

### Editorial

## Arkansas State Board of Pharmacy

Every morning when you open your e-mail account to start the day, chances are that you have multiple offers to sell you Viagra®, Cialis®, Soma®, Ultram®, Vicodin®, Ambien® or some other prescription medication. Usually this claim comes with a statement that either you do not need a prescriber's order or that they will have their own prescriber authorize the prescription. While not all of these medications are controlled on a state or national level, all are prescription-only medications and should be considered 'dangerous' if used inappropriately. After fighting the epidemic of prescription drug abuse and more specifically the supply of prescription medications being

Internet "broker" means an entity that serves as an agent or intermediary, or other capacity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of prescription-only drugs

shipped into the state of Arkansas for the last few years, Arkansas Legislators passed Arkansas Act 128 of 2007 titled "An Act To Prohibit Internet Sales Into Arkansas of Prescription Drugs if the Patient has not Actually Consulted A Prescribing Practitioner."

This act added two very important pieces to the pharmacy practice act in Arkansas that served to define a "proper physician-patient relationship" mirroring Arkansas medical statutes and also defined "internet broker" in the pharmacy practice act. After continuing to battle internet pharmacies in the United States and abroad using this statute, the Board of Pharmacy adopted regulations on an emergency basis in October 2007 and adopted the regulation on a permanent basis in February 2008. By having similar pharmacy and medical statutes in the state of Arkansas, these two agencies have been able to work together where the

pharmacy board has been able to take action on the pharmacies and pharmacists shipping into the state while the medical board has been able to pursue action on practitioners approving prescriptions without a proper physician-patient relationship. While Arkansas is not the first state to adopt a statute or regulation regarding Internet pharmacies, a less common aspect of our statute is that by defining Internet broker and adding a requirement for the Board of Pharmacy to report Internet brokers for prescription-only drugs to the state attorney general, we have three agencies that are able to work together to stop the illegitimate supply of prescription medications ordered over the Internet, thus protecting the public health and welfare. If you do not have similar language shared by your state medical and pharmacy boards, I would encourage you to explore a cooperative effort to add this to your own legislative or regulatory package and pursue similar statutory and regulatory language.

Courtesy of John Kirtley, Pharm D.

Assistant Director

### PRACTITIONER-PATIENT RELATIONSHIP

In accordance with Ark. Code Ann. § 17-92-1004(c) and Ark. Code Ann. § 17-92-1003(15), an in-person physical exam of the patient performed by a practitioner, physician, doctor or other prescribing health professional ("a practitioner") prior to the issuance of any prescription is required in order to establish a valid or proper relationship between a patient and a practitioner, unless the prescribing practitioner is consulting at the specific request of another practitioner who maintains an ongoing relationship with the patient, has performed an in-person physical exam of the patient, and has agreed to supervise the patient's ongoing care and use of prescribed medications. (10/31/2007)

## Presidential Address

President Bush spoke about the 2008 National Drug Control Policy in his weekly radio address on March 1. He spoke about the growing availability of highly addictive prescription drugs online. He further indicated support for legislation to put an end to the illegal sale of these drugs on the Internet. Legislation (S.B. 980) introduced by Senator Dianne Feinstein (D-CA), would require a valid prescription for online drug sales. This bill unanimously passed the Senate on April 1 and is now pending before the House. To listen to this radio address and obtain a copy of the 2008 National Drug Control Policy, visit: <http://www.whitehouse.gov/radio/>.

## News of Interest

- State authorities in Oklahoma arrested three people they say are connected with an Internet pharmacy. Delaware County drug task force officers arrested Randolph Earl Enyart, Kristina Donohoe and Tammy Walker, and expected the alleged operator of the pharmacy, Norman Edward Enyart Jr., to surrender. Authorities closed the pharmacy and smoke shop and seized 2,000 prescription pills, prescriptions, prescription orders, 25 to 30 guns, computers, \$17,000 in cash and more than 3,000 cartons of cigarettes that lacked the required state tax stamps. (Associated Press, March 5, 2008)
- Robert G. Carlson, M.D., a physician licensed in Florida, negotiated a settlement with the Department of Health in which he will be fined \$10,000 and receive a letter of concern and other penalties, but keep his license. Prosecutors said Dr. Carlson was one of at least four doctors involved with Palm Beach Rejuvenation and Signature Pharmacy, both implicated in the Albany County District Attorneys investigation into the illegal distribution of steroids and human growth hormone via the Internet. (*Sarasota Herald-Tribune*, March 24, 2008)
- Dr. Scott Corliss, a physician licensed in Colorado and Nebraska, pled guilty in January in the U.S. District Court for the Southern District of

Alabama to dispensing illegal steroids. His pleading implicated two other physicians, Dr. Kenneth Olds and Dr. Kelly Tucker. Dr. Olds refused to comment, and Dr. Tucker rejected his inclusion in the record of Corliss' guilty plea. According to court documents, the doctors worked with Brett Branch, owner of Infinite Health in Eaton, and a sales representative for Applied Pharmacy Services Inc., a compounding pharmacy. Applied Pharmacy Services was named in the Mitchell Report, in which former Senator George Mitchell investigated rampant steroid use in Major League Baseball. (*Greeley Tribune*, Jan. 26, 2008)

