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.

SEPTEMBER 2015

New Developments in Combatting Opioid Abuse

Delaware Attorney General Matt Denn, together with the state’s Secretary of Health and Social, the Chief of the New Castle County Police, the President of the Delaware Fraternal Order of Police, and board members of Attack Addiction released a plan for combating prescription opioid and heroin abuse. The plan “recommends that regulations governing prescription dispensing become more stringent, that deaths from opioids and heroin be reviewed to learn how they could have been prevented, that medical treatment be expanded and that more police be equipped with a drug that can counteract the effects of an overdose in an emergency.”

Indiana Attorney General Greg Zoeller, who serves as co-chair of the Indiana Prescription Drug Abuse Prevention Task Force, is partnering with the Indianapolis Colts to ask all Indiana residents to sign an online pledge against abusing and sharing prescription drugs. The pledge is part of the Task Force’s consumer education program, www.BitterPill.in.gov. General Zoeller also recently spoke with young Colts fans about the dangers of prescription drug abuse in order to raise awareness about of the risks associated with prescription drug abuse.

General Zoeller also recently commended Clark County, Indiana, officials for approving a that a request be sent to the Indiana State Department of Health to begin a local syringe exchange, stating that “[t]he hard work of [Clark County Health Officer] Dr. Burke and the decision by the commissioners demonstrate an example of courageously confronting a public health emergency, and I applaud the leadership shown by all involved.”

Massachusetts Attorney General Maura Healey joined over 50 state legislators to file a bill that would establish the state crime of fentanyl trafficking. The law would apply to the trafficking of more than ten grams of fentanyl and would allow for incarceration of up to twenty years in prison for those convicted.

General Healey also announced that her office has reached an agreement with Amphastar Pharmaceuticals, the manufacturer of Naloxone. As per the agreement, Amphastar will pay $325,000 to help offset the costs of the drug. The money will be deposited into the state’s Municipal Naloxone Bulk Purchase Trust Fund.
Key Maine stakeholders met in Brewster, Maine, in August for a roundtable discussion on addiction within the state. Michael Botticelli, Director of the Office of National Drug Control Policy, joined the group. Soon after, numerous state officials, including Maine Attorney General Janet Mills, met to discuss how to best combat drug trafficking through enforcement, treatment and education.

New Jersey Acting Attorney General John J. Hoffman has announced that the state’s prescription drug monitoring program (PDMP) mobile app, which was recently launched and has allowed authorized users to access the database on Apple-based devices, is now available for Android devices.

New York Attorney General Eric T. Schneiderman has settled with Purdue Pharma, the manufacturer of OxyContin. As part of the settlement, Purdue will “strengthen and make permanent an internal Purdue program aimed at preventing its sales staff from promoting [OxyContin to doctors] who may be involved in abuse and illegal diversion of opioids.” As part of the agreement, Purdue must also disclose financial relationships with anyone appearing on its “unbranded websites” and will include information about the risks of opioids. Among other settlement agreement provisions, Purdue has also agreed to pay $75,000 in penalties and costs.

Ohio Attorney General Mike DeWine, together with various state law enforcement partners, announced that, as a result of a statewide drug enforcement effort, several hundred individuals have been arrested and millions of dollars of drugs have been seized. The investigation, known as Operation OFTCA (an acronym for the Ohio Task Force Commanders’ Association, which participated in the investigation), took place over a number of weeks and targeted those trafficking heroin, prescription drugs and cocaine.

Oregon Attorney General Ellen F. Rosenblum has announced a $1.1 million settlement with Insys, the manufacturer of Subsys, a Schedule II opioid. General Rosenblum’s office brought suit after determining that the drug was being marketed for off-label purchases and that the company “provided improper financial incentives” to doctors and targeted doctors for “aggressive promotion.”

Pennsylvania Attorney General Kathleen G. Kane issued a reminder to government agencies and non-profits in Pennsylvania regarding her office’s Community Drug Abuse Prevention Grant Program. The grant program provides funds to be used to “facilitate education and outreach activities centered on drug abuse and prevention.”

