The following is a compendium of news reports over the past month that may be of interest to our AG offices who are dealing with substance abuse issues. Neither the National Association of Attorneys General nor the National Attorneys General Training & Research Institute expresses a view as to the accuracy of news accounts, nor as to the position expounded by the authors of the hyperlinked articles.

APRIL 2014

Updates in the Field of Marijuana Legalization

The Colorado Supreme Court has ruled that attorneys can ethically work with marijuana businesses as long as the attorneys do not assist the businesses in breaking state law.

The District of Columbia has passed a law that decriminalizes possession of small amounts of marijuana. Possession of an ounce or less of marijuana will be considered a civil crime, punishable by a fine of $25 and seizure of the marijuana.

The Maryland House of Delegates passed a bill that allows certified physicians to discuss medical marijuana as a treatment option with their patients and then recommend its use. The patients can obtain a 30 day supply from a licensed grower. While medical marijuana was legalized in Maryland last year, such legislation limited distribution to a small number of “academic medical centers,” and medical centers have not been willing to participate in the program.

Utah recently passed a law that allows the parents of children with certain severe forms of epilepsy to obtain a marijuana extract from other states, namely, Colorado. The extract has been shown to improve epileptic symptoms and is designed to not create a high.

Thomas M. Harrigan, Deputy Administrator of the Drug Enforcement Administration (DEA) testified before the House Oversight Committee’s Government Operations subcommittee, stating that drug cartels are “attempting to exploit” the new rules that allow banks to do business with marijuana shops in Colorado and Washington.

The International Control Board of the United Nations recently issued a report stating that the legalization of marijuana in Colorado and Washington violates drug control conventions and threatens the international fight against drug abuse.

The National Cannabis Industry Association now employs a full-time lobbyist. The author of the hyperlinked article believes this development is yet another indication that the country’s views regarding the legalization of marijuana have substantially shifted over the past 40 years.

Legislative Efforts to Combat Prescription Drug Abuse

Kentucky’s House is considering Senate Bill 5, which would allow prosecutors to charge a drug dealer with homicide when the sale of certain Schedule 1 controlled substances results in overdose death. The legislation states that an overdose death is a “foreseeable result” of consuming a Schedule 1 controlled substance and also eliminates the legal defense that overdose victims cause their own deaths when they chose to ingest the controlled substance. The legislation also increases the penalties for certain drug felonies and “calls on Medicaid to cover more drug-treatment options.” Kentuck Attorneys General Jack Conway is in support of the legislation.

Indiana state lawmakers passed a number of bills that combat prescription drug abuse. SEA 227 encourages first responders to carry Naloxone and removes legal barriers to first responders’ use of the drug to combat overdoses. HEA
1218 mandates that pharmacists provide dispensing information to the state’s PDMP within three days, starting July 1, 2015, and within 24 hours, starting January 1, 2016. HEA 1360 provides student loan forgiveness grants to practitioners pursuing addiction training in behavioral health and addiction psychiatry, if the practitioners elect to practice in Indiana. SEA 408 establishes a clinical definition of Neonatal Abstinence Syndrome and directs the state Department of Health to meet with stakeholders and develop recommendations for combatting the illness, which will be presented to the Legislative Council next year. All of the bills were the result of proposals made by Indiana Attorney General Greg Zoeller.

Pending legislation in Colorado would improve the state’s prescription drug monitoring program (PDMP) by broadening the number of practitioners who can access the database, increasing the amount of information provided to practitioners and providing practitioners with alerts when certain patient behavior triggers red flags.

Pennsylvania’s Senate is considering a bill that would expand the state’s PDMP. The bill allows prosecutors to view prescription drug records upon a showing of reasonable suspicion. The legislation would also expand the current level of data collection, allowing the PDMP to collect data relating to all scheduled drugs in the state, including anabolic steroids. Opponents to the bill, such as the American Civil Liberties Union (ACLU), argue that the “reasonable suspicion” threshold is too low and that the legislation constitutes an invasion of patients’ privacy.

