...)

Controlled Substance Registrants as of (As of 09-2018)

RETAIL LEVEL

- Retail Pharmacy 71,797
- Hospital Clinic 18,042
- Practitioner **1,305,997**
- Teaching Institute 261
- Mid-Level Practitioner 376,472

WHOLESALE LEVEL

- Manufacturer **582**
- Distributor 922
- Researcher 11,854
- Analytical Labs 1,543
- Importer 272
- Exporter 268
- Reverse Distributor 69
- Narcotic Treatment Program (NTP) 1,669

TOTAL REGISTRANT POPULATION = 1,789,748

Most Common Types of Drug Diversion

- Selling Prescription Drugs
- Doctor Shopping
- Illegal Internet Pharmacies
- Drug Theft
- Drug theft by healthcare professionals/workers
 - taking waste for personal use
 - stealing controlled substances ("CS") from the patients
 - removing CS from automated dispensing machine (PRN)
 - tampering with patients' CS medications
- Forgery
- Illicit Prescribing

Doctor Shopping

The term "doctor shopping" has traditionally referred to a patient obtaining controlled substances from multiple healthcare practitioners without the prescribers' knowledge of the other prescriptions already given.

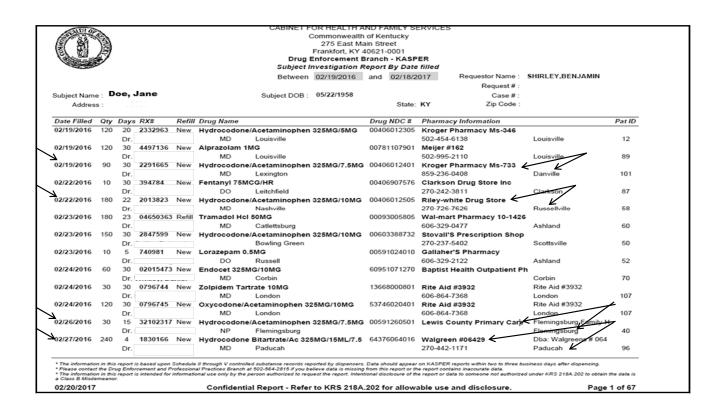
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Doctor Shopping

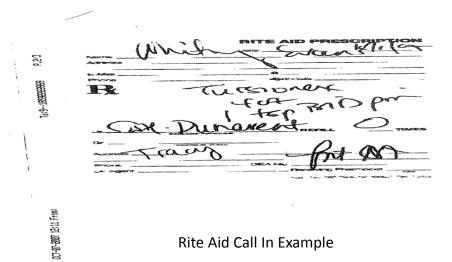
Acts related to attempting to obtain a controlled substance, a prescription for a controlled substance or administration of a controlled substance, prohibited under KRS 218A.140 include:

- Knowingly misrepresenting or withholding information from a practitioner.
- Providing a false name or address.
- · Knowingly making a false statement.
- Falsely representing to be authorized to obtain controlled substances.
- Presenting a prescription that was obtained in violation of the above



How has doctor shopping evolved?

Suspects will now use practitioner information to call in their own prescriptions.

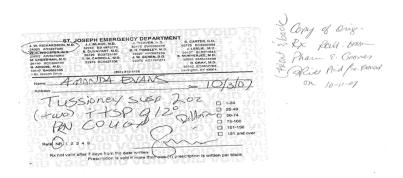




Suspects will steal other patients information while waiting at pharmacies.

