1. On October 30, 2003, the DEA released a press statement entitled “The Myth of the ‘Chilling Effect: Doctors Operating Within Bounds of Accepted Medical Practice Have Nothing to Fear from DEA.” It stated that since 1999, the DEA has sanctioned less than one tenth of one percent of registered doctors for illegally prescribing narcotic painkillers. They reported arresting 34 doctors out of 963,385 registered doctors in 2003, for selling opioids to addicts or drug dealers for money, sex or favors. That is less than 0.001% of the total number of licensed doctors. The DEA has repeated the refrain that doctors are an extremely small part of the drug diversion problem and most have nothing to fear. After the conviction of Dr. William Hurwitz on April 14, 2005, DEA Administrator Karen Tandy stated that “the million doctors who legitimately prescribe narcotics to relieve patients’ pain have nothing to fear.”

2. The arrest of doctors understates the DEA’s impact upon doctors and their patients. There are two reasons for this. The first is that the number of doctors who treat pain patients is miniscule, and the second is that the DEA’s criminal investigations of physicians, not arrests, are the best measure of their impact upon pain medicine. Furthermore, the majority of such criminal investigations are coordinated by the DEA but actually carried out by thousands of local and state law enforcement officials. Let’s look at each of these points in some detail.
3. The first reason that the DEA’s one-tenth of one percent of doctor sanctions is a myth is that the number of pain management doctors is a tiny fraction of the roughly 800,000 doctors currently practicing medicine. There are, in fact, three estimates of the number of pain doctors. One is based upon a leading drug company’s estimate of the number of doctors who prescribe their pain relief medications; the second estimate is based upon the number of doctors who receive specialized training in pain medicine; and the third estimate is based upon an internet web site that lists doctors who are available to treat pain patients.

A. The first estimate is based upon a report by Dr. J. David Haddox, M.D., the vice president of health affairs at Purdue Pharma, the manufacturer of the highly popular 12-hour time release pain medication, OxyContin. Haddox reports that there are fewer than 5,000 doctors in the country who prescribe 150 mg or more of oxycodone a day. Since there are at least 30 million chronic pain patients in the country, it means that there is one pain management doctor who prescribes narcotic painkillers for every 6,000 pain patients. Since most pain doctors average about 300 chronic pain patients that means that there is a severe shortage of doctors in the country who treat chronic pain patients with opioids.

B. The second estimate is based upon the number of doctors that are trained and certified in pain management. As of 2004, there were 5,869 doctors who were specialized in the treatment of chronic pain. There are four professional medical boards that credential doctors in that specialty. They are Anesthesiology (3,127), Pain Medicine (1,768), Physical Medicine and Rehabilitation (875), and Psychiatry and Neurology (99).

C. The third estimate is based upon an internet web site called DoctorsForPain.com. There is currently 4,278 physicians in the U.S. listed on the web site by state and address. Pain patients register with the site and search for a physician to get medical treatment. Approximately 250,000 visitors search the site each month looking for physicians and pain information. The list of registered doctors range from a high of 424 in Texas to a low of 5 in Wyoming. Doctors tend to concentrate in large cities where salaries and professional opportunities are the greatest. For example, there are only 60 doctors listed in Oklahoma and 70 percent of them are located in Oklahoma.
City and Tulsa. That means that pain patients outside of these cities often have to travel hundreds of mile to find a doctor to treat them—that in itself is a “red flag” for the DEA. Large numbers of out-of-town patients invariably trigger investigations of doctors.

4. The second reason that DEA arrests of doctors does not accurately reflect the agency’s impact upon pain medicine is that criminal investigations, not arrests, are the best measure of the agency’s impact. There are two reasons for this. The first is that Diversion Investigators do not have police power and the second is that criminal investigations of doctors is carried out by local and state law enforcement agencies.

A. The DEA’s roughly 550 Diversion Investigators who deal with the illicit traffic of prescription drugs do not have police powers. They do not carry weapons, cannot make arrests, get search warrants or carry out undercover operations. They must rely upon DEA Special Agents or state and local law enforcement agencies. If we examine criminal investigations as a measure of the agency’s impact upon doctors we arrive at a very different conclusion. For example, in 2001, the DEA carried 861 investigations of doctors. If we use this figure instead of 34 arrests it would means that more than 17 percent of the roughly 5,000 doctors who treat pain patients were investigated. That means that than one out of every six doctors who treat chronic pain patients were under criminal investigation.

B. The DEA acknowledges that an estimated 56 percent of all criminal investigations of doctors are carried out by more than 2,000 state and local police officers in 217 drug task forces—Organized Crime Drug Enforcement Task Force (OCDETF). Based upon a study of 205 physicians indicted compiled by Prof. David Brushwood and Debora Bordeaux, M.D. who were indicted for prescription drug diversion from 1999 to mid 2005, only 35 percent of the cases were federal with the majority being local and state cases. One such task force is the Warren-Clinton Drug & Strategic Operations Task Force in Lebanon, Ohio under the command of Captain John Burke. They investigate more than 500 felony prescription drug cases a year and arrest over 250 prescription drug felons. On average, the task force arrests 5.5 health professions a month and 5 doctors a year in the Cincinnati area.
Conclusion: The DEA’s one-tenth of one percent of doctor sanctions is a myth. In fact, the agency has carried out criminal investigations of more than 17 percent of the less than 5,000 doctors who treat chronic pain patients with narcotic painkillers. The effect of the DEA’s criminal investigations, has intimidated doctors from treating chronic pain patients and in the process destroyed the careers of many dedicated physicians and added to the needless suffering of pain patients. Contrary to the DEA’s claim, the agency has not only chilled pain medicine but has effectively put it in the deep freeze.

References

1. Burke, John, “Drug Diversion-The Scope of the Problem” Le Technology Article (www.naddi.org)


