

TLAP Clinical Best Practices Recent Developments for Judges

June 15, 2022

Tennessee Judicial Conference

SPEAKERS

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PART ONE

“JUDGES AT RISK” WHAT YOU NEED TO KNOW

TLAP: WHO WE ARE

As set forth in Rule 33 of the Tennessee Supreme Court, the Tennessee Lawyers Assistance Program (“TLAP”) TLAP was established in 1999.

TLAP is a confidential, professionals’ program serving lawyers, judges, bar applicants, and law students who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice or serve.

TLAP: WHO WE ARE

TLAP's Professional Clinical Staff Provides:

- **Direct crisis counseling**
- **Clinical Consultations**
- **Interventions**
- **Referral to assessments, diagnostics, and treatment**
- **Comprehensive TLAP Recovery Monitoring**

**TLAP supports long-term recovery and fitness to practice.
Access to TLAP's services is unlimited and always free.**

TLAP: WHO WE ARE

The **MISSION** of TLAP is threefold:

- **PROTECT** the interest of clients, litigants and the general public from harm caused by impaired lawyers or judge.
- **ASSIST** impaired members of the legal profession to begin and continue recovery.
- **EDUCATE** the bench and bar to the causes of and remedies for impairments affecting members of the legal profession.

Stress and Burnout

- Long hours and a selfless dedication to work – to the exclusion of self-care – can lead to burnout.
- In a North Carolina bar survey, 36 percent of judges and lawyers surveyed had not taken even a one-week vacation in the previous year.
- Learning how to manage stress and improve self-care is critical to preventing burnout.

Stress and Burnout Symptoms

- Obsessive thoughts
- Feelings of inadequacy
- Difficulty concentrating
- A sense of worry and/or impending danger
- Sleep disturbances
- Heart palpitations
- Sweating, fatigue and muscle tension

Holmes Rahe Stress Inventory

The American Institute of Stress:

The **Holmes and Rahe Stress Scale** is a well-known tool for measuring the amount of stress you've experienced recently.

Taking the test can help you determine if you are at risk of illness due to the combined level of stress you face.

Available online at: www.stress.org

Compassion Fatigue

- **Different than Burnout (it's about type of info seen)**
- **Cumulative effect of viewing disturbing evidence**
- **Highest risk in Domestic and Criminal Cases**
- **Symptoms:**
 - ✓ **Indecisiveness**
 - ✓ **Anxiousness**
 - ✓ **Procrastination**
 - ✓ **Alienation from others**

Burnout vs. Exhaustion

Burnout at Work Isn't Just About Exhaustion; It's Also About Loneliness.*

Close to 50% of people say they are exhausted due to work.

The more people are exhausted, the lonelier they feel.

The loneliness is due to exhaustion and burnout, not isolation.

Greater human connection can be key to solving burnout.

**Harvard Business Review, Seppala and King, 2017*

Burnout vs. Exhaustion

What Can Leaders and Employees Do to Help?*

- 1) **Promote a workplace culture of inclusion and empathy:** caring, supportive, respectful, honest, and forgiving relationships lead to higher organizational performance overall.
- 2) **Encourage employees throughout the organization to build developmental networks:** help employees access and connect with potential mentors, coaches, and peers.
- 3) **Celebrate collective successes:** celebrating collective successes helps create a sense of belonging and attachment in organizations.

**Harvard Business Review, Seppala and King, 2017*



PART TWO

BEST PRACTICES IN MONITORING FITNESS TO PRACTICE

GENERAL COMPARISON: BASIC LAP PROGRAM MODELS*

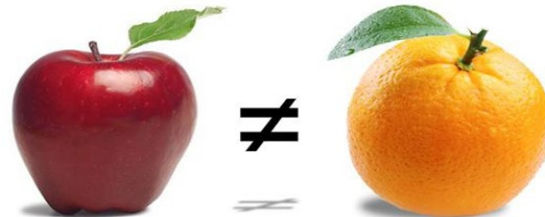
Peer-Professionals' Program

- Confidential Assistance
 - All Mental Health issues
 - Educates the profession
 - VALUES: save lives and careers
- **DUTY TO PROTECT THE PUBLIC**
- Often a Court Program
 - Protect, assist, and educate
 - Atty ED in Recovery & clinicians
 - ASAM SSW clinical standards
 - Efficacy by relapse-free outcomes
 - Provides formal monitoring
 - Testifies in discipline/admissions
 - Expectations: fit-to-practice
 - Success: low relapse, public ok

Lawyers Helping Lawyers

- Confidential Assistance
 - All Mental Health issues
 - Educates the profession
 - VALUES: save lives and careers
- **NO DUTY TO PROTECT THE PUBLIC**
- Often a Bar Association Program
 - Assist and educate
 - Clinician ED & staff
 - No formal clinical standards
 - Efficacy by client satisfaction
 - Discipline provides monitoring
 - Rarely testifies in disc/admissions
 - Expectations: support the client
 - Success: valuable member service

*per National Experts
2015 La. JLAP Audit



2014 ASAM Chapter

“Safety-Sensitive Occupations”

Licensed professionals managing a complex body of education and training while working in an environment where complex, real-time decisions must be made quickly under stress and wherein mistakes can't be corrected and are very costly and/or can visit irreparable harm upon the public.

- Airline Pilots
- Doctors and Nurses
- Attorneys and Judges
- Pharmacists
- Others (Police, Fire, Railroad)

FORMAL PROGRAMS (HIMS, PHP, NRP, LAP, etc.)