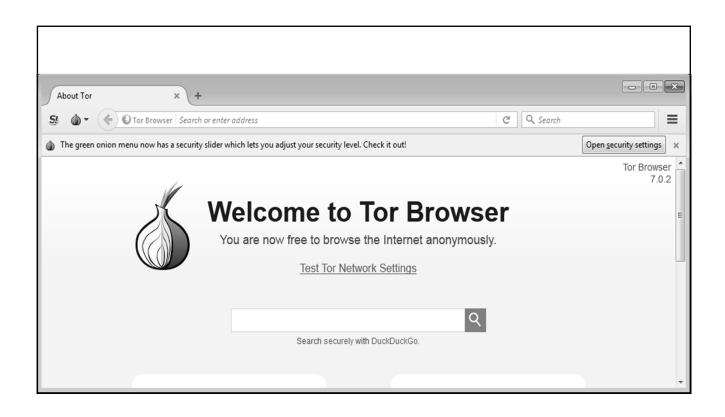
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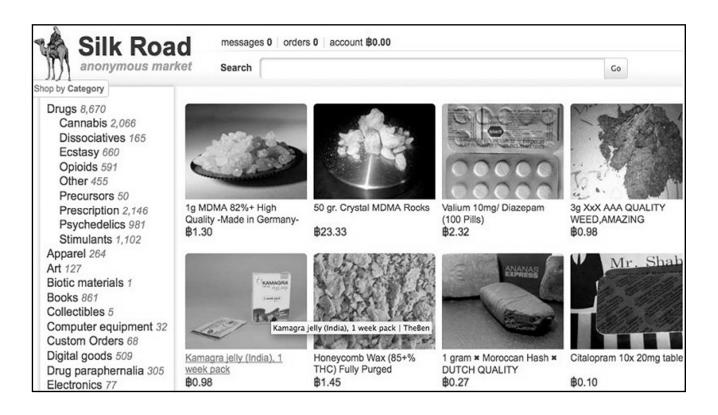
Written Forged Rx

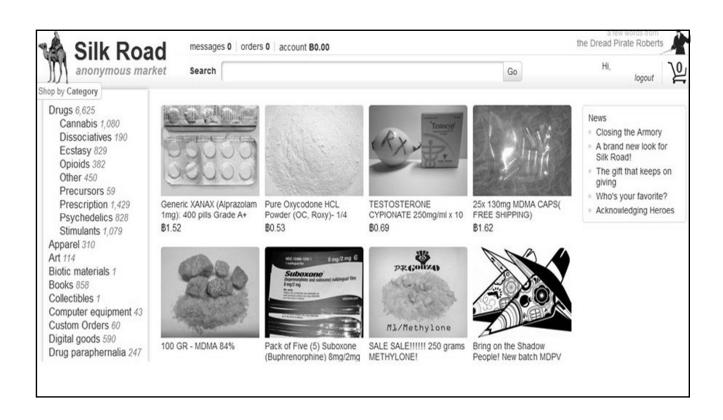










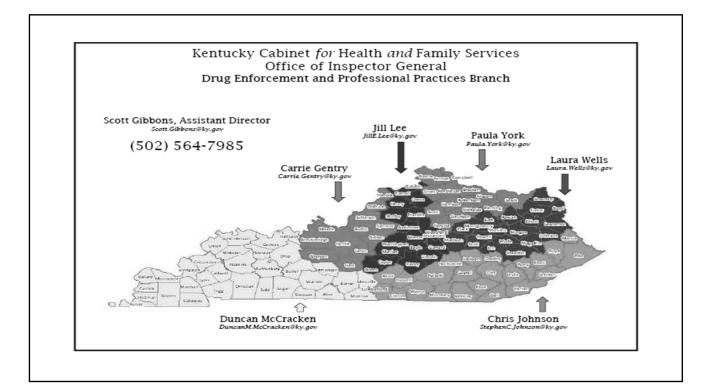


PDMP'S

Prescription Drug Monitoring Programs

K.A.S.P.E.R.

- K-ENTUCKY
- A-LL
- S-CHEDULE
- P-RESCRIPTION
- E-LECTRONIC
- R-EPORTING



Privileged Communication

KRS 218A.280

-Information communicated to a practitioner in an effort to unlawfully procure a controlled substance or to procure the administration of same, shall **NOT** be deemed a privileged communication.

23

Health
Insurance
Portability
Accountability
Act

Under what circumstances may a HIPAA covered entity disclose Patient Information to Law Enforcement?

Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule: A Guide for Law Enforcement

What is the HIPAA Privacy Rule?

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule provides Federal privacy protections for individually identifiable health information, called protected health information or PHI, held by most health care providers and health plans and their business associates. The HIPAA Privacy Rule sets out how and with whom PHI may be shared. The Privacy Rule also gives individuals certain rights regarding their health information, such as the rights to access or request corrections to their information.

Who must comply with the HIPAA Privacy Rule?

