Pharmaceutical Diversion and Doctor Shopping

Detective Benjamin Shirley Lexington Police Department DEA Task Force Officer

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- 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"

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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
- 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

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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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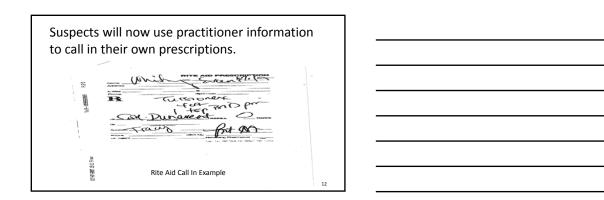
Doctor Shopping

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

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	(E) W.	L)	,			Drug	Frankfort, KY Enforcement	40621-0001 Branch - KASF	ER		
	1200	8				Subject	Investigation	Report By Date	filled		
						Between	02/19/2016	and 02/18/2		SHIRLEY, BENJAMIN	
									Request # :		
			Doe, Jane			Subject DOB	: 05/22/1958		Case # :		
1	Addres	99 :						State:	KY Zip Code :		
	Date Filled	Q n	y Days RXE	Refit	Drug Name			Drug NDC #	Pharmacy Information		Pat ID
	02/19/2016	121	0 20 23329	63 New		e/Acetaminophe	n 325MG/5MG	00406012305	Kroger Pharmacy Ms-346		
			Dr.		MD	Louisville			502-454-6138	Louisville	12
K	02/19/2016	129	0 30 44971	36 New	Alprazolam 1			00781107901			
1	7		Dr.		MD	Louisville			502-995-2110 Kroger Pharmacy Ms-733	Louisville	89
	02/19/2016	90	30 22916	65 New	MD	e/Acetaminophe Lexinaton	n 325MG/7.5MG	G 00406012401	Rroger Pharmacy Ms-733 859-236-0408	Danville	101
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1	02/22/2016	186	0 22 20138	23 New			n 325MG/10MG	00406012505	Riley-white Drug Store 4		
			Dr.		MD	Nashville			270-726-7626	Russellville	58
	02/23/2016	186	0 23 04650	363 Refill	Tramadol Ho	1 50MG		00093005805	Wal-mart Pharmacy 10-142	26	
			Dr.		MD	Catlettsburg			606-329-0477	Ashland	60
	02/23/2016	154	0 30 28475	99 New	Hydrocodone	e/Acetaminophe	n 325MG/10MG	00603388732	Stovall'S Prescription Sho		
			Dr.			Bowling Green			270-237-5402	Scottsville	50
	02/23/2016	10		1 New	Lorazepam 0			00591024010	Gallaher's Pharmacy		
			Dr.		DO	Russell			606-329-2122	Ashland	52
	02/24/2016	- 60			Endocet 325			60951071270	Baptist Health Outpatient I		
			Dr.			Corbin				Corbin	70
	02/24/2016	30	30 07967	44 New	Zolpidem Tar	trate 10MG London		13668000801	Rite Aid #3932 606-864-7368	Rite Aid #3932 London	107
	02/24/2016	120	0 30 07967	AS Now		London Acetaminophen	225MQ/10MQ	53746020401	Rite Aid #3932	Rite Aid #3932	4 107
К	02/24/2016	121	0 0/96/	ay New	MD MD	London	azamu/10MG	93740020401	606-864-7368	London	107
13	02/26/2016	- 20	15 32102	317 New		e/Acetaminophe	n 225MO/7 5M/	0.00591260501	Lewis County Primary Car	Eleminoshum Emily	- 101
L.		-	Dr.	311 100m	NP	Flemingsburg		• ••••••	cents county rimary car	Electristian	40
)	02/27/2016	24	0 4 18301	66 New	Hydrocodone		25MG/15ML/7.6	64376064016	Walgreen #06429	Dba: Walgreepe # 00	54
			Dr.		MD	Paducah			270-442-1171	Paducah K	96
									on KASPER reports within two to three- e report contains macourate data.		
	* The informati e Class & Most			d for informat	onal use only by the	person authorized to re	equest the report, Inte	entional disclosure of f	e report or data to comeone not authoric	ted under KRS 218A 202 to obta	ain the date is
	02/20/2017				Confidenti	ial Report - Refe	er to KRS 218/	A 202 for allow	able use and disclosure.	Pag	e 1 of 67
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How has doctor shopping evolved?





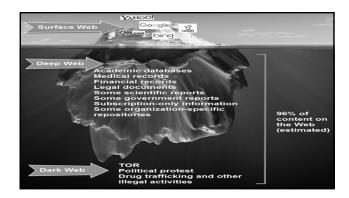
Suspects will steal other patients information while waiting at pharmacies.

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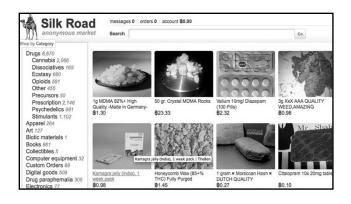
Written Forged Rx

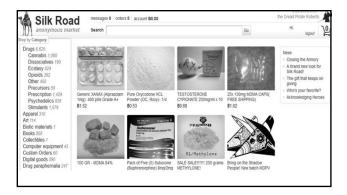










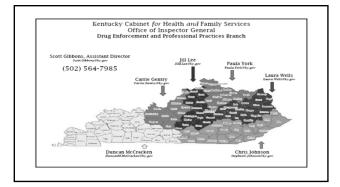


PDMP'S

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.