On any Given Day:
NO SECOND CHANCES



Unique to Lawyers



IOLTA Accounts: We Hold Client Money

Monitoring Compliance

TLAP “*Compliance*” via ASAM SSW Best-Clinical-Practices Monitoring is a stipulation that:

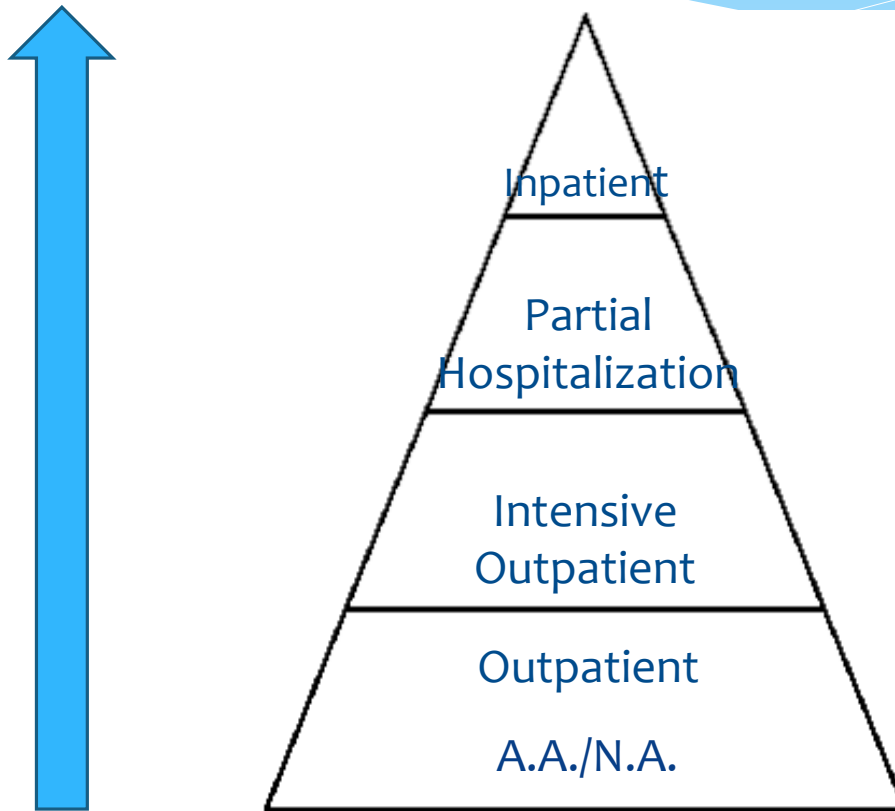
- **Appropriate SSW Clinical Standards Met**
- **Impairment Removed**
- **Fit-to-practice by Clear and Convincing Stds**
- **Close Supervision via LAP Monitoring**
- **Public/Profession not in Danger**
- **Self-Regulation Accomplished**
- **Saves Lives and Careers at VERY HIGH RATES**

Very Simple Formula

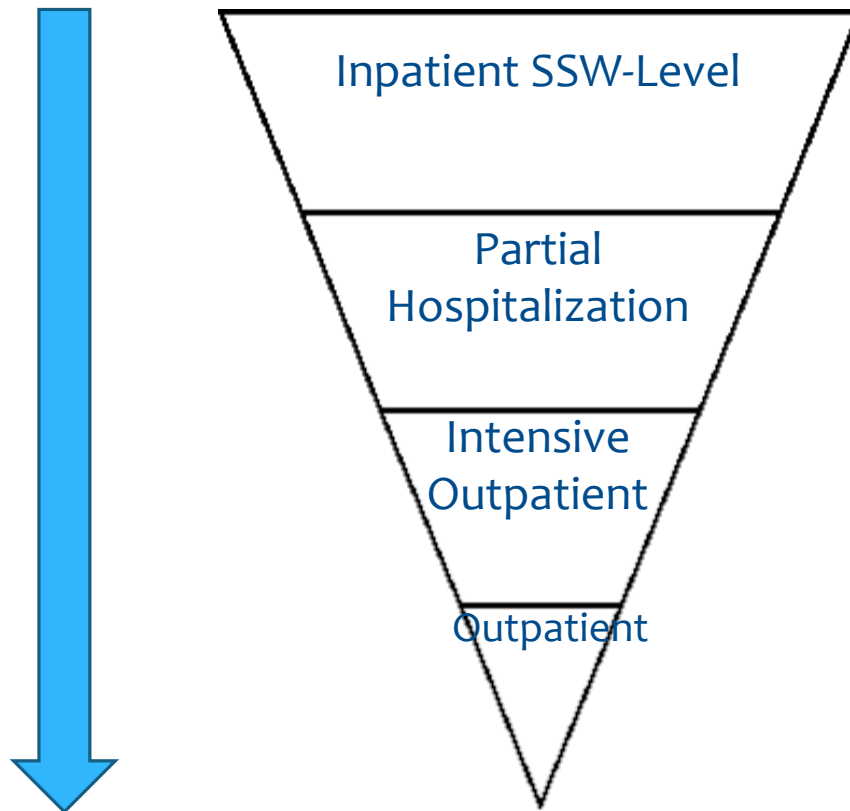
- 1) **Comprehensive Diagnostics by S.S.W. level facilities**
- 2) **Professionals' Track Treatment with S.S.W. Peers**
- 3) **Post-treatment Best-Practices in Peer Monitoring**

Clinical Quality Control = Compliance = Fit-To-Practice

General Public “Fail First Model”



Safety-Sensitive Workers “Success First Model”



Safety-Sensitive Workers

RELAPSE IS NOT PART OF RECOVERY!

(BTW It has NEVER been a required part of Recovery)

Relapse-Free Success Rates

| | |
|------------------------------------|-----------|
| Alcoholics Anonymous: | 7% |
| Outpatient: | 20 to 40% |
| 30 Day Inpatient: | 50% |
| SSW standards and peer monitoring: | 85% - 95% |

