

Scott Huckabee

Scott Huckabee is the owner of Huckabee Consulting Inc. and President of DoctorsSafeguard.Com.

Scott is a twenty-eight (28) year law enforcement veteran who served as a patrolman and crime scene investigator with the Houston, TX Police Department, 10 years as a major case investigator and Captain of the Criminal Investigations Division of the Copperas Cove TX Police Department, 2 years as the Training Coordinator for the Texas Narcotics Control Program and retired after 10 years of service as the Director of the Capitol Area Regional Law Enforcement Training Academy in Austin, TX. Since 2002, Scott Huckabee began providing training to clinicians throughout the United States in identifying and safeguarding against prescription drug abuse and diversion. In 2008, Scott Huckabee established DoctorsSafeguard.Com to provide training to clinicians free of charge. Scott Huckabee is a graduate of the 182nd session of the Federal Bureau of Investigation's (FBI) National Academy in Quantico, VA and a graduate of the Law Enforcement Leadership and Command College at Sam Houston State University, Huntsville, TX.

Mr. Huckabee is a consultant and speaker for Genotox Laboratories.





Scott Huckabee

**Non-Therapeutic Prescribing
is Now Murder!**

Potential Liability

- ✓ Malpractice (civil lawsuit)
- ✓ Violation of Federal Criminal Law
 - Unlawfully Dispensing or Distributing a Controlled Substance
- ✓ Violation of State Criminal Law
 - Murder,
 - Manslaughter,
 - Criminally Negligent Homicide



Homicide Offenses

Other Than Non-Therapeutic Prescribing

Connecticut Dentist charged with Criminally Negligent Homicide



02/19/2015

Rashmi Patel was arrested and charged with criminally negligent homicide after his patient died in his care while having 20 teeth pulled.

By: TaraFowler, People.com, 02/19/15,
<http://www.people.com/article/connecticut-dentist-charged-negligent-homicide>

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Updated 2016



Brooklyn Plastic Surgeon Pleads Guilty Criminally Negligent Homicide



DR. OLEG DAVIE

05/07/2014

Dr. Oleg Davie, 53, sentenced to 2 months in jail after pleading guilty to a botched liposuction procedure that resulted in the death of a patient (former model).

New York Daily News, 05/07/14,
<http://www.nydailynews.com/new-york/brooklyn/surgeon-pleads-guilty-model-liposuction-death-article-1.1783183>



Homicide Offenses

Non-Therapeutic Prescribing

Danville, Illinois VA Chief of Opiate Safety Charged with Reckless Homicide in 3 Drug Deaths



2/5/2016

Dr. John K Sturman Jr. was charged with 3 counts of Reckless Homicide after VA patients overdosed on prescriptions he provided.

The Daily Caller News Foundation

<http://dailycaller.com/2016/02/05/va-chief-of-opiate-safety-charged-in-drug-deaths-of-three/>

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Florida Doctor Pled Guilty to Manslaughter



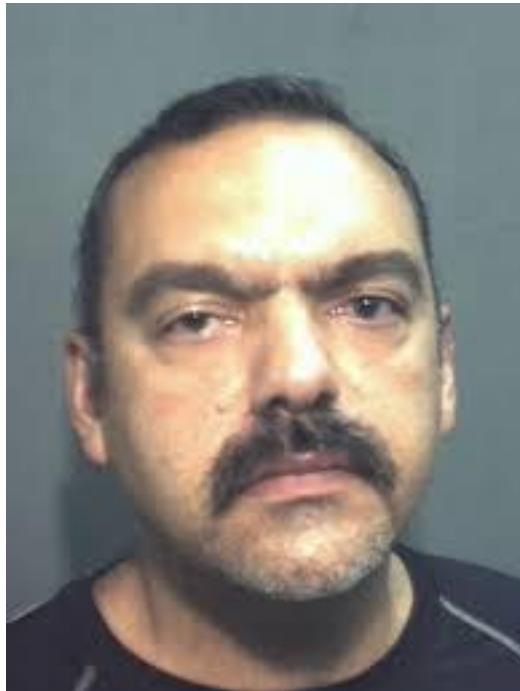
8/17/2016

Dr. Barry Schultz pleaded guilty to manslaughter concerning the overdose death of a patient who was prescribed methadone.

Sun-Sentinel.com

<http://www.sun-sentinel.com/local/palm-beach/fl-west-delray-doctor-manslaughter-plea-20160817-story.html>

Florida Pain Doctor Arrested for Manslaughter



6/8/2016

Dr. Ibem Borges who operated two pain clinics in Orlando and Kissimmee was charged for his role in the 2012 death of Palm Bay woman.

