

FIT FOR EMPLOYMENT



**THE IMPACT OF PRESCRIPTION DRUGS &
RETURNING EMPLOYEES TO WORK**

PRESCRIPTION DRUG EPIDEMIC



- The Centers for Disease Control and Prevention (CDC) has declared an epidemic with regard to prescription drug abuse in the U.S.
 - Definition of “epidemic”
 - Prescription opioid overdose deaths outnumber overdose deaths from both heroin and cocaine combined.
 - As of 2012, overdose deaths involving prescription opioid analgesics (medications used to treat pain) have increased to almost 17,000 deaths per year in the U.S.

www.cdc.gov

National Overdose Deaths

Number of Deaths from Prescription Drugs

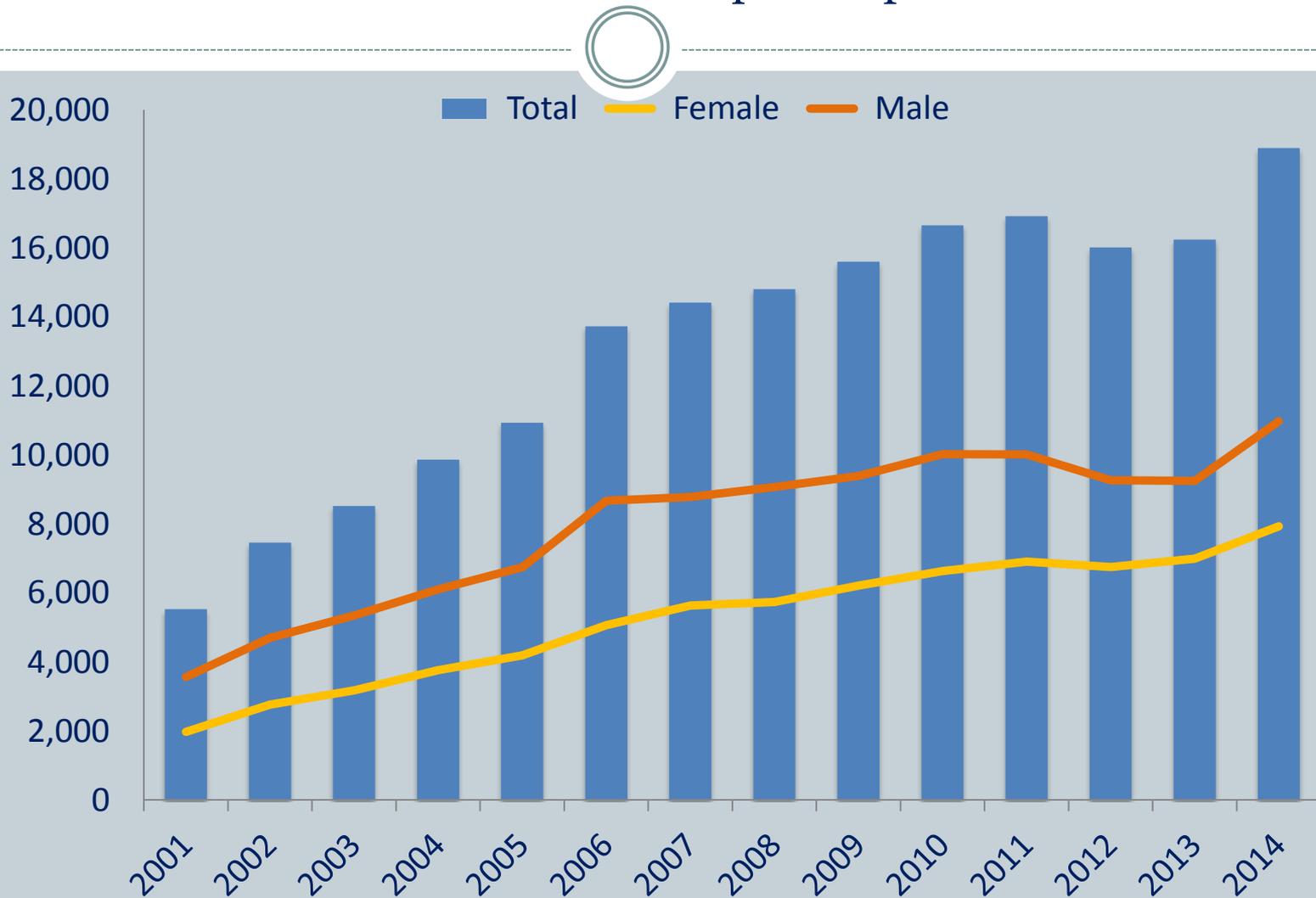


Source: National Center for Health Statistics, CDC Wonder



National Overdose Deaths

Number of Deaths from Prescription Opioid Pain Relievers



Source: National Center for Health Statistics, CDC Wonder

STATISTICS



- The U.S. makes up 5% of the world's population and consumes 75% of the world's prescription drugs
- 52 million Americans over the age of 12 have used prescription drugs non-medically in their lifetime
- Most abused prescription drugs fall under 3 categories:
 1. Pain killers (5.1 million)
 2. Tranquilizers/depressants (2.2 million)
 3. Stimulants (1.1 million)

National Institute on Drug Abuse

TYPES OF COMMONLY ABUSED DRUGS



- Drugs, substances, and certain chemicals used to make drugs are classified into 5 distinct categories called “schedules” depending on the drug’s acceptable medical use and the drug’s abuse or dependency potential.