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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

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 sets out how and with whom PHI may be shared. The Privacy Rule sets out to such as the privacy Rule should be shared. The Privacy Rule also given the shared that the privacy Rule should be shared. The Privacy Rule should be included that the privacy Rule should be shared. The Privacy Rule should be included the shared that the privacy Rule should be shared to the privacy Rule shared that the Privacy Rule shared

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

Many entities that may have health informat subject to the HIPAA Privacy Rule, including:

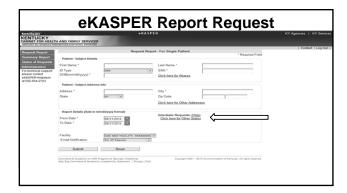
- many state agencies like child protective services, and

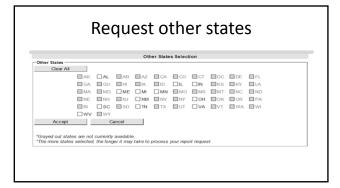


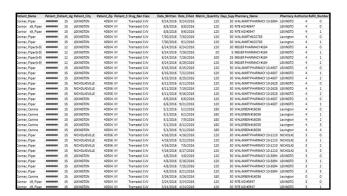


Under what circumstances may a HIPAA covered entity disclose PHI to law enforcement?

- To report PHI to law enforcement when required by law to do so (such as reporting gunshots or stab wounds).







KASPER MD general requirements

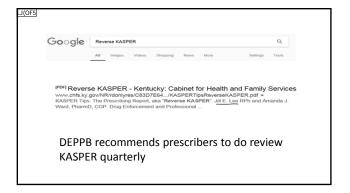
Physician KASPER Query Guidelines 201 KAR 9:260				
Drug Schedule	KASPER Query			
п	Required before initial prescribing and at least every three months during treatment			
m	For Pain and Assoc. Symptoms: Prior to initial Rx and at least every three months during treatment. Other conditions: Prior to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

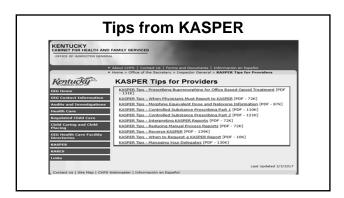
APRN KASPER Guidelines

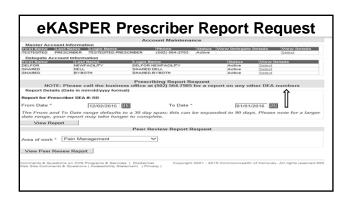
APRN KASPER Query Guidelines 201 KAR 20:057					
Drug Schedule	KASPER Query				
II	Required before initial prescribing and at least every three months during treatment				
Ш	Required before initial prescribing and at least every three months during treatment				
IV	Required before initial prescribing 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

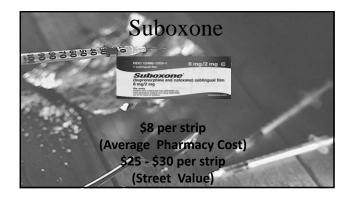
APRN - Know the Limits									
	APRN Controlled Substance Prescribing Guidelines at a Glance								
Drug Schedule	KASPER Query	Maximum Prescription	Refills	Prescription Expiration					
п	Required before prescribing and at least every three months during treatment	72 hours (EXCEPTION: APRNs board certified 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					
	Required before prescribing and at least every three months during treatment	30 days	No	Six months after date 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 date 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 date of issue					
v	Suggested before prescribing and at least every three months during treatment	Original quantity prescribed	Maximum six- month supply	Six months after date of issue					
Your CAPA-CS may place additional restrictions on your prescribing authority									

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. (21

C.F.R. § 1301.76(b))

		U.S. DEPARTMENT O			
	НОМЕ	REGISTRATION	REPORTING	RESOURCES	ABOUT U
<u> </u>		by 21 CTR > Theft or Loss of Control ntrolled Substances			Get Email Update
	IMPORTANT NOTICE: C substances may utilize	Only those persons regist	ered with DEA to handl	e controlled	ARCOS BCM Online
	significant loss of any controlled complete and submit to the Field	registrants notify the DEA Field Div substance within one business day of Division Office in their area, DEA I or loss. (21 C.F.R. § 1301.76(b))	of discovery of such loss or theft	t. The registrant shall also	Chemical Import/Export Declarations CSOS (Controlled Substa Ordering System)
	DEA controlled substance registr being more convenient, complet below.	rants are strongly encouraged to co ing the form online results in fewer	mplete and submit the DEA Form errors. A link to the online DEA I	n 106 online. In addition to Form 106 is provided	Drug Theft/Loss Import/Export Medical Missions
	In order to better track controlle	d substances reported as lost or str	olen, DEA has incorporated use o	of the National Drug Code	Quotas



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