Orlando Sentinel.Com

<http://www.orlandosentinel.com/news/breaking-news/os-orlando-doctor-ibem-borges-death-20150608-story.html>

Pompano Florida Doctor Charged with Manslaughter



5/29/2015

Dr. Lynn Averill was arrested and charged with 8 counts of manslaughter as a result of the overdose deaths of her patients.

South Florida Business Journal

<http://www.bizjournals.com/southflorida/news/2015/05/29/pompano-doctor-arrested-for-alleged-pill-mill.html>

Florida Doctor Charged with Manslaughter in Broward Patient's Overdose Death



5/6/2015

Dr. Richard Vitalis was arrested for the death of his patient who overdosed on large amounts of Roxycodone, Xanax and Motrin that he had prescribed.

Daytona News Journal

<http://www.news-journalonline.com/news/20150504/debary-doctor-charged-with-manslaughter-in-broward-patients-overdose-death>

California Doctor Gets 30yrs To Life For The Murder Of Three Of Her Patients



Photo by: Los Angeles Times

2/26/2016

Doctor Lisa Tseng found guilty for the murders of three of her patients by illegally prescribing schedule 2 and 3 controlled substances.

By Los Angeles Times reporter Marisa Gerber 3/26/2016

<http://www.latimes.com/local/lanow/la-me-ln-doctor-murder-overdose-drugs-sentencing-20160205-story.html>

Title 21 Code of Federal Regulation

Section 1306.04 Purpose for Issue of Prescription

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice...

United States v. Moore

United States v. Moore – 423 U.S. 122 (1975)

Opinion

“We reverse, and hold that registered physicians can be prosecuted under § 841 when their activities fall outside the usual course of professional practice.”

Good Faith

U.S. v. Feingold, 454 F.3d 1001 (9th Cir. 2006)

“A controlled substance is distributed by a practitioner in the usual course of his professional practice if the substance is distributed by him in good faith in medically treating a patient.”

Good Faith

U.S. v. Feingold, 454 F.3d 1001 (9th Cir. 2006)

“Good faith is not merely a practitioner's sincere intention towards the people who come to see him, but, rather, it involves his sincerity in attempting to conduct himself in accordance with a standard of medical practice generally recognized and accepted in the country.”

Good Faith

U.S. v. Feingold, 454 F.3d 1001 (9th Cir. 2006)

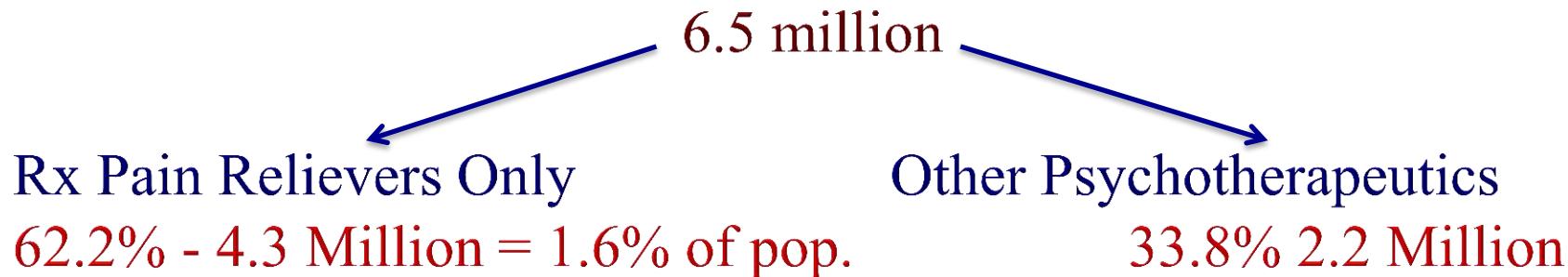
Good Faith =

- ✓ Sincere Intentions toward patient, and
- ✓ Standard of medical practice generally recognized and accepted in the country.

How bad is the Rx Drug Problem

Substance Abuse and Mental Health Administration 2014 National Survey on Drug Abuse and Health

Current non-medical users of Psychotherapeutics 12 and older



Psychotherapeutics = pain relievers, stimulants, tranquilizers and sedatives not for medical use

How bad is the Rx Drug Problem

Substance Abuse and Mental Health Administration 2014 National Survey on Drug Abuse and Health

Is this Data Accurate?