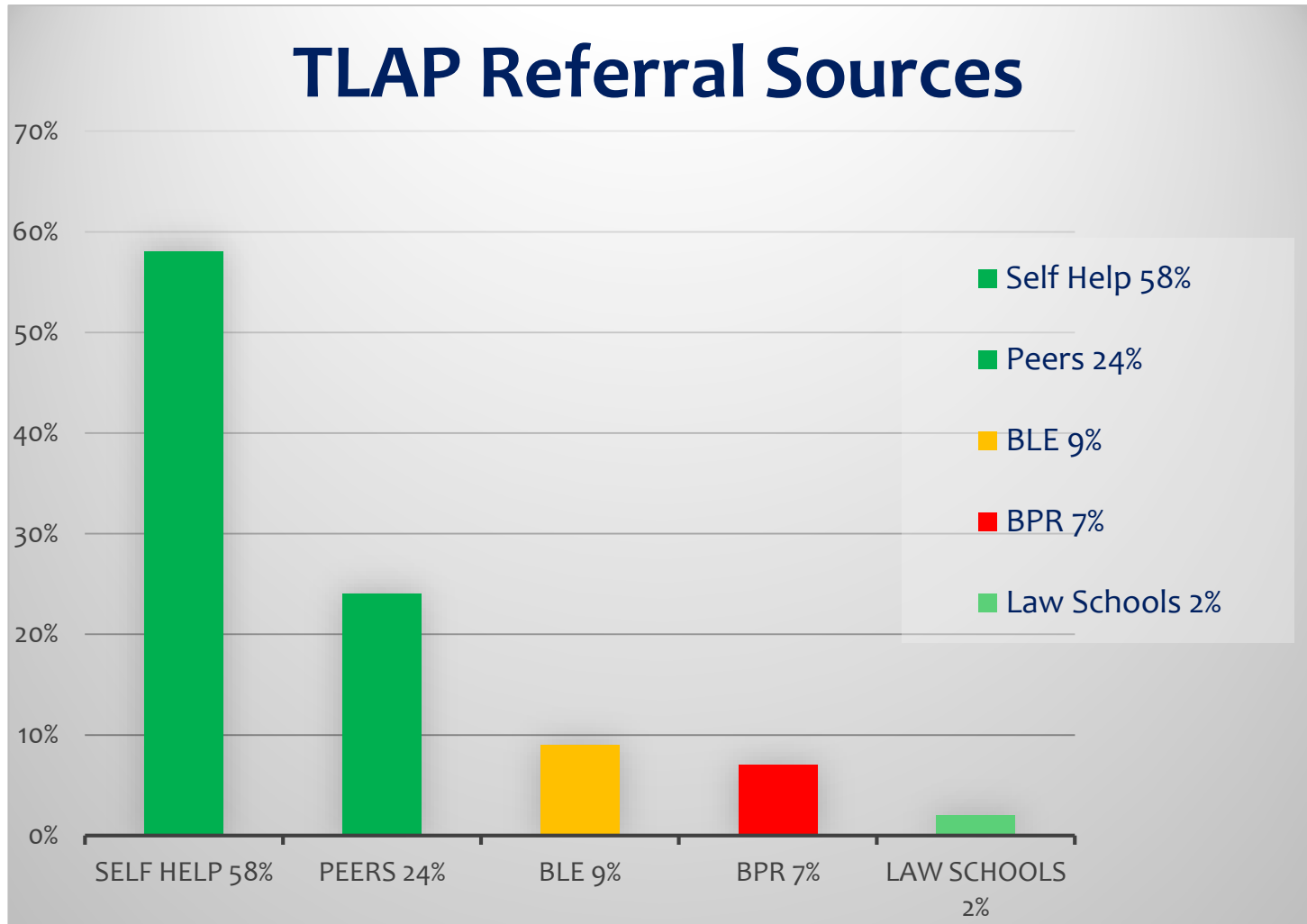
SSW standards:

**“Fit-To-Practice by
Clear and Convincing Evidence”**

Increased Responsibility In the Legal Profession

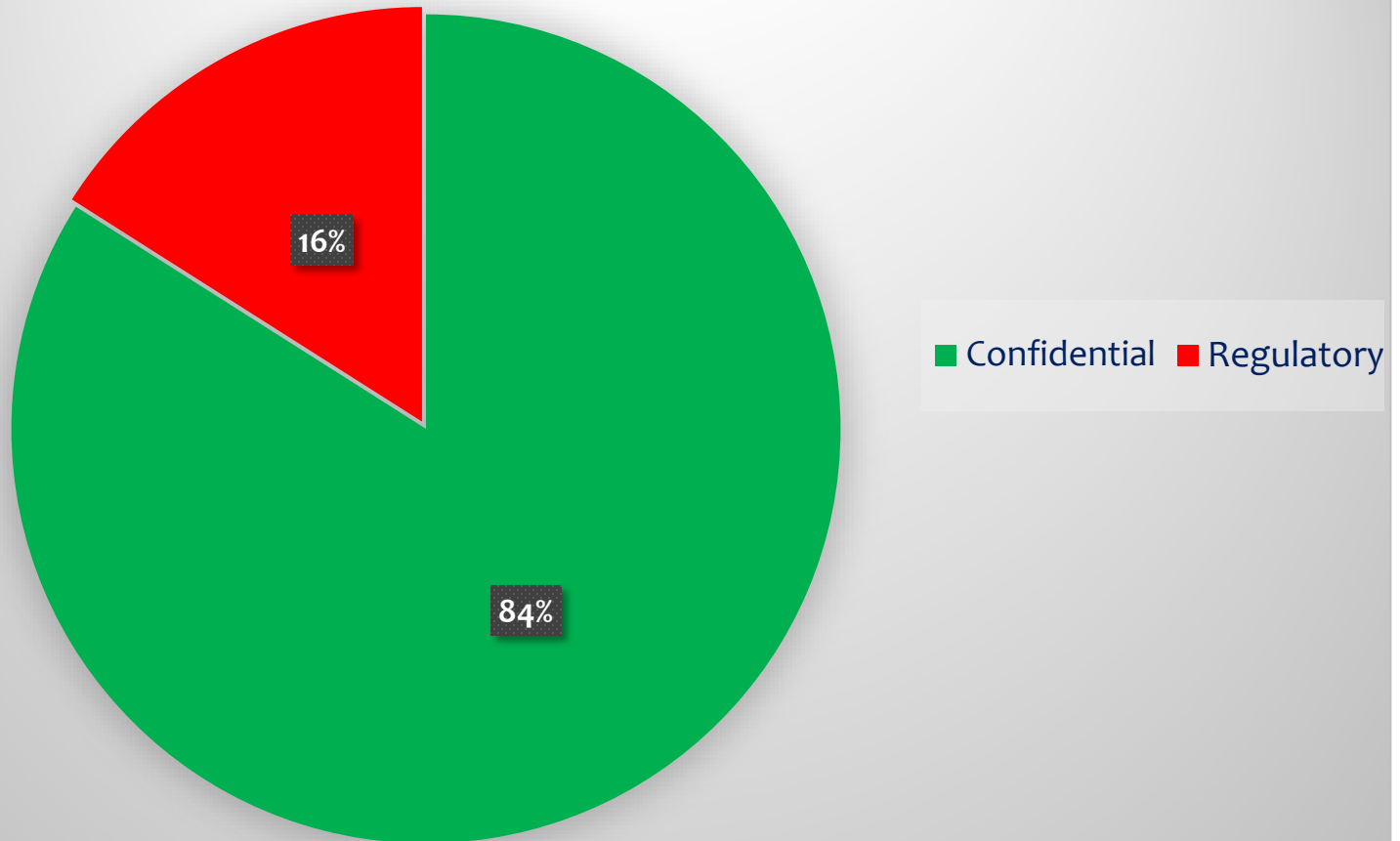
One of the LAST self-regulated professions, it is incumbent upon regulators to ensure that current Clinical Best-Practices for Safety Sensitive Workers are utilized so as to ensure fitness-to- practice and protect the public.