SCHEDULE I



- Definition
- Examples:
 - ✦ Heroin
 - ✦ Lysergic acid diethylamide (LSD)
 - ✦ Marijuana (cannabis)
 - ✦ 3,4-methylenedioxymethamphetamine (ecstasy)
 - ✦ Methaqualone
 - ✦ peyote

SCHEDULE II



- Definition
- Examples:
 - ✦ Combination products with less than 15 mg of hydrocodone per dosage unit (Vicodin)
 - ✦ Cocaine
 - ✦ Methamphetamine
 - ✦ Methadone
 - ✦ Hydromorphone (Dilaudid)
 - ✦ Meperidine (Demerol)
 - ✦ Oxycodone (Oxycontin, Percocet, Percodan)
 - ✦ Fentanyl
 - ✦ Dexedrine
 - ✦ Adderall
 - ✦ Ritalin

SCHEDULE III



- Definition
- Examples:
 - ✦ Products containing less than 90 mg of codeine per dosage unit (Tylenol with codeine)
 - ✦ Ketamine
 - ✦ Anabolic steroids
 - ✦ testosterone

SCHEDULE IV



- Definition
- Examples:
 - ✦ Xanax
 - ✦ Soma
 - ✦ Darvon
 - ✦ Darvocet
 - ✦ Valium
 - ✦ Ativan
 - ✦ Talwin
 - ✦ Ambien
 - ✦ Tramadol

SCHEDULE V



- Definition
- Examples:
 - ✦ Cough preparations with less than 200 mg of codeine or per 100 ml (Robitussin AC)
 - ✦ Lomotil
 - ✦ Motofen
 - ✦ Lyrica
 - ✦ parepectolin

OPIOIDS & BENZODIAZEPINES



Commonly Abused Medications

OPIOIDS

Derived from the opium poppy (or synthetic versions of it) and used for pain relief. Examples include hydrocodone (Vicodin®), oxycodone (OxyContin®, Fentora®), methadone, and codeine.



BENZODIAZEPINES

Central nervous system depressants used as sedatives, to induce sleep, prevent seizures, and relieve anxiety. Examples include alprazolam (Xanax®), diazepam (Valium®), and lorazepam (Ativan®).

OPIOIDS & BENZODIAZEPINES



- Used to treat moderate to severe pain
- Often prescribed following surgery, injury, or for health conditions such as cancer.
- Recently, there has been a dramatic increase in the acceptance of use of prescription opioids for treatment of chronic (non-cancer) pain, such as back pain or osteoarthritis.

WHY IS THIS RELEVANT TO WORK COMP?



- 23% of the U.S. workforce has used prescription drugs non-medically
- Even employees who take a regularly prescribed dose may be too impaired to work, especially in a safety-sensitive position/environment
- Injured workers who are prescribed even one opioid have average total claim costs 4 times greater than similar claims from workers who were not prescribed opioids

WHY IS THIS RELEVANT TO WORK COMP?



Injured Workers & Increased Risk

- High doses of opioid pain medications and/or for an extended period of time
- Taking multiple medications or mixing them with alcohol, sleeping pills, anti-depressants/anxiety medications
- Pain medications combined with pre-existing conditions such as sleep apnea, heart failure, obesity, chronic obstructive pulmonary disease (COPD), or other respiratory conditions

WHY IS THIS RELEVANT TO WORK COMP?



- 25% of work comp prescription drug claim costs were for opioid pain medications
- No correlation between increased use of pain medications and better treatment outcomes
- State court decisions have found employers and insurers financially responsible when an injured worker who is prescribed painkillers fatally overdoses

National Safety Council, Prescription Pain Medications: A Fatal Cure for Injured Workers (2015)

COMPENSABILITY



STATE	YEAR	CITATION
WASHINGTON	2011	Dept. of Labor & Industries v. Brian I. Shirley, DEC'D
TEXAS	2012	Commerce & Industry Ins. Co. v. Ferguson-Stewart, et al.
TENNESSEE	2011	Kilburn v. Granite State Ins. Company, et al.
PENNSYLVANIA	2011	J.D. Landscaping v. Workers' Compensation Appeals Board
CONNECTICUT	2012	Sapko v. State of Connecticut
OHIO	2009	Parker v. Honda of Am. Mfg., Inc.

