

Opioid Crisis: Holding Doctors Accountable

by John Larson

In 2018, nearly 70 percent of the 67,367 drug related deaths involved opioids.¹ Opioids can be effectively used to manage chronic pain; however, opioid use is often coupled with significant risks such as addiction, major depression disorder, respiratory depression, and even death. Pharmaceutical companies have borne the brunt of the blame, but now doctors must also be held accountable for their actions in this epidemic.

What is an Opioid?

Opioids are a class of drugs that are mostly used as medicines for pain relief. The most popular opioids currently being used for chronic pain are Oxycodone, Vicodin, Fentanyl, and Percocet. Opioids are highly addictive to any individual taking them, which puts users at an increased risk of accidental overdose death.² Because of the increased risk, doctors are obligated to carefully prescribe opioids, which consists of continuously educating the patient, communicating with the patient, and assessing the patient's mental health and physical tolerance.

The Opioid Epidemic Today – Why the Stigma of Addiction is Not Valid

The opioid epidemic is a public health crisis that must be addressed. The opioid epidemic is not only a major component in accidental overdose deaths, but also results in the deaths of people who have decided to take their own life due to depression.³ Depression resulting from opioid use would at first appear paradoxical, as opioids are known to have euphoric and analgesic effects. However, studies

find an increased risk of depression in patients with opioid dependence, as well as individuals who suffer from chronic pain independent of opioid use.⁴ Research also shows the numerous ways suicide is linked to opioid use, revealing that people who misused prescription opioids are 40-60 percent more likely to have suicidal thoughts.⁵ Even individuals who are properly using their prescribed opioids are shown to develop major depression disorders as the result of opioid exposure.⁶ This is why it is imperative for doctors to properly monitor their patients who are prescribed opioids and recognize when a patient is exhibiting depression. It is a matter of life and death. People put their trust in their doctors expecting that if the doctor is prescribing it, then it must be safe. Many patients are putting their lives in the hands of doctors who may be shirking their duties and ultimately failing their patients.

Enduring Only the Risks Without the Benefits

Mental health is only one component used to assess a patient who is prescribed opioids. When an individual seeks medical attention for chronic pain, a common strategy is to treat the patient with opioids to help alleviate the pain. However, it can actually have the exact opposite effect, causing the individual to experience more persistent and worsened chronic pain. This condition is called *opioid-induced hyperalgesia*. This is distinctly different from pain tolerance, addiction, or dependence, and is more formally defined as increased nociceptive

sensitization caused by exposure to opioids.⁷ Simply put, the individual actually becomes more sensitive to certain painful stimuli. This begs the question as to when a doctor knows a patient is experiencing opioid-induced hyperalgesia and not just a tolerance to the medication. Doctors should suspect opioid-induced hyperalgesia when the opioid treatment is not having the appropriate effect.⁸ Unfortunately, many doctors fail to appropriately assess whether or not the patient is exhibiting signs of opioid-induced hyperalgesia, instead opting to increase the patient's opioid prescription which leaves the patient in pain. Because of the physician-patient trust created, individuals will continue to take the high doses of opioids despite the increased pain they are feeling. The patient is now left with only the significant risks of opioids and not the benefit of possible pain management.

Calculating Opioid Dosage

Due to the significant risks, doctors must use caution when prescribing opioids. Calculating opioid doses is done in terms of “morphine equivalents” to normalize the number for comparisons. The Centers for Disease Control & Prevention (CDC) provides guidance on prescribing opioids to ensure safety when initially prescribing the patient opioids, monitoring an individual's opioid prescription, and carefully increasing the opioid medication when necessary.