Rhode Island’s Senate Health and Human Services Committee will consider a number of bills that are geared at reducing opioid addiction in the state. Among other provisions, these bills would require health insurance coverage for Narcan, allow greater access to the state’s prescription drug monitoring program, and prevent insurance policies from requiring that patients manage pain by trying an opioid painkiller before trying a less addictive alternative.

Tennessee’s legislature is considering a proposal that would allow Tennessee law enforcement to charge women with who give birth to drug-dependent children. The women would be charged with misdemeanor level assault. Pregnant women who enter addiction treatment programs cannot be charged. Some legislators are concerned with the availability of treatment programs in rural areas of the states, and others worry that the threat of prosecution will drive women away from prenatal care.

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The West Virginia House passed House Bill 4327, which provides that if a practitioner knowingly prescribes or dispenses a drug in a manner not in accordance with accepted medical standards, that practitioner will be guilty of a felony. Penalties for the crime include a minimum fine of $250,000 and at least five years imprisonment.

Prevention and Awareness

North Carolina Attorney General Roy Cooper kicked off April’s “Stop Rx Abuse” campaign by visiting a school to launch a contest aimed at warning the public about prescription drug abuse. The Attorney General is working with other stakeholders to sponsor the competition in an effort to increase awareness among young people about the dangerous of prescription drugs.

Massachusetts Governor Deval Patrick declared a public health emergency, stating that there is an opioid epidemic in his state. The governor directed state public health authorities to immediately ban the prescribing and dispensing of Zohydro and any other version of the hydrocodone-only pill, until authorities determine that there are sufficient measures in place to “safeguard against the potential for diversion, overdose and misuse.” The Governor also gave permission to first responders to carry and administer Naloxone and issued a public health advisory to educate the public about opioid addiction treatment options.

April 26 is DEA’s annual National Prescription Take-Back Day. Over the past seven years, more than 1,733 tons of medications have been removed from circulation during these events.
Backlash Against FDA’s Approval of Zohydro
This month, Attorneys General Pam Bondi (FL), Jack Conway (KY), Lisa Madigan (IL), Janet Mills (ME), Sam Olens (GA) and Greg Zoeller (IN) wrote to United States Health and Human Services Secretary Kathleen Sebelius, urging the Secretary to prevent Zohydro, a potent single-entity hydrocodone pill, from entering the market until abuse-deterrent safeguards are implemented. A copy of the letter can be accessed by clicking here.

Purdue Pharmaceuticals, the manufacturer of OxyContin, has developed a tamper-resistant, single-entity hydrocodone drug. In contrast to Zohydro, this formulation cannot be crushed or snorted. Purdue plans to submit the pill to the FDA for approval. This article details the properties of the Purdue drug and also explains the current Zohydro debate in helpful detail.

New Developments in the Fight Against Methamphetamine
Seventy percent of the United States’ supply of methamphetamine is smuggled into the United States from Mexico, according to a report entitled “Gangs Beyond Borders: California and the Fight Against Transnational Organized Crime,” released by California Attorney General Kamala D. Harris. The report requests additional funding to combat the trafficking and urges the California legislature to pass tougher laws to target organized crime groups. The report also calls for the creation of a multi-agency task force to combat the smuggling.

A study funded by the National Institutes of Health found that children exposed to methamphetamine before birth had increased cognitive problems at 7.5 years old. The children were 2.8 times more likely to have cognitive problems than children not exposed to the drug. Methamphetamine use during pregnancy can prevent nutrients and oxygen from being sent to the developing baby.

The Michigan Senate approved bills that will provide stores with “stop-sale alerts,” alerting the retailers not to sell cold medicine containing the ingredients for methamphetamine production to criminals convicted of methamphetamine-related offenses, for ten years after such convictions.

Notable Court Decisions
This month, Johnson & Johnson and its subsidiary Janssen Pharmaceuticals agreed to settle a fraudulent marketing lawsuit brought by Montana Attorney General Tim Fox. The settlement totals $5.9 million. $1.5 million will be used to fund a Prescription Drug Abuse Prevention Program, which will target young people in Montana who are struggling with prescription drug abuse.