KEY LEGAL CONCEPTS



- **Proximate Cause:** Any legally recognizable set of facts which, in natural or probable sequence, produced the individual's injury
- **Chain of Causation:** whether any harm/injury occurring subsequent to the original injury is connected to original accidental injury
- **Independent intervening act (superseding cause):** act that breaks the chain of causation to original workplace injury, ending liability

COMBINING ALCOHOL & PRESCRIPTION PAIN MEDICATION



Dept. of Labor & Industries v. Brian I. Shirley, DEC'D

- 2004 injury
- Employee died in 2007 after drinking alcohol while taking multiple prescription pain medications used to treat his work injury
- Court of Appeals affirmed award of survivor benefits finding that the use of alcohol did not break the chain of causation

TOO MUCH PAIN MEDICATION



Commerce & Industry Ins. Co. v. Ferguson-Stewart, et al.

- May 2004 injury: left shoulder contusion for which employee was prescribed hydrocodone
- Employee died in October 2004 after taking an amount exceeding the prescribed dose
- DWC denied benefits finding that employee failed to follow physician's instructions
- Jury awarded benefits and Texas Supreme Court affirmed based on widow's testimony that prescription medication caused employee to become confused/disoriented, which caused him to take an excessive amount (decedent did not intentionally overdose)

TOO MUCH PAIN MEDICATION



Kilburn v. Granite State Ins. Company, et al.

- 2008 injury
- 2010 overdose from pain medications
- Trial court denied widow's motion for death benefits stating that negligent overdose breaks chain of causation because it is an independent, intervening cause
- Tennessee Supreme Court reversed and remanded case back to trial court where it is still pending

TOO MUCH PAIN MEDICATION



J.D. Landscaping v. Workers' Compensation Appeals Board

- 2002 low back injury
- Employee died in 2007 from overdose of Fentanyl
- Previous utilization review found that doctor's treatment (prescriptions for docusate, fentanyl, oxycodone, Fentora, Lyrica and Sonata) was not reasonable or necessary
- Appellate court ruled that issue of causation is separate from reasonableness and necessity of medical treatment and upheld award for benefits

COMBINATION OF DRUGS



Sapko v. State of Connecticut

- 2006 injury for which employee was prescribed oxycodone for pain
- Employee was previously diagnosed with depression (1999) and was given prescription for Seroquel by his psychiatrist (post-injury)
- Employee died from overdose of oxycodone and Seroquel (both substances were found to be higher than prescribed amounts)
- Toxicologist testified that overdose of oxycodone alone would not have caused death without presence of Seroquel
- Work comp board found that Seroquel was a superseding cause of death and unrelated to work injury
- Supreme Court of Connecticut upheld board's decision concluding that work injury was not proximate cause and that Seroquel use was a superseding cause, breaking the chain of causation

COMBINATION OF DRUGS



Parker v. Honda of Am. Mfg., Inc.

- 1988 injury resulting in long-term use of prescription OxyContin
- Employee became addicted to OxyContin and cocaine for which he sought treatment in 2004 and 2005
- Employee died of overdose of OxyContin and cocaine in 2006
- OxyContin had been administered intravenously (not as prescribed by physician)
- Employer argued that death was result of abuse of prescription and illegal drugs; plus misuse of prescription drugs was an intervening cause that broke chain of causation
- Ohio Court of Appeals affirmed trial courts denial of benefits based on finding that employee died from self-inflicted injuries

MISSOURI



What We Do Know:

Penalties

“Where the employee fails to obey any rule or policy adopted by the employer relating to a drug-free workplace or the use of alcohol or nonprescribed controlled drugs in the workplace, the compensation and death benefit provided for herein shall be reduced fifty percent if the injury was sustained in conjunction with the use of alcohol or nonprescribed controlled drugs”.

“If, however, the use of alcohol or nonprescribed controlled drugs in violation of the employer's rule or policy is the proximate cause of the injury, then the benefits or compensation otherwise payable under this chapter for death or disability shall be forfeited”.