What About Voluntary Cases?



What About Voluntary Cases?

TLAP Referral Sources



The Ultimate Issue

Will the Public continue to support licensing professionals with mental health diagnoses?

In the fullness of time, we will succeed or fail in part upon the success of ongoing efforts to develop clinical best-practices that statistically and objectively certify “fitness-to-practice” and effectively and reliably protect the public.



PART THREE

**Medication Assisted Treatment
The “ABCs” of M.A.T.
and
Fitness to Practice Challenges**



Tennessee Judicial Conference Medication Assisted Treatment and Safety Sensitive Workers June 15, 2022

Michael Baron, MD, MPH, FASAM

Medical Director

Tennessee Medical Foundation - Physician's Health Program

Disclosure

Dr. Baron is Board Certified: Anesthesiology, Psychiatry and Addiction Medicine
4/2010 – 1/2017 Tennessee Board of Medical Examiners.

6/2014 – 1/2017 Chair - Controlled Substance Monitoring Database Committee

- Dr. Baron will not discuss off label or investigational medication.
- Dr. Baron has not received commercial support for this lecture.

Financial Relationships:

2017- Present Medical Director: Tennessee Medical Foundation - Physician's Health Program

2022- Present President-Elect: Federation of State Physician Health Programs

2020 - Present State Volunteer Medical Insurance Company

2018 - Present Volunteer Medical Director: Nashville-Davidson County Drug Court and Women's Residential Recovery Court.

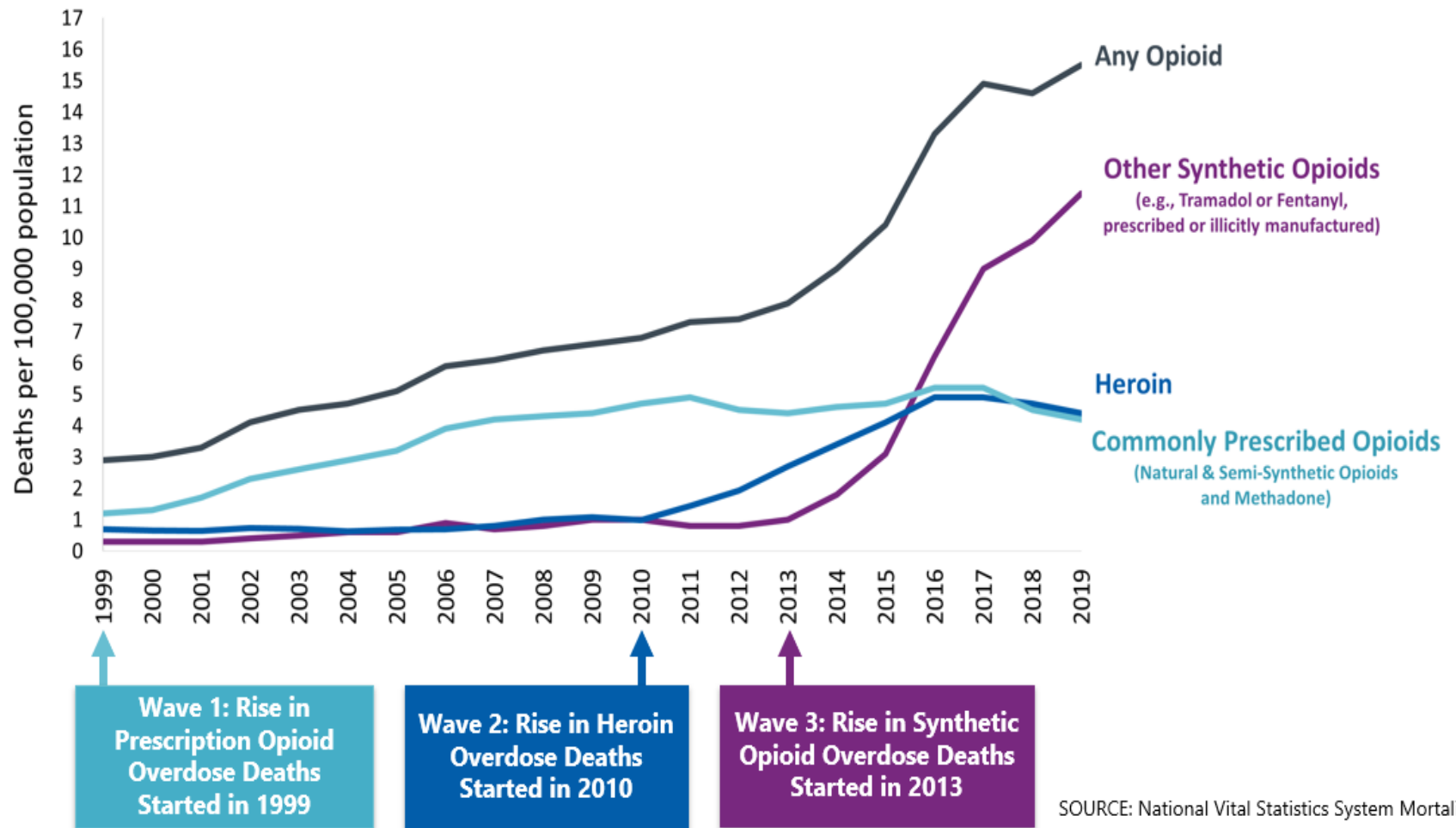
2017 – Present Prescribing Controlled Drugs: Center for Professional Health-
Dept of Internal Medicine, Vanderbilt Medical Center

2004 – Present Clinical Assistant Professor - Dept of Psychiatry Vanderbilt,
School of Medicine.