A Tampa, Florida jury recently convicted pill mill operators of drug trafficking and racketeering charges. The evidence showed that the clinic owners illegally sold millions of opioid prescriptions to Floridians as well as to customers from Ohio and Kentucky. The defendants included the owners of the clinic as well as the clinic’s manager. At the height of the clinic’s operation, more than 100 customers were visiting each day. The article details the substantial work done by the state prosecutor and investigators in the case.

Two men who operated a pill mill in Hollywood, Florida were convicted of federal drug and money laundering charges this month. The doctor who worked in the clinic was urged to see as many patients as possible and prescribe as many pills as possible. According to investigators, the doctor often saw patients while intoxicated and gave the patients excessive amounts of pills. The doctor is awaiting trial.
This month, the Iowa Supreme Court held that transportation officials cannot suspend the licenses of drivers who ingested prescription drugs that were validly prescribed to them.

**Synthetic Drug Legislation**
Florida’s House Judiciary Committee passed the Controlled Substances Bill, House Bill 695, which scheduled six additional synthetic compounds to Schedule I of Florida’s controlled substances law. Florida Attorney General Pam Bondi supported the legislation and praised the Committee for unanimously passing the bill.

This month, Minnesota’s House Judiciary panel unanimously approved a bipartisan bill that bans any inhaled or ingested drug that is not approved by the FDA and that causes an effect similar to dangerous scheduled drugs. During the panel’s consideration of the bill, Minnesota Attorney General Lori Swanson testified, explaining the need for such legislation.

A bill that targeted those who sell, possess and use synthetic drugs was delayed in an Alaska Senate Judiciary Committee hearing this month. Committee members felt that the bill was worded too broadly. This article explains the bill and also details some steps that cities within Alaska have taken to combat the use of synthetic drugs.

Iowa’s legislature has passed a bill that bans three new strains of synthetic marijuana. It classifies the substances as Schedule I controlled substances and also places certain steroids and a hallucinogenic weight loss drugs in restricted schedule classifications. The bill has been sent to Governor Terry Branstad for his consideration.

Louisiana has banned eight additional synthetic marijuana compounds after 100 people were treated in emergency rooms for side effects from the use of such compounds.

The Nebraska state legislature is considering a bill that will ban new forms of synthetics, in order to keep up with the new formulations of the drug that are continuously being developed.

**Federal and State Actions Taken to Combat Heroin Abuse**
Ohio Attorney General Mike DeWine and Kentucky Senator Mitch McConnell testified this month before the Senate Caucus on International Narcotics Control. The Caucus held a hearing to explore how prescription drug abuse led to the increased use of heroin and how the federal government can help to combat such abuse.

This month, a Kentucky House panel approved a bill that will combat heroin abuse by combining treatment funding, harsher penalties for trafficking, and increased community education. The bill includes a Good Samaritan provision and also allows first responders to use Naloxone. Attorney General Jack Conway testified before the panel in support of the bill, stating that heroin overdoses have increased 650 percent since last year and that more than 1,500 heroin trafficking charges have been issued.

United States Attorney General Eric Holder called the increase in heroin overdoses “an urgent and growing public health crisis” during a video message posted on the Justice Department’s website. He also addressed federal law enforcement efforts that aim to reduce the supply of heroin.

**Other News of Interest**
Florida Attorney General Pam Bondi announced the arrests of members of an international drug trafficking organization. The drug smuggling ring in which the defendants participated spanned from South America to New York. Pursuant to the investigation, eight guns, including an AK-47, four kilograms of cocaine and 46 grams of heroin were seized, as well as five vehicles and close to $100,000. The case was investigated by the Miami Field Division of the DEA and Florida’s Office of Statewide Prosecution. The investigators were assisted by agents from DEA field offices in the Caribbean, New England and New York, as well as the United States Postal Inspectors Office and the United States Attorney General.
The Association of State and Territorial Health Officials released a report entitled *Neonatal Abstinence Syndrome: How States Can Help Advance the Knowledge Base for Primary Prevention and Best Practices of Care*, which details the best approaches to prevent and treat neonatal abstinence syndrome. The report can be accessed by using this link.

The FDA approved Evzio, a hand-held naloxone hydrochloride auto-injector that can treat opioid overdoses. The corresponding press release can be accessed by using this link.

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