HIPAA applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically (e.g., billing a health plan). These are known as covered entities. Hospitals, and most clinics, physicians and other health care practitioners are HIPAA covered entities. In addition, HIPAA protects PHI held by business associates, such as billing services and

others, hired by covered entities to perform services or functions that involve access to PHI.

Who is not required to comply with the HIPAA Privacy Rule?

Many entities that may have health information are not subject to the HIPAA Privacy Rule, including:

- employers,
- most state and local police or other law enforcement agencies,
- many state agencies like child protective services, and
- most schools and school districts.

While schools and school districts maintain student health records, these records are in most cases protected by the Family Educational Rights and Privacy Act (FERPA) and not HIPAA. HIPAA may apply however to patient records at a university hospital or to the health records of non-students at a university health clinic.





Under what circumstances may a HIPAA covered entity disclose PHI to law enforcement?

A HIPAA covered entity may disclose PHI to law enforcement with the individual's signed HIPAA authorization.

A HIPAA covered entity also may disclose PHI to law enforcement without the individual's signed HIPAA authorization in certain incidents, including:

- To report PHI to a law enforcement official reasonably able to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public.
- To report PHI that the covered entity in good faith believes to be evidence of a crime that occurred on the premises of the covered entity.
- To alert law enforcement to the death of the individual, when there is a suspicion that death resulted from criminal conduct.
- When responding to an off-site medical emergency, as necessary to alert law enforcement to criminal activity.
- To report PHI to law enforcement when required by law to do so (such as reporting gunshots or stab wounds).

- To comply with a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, or an administrative request from a law enforcement official (the administrative request must include a written statement that the information requested is relevant and material, specific and limited in scope, and de-identified information cannot be used).
- To respond to a request for PHI for purposes of identifying or locating a suspect, fugitive, material witness or missing person, but the information must be limited to basic demographic and health information about the person.
- To respond to a request for PHI about an adult victim of a crime when the victim agrees (or in limited circumstances if the individual is unable to agree). Child abuse or neglect may be reported, without a parent's agreement, to any law enforcement official authorized by law to receive such reports.

For More Information

This is a summary of the relevant provisions and does not include all requirements that are found in the HIPAA Privacy Rule. For complete information, please visit the U.S. Department of Health and Human Service's Office for Civil Rights HIPAA web site at http://www.hhs.gov/ocr/privacy.

eKASPER Report Request KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES CABINET FOR HEALTH AND FAMILY SERVICES | Contact | Log Out | Request Report - For Single Patient uest Report Patient / Subject Details Last Name * ID Type SSN * For technical support please contact DOB(mm/dd/yyyy) * Click here for Aliases eKASPER Helpdesk at 502-564-2703 Patient / Subject Address Info Address * City * State Zip Code Click here for Other Addresses Report Details (Date in mm/dd/vvvv format) Interstate Requests: (Help) Click here for Other States From Date * 08/31/2014 08/31/2015 Facility ADD NEW FACILITY, 555588888 Email Notification Submit Reset