Law enforcement agencies in Kennebec and Oxford counties in Maine are developing “angel” programs which mirror the program that has been established in Gloucester, Massachusetts. Through the program, those suffering from opioid abuse can be paired with an “angel” to guide them through rehabilitation upon turning over drugs and paraphernalia to the police, without facing charges.

In late August, eight individuals in Washington County, Pennsylvania, which is a county of approximately 200,000 people, overdosed on heroin within 69 minutes. Due to the county’s location, drugs are regularly received there from New York, Newark, Washington, D.C., Chicago, Detroit, and elsewhere.
Portland, Oregon, officials have recently detailed a new public awareness campaign after 14 individuals overdosed within twenty-four hours and two of those individuals died.

Tennessee’s Addiction Treatment Act of 2015 has restricted the amount of buprenorphine prescribed in the state. Some have lauded this restriction while other fear that the law will have unintended consequences.

Vermont has become the last state to legalize e-prescribing of controlled substances. E-prescriptions are more secure than paper pads.

The National All Schedules Prescription Electronic Reporting Reauthorization Act of 2015, H.R. 1725, which will reauthorize funding for prescription drug monitoring programs for states, was sent to the House for consideration on July 29, 2015.

The White House’s Office of National Drug Control Policy (ONDCP) announced that it is spending $2.5 million on its Heroin Response Strategy, which is a collaboration between federal and local forces and which will bring together five High Intensity Drug Trafficking Areas (HIDTA) which, together, cover 15 states.

A number of U.S. Senators have asked Health and Human Services (HHS) Secretary Sylvia Burwell to increase access to medication-assisted therapy (MAT). The letter can be accessed at this link.

HHS Secretary Sylvia Burwell recently announced that the Obama Administration will spend an additional $100 million to fight drug abuse through SAMHSA grants awarded to states to expand treatment for those with opioid use disorders.

United States Attorneys and federal law enforcement agencies from six states met in Detroit in late August to identify best practices for combatting the opioid epidemic and to discuss how to organize a “regional strategic initiative.”

On Wednesday, September 16, 2015, from 2:00PM-5:00 PM, the CDC will be hosting a webinar on opioid prescribing guidelines, which are targeted toward primary care providers and “are intended to equip providers with uniform recommendations based on the most recent scientific evidence to improve patient care.” For more information, click on this link.

The U.S. Food and Drug Administration has approved the use of OxyContin for children aged 11 to 16 who need “daily, round-the-clock, long term pain relief” for which there is no alternative treatment. Potential patients include those suffering from pain caused by cancer, trauma, or major surgery. Many have spoken out against the FDA’s approval of this use, including U.S. Senator Joe Manchin, who wrote a letter to FDA Acting Commissioner Stephen Ostroff which stated that the FDA should be “ashamed of itself for this reckless act.”

This article compares the price of a bag of heroin to the price of a package of cigarettes, by state. While it is worth noting that heroin users often require much more than one bag of heroin each day, it is an interesting comparison.
A recent study, conducted at the Johns Hopkins Bloomberg School of Public Health, showed that prescription drug monitoring programs and pill mill laws led to decrease in opioid prescribing within the state. The decrease was most significant among prescribers and patients with the highest baseline opioid prescribing and use. The study was published in *JAMA Internal Medicine.*

A new study, conducted at the Alpert Medical School of Brown University, suggests that there may be “no significant differences between giving nonsteroidal anti-inflammatory drugs (NSAIDs) and opioids to patients in the emergency department with regard to their risk for developing chronic pain after motor vehicle accidents.”

These nine graphs provide a helpful overview of the scope of the opioid abuse problem in our country.

The American Medical Association (AMA) has convened a task force to address the opioid crisis. This article outlines the task force’s initial focus, which includes the use of prescription drug monitoring programs and “engaging in robust education activities.”

