A Prescription for Change: Reducing Prescription Drug Abuse, Misuse and Diversion in Montana

Special Report: White Paper (draft)

Background

In early 2013, the MMA began discussions on the public health crisis of opioid abuse, misuse and diversion with a focus on what the Association might do to assist physicians to become more knowledgeable of the changing best medical practices when treating patients with chronic pain, and encourage cooperation with local law enforcement officials on concerns of possible diversion.

Later that year, the MMA determined the topic demanded the creation of a work group that would bring together physicians with expertise in this area, physicians engaged in practice changes to address the issue, and other stakeholders. This MMA Committee on Prescription Drug Abuse was officially launched in January of 2014 with nearly 20 physician members and have since met on a regular basis to share for hours their expertise which laid the groundwork for a framework as described below.

Statistics caught the attention of physicians and those physicians working to address this issue specifically set an overarching goal to decrease the number of overdose deaths in Montana. Statistics from the Centers for Disease Control & Prevention (CDC) note that enough prescription painkillers were prescribed in 2010 to medicate every American adult around-the-clock for one month.[1] Approximately three out of every four pharmaceutical overdose deaths in 2010 were due to opioid analgesics like oxycodone, hydrocodone, and methadone.[2] Medicaid patients are prescribed painkillers at twice the rate of non-Medicaid patients and are at six times the risk of prescription painkiller overdose.[3] And unintentional overdose deaths related to prescription opioids have quadrupled since 1999—and now outnumber those from heroin and cocaine combined.[4] It has been further noted that within the world of workers' compensation, there is significant proof that long-term opioid use leads to longer claim duration, longer-term disability, higher costs, and higher medical expenses.[5]

Clearly, this issue is deserving of a statewide, multi-stakeholder approach as it reaches beyond the physician office doorway. The consequences impact our families and friends, the communities we live in, and our workplaces. The issue needs to be tackled from both a supply-side and demand-side, and strategies must grow from a framework that is directed at health care providers, patients, law enforcement and the general public. The MMA has expanded its work group to include other stakeholders and offers the below framework to describe how best to engage physicians and to offer action steps to start addressing the issue.

History from a medical perspective

The MMA recognizes that medical education on the treatment of pain has evolved and continues to evolve as scientific based studies emerge. Physicians just beginning their practices arrive with a medical education that includes a more robust background on treating pain. Physicians already in practice received different medical training, influenced by public demands, and it is imperative that we reach out to currently practicing physicians in such a manner that recognizes this medical education background with an understanding that physicians have been practicing as they were taught. Today, we need to translate that former training through an educational programming experience that matches current medical education and provides currently practicing physicians with information on best practice.

Here is a glimpse on the history of treating pain from a medical perspective:

1970's

- Limited understanding of causes and treatments of chronic pain
- Public acceptance that pain is part of life

1980's

- Public assertion that pain was undertreated
- Advances in medical care in treating cancer and end-of-life pain, addiction not an issue

1990's

- Focus expanded to non-cancer chronic pain
- Lack of education and training for chronic pain
- Declaration of Pain as the "Fifth Vital Sign"
    - Encouraged to treat pain aggressively, but provided no guidance
    - No upper limit on dose

2000's

- Misleading information about the addictive properties of the medications

2010's

- Recognition of a growing problem with addiction
- Understanding that medications don't address all types of chronic pain
- Proper prescribing of opioids became an area of focus for CME and all Montana licensed physicians were sent the book Reponsible Opioid Prescribing through a partnership with the Montana Board of Medical Examiners
- The pain management initiatives emerged and a group was formed in Montana, holding Pain Management Conferences
- The Montana Boards of Medical Examiners, Pharmacy and Nursing jointly endorsed a position paper on pain management providing guidance to clinicians. This position paper has recently been withdrawn.

