

New Jersey's Physicians Face Conflicting Messages When It Comes To Treating Patients With Pain

By: Alma L. Saravia, Esq.



•
Although the world is full of suffering, it is also full of the overcoming of it.

— Helen Keller

•

Fifteen years ago this was the theme of the State's Legislative Commission for the Study of Pain Management Policy. Fifteen years later, New Jersey's policy makers are advocating different mandates for how physicians should treat their patients' pain. Knowledgeable physicians must be aware of these shifting policies when treating patients suffering from pain.

CONSENSUS ON NEED FOR TREATMENT OF PAIN AS A HEALTH PROBLEM

According to the American Academy of Pain Medicine "millions suffer from acute or chronic pain every year and the effects of pain exact a tremendous cost on our country in health care costs, rehabilitation and lost worker productivity, as well as the emotional and financial burden it places on patients and their families." A recent Institute of Medicine Report: *Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research*, found that "pain is a significant public health problem that costs society at least \$560-\$635 billion annually, an amount equal to about \$2,000.00 for everyone living in the U.S." Numerous organizations, including the American Medical Association, have attested "that medical practice does not meet acceptable levels of quality when it comes to the diagnosis and manage-

ment of conditions requiring treatment with a controlled substance."

NEW DATA INDICATES THAT AN INCREASING NUMBER OF PATIENTS USE CDS FOR NON MEDICAL REASONS AND THAT THERE ARE INCREASING RATES OF ACCIDENTAL OVERDOSES

According to the federal Substance Abuse and Mental Health Services Administration, "opioid deaths have nearly doubled between 2001 and 2010, largely because the number of people using, misusing, and abusing illicit and prescription opioids has been on the rise." The Centers for Disease Control and Prevention recently found that "27.3 percent of people who use opioid pain relievers more than 200 days out of the year for nonmedical reasons are able to get them from a prescribing physician."

National studies indicated that between 2% and 6% of chronic pain patients abuse pain medication. Abuse of pain medication is distinct from addiction or dependence. The diversion of CDS for non-medical use is increasing and law enforcement efforts to stop it have been stepped up. The impact of publicity about pain medication abuse and diversion

on physician decision-making is an important issue – particularly since fifteen years ago New Jersey was at the forefront of efforts to recognize the need to treat pain.

HOW NEW JERSEY HAS VIEWED THE TREATMENT OF PAIN

New Jersey noted in 1999 that pain management was an important public health policy issue and established the New Jersey Pain Management Policy Advisory Council in the Department of Health and Senior Services. More recently, in July 2013, the State Commission on Investigation ("SCI") issued a report titled "SCENES FROM AN EPIDEMIC" — A Report on the SCI's Investigation of Prescription Pill and Heroin Abuse. According to the report, New Jersey's physicians "have been bilking Medicaid by wrongfully handing out drugs for prescription painkillers and in some cases serving as a front for the Russian mob — showing the need for stricter oversight . . ." The authors recommended that New Jersey "adopt explicit standards based on national models for how doctors should prescribe powerful pain treatments." Following the issuance of the report, the Attorney General's office moved to strip 12 New Jersey doctors of their ability to prescribe CDS and two months later it announced that it was going after five more physicians. The Attorney General stated that "New Jersey is fighting back against prescribers who contribute to America's drug epidemic, and working to protect the public should they ever again be reinstated to practice medicine in our state." This signals a significant shift in the State's policy makers' perceptions — away from the proactive need to treat pain to insinuations that physicians are part of the problem.

The New Jersey Chapter of the
(continued on next page)

CCMS Leadership

Present at the Camden County Medical Society Annual Meeting/Election and Installation of Officers Dinner, May 14, 2014 at The Mansion on Main Street in Voorhees, NJ



Pictured (left to right): Jamil Mohsin, MD, Asst. Herbert Conaway, MD, Jay M. Steinberg, DO, David L. Neidorf, MD, Tariq S. Siddiqi, MD, Rajendra B. Patel, MD and Lee H. Yasgur, MD

New Jersey's Physicians Face Conflicting Messages

When It Comes To Treating Patients With Pain (continued from previous page)

American College of Emergency Physicians has indicated both that they "are not aggressive enough in the treatment of pain" and that "physicians prescribe too many narcotics." As they say so very well, "evidence is complex and at times contradictory."

These recent statements reflect evolving opinions about the treatment of pain as well as the consequences of reported opiate abuse. There is certainly confusion about how a physician should view and treat a patient who has pain.

Therefore, it was not surprising when on May 3, 2014 Governor Chris Christie made a speech to the Medical Society of New Jersey in which he referred to the death of a friend as a result of addiction to pain medication. Governor Christie urged physicians to be more careful when issuing prescriptions and to participate in the State's Prescription Monitoring Program ("PMP"). In 2012, the PMP was established to require pharmacists to submit prescription information on a weekly basis to a database which tracks all prescriptions for CDS dispensed to

patients in New Jersey. Physicians enroll in the PMP to ascertain the CDS history of a current patient.

WHERE ARE NEW JERSEY'S POLICY MAKERS GOING IN FACE OF KNOWLEDGE ABOUT CDS MISUSE AND HOW DOES IT AFFECT PHYSICIANS?

Physicians' responses to these differing messages varies. On one hand, some physicians under treat patients because of their concerns about the potential for drug abuse or the fear of regulatory repercussions. On the other hand, a few physicians engage in unethical or unlawful behavior by "selling prescriptions" or falling prey to the manipulations of drug-seeking patients.

Trends in the Legislature may provide some physicians with pause when it comes to prescribing CDS for their patients. Real-time access for physicians to the prescription information is ideal.

A presentation to the FDA on the effectiveness of PMPs throughout the country found that in states with an "effective" PMP, "opioid abuse rates rise less quickly" than in states without an effective PMP. Nonetheless,

the authors of the presentation indicated that it is unclear whether the associations are causally related.

CONCLUSION:

The reality is that the vast majority of physicians practice medicine responsibly and most patients who take prescribed CDS use them responsibly. Addressing the increase in the misuse of CDS by patients requires nuanced solutions. Enacting stricter legislation or "cracking down" on physicians may only result in ethical physicians under treating pain. The CDC has proposed combating opiate misuse through "better drug overdose tracking, abuse-deterrent drug formulations, and requiring drug manufacturers to sponsor proper-use educational programming." These law enforcement efforts should not obscure the sound medical data which indicates that CDS are still the most effective options for the treatment of a patient's pain.

Alma L. Saravia is a shareholder in the Cherry Hill office of Flaster/Greenberg, P.C. She practices in the area of health law and was a member of the New Jersey State Board of Medical Examiners from 1992 - 1994.