The National Association of Boards of Pharmacy (NABP) has released its *Internet Drug Outlet Identification Program Progress Report for State and Federal Regulators: July 2015.* The report examines the findings of reviews conducted by NABP on Internet drug outlets to determine whether the outlets are in compliance with current laws and safety standards.

**Updates in the Field of Marijuana Legalization**

Marijuana tax revenue in Colorado nearly doubled over the past year. The revenue has been used to fund improvements to public schools.

Five patients who have been diagnosed with post-traumatic stress disorder (PTSD) are challenging a Colorado Board of Health decision to not add PTSD to the list of medical conditions which can be treated with medical marijuana.

A Colorado appeals court has overturned the conviction of a woman who was convicted of marijuana possession a few days after the measure that legalized marijuana was approved by voters in the state, holding that “convicted criminal defendants should receive [the] ‘benefit of amendatory legislation which became effective at any time before the conviction became final on appeal.”

An Illinois doctor is facing the possibility of disciplinary action for violations of the Medical Practice Action, after the doctor allegedly issued a fake medical marijuana certification to a 79-year old patient for glaucoma. The doctor apparently relied on a previous glaucoma diagnosis and did not examine the patient himself.

Due to a recent Michigan Supreme Court decision which stated that caregivers and medical marijuana users can use their certifications as a defense if charged with marijuana-related crimes, prosecutors are now evaluating a number of cases which were on hold, pending the Supreme Court’s decision. Given
the decision, a number of cases will be dismissed and certain seized items will be returned in unresolved civil forfeiture cases.

The Michigan Medical Marijuana Review Panel has recommended adding autism as a qualifying condition fit for treatment with medical marijuana. The Michigan Department of Licensing and Regulatory Affairs will make the final decision.

A New Jersey judge has ruled that teenaged school-aged patients cannot bring medical marijuana to school, due to the Drug Free School Zone Act. However, the parents of the patient may bring the medicine to the school and administer it to the student.

New York State has awarded five medical marijuana licenses to organizations throughout the state. Each organization plans to open four dispensaries statewide and each is required to be operating within six months.

This article describes the burgeoning marijuana “trim” market in Oregon. “Trim” is the term for the leaves cut from cannabis flowers, and they are now sold for up to $400 per pound. Trim is relatively low in THC but some strains are high in cannabidiol (CBD).

The Oregon Court of Appeals has recently ruled on a case involving a search warrant that was granted based on the odor of bunt marijuana. After neighbors of the defendant complained about the odor of marijuana, an officer applied for and received a warrant to search the defendant’s apartment. The warrant was issued after the court found that the odor constituted probable cause to believe that a search would find evidence of second-degree disorderly conduct, which is defined as a “hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.” Once inside the apartment, officers found evidence of graffiti and the defendant was ultimately convicted of charges in connection to graffiti. The Court of Appeals held that the warrant affidavit did not establish a physically offensive condition at the defendant’s home and reversed and remanded the case.

Since Washington State has legalized marijuana, the number of drivers with marijuana in their systems who have been arrested by law enforcement in the state has increased. This number includes all drivers who have had their blood taken under suspicion of DUI, so an argument can also be made that law enforcement has simply gotten even better at recognizing drivers under the influence of the substance. Nonetheless, many have called this growing number “alarming,” and law enforcement is continuing to watch the trend.

U.S. Representatives Sam Farr and Dana Rohrabacher have sent a letter to U.S. Department of Justice (DOJ) Inspector General Michael Horowitz, asking him to investigate whether DOJ may be violating federal law by using funds to prosecute cases involving medical marijuana patients and providers. The federal funding bill which was signed into law in December 2014 prohibits DOJ from using funds to undermine medical marijuana programs which are legal in the states in which they are located. The Representatives stated in their letter that “despite last year’s provision becoming law, ‘the Department has continued to pursue and prosecute individuals and businesses for involvement with medical marijuana in states where it is legal despite the clear direction in the law to forswear such activities.’”
Synthetic Drug News

Florida Attorney General Pam Bondi and the Seminole County Sheriff’s Office have announced that five individuals have been arrested in connection with the sale of synthetic drugs and liquid cannabis. The arrests are the culmination of an investigation into a chain of smoke shops. The investigation involved a series of undercover buys and controlled purchases.