Physician Education and Outreach

CME opportunities targeted at treating pain and prescribing practices

Physicians need resources and training and the MMA strongly endorses periodic participation in CME on use of opioids. The MMA also recognizes the importance of taking actionable steps to both educate and inform physicians in a manner that will create a change in the practice of medicine and maintain patient access to physician care for the treatment of pain.

Provide evidence-based treatment recommendations

Pain is a chronic disease and needs to be treated as such by physicians. There is a national consensus on standards to follow and Montana physicians need to be aware of these standards if treating pain. The MMA will share information and reinforce through education, such as that most patients simply do not do any better with high dose opioid medications compared to low dose or no dose of opioid medications. In spite of the increase in opioids prescribed, patients do not seem to have better pain relief or function in the long term (i.e. greater than 1 year). Therefore it does not make sense to expose patients to increased risk by over-reliance on opioid based medications to treat their pain.

Providing information on evidence-based treatment guidelines, reinforcing with education, and offering feedback on prescribing practices can be effective in moving those physicians with inappropriate opioid use toward the norm without negatively affecting clinical decision-making and legitimate treatment. The MMA recognizes and endorses the Federation of State Medical Boards guidance on what can be considered a "deviation" from best practices. This includes:

- Inadequate monitoring during the use of potentially abusable medications

- Inadequate attention to patient education and informed consent
- Excessive reliance on opioids, particularly high dose opioids for chronic pain management:
- Not making use of available tools for risk mitigations.

The MMA will review available curriculum offerings and endorse those which meet standards set. Additionally, the MMA will examine the opportunity to certify physicians and other prescribers in Montana to enable those physicians and prescribers to take advantage of any incentive offerings.

Tools for Physicians and other providers

Physicians have a wide range of experiences in treating patients with chronic pain and need to have access to meaningful medical education programs and tools. Best medical practices in this arena have changed and will continue to change as more is learned about pain. The MMA understands the careful balance that must be struck to keep open physician offices to treating patients with pain; will develop an education program with incentives to overcome barriers and get physicians trained, and build a prescriber friendly toolkit embracing an outreach effort to introduce how the toolkit can be effective in addressing concerns while providing patient care. The MMA will promote through these efforts:

- **Use of a validated tool for risk assessment for substance abuse and/or diversion**
  Physicians can get in a tight spot in wanting to treat a patient's pain and "doing no harm." An assessment of the patient is a valuable tool in determine treatment options and discussing those options with the patient.
- **Use of a controlled substance agreement and informed consent of risks**
  A written, controlled substance agreement and informed consent of risks can be effective tools in conjunction with an individualized treatment plan. Documentation by the practitioner is important and the agreement and consent signed by a patient demonstrates their agreement and understanding surrounding the use of opioids, periodic screening for substance abuse, and potential consequences if the agreement is not followed.
- **Use of monitoring tools for patients on controlled substance**
  Physicians should perform ongoing monitoring, include the use of the Montana Prescription Drug Registry, periodic urine drug screening, and functional assessments to measure successful treatment.
- **Consults with pain specialists as appropriate**
  Montana has less than 40 physicians who specialize in pain management. Physicians specializing in Family Medicine and other areas are needed to treat patients suffering with pain and those physicians need to know when it is appropriate to consult with a pain specialist, such as in cases where high doses are being prescribed.
- **Use of electronic prescribing***
  Montana law currently does not allow for electronic prescribing for controlled substances. The MMA advocates that 50-32-208, MCA, be amended to allow for e-prescribing for drugs in Schedule II, III, or IV which is a move away from prescription pads, reducing risk of fraud. HB 133 sponsored by Senator Tom Berry in the 2013 Legislation Session includes acceptable language to amend 50-32-208, MCA.
- **Creation of active feedback to physicians**
  Physicians will respond to feedback about their practices. The MMA will explore mechanisms to support direct feedback from insurers to physicians that are prescribing high doses and endorse use of a standard set of guidelines by insurers in such communication.
- **Active use of the Montana Prescription Drug Registry with enhancements**
  The MMA strongly advocates for the use of the Montana Prescription Drug Registry and has incorporated information on the Registry in Association meetings and publications. The Registry has fallen short in meeting expectations of physicians in terms of ease of use, accuracy and timeliness, and speed. Many physicians envision it to be a primary tool in the fight against doctor shopping and prescription drug diversion and as a much needed source of information to provide patient care and get feedback on a physician's own practices. Providing the best care to their patients is what drives physicians and physicians know practical consistent metrics can be developed from the Prescription Drug Registry reports and want to see the creation of quality dashboards as they are the cornerstone of good medical practice.

