



Overdosing on Regulation: How Government Caused the Opioid Epidemic

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Opioid overdose deaths have risen dramatically in the United States over the past two decades. The standard explanation blames excessive prescribing by physicians and aggressive marketing by pharmaceutical companies, beginning in the 1990s.

This explanation — "more prescribing, more deaths" — has spurred increased legal restrictions on opioid prescribing. Most states now have Prescription Drug Monitoring Programs (electronic prescription databases that attempt to reduce doctor shopping), and many states cap prescription doses. The federal government limits opioid production and raids pain management facilities deemed to be overprescribing. In October, the federal government enacted legislation that increases monitoring of prescribers and funds hospitals that attempt to reduce prescribing. Supporters believe these restrictions will reduce the supply of prescription opioids and thereby decrease overdose deaths.

The evidence suggests, however, that the opioid overdose epidemic has resulted from too many restrictions on prescribing, not too few. In a recent paper for the Cato Institute, we document this "more restrictions, more deaths" explanation for the opioid overdose epidemic.

The risk of overdose from proper medical use of prescription opioids is low: in published studies, the rate of opioid addiction in chronic pain patients has averaged less than 8 percent. Patients receiving long-term stable doses rarely overdose because they quickly develop tolerance.

Worse, regulations push users from prescription opioids to diverted or illicit opioids, which are far more dangerous. Quality control is poor in underground markets because reliable suppliers cannot legally advertise their goods and consumers cannot sue for damages from faulty or mislabeled products. Diverted or illicit drugs do not come with warning labels, and users cannot discuss safe use with their physicians. Underground opioid markets are also more likely to supply hyper-potent products, such as heroin or fentanyl. Consumers cannot easily determine the potency of such products and so face elevated risks of overdose.

Since 2011, rapidly increasing deaths from heroin and synthetic opioids such as fentanyl have driven up the opioid overdose death rate despite reduced prescribing. In 2017, heroin and synthetic opioids accounted for more than three quarters of all opioid overdose deaths. Many young heroin users report transitioning to heroin from prescription opioids when these became more difficult to acquire.

Attempts to curb overdoses by reducing the abuse potential of prescription opioids have proven counterproductive. In 2010, Purdue Pharmaceuticals introduced an abuse-deterrent version of OxyContin, which made the drug less appealing to opioid abusers. Regulations limiting access to other prescription opioids caused many users to then substitute to heroin, leading to an increase in heroin-overdose rates.

The federal government also restricts maintenance treatment for opioid dependence (e.g., via methadone or buprenorphine), contradicting decades of literature showing that maintenance treatment reduces opioid-related mortality and illicit drug use. Reduced access to maintenance also pushes users to underground opioid markets.

A simple first step in decreasing the risks of illicit or diverted opioids is to increase legal access to prescription opioids. For example, the federal government could scale back regulation of maintenance treatment and remove rules that limit prescribing. Federal and state governments could also end raids on pain management facilities. These reforms would decrease the risks from opioid dependence and reduce the harms associated with underground consumption.

The federal government could also make opioids “more legal” by shifting them to less regulated schedules of the Controlled Substances Act. In the extreme case, opioids would be over-the-counter, meaning available for purchase without a prescription. While reduced regulation can decrease underground opioid consumption, outright legalization would eliminate the underground market entirely. Individuals who purchase and consume opioids would do so in a safer setting, reducing the dangers of use.

Evidence from other countries suggests that increased legal access to opioids reduces deaths and improves health outcomes. In 1995, France removed patient caps and licensing requirements for the prescription of buprenorphine maintenance treatment, leading to a fivefold reduction in heroin deaths and an estimated 3,900 lives saved. When Portugal decriminalized all drugs in 2001, it had the highest overdose rate in Western Europe. Drug-related deaths and HIV diagnoses attributed to injecting declined substantially, and Portugal now has the lowest overdose rate in Europe.

Prescription opioid regulations should address all their costs and benefits. Even if increased prescribing heightens the frequency of opioid dependence, opioids help patients who suffer from severe or chronic pain. Indeed, decreased prescribing in recent years has driven a number of patients to suicide. The benefits of decreased regulation almost certainly outweigh the risks.

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