

Diversion of Prescription Opioids

Definition of diversion

Diversion schematic

Observations

Sources of Information

Balancing roles of clinicians and law enforcement

Policy and research questions

Model legislation

A model state diversion program

For information and comment

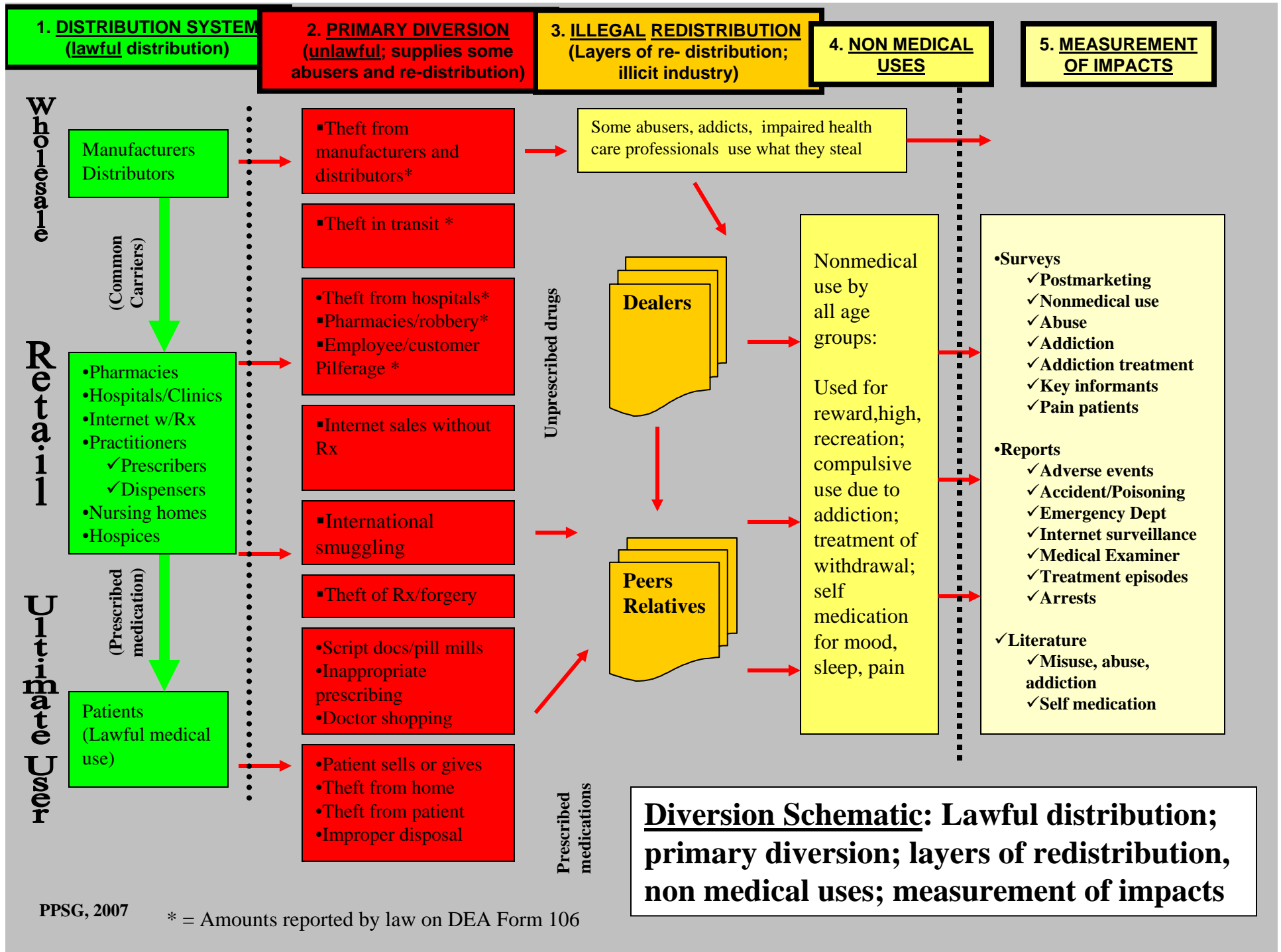
David E. Joranson
Distinguished Scientist, Director
Pain & Policy Studies Group
University of Wisconsin

PPSG, 2007

Definition of Diversion

(a) The transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

Section 309, Diversion Prevention and Control
Uniform Controlled Substances Act
National Conference of Commissioners on
Uniform State Laws, 1994



Observations About Diversion

- **Green Zone:** The legitimate system
 - *Lawful* activities by DEA registrants and patients
 - Two types of “prescription drugs” diverted from the legitimate system
 - “unprescribed drug” = before prescription is issued (e.g. internet, pharmacy theft)
 - “prescribed medication” = after prescription is issued (e.g., pill mill, theft from medicine cabinet)
- **Red zone** and beyond: The diversion and redistribution “system”
 - *Unlawful* activities by non registrants and small % of registrants
 - Some primary diversion is for immediate abuse (e.g., impaired HCP)
 - ***One information system directly measures primary diversion****
 - Reports of theft and loss by DEA registrants on Form 106 (These are prescription drugs that have not been prescribed)
 - PMPs and Medicaid DUR monitor prescriptions, most of which are lawful
 - Layers of re-distribution to non medical use vary from 0 to many

* Joranson DE, Gilson AM. Drug crime is a source of abused pain medications in the United States.

Journal of Pain and Symptom Management. 2005; 30 (4):299-301.