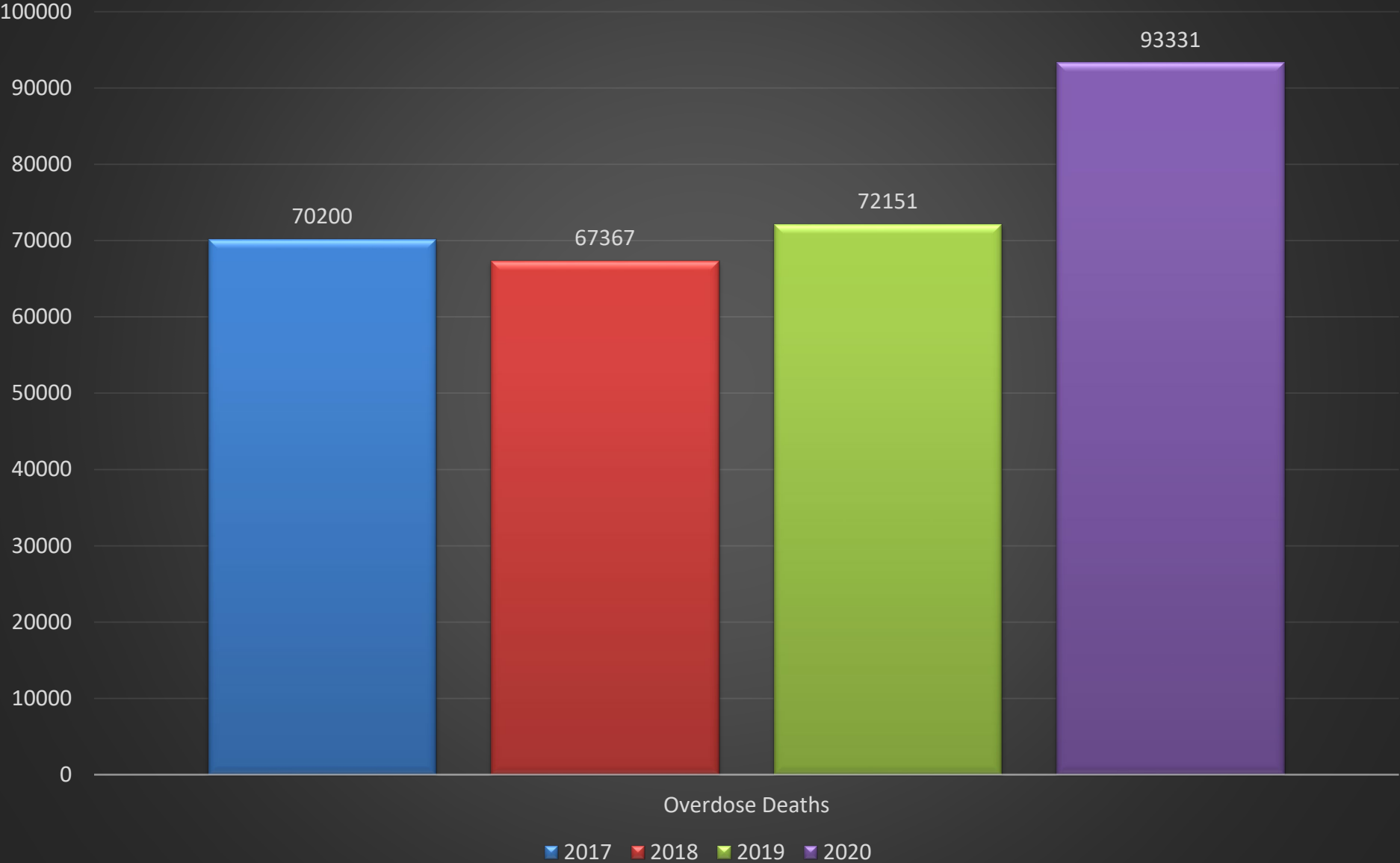
Objectives

- The attendee will be exposed to recent lethal overdose rates.
- We will appreciate the Reward and Craving area of the human brain and Substance Use Disorder/ Addiction nomenclature.
- Review the Mu Opioid receptor –agonist, partial agonist and antagonist.
- Discuss the MAT/MOUD controversy for safety sensitive occupations/workers

Three Waves of the Rise in Opioid Overdose Deaths



National Overdose Deaths



Compared to Opioids- Smoking

- Smoking is the leading cause of preventable death in the world.
- 480,000 deaths/year caused by cigarette smoking in the United States.
- 11,400 deaths/year caused by cigarette smoking in Tennessee.
- 41,000 of the 480K deaths resulting from secondhand smoke exposure.
- 7,000,000 deaths/year caused by cigarette smoking worldwide.

What is Addiction?



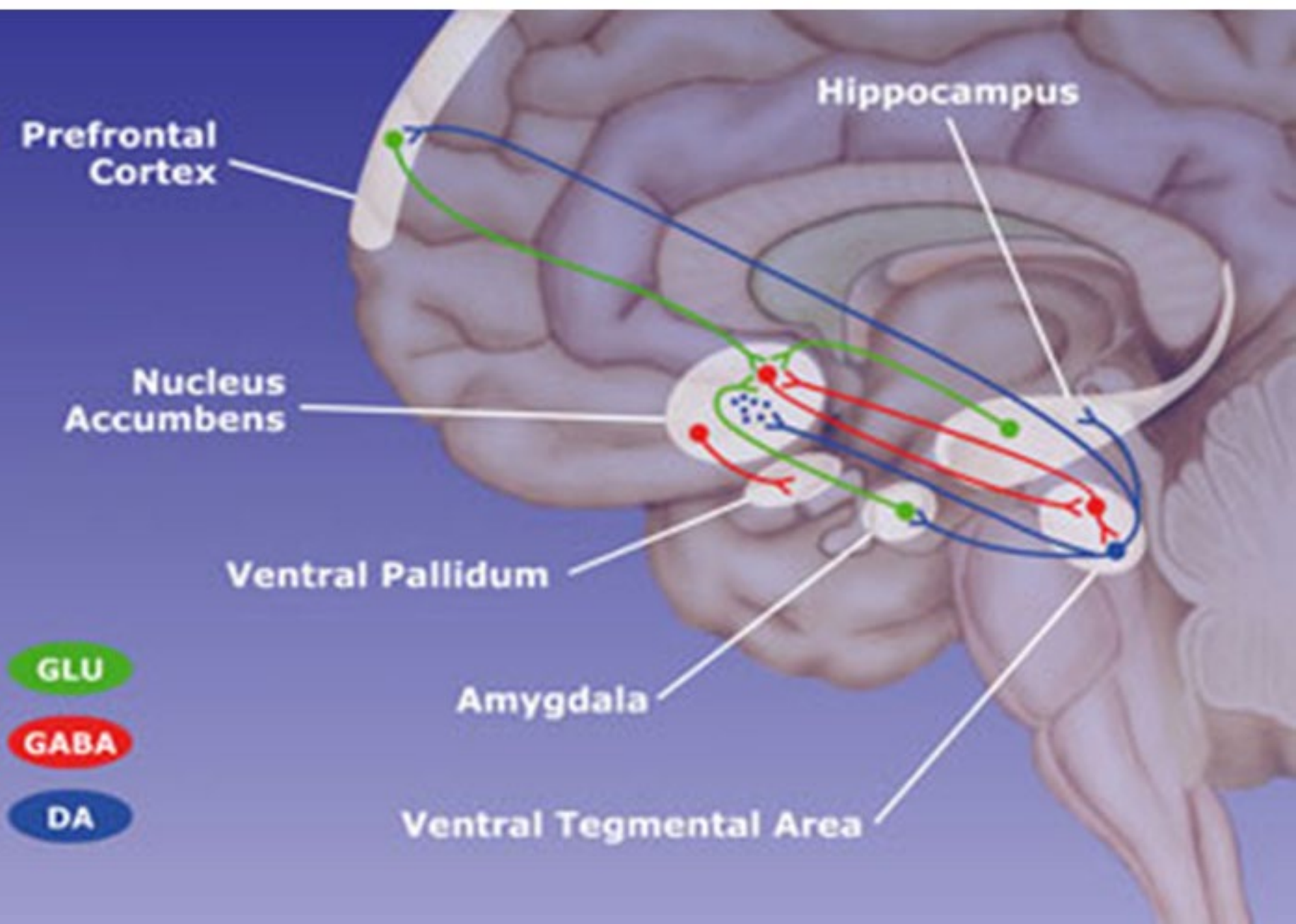
*“That is not one of the seven habits
of highly effective people.”*

