

Learn more. Plan to attend the Kentucky Drug Summit on October 5 during the KLC Conference & Expo, October 4-7, in Lexington. See pages 19-22 for information.

Complex Pharmacology

KENTUCKY'S PILL PROBLEM

by Sarah Razor, Governmental Affairs Communications Specialist



It is clear that pain pill addiction and healthy cities don't mix. City officials find there is no easy antidote to Kentucky's pill problem.

Unless you have been living under a rock, you have heard that there is a pain pill problem in Kentucky. The abuse of prescription pain relievers is now only second to marijuana.* The Kentucky Cabinet for Health and Family Services recently reported that accidental drug overdoses are now the leading cause of accidental death in Kentucky, ahead of car crashes. The rate of overdose-related deaths among men in Kentucky more than doubled from 2000 to 2009 and tripled among women.

"Although the statistics are overwhelming, the numbers do not even begin to scratch the surface of the slew of social and economic problems caused by prescription drug abuse. Theft, home invasions, robbery, increased violence, incarceration, expensive rehabilitation treatment, [and] medical costs from overdoses and drug-related injuries all threaten the safety of citizens and affect the bottom line for taxpayers," KLC Executive Board member and Winchester Mayor Ed Burtner wrote in a recent op-ed piece on pain clinics in his community.

"Additionally, our communities absorb the economic impact of abusers' time lost from work and increased demand on social welfare programs. Pill abuse affects every single citizen in my city — certainly not just the abuser," Burtner explained.

"In every city I visit, I ask law enforcement officials to tell me their number one issue. And almost every city official says that it is pain pill abuse and the trickle-down problems that come from it," said Alex Payne, Kentucky League of Cities law enforcement specialist.

The surge in pain pill abuse in Kentucky is often attributed to the increase in both in-state and out-of-state "pill mills." This phrase is used to describe a clinic prescribing large

amounts of painkiller drugs without medical justification. Often, these facilities only accept cash and do not examine patients or existing medical records. Many have their own pharmacy attached to the facilities and draw huge crowds of patients from miles away.

“We have at least three, maybe four pain clinics in Richmond,” City Commissioner Jason Morgan said. “I understand that some are legitimate, but writing prescriptions for people you don’t examine isn’t practicing medicine. It’s just drug trafficking. We are in the beginning phases of researching how to address the issue. It’s our job to protect the city.”

Sen. Jimmy Higdon (R-Lebanon) has seen how quickly a pill mill can negatively affect cities firsthand. “I was shocked to find a pill mill in Lebanon that was advertising pain management services to patients in eastern Kentucky newspapers more than 100 miles away,” Sen. Higdon said. He noticed that numerous cars in the facility’s parking lot were from out of state, and area pharmacists complained

Pill Problem

- From 2006 to 2008, 96 of Kentucky’s 120 counties saw an increase in the rate of prescriptions dispensed for controlled substances. Of those 96 counties, 24 saw a 20 percent increase. Two counties saw an increase of more than 45 percent.*
- Prescription-drug-related offenses increased more than 13 percent in 2008.*

**Statistics provided by the Kentucky Office of Drug Control Policy*

that vanloads of people with pain-medicine prescriptions were coming to local pharmacies. Sen. Higdon took immediate action by filing a complaint with state officials in the Office of the Inspector General with the Cabinet for Health and Family Services. After negative media attention, the pain clinic closed within a few weeks.

During the 2011 session, Sen. Higdon sponsored Senate Bill 47, a measure that would have imposed regulation and state oversight of pain management facilities. Pain management facilities would include any facility that advertises pain manage-

ment services or employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled-substance medications.

SB 47 would have required pain management facilities to obtain a license for operation from the Kentucky Cabinet for Health and Family Services and designate a physician who is responsible for operation of the facility and responsible for maintaining licensure with the cabinet. This bill died in committee, but Sen. Higdon will run a similar measure again in 2012. The KLC Board of Directors voted in June to fully support legislation

Pill Mills Getting Federal Attention

HR 1065, known as the “Pill Mill Crackdown Act of 2011,” was introduced in Congress earlier this year by Florida Rep. Vern Buchanan (R-13th) with bipartisan support. The legislation toughens federal penalties for pill mill operators by doubling the prison sentence for offenders from 10 to 20 years and tripling the fine from \$1 million to \$3 million. The measure also proposes using assets seized from drug violators to fund state drug monitoring databases, enforces actions against pill mills and supports drug treatment programs. Additionally, it would reclassify hydrocodone combination drugs (some of the most addictive and dangerous drug

mixtures) to make them more difficult to prescribe and obtain.

HR 1065 is cosponsored in part by Kentucky Rep. Hal Rogers (R-5th) and Rep. Brett Guthrie (R-2nd). Rep. Rogers said in a statement, “Congressman Buchanan’s bill gets it absolutely right. More and more of my colleagues are joining the fight to put these unregulated pill mills out of business and the pushers behind bars ... I believe this bill is another important and thoughtful step in our fight to end the scourge of prescription drug abuse.”