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Patient_Name	Patient_Dat	ient_Ag	Patient_City	Patient_Zip	Patient_S Drug_Na	n Class	Date_Written	Date_Filled	Metric_Quantity	Days_Supp	Pharmacy_Name	Pharmacy A	uthorize Ref	ill_Number
Conner, Piper	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	9/24/2016	9/24/2016	120	30	WAL-MART PHARMACY 10-3894	LEXINGTO	4	0
Connor k9, Piper	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	8/8/2016	8/8/2016	120	30	RITE AID #3947	LEXINGTO	4	0
Connor k9, Piper	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	8/8/2016	9/6/2016	120	30	RITE AID #3947	LEXINGTO	4	1
Conner, Piper	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	7/30/2016	7/30/2016	120	30	WAL-MART#102783	Lexington	4	0
Conner, Piper	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	7/30/2016	9/1/2016	120	30	WAL-MART#102783	Lexington	4	1
Conner, Piper(k-9)	********	12	LEXINGTON	40504	KY Tramad	ol C-IV	6/24/2016	6/24/2016	120	30	MEIJER PHARMACY #184	LEXINGTO	4	0
Conner, Piper(k-9)	*******	12	LEXINGTON	40504	KY Tramad	ol C-IV	6/24/2016	7/26/2016	20	5	MEIJER PHARMACY #184	LEXINGTO	4	1
Conner, Piper(k-9)	*******	12	LEXINGTON	40504	KY Tramad	ol C-IV	6/24/2016	7/26/2016	100	25	MEIJER PHARMACY #184	LEXINGTO	4	1
Conner, Piper(k-9)	*********	12	LEXINGTON	40504	KY Tramad	ol C-IV	6/24/2016	8/29/2016	120	30	MEIJER PHARMACY #184	LEXINGTO	4	2
Conner, Piper	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	6/15/2016	6/15/2016	120	30	WAL-MART PHARMACY 10-4607	LEXINGTO	4	0
Conner, Piper	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	6/15/2016	7/22/2016	120	30	WAL-MART PHARMACY 10-4607	LEXINGTO	4	1
Conner, Piper	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	6/15/2016	8/25/2016	120	30	WAL-MART PHARMACY 10-4607	LEXINGTO	4	2
Conner, Piper	*******	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	6/11/2016	6/11/2016	120	30	WAL-MART PHARMACY 10-2628	LEXINGTO	4	0
Conner, Piper	*******	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	6/11/2016	7/19/2016	120	30	WAL-MART PHARMACY 10-2628	LEXINGTO	4	1
Conner, Piper	********	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	6/11/2016	9/16/2016	120	30	WAL-MART PHARMACY 10-2628	LEXINGTO	4	2
Conner, Piper	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	6/6/2016	6/6/2016	120	30	WAL-MART PHARMACY 10-4607	LEXINGTO	4	0
Conner, Piper	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	6/6/2016	9/21/2016	120	30	WAL-MART PHARMACY 10-4607	LEXINGTO	4	1
Conner, Canine	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	5/1/2016	5/1/2016	180	30	WALGREEN #16036	Lexington	4	0
Conner, Canine	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	5/1/2016	6/1/2016	180	30	WALGREEN #16036	Lexington	4	1
Conner, Canine	********	15	LEXINGTON	40504	KY Tramad	ol C-IV	5/1/2016	7/9/2016	180	30	WALGREEN #16036	Lexington	4	2
Conner, Canine	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	5/1/2016	8/12/2016	180	30	WALGREEN #16036	Lexington	4	3
Conner, Canine	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	5/1/2016	9/11/2016	180	30	WALGREEN #16036	Lexington	4	4
Conner, Piper	********	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	4/16/2016	4/16/2016	120	30	WAL-MART PHARMACY 10-1210	NICHOLAS	3	0
Conner, Piper	*******	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	4/16/2016	5/22/2016	120	30	WAL-MART PHARMACY 10-1210	NICHOLAS	3	1
Conner, Piper	*******	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	4/16/2016	7/5/2016	120	30	WAL-MART PHARMACY 10-1210	NICHOLAS	3	2
Conner, Piper	*******	15	NICHOLASVILLE	40356	KY Tramad	ol C-IV	4/16/2016	8/17/2016	120	30	WAL-MART PHARMACY 10-1210	NICHOLAS	3	3
Conner, Piper	*********	15	LEXINGTON	40504	KY Tramad	ol C-IV	4/8/2016	4/8/2016	120	30	WAL-MART PHARMACY 10-3894	LEXINGTO	3	0
Conner, Piper	*******	15	LEXINGTON	40504	KY Tramad	ol C-IV	4/8/2016	5/16/2016	120	30	WAL-MART PHARMACY 10-3894	LEXINGTO	3	1
Conner, Piper	*********	15	LEXINGTON	40504	KY Tramad	ol C-IV	4/8/2016	7/15/2016	120	30	WAL-MART PHARMACY 10-3894	LEXINGTO	3	2
Conner, Piper	*********	15	LEXINGTON	40504	KY Tramad	ol C-IV	4/8/2016	8/21/2016	120	30	WAL-MART PHARMACY 10-3894	LEXINGTO	3	3
Conner, Canine	*********	15	LEXINGTON	40504	KY Tramad	ol C-IV	3/26/2016	3/26/2016	180	30	WALGREEN #16036	Lexington	0	0
Connor k9, Piper	*********		LEXINGTON	40504				3/24/2016	120		RITE AID #3947	LEXINGTO	3	0
Connor k9, Piper	***********		LEXINGTON	40504				4/24/2016	120		RITE AID #3947	LEXINGTO	3	1