What is Addiction?

Addiction is a Disease!

Addiction is the single most preventable cause of Disability and Death in the US.

The Reward Circuit



Addiction = Substance Use Disorder

NIDA

ASAM

Addiction

A state in which an organism engages in a compulsive behavior

- behavior is reinforcing (rewarding or pleasurable)
- loss of control in limiting intake

Addiction is a primary, chronic, neurobiologic disease, with genetic, psychosocial and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one or more of the following: impaired **Control** over drug use, **Compulsive** use, **Continued** use despite harm, and **Craving**.

4Cs-



Substance Use Disorder = Addiction

DSM-IV

Abuse and Dependence

Abuse = Willful misuse

Dependence = Addiction

DSM-5

Substance Use Disorder

Recurrent use of alcohol or other drugs that causes clinically and functionally significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.

Depending on the level of severity, this disorder is classified as mild, moderate, or severe.

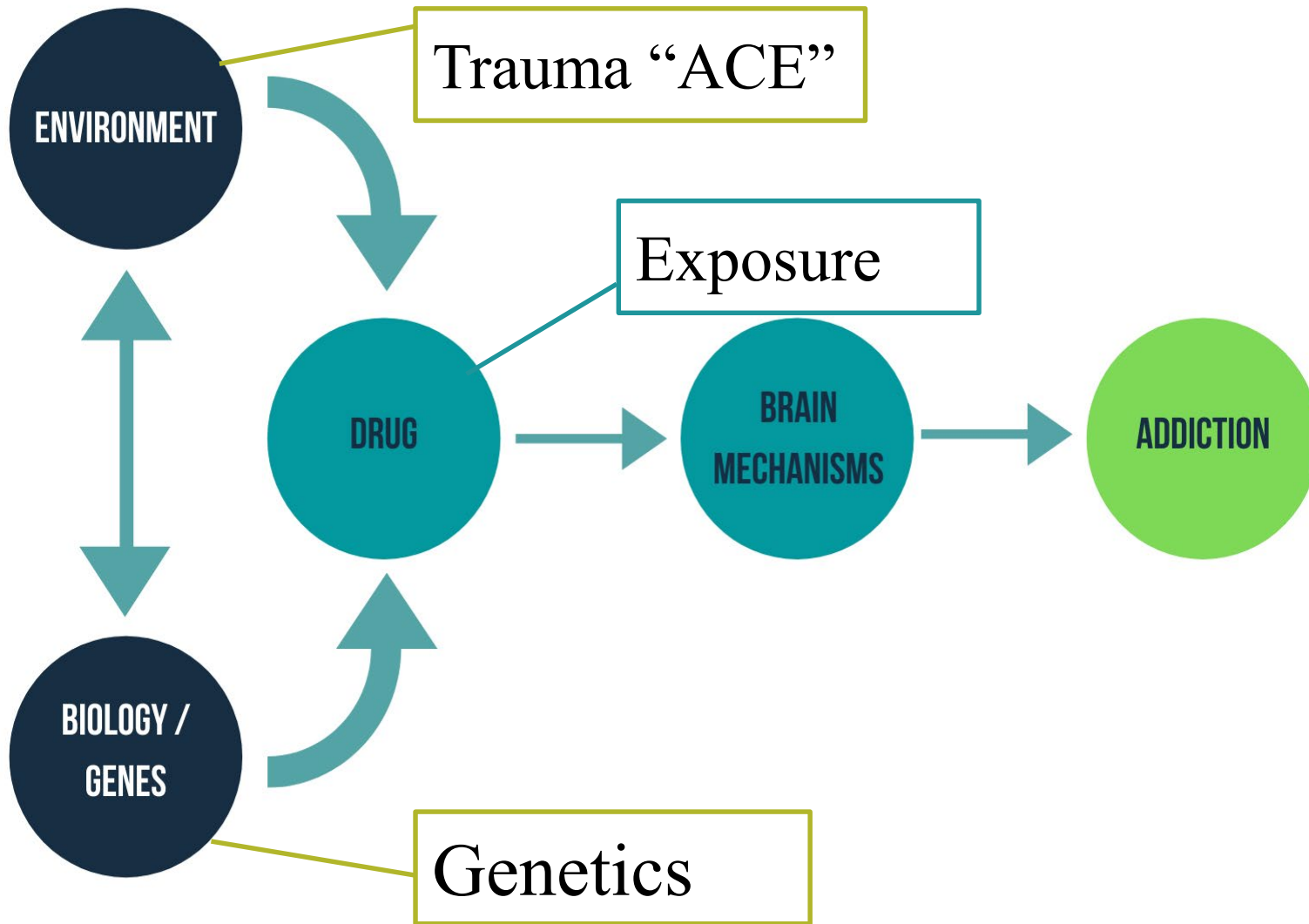
From: DSM-5 Criteria for Substance Use Disorders (SUD): Recommendations and Rationale