The survey INCLUDES residents of households and individuals in noninstitutional group quarters (e.g., shelters, boarding houses, college dormitories, migratory workers' camps, halfway houses).

The survey excludes people with no fixed address (e.g., homeless people not in shelters), military personnel on active duty, and residents of institutional groups such as jails, nursing homes, mental institutions, and long-term hospitals.

127,605 addresses were targeted. Only 67,901 completed the survey.

How bad is the Rx Drug Problem

Substance Abuse and Mental Health Administration
2014 National Survey on Drug Abuse and Health
Current non-medical use of Illicit Drug Use 12 & older:

Opioids	4.3 Million	1.6% of population
Tranquilizers	1.9 Million	0.7% of population
Cocaine	1.5 Million	0.6% of population
Hallucinogens	1.2 Million	0.4% of population
Inhalants	0.5 Million	0.5% of population
Heroin	0.4 Million	0.2% of population

How bad is the Rx Drug Problem

Drug seekers **target** clinics that treat pain!

Desperate Drug Seeker

Opportunistic Drug Seeker

Professional Drug Seeker

How bad is the Rx Drug Problem

Google Search Results:

How to pass a drug test – 4,260,000 results

How to pass a urine drug test – 1,290,000 results

How bad is the Rx Drug Problem

Google Search Results:

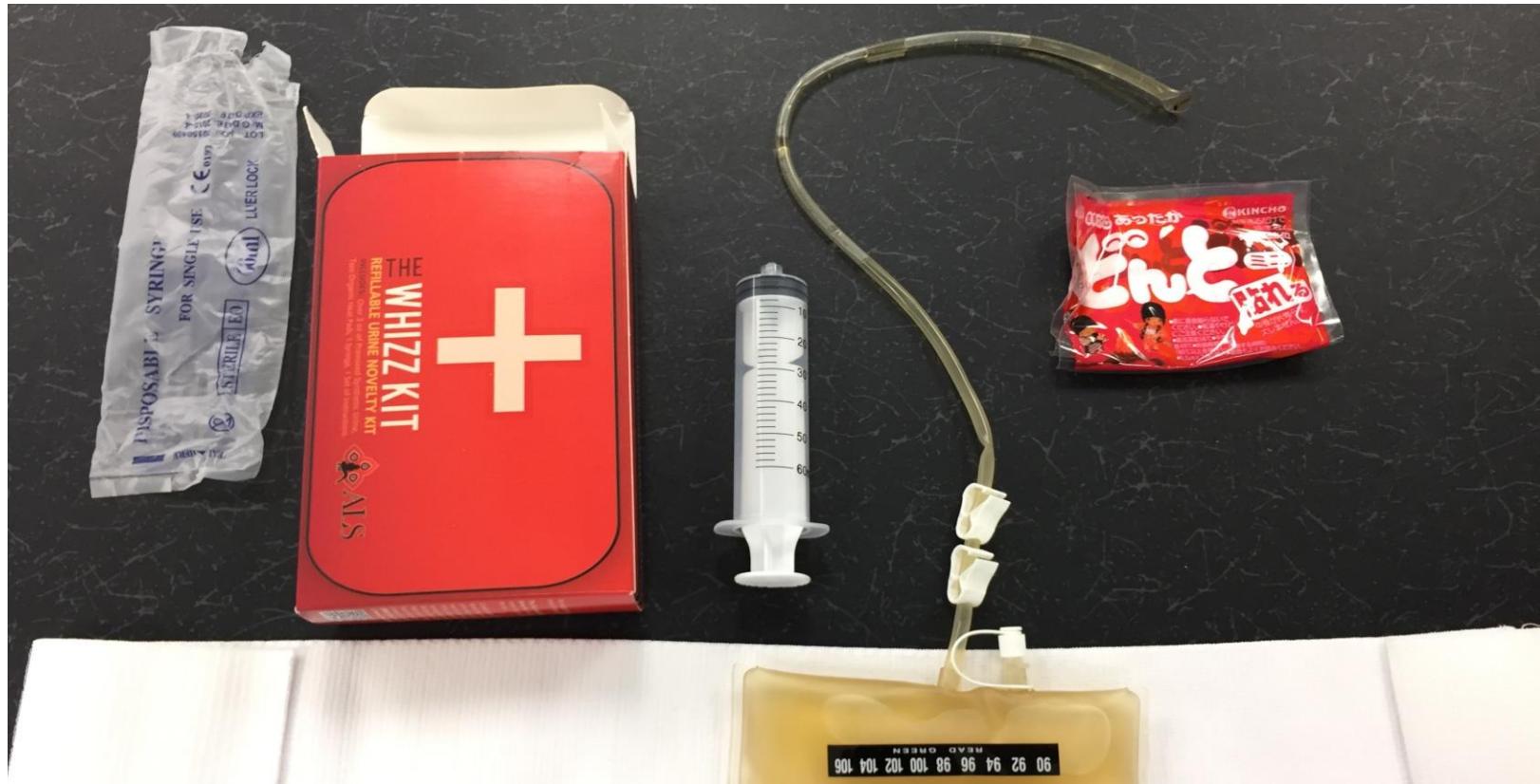
Synthetic urine – July 20, 2016 **379,000** results