KASPER MD general requirements

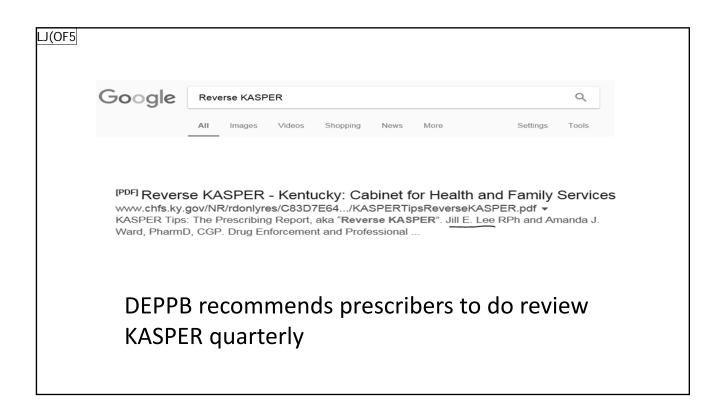
Physician KASPER Query Guidelines 201 KAR 9:260				
Drug Schedule	KASPER Query			
ш	Required before initial prescribing and at least every three months during treatment			
ш	For Pain and Assoc. Symptoms: Prior to initial Rx and at least every three months during treatment. Other conditions: Prior to initial rx and then as necessary to conform to standards of acceptable & prevailing practice (exception: MAT Rxs- must KASPER at least q3months).			
IV	For Pain and Assoc. Symptoms: Prior to initial Rx and at least every three months during treatment. Other conditions: Prior to initial rx and then as necessary to conform to standards of acceptable & prevailing practice (exception: anorectic Rxs - must KASPER at least q3months).			
V See regulation for exceptions (can	Not required			

APRN KASPER Guidelines

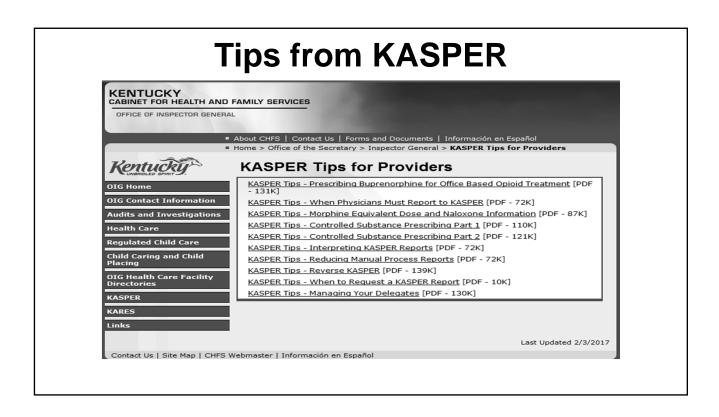
APRN KASPER Query Guidelines 201 KAR 20:057					
Drug Schedule	KASPER Query				
II .	Required before initial prescribing and at least every three months during treatment				
Ш	Required before initial prescribing and at least every three months during treatment				
IV	Required before initial prescribing and at least every three months during treatment				
v	Not required				

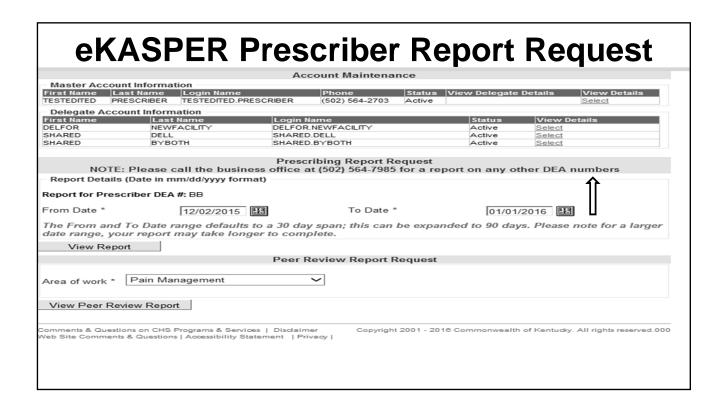
eKASPER Prescriber Reports – KRS 218A.202