RSMo, §287.120.6

MISSOURI



The Unknown

- Missouri statute does not specifically provide penalty for “misuse” of prescribed controlled substance (only “non-prescribed controlled drugs”)

RETURN TO WORK ISSUES



- Employer policies regarding return to work while employee is taking prescription drugs prescribed by authorized treating physician
- Secondary gain issues – TTD
- Decreased productivity
- Risk of subsequent injury

FUTURE MEDICAL



Historical Costs:

- Until recently, only an average of 40% of claims' costs were for medical care and within that percentage, prescription drug costs were typically relatively small
- Most costs were associated with wage loss and indemnity payments to injured workers

FUTURE MEDICAL



Current Cost Trends:

- Currently, 6 of 10 dollars spent for claims relate to medical care, including prescription drugs
- Recent increases in healthcare costs correlate to increased costs of workers' compensation claims and costs of prescription drugs related to compensable claims
- In 2014, the amount spent on prescription drugs by employers and insurers rose by 2% from the previous year

Robinson, Thomas A., "Prescription Drugs and Workers' Compensation", published online Lexis Advance Research, July 13, 2015

FUTURE MEDICAL



Medicare Set-A-Side Example:

- **FACTS:** Claimant suffered injury to lumbar spine while lifting boxes. Treatment included lumbar spine surgery, injections, physical therapy, spinal cord stimulator and medications. Additional surgery, injections and continued pain management recommended.
- Proposed MSA:

FUTURE TREATMENT =	\$ 72,986.00
PRESCRIPTION COSTS=	\$307,476.00
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GRAND TOTAL =	\$380,462.00

SOLUTIONS



Safe Prescribing Practices

- ✦ Require workers' compensation and network providers to use opioid prescribing guidelines
 - American College of Occupational and Environmental Medicine (ACOEM):
 - Informed consent
 - Obtain thorough patient history with more detailed screening when treatment continues more than 2 weeks
 - Urine drug monitoring
 - Check state prescription drug monitoring databases
 - Avoid co-prescribing benzodiazepines with opioid pain medications
 - Discontinue treatment with opioids when patients reach goals during recovery

National Safety Council, Prescription Pain Medications: A Fatal Cure for Injured Workers (2015)

SOLUTIONS



Safe Prescribing Practices

- ✦ Use extra caution/pre-approval for use of methadone
- ✦ Screen injured workers for mental health conditions and current or prior substance use
- ✦ Utilize Pharmacy Benefit Managers (PBM)
- ✦ Educate employees about the hazards associated with prescription pain medication use
- ✦ Require authorized providers to use state prescription drug monitoring programs (PDMP)

PRESCRIPTION DRUG MONITORING PROGRAMS (PDMP)



What is a PDMP?

A prescription drug monitoring program (PDMP) is an electronic database that collects data on controlled substance prescriptions dispensed within a state. It can act as an early warning system for prescribers to avoid dangerous drug interactions and to ensure quality patient care.

- Missouri is currently the only state without a PDMP
 - ✦ Why?
 - ✦ Proposed Legislation

Missouri Prescription Drug Monitoring Program NOW Coalition, <http://mopdmpnow.com>

PRESCRIPTION DRUG MONITORING PROGRAMS (PDMP)



- Missouri is the only state that has not enacted legislation providing for a prescription drug monitoring program.
- Proposed Legislation - Rep. Holly Rehder, R-Sikeston, introduced HB 1892, better known as the Narcotics Control Act, to the House floor with a bit of surprise for a vote to institute a prescription drug monitoring program (PDMP) in the state of Missouri.
- Rehder's bill would allow the state to track who is prescribed opioid painkillers, which, proponents say, would make it easier for physicians to prevent "doctor shopping" — going through multiple doctors to get multiple prescriptions. www.stltoday.com, 2/3/16.
- Under this program, only pharmacists and physicians would be able to access the computerized program. Kentucky saw a 50% drop in doctor shopping after their state put a similar law into effect in 2012. Law enforcement officials would be required to request a warrant before they are able to get any information. (State Rep. Bill Reiboldt, 160th District) <http://www.billreiboldt.com/news--updates>

PRESCRIPTION DRUG MONITORING PROGRAMS (PDMP)



- The bill was perfected 91-68 with a pronounced split in the Republican Party over the issue, though a handful of Democrats also voted no on the measure. It was reported to the Senate and first read on 3/3/16 but no hearing has been scheduled (as of this writing) and a filibuster is expected by its opponents to prevent it from passing.
- HB 1892's chief opponent is Sen. Rob Schaaf, R-St. Joseph, who says that a prescription drug monitoring program, or PDMP, would violate patient privacy. He's proposed his own bill, but it would only go into effect with voter approval. www.stltoday.com, 2/3/16.
- The main opposition surrounds privacy issues regarding the security of a data base and the potential for private patient information that could somehow be hacked or accessed from outside the system. (State Rep. Bill Reiboldt, 160th District) <http://www.billreiboldt.com/news--updates>

PRESCRIPTION DRUG MONITORING PROGRAMS (PDMP)



- St. Louis County didn't wait for the state legislature to pass a prescription drug monitoring system. It moved forward with setting up a database of its own, with hopes to cut down on prescription painkiller abuse.
- County Executive Steve Stenger signed the bill, which had been unanimously passed by the county council, into law 3/2/16.

CONCLUSION



Impact on Employers, Employees & Beyond

- Safety
- Lower Costs
- Increased Productivity
- Community Benefits: “The Big Picture”

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