- John Rossi, owner of Lowen's Pharmacy in Brooklyn, committed suicide in his office in January. Rossi faced indictment in part of the nationwide investigation into the illegal sale and use of steroids. The pharmacy was raided in October 2007, and \$8.2 million worth of performance-enhancing drugs were found. (*Daily News*, Jan. 29, 2008)
- Karen Azarchi, who offered consumers discounted prescription medicines online, has settled a lawsuit filed by New Jersey. She agreed to pay \$115,000 and is prohibited from filling or refilling prescriptions for residents of New Jersey. She operated Medications4Less with a Canadian partner, Ultra Care Pharmacy. (*Star-Ledger*, Jan. 17, 2008)
- Randy Gonzales, a citizen of the Republic of the Philippines, was extradited to the United States for conspiring to import and distribute counterfeit pharmaceutical drugs into the United States. According to the complaint, beginning in July 2005, Gonzales was allegedly advertising the sale of Viagra and Cialis pharmaceutical drugs over the Internet. The full press release from Immigration and Customs Enforcement, dated March 5, 2008, can be seen at: <http://www.ice.gov/pi/news/newsreleases/index.html>.

## United States Attorney Actions

There have been several United States Attorney action in the first three months of 2008. The following is a summary of some of these actions.

- In the Northern District of Alabama, U.S. Attorney Alice Martin announced on Feb. 29, 2008, that three individuals agreed to plead guilty for their roles in illegal distribution of controlled substances through an Internet pharmacy. Pharmacist Billy Flint East agreed to plead guilty to illegal distribution of a controlled substance and money laundering in illegal proceeds. Also charged was Theresa Nanette Barnes, who operated Janan Corporation, and who contracted with a physician to illegally authorize prescriptions for Schedule III controlled substances. Barnes agreed to plead guilty and to forfeit \$209,127.29. Dr. Harold C. Spear III, a licensed physician from Hawaii, was charged with unlawful distribution of compounded Hydrocodone, and criminal forfeiture of currency and real property. These individuals all are awaiting sentencing. For the full press release, please visit: <http://www.usdoj.gov/usao/aln/press.html>.
- In the Southern District of California, U.S. Attorney Karen Hewitt announced on Feb. 28, 2008, that Luis Francisca Pena Ibarra, was indicted for conspiracy. The indictment charges that Pena conspired with others to illegally import prescription pharmaceuticals from Mexico into the United States. It is further alleged that Pena employed individuals to smuggle prescription drugs manufactured outside the United States into the country, and then sell the smuggled pharmaceuticals without a lawful prescription by telephone or via the Internet. For the full press release, please visit: <http://www.usdoj.gov/usao/cas/press/cas80228-Ibarra.pdf>.
- In the Middle District of Florida, U.S. Attorney Robert O'Neill announced that Jose Mercado Francis, M.D., pleaded guilty to conspiracy to distribute phentermine and conspiracy to commit money laundering on Jan. 11, 2008. Dr. Francis signed a contract with a corporation that operated an Internet website to prescribe medications for Internet customers. He has been licensed to practice medicine and prescribe controlled substances in Puerto Rico and Michigan. For the full press release, please visit: <http://www.usdoj.gov/usao/flm/pr/index.html>.
- In the District of Kansas, two employees of a pharmacy were convicted of conspiring to unlawfully distribute prescription drugs to customers who ordered them over the Internet. Jerry L. Lovern and Robert J. Barron each were convicted on one count of conspiracy and three counts of unlawfully distributing controlled substances. For the full press release, dated Feb. 15, 2008, please visit: <http://www.usdoj.gov/usao/ks/press.html>.
- In the Eastern District of Missouri, Christopher Schraud plead guilty to a federal misbranding charge involving selling Dextromethorphan Hydrobromide (DXM) through an Internet website to a purchaser in St. Louis County. DXM has been the subject of several Food and Drug Administration warnings, as several teenagers have died after consuming large amounts of this drug. For the full press release, dated Jan. 16, 2008, please visit: [http://www.usdoj.gov/usao/moe/press\\_release.html](http://www.usdoj.gov/usao/moe/press_release.html).
- In the Western District of Missouri, U.S. Attorney John Wood announced that Mary Lynn Rostie, owner of a Missouri pharmacy, and Texas physician Christopher L. Elder as well as defendants Cynthia Martin, Troy Solomon, Delmon Johnson, have been indicted for participating in a conspiracy to illegally distribute nearly \$1 million in prescription drugs. For the full press release, dated Feb. 14, 2008, please visit: <http://www.usdoj.gov/usao/mow/news2008/rostie.ind.html>.
- In the District of Montana, U.S. Attorney Bill Mercer announced that Kyle Jeffrey Bredl, a resident of Wisconsin, plead guilty to money laundering. This charge arose from an investigation into the illegal sale of steroids through the Internet. For the full press release, dated Feb. 14, 2008, please visit: <http://www.usdoj.gov>.

[gov/usao/mt/pressreleases/200802.html](http://gov/usao/mt/pressreleases/200802.html).

## Disciplinary Actions

The following is a partial list of recent disciplinary actions taken against physicians who prescribed medicine via the Internet.

- Kentucky Board of Medical Licensure—Subramanya K.K. Prasad, M.D., surrendered his medical license on March 31, 2008.
- Michigan Board of Medicine—Mohamed Abdel-Samei Mekawy, M.D., suspended license for a minimum of six months and one day on Jan. 16, 2008.

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