This valued tool and should be enhanced for Montana to realize its full potential. Enhancements needed fall into the three categories of operations, data collection points, and reports/queries.

- **Operations**
  - **Delegation to appropriate, authorized medical staff**
    Physicians depend on medical staff to perform administrative tasks and to optimize their time with the patient. and this extends to the desire to have medical staff search the Registry.
  - **Interstate sharing of data**
    Interstate data sharing is essential to help identify sources of prescription drug abuse, misuse, and diversion
  - **Real time or daily reporting**
    The Registry can be most effective if it provides timely information to physicians. Montana requires a weekly upload of data and this should be at least daily. This should be the rule with exceptions allowed under certain circumstances for pharmacies with limited technical resources.
  - **Streamlined, user-friendly processes**
    A simplified registration process to grow the number of physicians using the system. An easy and quick log-in process to ensure they keep using the Registry and integrate a search into the workflow.
  - **Efficient fee collection**
    Fees are currently invoiced separately for the Registry. Fees should be collected at the time of licensure and renewal allowing for a single check or online payment.
- **Data Collection Points**
  - **Link patient profiles (e.g. John B. Doe and John Doe)**
  - **Granular data acquisition & reporting**
    Collect meaningful data on medications, schedules, quantity, MEDs
  - **Comments**
    Provide ability to note when a prescription is denied and for what reason
  - **Documentation on what was dispensed**
    Not all patients pick up prescriptions. Information collected should be documentation on when it is entered and billed, and what was dispensed.
  - **Information if a patient has a medical marijuana card**
- **Reports/Queries**
  - **Expand authorized users**
    Explore value to expand access to insurers, Indian Health Services, VA, and the Medicaid program.
  - **Batch inquiries or scheduling of inquiries**
    More efficient use of time can occur by allowing for batch inquiries for today's appointments and permitting scheduling of inquiries.
  - **Automated customized reports**
    Physicians will use reports that are meaningful to their practice and can impact patient care. Allow providers to define report parameters on a patient or for their own profile.
  - **Unsolicited Reports to Prescribers**
    For physicians and the Prescription Drug Advisory Committee, unsolicited reports can be impactful. Reports generated and delivered directly to physicians can provide feedback to individual physicians on their prescribing practicing and how they compare to their colleagues. This can include an automate report to physicians prescribing high does.
  - **Unsolicited Reports to Other Parties**
    The Advisory Committee provides a good mechanism to review and monitor progress of enhancements and ensure it is meaningful for users and to the state of Montana. Reports should be created to assist in determining the impact of the Registry on issues of doctor shopping or death by overdose.

Pursue stable funding options for the Registry*

While the Registry may not be used by all medical specialties and its use may vary dependent on the health care service being delivered, it is truly is a public health tool worth investing additional resources to fully build a system that can be highly impactful in the delivery of quality-oriented care in Montana.

The State of Montana currently funds the program through fee and by successfully securing grant funding. The Drug Registry needs a more stable funding source for maintaining the system and ensuring needed enhancements are completed in a reasonable timeframe. Funding options include:

- Increasing State Special Revenue by collection of fees from a wider pool
- Grants
- State General Fund
- Licensing Board reserve funds for more timely implementation of enhancements
- Prescription surcharge: "penny a pill"

Keep fee and extend the sunset in statute as related to funding of the Registry*
The MMA supports keeping a fee in statute and extending the sunset to 2017 for the Prescription Drug Registry as included in 37-7-1511, MCA.