As of press time, the bill had been referred to both the House Committee on

the Judiciary and the House Committee on Energy and Commerce. KLC will continue to monitor HR 1065 during the 112th Congress. Please reach out to your U.S. House member this fall to let him know that this legislation would be helpful to your community. You can find your member’s contact information at klc.org on the bill tracker. The Kentucky League of Cities has a sample resolution that your city can adopt to show your support of HR 1065. Please contact Joseph Coleman at 800.876.4552 or jcoleman@klc.org for more information. KLC recently sent a resolution supporting HR 1065 to the National League of Cities for consideration by its membership.

similar to last year's SB 47 that may be introduced in the 2012 session.

"Florida and Ohio have already passed legislation like this, so we know what we need to do to target only pill mills and not legitimate medical facilities. We have been meeting with stakeholders during the interim and hope to have enough support to get this bill made into law early in the session and get these pill mills out of our communities," Sen. Higdon said.

The Office of the Kentucky Attorney General recently issued an advisory opinion regarding the ability of city and county governments to ban pain clinics in their respective jurisdictions. The advisory opinion concluded that local units of government are prohibited from banning or otherwise regulating "pain clinics" and those ordinances that attempt to do so "are beyond the legitimate authority of a unit of local government."

Many city and county governments have adopted or considered ordinances to either ban or extensively regulate the pain management facilities because of significant negative impact that drug abuse is having on the quality of life in many Kentucky communities.

Is There a Pill Mill in Your Community?

Suspected illegal activity at any health care facility should be reported to the Office of the Inspector General in the Cabinet for Health and Family Services. Such reports can trigger an investigation, and often, the threat of or actual inspection of pill mills causes operators to move or shut down. Four regional offices can provide you with a short complaint form that can be completed anonymously. For additional information, please visit <http://chfs.ky.gov/os/oig/dhcfscplaintinfo.htm>.

While the opinion carries no legal authority and does not invalidate existing city ordinances, the opinion sheds light on how a court might handle a legal challenge to a local ordinance attempting to regulate pain clinics. The attorney general stated that, because state law comprehensively addresses the practice of medicine and the prescription of controlled substances in state statutes and regulations, local governments were preempted from imposing any additional regulations. In addition, the opinion discussed the difficulty of labeling this type of business as a public nuisance in a local ordinance.

No doubt about it — the pain pill problem in Kentucky is complex and

ever-changing. Many officials find that aligning all the necessary tools and resources is about as frustrating as solving a Rubik's cube. Kentucky has at least 14 separate drug task forces throughout the state that share resources and information; provide education; and work cooperatively to identify, arrest and prosecute key members of illegal drug-trafficking organizations, as well as related money-laundering operations.

"We hope that city officials realize that this is not a problem that you have to tackle alone. There are resources out there, and KLC is ready to help you address this complicated issue," Payne said.

The Kentucky League of Cities Board

INTERSTATE PRESCRIPTION DRUG MONITORING PROGRAMS ON THE HORIZON

by Joseph Coleman, Research and Federal Relations Manager

Currently, 48 states and one territory have legislation authorizing the creation and operation of a prescription drug monitoring program (PDMP). In Kentucky, this system is commonly referred to as KASPER, which stands for the Kentucky All Schedule Prescription Electronic Reporting. Thirty-five states currently have a PDMP that is operational, meaning they are collecting data from dispensers and reporting information from the database to authorized users.

The Council of State Governments,

in conjunction with federal and state policymakers, state legislators and other interested stakeholders, has developed the Prescription Drug Monitoring Program Compact, which is a model compact that would allow all state PDMPs to communicate with one another, creating greater uniformity, information sharing and cooperation across state lines. An interstate system would provide a more reliable and effective means of ensuring that these medicines are properly distributed. Currently, information sharing across

state lines is being piloted in four states, including Kentucky and Ohio.

"While KASPER provides an effective tool for health care providers and law enforcement officers in the fight against prescription drug abuse and diversion, interstate data sharing among prescription drug monitoring programs is needed to enhance the effectiveness of the programs as tools to improve public health and safety," said Health and Family Services Cabinet Secretary Janie Miller. "Prescription drug abuse is a public health

of Directors is working with several mayors, council members and law enforcement personnel to identify gaps in information, resources and funding available for city governments. In addition, KLC is assessing how cities can better collaborate with state leaders, law enforcement agencies, citizens, school groups, county governments and other stakeholders. A toolkit designed to help city officials address drug issues in their own communities is expected to be unveiled at the 2011 KLC Conference & Expo during the Drug Summit on Wednesday, October 5, at the Lexington Hyatt Regency. **KYC**



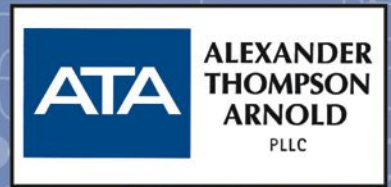
Sen. Jimmy Higdon (R-Lebanon) plans to sponsor legislation in the 2012 session that would impose regulation and state oversight of pain management facilities.



epidemic, and it simply isn't enough to monitor drugs dispensed only in our state. Having the ability to report data from other states will dramatically strengthen our ability to monitor and detect abuse."

Congress would have to approve the creation of the interstate compact, and each state would have to adopt legislation to participate. KLC will keep cities informed of any state or federal legislation related to a PDMP interstate compact.

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