- CS prescribers can obtain an eKASPER report on all prescriptions they have written "Reverse KASPER":
 - To review and assess the individual prescribing patterns
 - To determine the accuracy and completeness of information contained in eKASPER
 - To identify fraudulent prescriptions



LJ(OF5 Lee, Jill (CHFS OIG Fraud), 7/18/2017



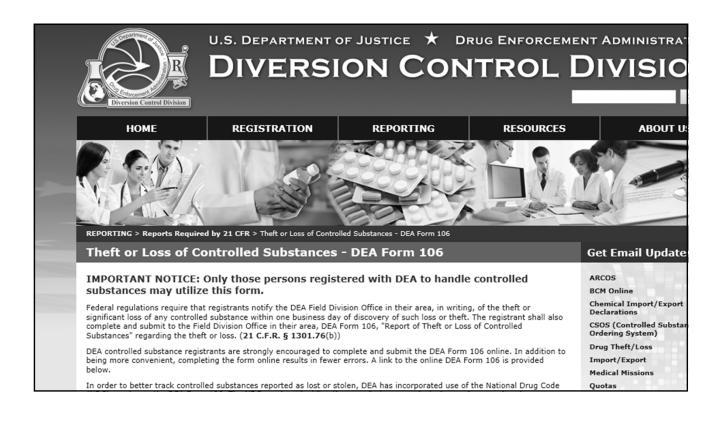


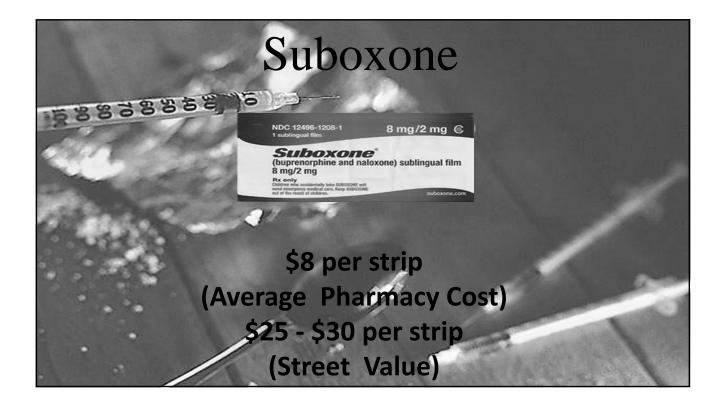
APRN Controlled Substance Prescribing Guidelines at a Glance								
Drug Schedule	Refills	Prescription Expiration						
п	Required before prescribing and at least every three months during treatment	72 hours (EXCEPTION: APRNs board certified in psychiatric mental health nursing may prescribe 30 day supply of psychostimulants)	No	60 days after date of issue				
II (Hydrocodone Combination Products Only)	Required before prescribing and at least every three months during treatment	30 days	No	60 days after date of issue				
Ш	Required before prescribing and at least every three months during treatment	30 days	No	Six months after dat of issue				
IV (Ativan, Klonopin, Valium, Xanax and Soma)	Required before prescribing and at least every three months during treatment	30 days	No	Six months after dat of issue				
IV (other)	Required before prescribing and at least every three months during treatment	Original quantity prescribed	Maximum six- month supply	Six months after dat of issue				
v	Suggested before prescribing and at least every three months during treatment	Original quantity prescribed	Maximum six- month supply	Six months after dat of issue				

Theft & Significant Loss

- Federal regulations require that registrants notify the DEA Field Division Office in their area, in writing, of the theft or significant loss of any controlled substance within 1 business day of discovery of such loss or theft.
- The registrant shall also complete and submit to the Field Division Office in their area, DEA Form 106, "Report of Theft or Loss of Controlled Substances" regarding the theft or loss.

C.F.R. § 1301.76(b))





Task Force Officer Benjamin Shirley

bshirley@lexingtonpolice.ky.gov benjamin.s.shirley@usdoj.gov

> Office (859) 977-6105 Cell (859) 490-0643