Am J Psychiatry. 2013;170(8):834-851. doi:10.1176/appi.ajp.2013.12060782

| | DSM-IV Abuse ^a | | DSM-IV Dependence ^b | | DSM-5 Substance Use Disorders ^c | | | |
|--|---------------------------|----------------------|--------------------------------|---------------------|--|---------------------|--|--|
| Hazardous use | X | } ≥ 1 criterion | - | } ≥ 3 criteria | X | } ≥ 2 criteria | | |
| Social/interpersonal problems related to use | X | | - | | X | | | |
| Neglected major roles to use | X | | - | | X | | | |
| Legal problems | X | | - | | - | | | |
| | | | | | | | | |
| Withdrawal ^d | - | | X | | X | | | |
| Tolerance | - | | X | | X | | | |
| Used larger amounts/longer | - | | X | | X | | | |
| Repeated attempts to quit/control use | - | | X | | X | | | |
| Much time spent using | - | | X | | X | | | |
| Physical/psychological problems related to use | - | | X | | X | | | |
| Activities given up to use | - | | X | | X | | | |
| | | | | | | | | |
| Craving | - | | - | X | | | | |

DSM-5 Criteria: 2-3 = mild SUD, 4-5 = moderate SUD, >6 severe SUD

Etiology of Addiction



Etiology - Genetics

Children of Alcoholics:

- Four times more likely to develop alcohol problems than the general population.
- Studies of Adopted-away children of persons with alcohol dependence
- Higher risk for many other behavioral and emotional problems.

Etiology - ACE

Adverse Childhood Experiences:

The quantity of traumatic events experienced in childhood correlates with the development of addiction.

The greater the number the more likely.

What does that look like?

ABUSE



Physical



Emotional



Sexual

NEGLECT



Physical



Emotional

HOUSEHOLD DYSFUNCTION



Mental Illness



Incarcerated Relative



Mother treated violently

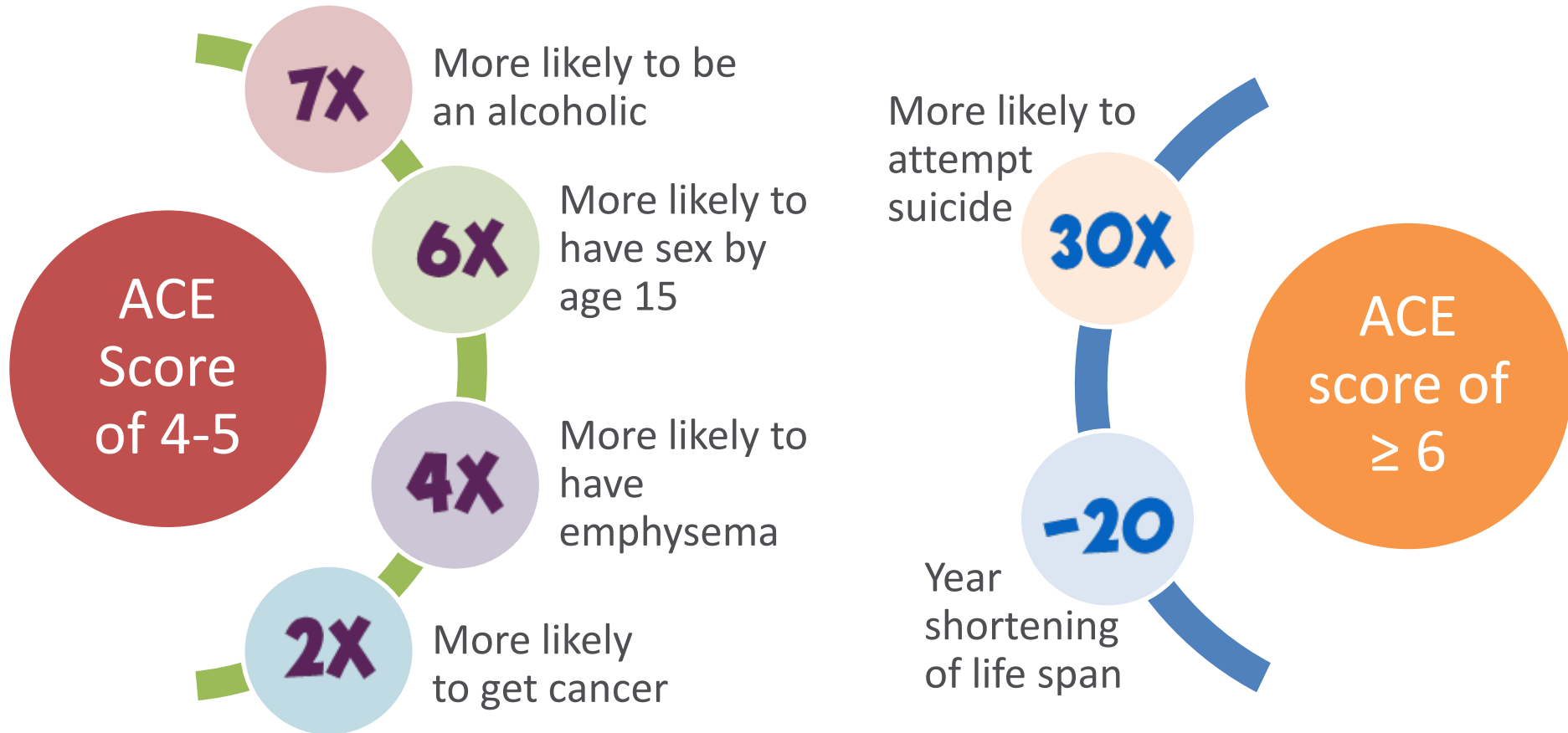


Substance Abuse



Divorce

ACE Score Predictability



High ACE Score Correlates With

- Substance use disorder/addiction
- Anxiety disorders
- Depression
- Diabetes
- Heart disease
- Obesity
- Suicide attempts
- Increased risk for intimate partner violence

Etiology - Exposure

Postsurgical prescriptions for opioid naive patients and association with overdose and misuse: retrospective cohort study