Texas Attorney General Ken Paxton is combatting synthetic drugs in his state by “suing . . . sellers for engaging in deceptive trade practices, as they are clearly misleading consumers with claims that these products are legal and safe.” This month, General Paxton and the Harris County Attorney’s Office and City of Houston, filed a lawsuit against 2709 Broadway, Inc., and its owner for distributing synthetic marijuana products. Additionally, Senate Bill 461, which went into effect on September 1, “authorizes [General Paxton’s office] or a district, county, or city attorney to institute an action . . . to collect a civil penalty from a person who produces, distributes, sells or offers for sale a mislabeled, abuseable synthetic substance . . . and creates a new criminal offense.”

Washington, D.C. Attorney General Karl A. Racine announced that a local business, Ryad Market, will vacate its property on or before November 13, after the store, which “had become notorious in the neighborhood for posing a significant challenge to public safety and quality of life” faced an eviction action for selling synthetic drugs.

In late August, seven people overdosed on synthetic marijuana within 24 hours in Willimantic, Connecticut. All overdoses were linked to “K2,” a type of synthetic marijuana.

This article paints a disturbing picture of one neighborhood in New York City, in which the homeless have become addicted to K2.

The Vermont Health Department is endeavoring to add 75 new synthetic substances to its state’s list of regulated substances.

Other News of Interest

California Attorney General Kamala D. Harris announced that five individuals have been arrested in connection with trafficking 55 pounds of methamphetamine. The drugs have a street value of $2 million. The defendants are suspected of being connected to the Sinaloa Cartel.

New York Attorney General Eric T. Schneiderman announced that 20 gang members have been indicted in connection with their involvement in a high-volume drug trafficking ring. The ring allegedly sold cocaine and heroin and operated out of Troy, New York. Drugs were purchased in New York City and then transported to Troy for distribution in upstate New York and elsewhere. One of the individuals
charged is a former Watervliet, New York, police officer who allegedly provided protection for the drug ring and purchased cocaine from one of the dealers.

The Montana Supreme Court unanimously decided that the state’s 24/7 Sobriety Program, which requires repeat offenders to take twice-daily breathalyzer tests rather than serve jail time, is constitutional. Montana Attorney General Tim Fox defended the program. General Fox has worked to expand the program as it has been a proven accountability tool for combatting repeat DUI and improving public safety.

Over 5,000 pounds of kratom powder was seized from a Cincinnati, Ohio, express-consignment facility.

The DEA announced a series of enforcement actions that have taken place nationwide to target the underground sales of anabolic steroids and other performance-enhancing drugs. Operation Cyber Juice involved 30 different U.S. investigations in 20 states and resulted in the arrest of 90 people and the seizure of 16 underground steroid labs, over 600 kilograms of raw steroid powder, over 8,000 liters of raw steroid injectable liquid, and over $2 million. DEA was assisted by local law enforcement, Europol, the Department of Homeland Security, and the U.S. Postal Inspection Service.

The FDA has issued letters to five distributors of pure powdered caffeine after these potentially dangerous products have resulted in the known deaths of two teenagers.

Last month, one of NAAG’s Visiting Fellows attended a forum on veterans’ addiction issues. If you would like to learn more about the forum, please email me at fliquori@naag.org.

On October 29-30, 2015, NAAG Eastern Region Chair Rhode Island Attorney General Peter F. Kilmartin and New York Attorney General Eric T. Schneiderman will host the NAAG Eastern Region Meeting, where attendees will discuss best practices for combatting the opioid epidemic in the Northeast United States and nationally. The event will be held at New York University Law School. Law enforcement participants will also be provided with the opportunity to tour the New York/New Jersey High-Intensity Drug Trafficking Area (HIDTA) headquarters on Thursday afternoon. For more information and to register, please click on this link.

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