October 28, 2016 **2,180,000** results



Safeguards Patient Accountability

Typical Fake Urine Kit



Safeguards Patient Accountability



**Suboxone Positive Synthetic Urine
Newest Version/Formula**

Complete 100% Fake/ Synthetic Urine/

Price: \$57.99

100% effective

Comes with:

4 oz bottle- Enough for (2) Samples

**-Fake ID
-Temp Strip
-Heat Pad**

Buy Now

Proper Safeguards

A thorough screening of new patients

A comprehensive patient agreement

A standard patient accountability protocol

Random Urine Drug Testing with Lab Conformations



Willful Blindness

a.k.a.

Deliberate Ignorance

Willful Blindness

While prosecuting a criminal case, the prosecutor must prove every element, including the defendant's culpable state of mind.

Example: Title 21 USC 841(a)(1)

“Unlawful Dispensing of a Controlled Substance”

...it shall be unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance...

Willful Blindness

“Knowingly” = Culpable State of Mind

Prosecutors must prove the required culpable state of mind, along with all other elements of the offense in order to convict.

Willful Blindness

Global-Tech Appliances, Inc. v. SEB S.A., 131 S.Ct.2060 (2011)

Two (NEW) basic requirements for Willful Blindness:

1. The defendant must **subjectively** believe that there is a **high probability** that a fact exists and
2. The defendant must take **deliberate actions** to **avoid learning** of that fact.

Willful Blindness

Question:

You practice pain management.

You choose not to evaluate your patients for risk of abuse or diversion prior to treatment.

The day after a patient's appointment, after filling the prescription, the patient abuses the medication, overdoses and dies.

Would this fit Willful Blindness?

Willful Blindness

Question:

You practice pain management.

You choose not to utilize patient accountability protocols during the time you treat patients with schedule 2 and 3 controlled substances. Six months into a patient's treatment, the patient abuses their pain medication and dies of an overdose.

Would this fit Willful Blindness?

Willful Blindness

Global-Tech Appliances, Inc. v. SEB S.A., 131 S.Ct.2060 (2011)

The Supreme Court went on to describe Culpability (regarding “State of Mind”) as it relates to Willful Blindness.

“Knowing” Defendant: One who takes deliberate action to avoid confirming a high probability of wrongdoing.

“Reckless” Defendant: One who merely knows of a substantial and unjustified risk of such wrongdoing.

“Negligent” Defendant: One who should have known of a similar risk but, in fact, did not.

#



Texas Homicide Laws

State Homicide Laws

Texas Homicide Laws

Texas Penal Code, 19.02

Murder

- (b) A person commits an offense if he:
 - (1) intentionally or knowingly causes the death of an individual;

Felony of the 1st Degree

5 to 99 years/Life + Fine up to \$10,000.00

Willful Blindness:

Knowing” Defendant: One who takes deliberate action to avoid confirming a high probability of wrongdoing.

State Homicide Laws

Texas Homicide Laws

Texas Penal Code, 19.04

Manslaughter

(a) A person commits an offense if he recklessly causes the death of an individual.

Felony of the 2nd degree.

2 to 20 years + up to \$10,000.00

Willful Blindness:

Reckless" Defendant: One who merely knows of a substantial and unjustified risk of such wrongdoing.

State Homicide Laws

Texas Homicide Laws

Texas Penal Code, 19.05

Criminally Negligent Homicide

(a) A person commits an offense if he causes the death of an individual by criminal negligence.

State Jail Felony.

180 days to 2 years + up to \$10,000.00

Willful Blindness:

Negligent Defendant: One who should have known of a similar risk but, in fact, did not.



Questions?
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Please contact Scott Huckabee at
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