

DOJ ANNOUNCES NEW PRESCRIPTION INTERDICTION & LITIGATION TASK FORCE TO COMBAT PRESCRIPTION OPIOID CRISIS

On Tuesday, February 27, 2018, Attorney General Jeff Sessions announced the creation of the U.S. Department of Justice ("DOJ") Prescription Interdiction & Litigation ("PIL") Task Force in an ongoing effort to curb the country's current prescription opioid crisis. According to DOJ's press release, the PIL Task Force will "aggressively deploy and coordinate all available criminal and civil law enforcement tools...with a particular focus on opioid manufacturers and distributors."

The PIL Task Force aims to coordinate federal, state and local resources and efforts to attack the opioid epidemic on multiple levels of the drug manufacturing and distribution system. The Task Force will utilize all available civil and criminal enforcement remedies, including the False Claims Act and Controlled Substances Act, to hold opioid manufacturers and distributors such as pharmacies, pain management clinics, drug testing facilities and individual physicians accountable for unlawful actions. The Task Force will work closely with the Department of Health and Human Services ("HHS") to investigate and bring enforcement actions against any parties who engage in illegal activity related to prescription opioids.

This follows DOJ's August 2017 deployment of the Opioid Fraud and Abuse Detection Unit, a program designed to utilize sophisticated data analytics to target physicians and pharmacies that prescribe and dispense disproportionately high amounts of opioids, including pill-mills schemes and other unlawful diversion and dispensing of prescription opioids for illegitimate purposes. As part of this effort, DOJ assigned 12 Assistant United States Attorneys to specific opioid "hot-spots" around the country to collaborate with FBI, DEA and HHS and focus solely on investigating and prosecuting prescribers and pharmacies involved in opioid-related health care fraud cases.

OIG has also recently added multiple opioid-focused reviews and audits to their Work Plan aimed at reducing inappropriate opioid prescribing, misuse and abuse. In January, OIG announced plans to release a toolkit to provide information on how OIG analyzed data to produce patient-level opioid metrics, as well as guidance on how to utilize prescription data to identify patients at risk of opioid misuse. This toolkit could be a valuable resource for providers looking to analyze prescriber data and prevent opioid-related compliance issues.

PRACTICAL TAKEAWAYS

Given the government's data-analysis driven approach, providers such as hospital-owned group practices should consider auditing and monitoring the activities of employed prescribers to identify outliers and ensure compliance with the Controlled Substances Act and DEA requirements related to opioid prescribing practices. Facilities should also consider incorporating opioid data into their Ongoing Professional Practice Evaluation and other peer review processes. Providers that prescribe or dispense opioids, such as pharmacies, pain management clinics and physician offices, should conduct audits to identify outliers in prescription and dispensing rates and evaluate whether adequate controls exist to ensure compliance with appropriate prescribing and dispensing practices. Additionally, prescribing providers should consider utilizing resources such as state prescription drug monitoring programs to help identify risks, improve safe prescribing practices and monitor, report and prevent prescription opioid misuse.

If you have questions or would like additional information about this topic, please contact:

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