The CDC has given providers in clinical practice the specific calculations to use, as well as what

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precautions to take, including: (1) monitoring and accessing the pain and function more frequently, (2) discussing a reduced dose or tapering and discontinuing opioids if benefits do not outweigh harms, (3) consider offering naloxone, and (4) avoid or carefully justify increasing dosage to greater than 90 MME/day. The FDA has recommended that supplies of medications containing hydrocodone and oxycodone be restricted to a single 90-day prescription as research has found there is an increased risk of an individual developing major depressive disorder when the prescription opioid use is for more than 90 days. Sadly, many doctors still choose to prescribe well over the 90-day prescription.⁹

Holding Doctors Accountable

As attorneys, it is our job to decipher when a doctor has failed to properly monitor a patient who has been prescribed opioids. This is done through investigating the medical records of the decedent to see if the

doctor knew or should have known of any red flags or failed entirely in taking the appropriate precautions.

Patient Red Flags That Doctors Disregard

- Patients refilling opioid prescriptions early
- Patients exhibiting major depression disorder
- Patients lack of pain relief
- Documented prior history of suicide attempts
- Respiratory issues

Precautions That Doctors Fail to Implement

- Urine drug testing for monitoring opioid prescriptions
- Assessing risk factors that could result in adverse effects
- Referring the patient to a psychologist
- Prescribing opioids while the patient is also on benzodiazepines
- Prescribing high dosage of opioids

Opioid overdose can be prevented when specific guidelines are followed by doctors. With guides such as the CDC

Guideline for Prescribing Opioids for Chronic Pain and numerous other studies dating back years, there is no excuse for a doctor with medical training to miss the tell-tale signs of a patient who is on track to a predictable outcome of opioid death.

Endnotes

¹ *Opioid Overdose*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, last modified May 5, 2020, <https://www.cdc.gov/drugoverdose/index.html>.

² Mayo Clinic Staff, *How opioid addiction occurs*, MAYO CLINIC, last modified February 16, 2018, <https://www.mayoclinic.org/diseases-conditions/prescription-drug-abuse/in-depth/how-opioid-addiction-occurs/art-20360372>.

³ Joshua Gordon, *Suicide Deaths Are a Major Component of the Opioid Crisis that Must Be Addressed*, THE NATIONAL INSTITUTE OF MENTAL HEALTH, last modified September 19, 2019, <https://www.nimh.nih.gov/about/director/messages/2019/suicide-deaths-are-a>



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major-component-of-the-opioid-crisis-that-must-be-addressed.shtml.

⁴ Dragan Svrakic, *Prescription Opioid Analgesics Increase Risk of Major Depression: New Evidence, Plausible Neurobiological Mechanisms and Management to Achieve Depression Prophylaxis*, U.S. NATIONAL LIBRARY OF MEDICINE NATIONAL INSTITUTES OF HEALTH, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6179498/>

⁵ Gordon, *Suicide Deaths Are a Major Component of the Opioid Crisis that Must Be Addressed*.

⁶ Svrakic, *Prescription Opioid Analgesics Increase Risk of Major Depression: New Evidence, Plausible Neurobiological Mechanisms and Management to Achieve Depression Prophylaxis*.

⁷ Shelby Bottemiller, PharmD, CGP, *Opioid-Induced Hyperalgesia: An Emerging Treatment Challenge*, U.S. PHARMACIST, last modified May 22, 2012, <https://www.uspharmacist.com/article/opioid-induced-hyperalgesia-an-emerging->

treatment-challenge.

⁸ Larry Chu, MD, MS (BCHM), MS (Epidemiology); Martin Angst, MD; David Clark, MD, PhD, *Opioid-induced Hyperalgesia in Humans: Molecular Mechanisms and Clinical Considerations*, THE CLINICAL JOURNAL OF PAIN, https://journals.lww.com/clinicalpain/Abstract/2008/07000/Opioid_induced_Hyperalgesia_in_Humans__Molecular.3.aspx.

⁹ *Opioid Overdose*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES.

a specific emphasis on opioid related deaths, as well as personal injury. John is a member of the Illinois Trial Lawyers Association, American Bar Association, Chicago Bar Association, Illinois State Bar Association and DuPage County Bar Association. He earned his Juris Doctor at The John Marshall Law School in Chicago, Illinois, and is admitted to the bar of the state of Illinois.



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