Getting physicians engaged.
Physicians recognize this to be an unprecedented health crisis. It is a silent epidemic that can be best addressed with physician-driven solutions. The MMA is proposing a voluntary, physician-led medical educational offering and utilization of tools built by physicians here in Montana. Partnerships will be secured with the health care facilities, physician offices, licensing boards and insurers to encourage and incentivize participation.

The MMA recognizes the high impact benefits when physicians elect to take action – practices change quicker. The MMA also acknowledges the physician workforce shortage we face in the state of Montana faces and, for the good of our patients, the need to reach all physicians. The short term gains realized by a mandate could push physicians away from treating patients with pain. With strategic intent to be effective in this effort, the MMA is exploring the following innovative concepts as possible incentives for voluntarily completing an educational training program:

- Discount on medical malpractice insurance
- Enhanced provider reimbursement for select services
- Waiver of all or part of state licensing or controlled prescription fees
- No cost access to additional trainings, or a value added benefit

Addressing physicians who may not change their practice.
The MMA recognizes the need to address providers who may not change their practice to follow best medical practices or opt not to use the tools. Unsolicited reports might be utilized to identify where additional reach out would be needed. The MMA will explore options, including the offering of consultation services to examine prescribing practices of identified physicians. The MMA supports the activities of the Board of Medical Examiners to protect patients, including the appropriate use of the existing complaint process.

Measuring Success: Outcome focused data retrieval

Creation of reports, review for progress and outcomes
Physicians respond to timely feedback and reports need to be created and provided on a regular basis that identify successes and target where improvements are needed. Reports are a needed tool to demonstrate the extra time and effort put forth is having an impact, and to measure the effectiveness of planned efforts to reduce patient harm and deaths by prescription drug misuse, diversion and overdose.

The process of identifying available data sources is ongoing and includes reports from:

- Department of Labor and Industry and generated from the Prescription Drug Registry on number of prescriptions written and filled
- Department of Labor and Industry on number of prescriptions written and filled
- Hospital data on number of overdoses
- Hospital data on emergency room visits related to opioid misuse

- Department of Justice/Public Health and Human Services on deaths due to an overdose
- Department of Justice data on arrests related to diversion
- Department of Public Health and Human Services on addiction treatment statistics, and where additional treatment and prevention services might may be appropriate
- Disability/SSI claims information
- Hospital and Pain Management Office data on number of provider consults
- Private Insurers
- Department of Justice on data related to the drug take-back efforts, such as counting the quantities of drugs returned to determine what prescriptions are returned most often
- Indian Health Services data
- VA of Montana data

Success measures identified
Establishing baselines and benchmarks will allow Montana physicians to measure success in the state and in physician practices in these areas:

- Mortality
- Overdose rates
- Methodone Utilization
- Prescribing Tendencies

Patient education & outreach

Build awareness of the addictive properties of opioids among patients at point of care
Patient expectations have changed and this includes an expectation that pain should be assertively treated to the point of reaching a pain free situation. The general attitude toward use of prescription drugs should be reset and framed around the consequences of using opioids, including addiction.

The use of a written, controlled substance agreement and informed consent of risks by a physician will start the conversation and build an understanding about the use of opioids and potential consequences.

Reduce demand by enhancing treatment options available in communities
Physicians do what is medically necessary to care for their patients and need treatment options within their communities for patients who are suffering from drug addiction. Increased state funding of treatment centers is supported.

Partnering with law enforcement and our communities

Reduce supply by connecting with local law enforcement officials
Physicians want to work with local law enforcement when there is a reason to believe a patient may be diverting or selling their prescription drugs. However, possible legal recourses on an unintended HIPAA violation is a real threat and Montana law is unclear as to what should be shared. This puts physicians at risk of a fine, lawsuit or complaint to the licensing board. The Association advocates for the statutes to be amended to provide clarity and add immunity.