<http://www.painpolicy.wisc.edu/publicat/05jpsm/05jpsm.pdf>


PPSG, 2007

Are we making use of existing information about sources of diversion?

- Federally required
 - Theft and loss reports (DEA form 106)
 - Retail distribution reports (DEA's ARCOS)
 - Excess purchase reports (DEA)
 - Medicaid DUR data (in every state)
- Required by States
 - Prescription Monitoring Programs
 - Analysis of drug seizures
- Other
 - Reports to police/law enforcement intelligence
 - Media reports
 - Surveys
 - Other?

“Balance” and the roles of clinicians and law enforcement

| | CLINICIANS | LAW ENF./REG. |
|------------------|--|---|
| Primary | Treat pain (& other symptoms) | Stop diversion |
| Secondary | Avoid contributing to diversion | Avoid interfering in medicine and patient care |


Communication

Questions for consideration

- What information systems, in addition to those that track thefts and loss, are valid measures of diversion?
 - type of diversion
 - exact location
 - product name and amount,
 - type of diverter
 - frequency
- How does diversion differ from manufacturers/trucks/pharmacy theft vs. from practitioners/individuals
 - Method/volume
 - Type of diverter
 - Motive
- Is the Diversion Schematic a useful model for
 - understanding the different ways diversion occurs?
 - identifying gaps in information ?
 - Formulating research questions and devising interventions?
 - How could it be improved?

Some Research Questions

- Is there a funded research agenda about diversion?
 - The Attorney General is authorized to conduct research on diversion; DEA manages several data bases
 - What is the incidence of diversion including theft, by time, drug, place/state and volume? Could this be mapped?
- How does the secondary diversion re-sale system work; how many layers; price; drug preferences; who are the consumers?
- Compare the volume of diversion of prescribed medications vs. unprescribed drugs; how much diversion comes from doctors and patients?
- Compare uses, users and motivations (getting high, addiction, withdrawal, pain, etc.)
- Follow back teenage users' sources, motivations, price

Some Policy Questions

- Is there one publication that summarizes information systems and literature about diversion/abuse of prescription drugs?
- Are the states with significant diversion problems making use of federal diversion targeting information?
- Which states have established a coordinated diversion prevention and control program (Slides 10-13)?
- Theft and robbery of a retail pharmacy is a felony under federal and state law. Which agencies are enforcing these laws? Is there oversight and evaluation of results?
- To what extent is the principle of balance observed in law enforcement efforts to stop diversion?
- Are practitioners and patients being advised of their responsibility for safekeeping of prescription drugs?

Model Legislation: (Prefatory Note)

...members of the medical profession may hesitate to prescribe narcotic drugs where use of such drugs is warranted. This Act addresses this concern. Legitimate use of controlled substances is essential for public health and safety, and the availability of these substances must be assured. At the same time, the illegitimate manufacture, distribution, and possession of controlled substances must be curtailed and eliminated. It is recognized that law enforcement may not be the ultimate solution to the drug abuse problem. It is hoped that present research efforts will be continued and vigorously expanded, particularly as they relate to the development of rehabilitation, treatment, and educational programs for addicts, drug dependent persons, and potential drug abusers.

Section 309, Diversion Prevention and Control **Uniform Controlled Substances Act**

National Conference of Commissioners on Uniform State Laws, 1994

PPSG, 2007

Model Legislation: Diversion Prevention and Control

- (a) Diversion means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

- (b) The [appropriate person or agency] shall regularly prepare and make available to other state regulatory, licensing, and law enforcement agencies a report on the patterns and trends of distribution, diversion, and abuse of controlled substances.

Section 309, Diversion Prevention and Control

Uniform Controlled Substances Act

National Conference of Commissioners on Uniform State
Laws, 1994

Model Legislation: Diversion Prevention and Control

(c) The [appropriate person or agency] shall enter into written agreements with local, state, and federal agencies to improve identification of sources of diversion and to improve enforcement of and compliance with this [Act] and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent, or control drug diversion and drug abuse. The [appropriate person or agency] shall convene periodic meetings to coordinate a state diversion prevention and control program. The [appropriate person or agency] shall arrange for cooperation and exchange of information among agencies and with other States and the federal government.

Section 309, Diversion Prevention and Control **Uniform Controlled Substances Act**
National Conference of Commissioners on Uniform State Laws, 1994

PPSG, 2007

Model Legislation: Diversion Prevention and Control

(d) The [appropriate person or agency] shall report [annually] to the governor and to the presiding officer [of each house] of the [legislative assembly] on the outcome of the program with respect to its effect on distribution and abuse of controlled substances, including recommendations for improving control and prevention of the diversion of controlled substances in this State.

Section 309, Diversion Prevention and Control

Uniform Controlled Substances Act

National Conference of Commissioners on Uniform State

Laws, 1994

One State's Diversion Law: Wisconsin Uniform Controlled Substances Act

Declaration of intent.

961.001(1g) Many of the controlled substances included in this chapter have useful and legitimate medical and scientific purposes and are necessary to maintain the health and general welfare of the people of this state.

961.01 Definitions (10m) “Diversion” means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

961.36 Controlled substances board duties relating to diversion control and prevention, compliance with controlled substances law and advice and assistance (incorporates UCSA Section 309)

One State's Diversion Law: Wisconsin Uniform Controlled Substances Act

961.38 Prescriptions.

- (1g) In this section, “medical treatment” includes dispensing or administering a narcotic drug for pain, including intractable pain.
- (4g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner’s profession.
- (4r) A pharmacist is immune from any civil or criminal liability and from discipline under s. 450.10 for any act taken by the pharmacist in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research