- **Clarify current law in Montana.*** Current law is unclear and is a barrier for physicians to cooperate with and inform law enforcement officials of possible diversion activities. The current law reads:

  50-16-805. Disclosure of information allowed for certain purposes. (1) To the extent provided in 39-71-604 and 50-16-527, a signed claim for workers' compensation or occupational disease benefits authorizes disclosure to the workers' compensation insurer, as defined in 39-71-116, by the health care provider.

  (2) A health care provider may disclose health care information about an individual for law enforcement purposes if the disclosure is to:

  (a) federal, state, or local law enforcement authorities to the extent required by law; or

(b) a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured by the possible criminal act of another.

(3) A health care provider may disclose health care information to a fetal, infant, child, and maternal mortality review team for the purposes of 50-19-402 [and to the Montana suicide review team for the purposes of 53-21-1105 through 53-21-1110].

Suggested change to current law to provide clarity and immunity:

50-16-805. Disclosure of information allowed for certain purposes.

(2) A health care provider may disclose health care information about an individual for law enforcement purposes ~~if the disclosure is to:~~ as permitted by HIPAA and its privacy regulations, in particular, 45 CFR 164.512(f) and (j). A health care provider making a disclosure to law enforcement in good faith and in accordance with the provisions of HIPAA, is immune from any liability, civil or criminal, that otherwise might result by reason of the provider's disclosure.

~~(a) federal, state, or local law enforcement authorities to the extent required by law; or~~

~~(b) a law enforcement officer about the general physical condition of a patient being treated in a health care facility if the patient was injured by the possible criminal act of another.~~

Reduce supply by offering safe, environmentally responsible drug disposal*

Nationally, the CDC reports that more than three out of four people who misuse prescription painkillers use drugs prescribed to someone else. Safe, environmentally responsible drug disposal options need to be explored.

The Montana Department of Justice has participated in drug take-back programs. The Association recommends exploring permanent drop-off bins in locations that are convenient, such as permitting a pharmacy to accept unused prescriptions and exploring incentives that would encourage pharmacies to take such a step.

Public education & outreach

The general perception of the public toward the treatment of pain has changed over the years. There is a need to raise awareness about the safety of prescription painkillers. This campaign could include public service announcements, website, short training video clips, and tips on using prescription drugs as directed and in their use, when to store and how, and disposal of any drugs safely.

The legislature is well positioned to review the elements of the framework offered and support this effort by drafting bills that will encourage physicians to work with law enforcement, allow for e-prescribing, offer more permanent drop-off bins for prescription drugs; providing funding to educate providers, patients and providers; and support proposals that can reduce the demand by offering treatment options for those suffering from an addiction.

Concluding thoughts

The MMA will move forward to ensure physicians are aware of educational training opportunities and strongly promote all physicians make the effort to be knowledgeable of current best medical practices in treating pain, create tools to assist physicians care for their patients and make available resources. We believe the call to action is now and have developed the attached timeline to keep us focused.

The MMA's advocates for the state of Montana to support efforts to address the prescription drug abuse issue by being an active a partner to pass legislation and provide funding, including establishing convenient, permanent drop-off bins for prescription drugs; providing funding to educate providers, patients and providers; offering legislation that clarifies current law related to the sharing of information by physicians with law enforcement and providing immunity; identifying stable funding sources for the Prescription Drug Registry; allowing electronic prescribing for controlled substances, and supporting proposals that can reduce the demand by offering treatment options for those suffering from prescription drug abuse.

*Areas for legislative action

References

1 "Policy Impact: Prescription Painkiller Overdoses," Centers for Disease Control & Prevention, November 2011.
2 "Opioids drive continued increase in drug overdose deaths," Centers for Disease Control & Prevention press release, February 20, 2013.
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5 Paduda, Joseph. "Wasted Dollars, Wasted Lives—How Opioid Overprescribing and Physician Dispensing Are Harming Claimants and Employers," Workers' Compensation 2012 Issues Report.

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