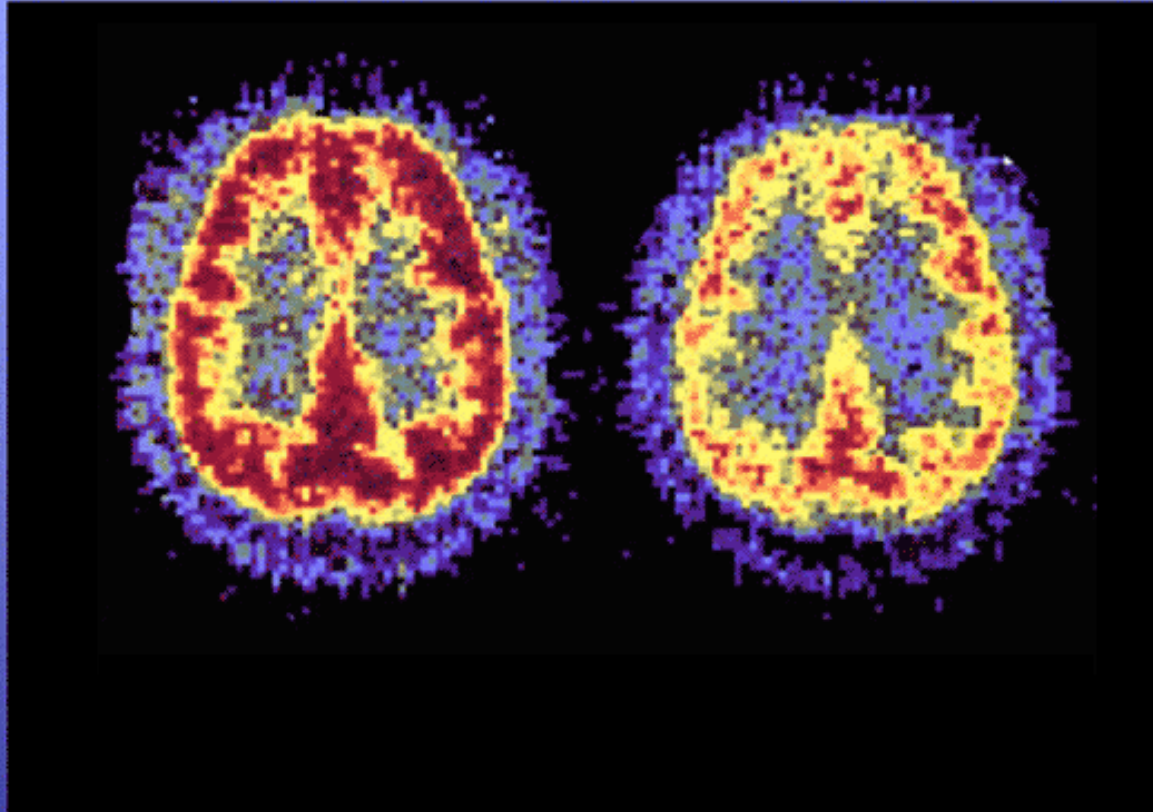
- 568,612 patients (56% of N) received postoperative opioids.
- Total duration of opioid use was the strongest predictor of misuse.
- A single refill increased the potential of misuse by more than 40%.
- The duration of use appeared to be the most prominent predictor of misuse.

Exposure

“**Legitimate** opioid use before high school graduation is independently associated with a **33%** increase in the risk of future misuse after high school”

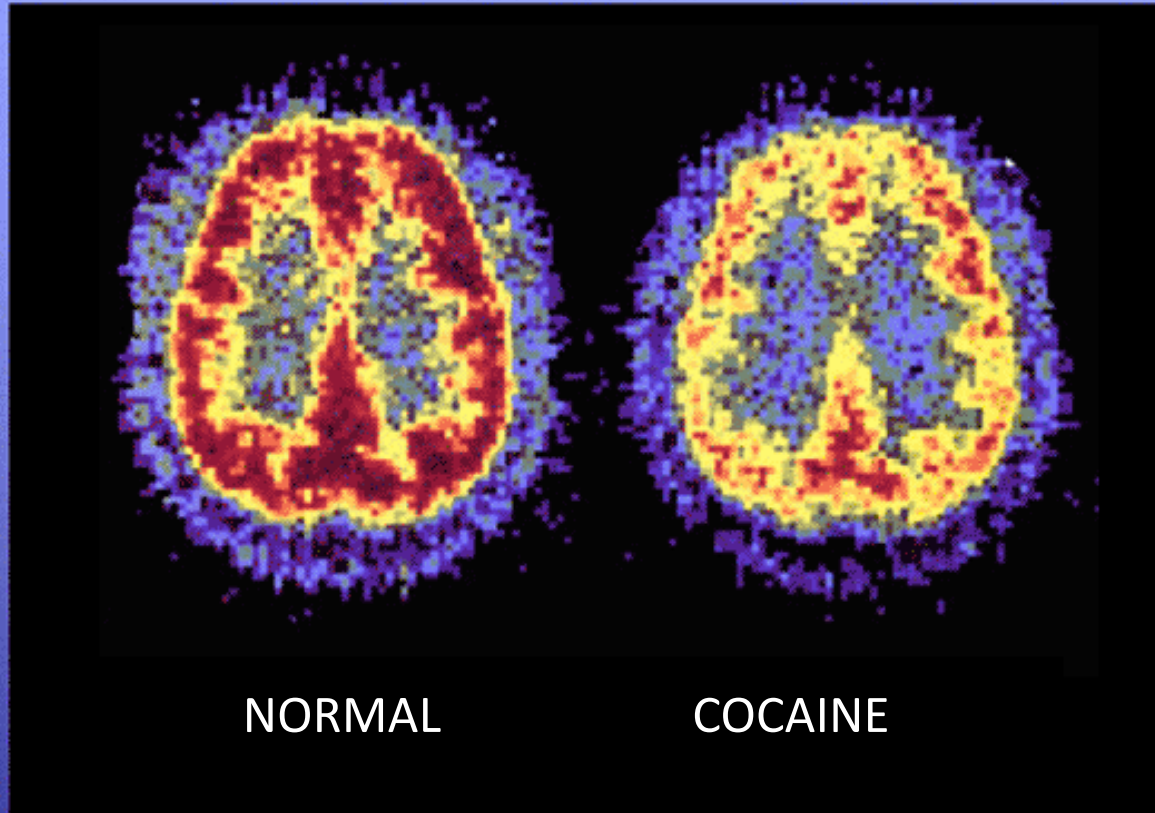
“Prescription Opioids in Adolescence and Future Opioid Misuse”
Journal Pediatrics 2015

Which Brain is on Drugs?



NIDA

A Brain on Drugs

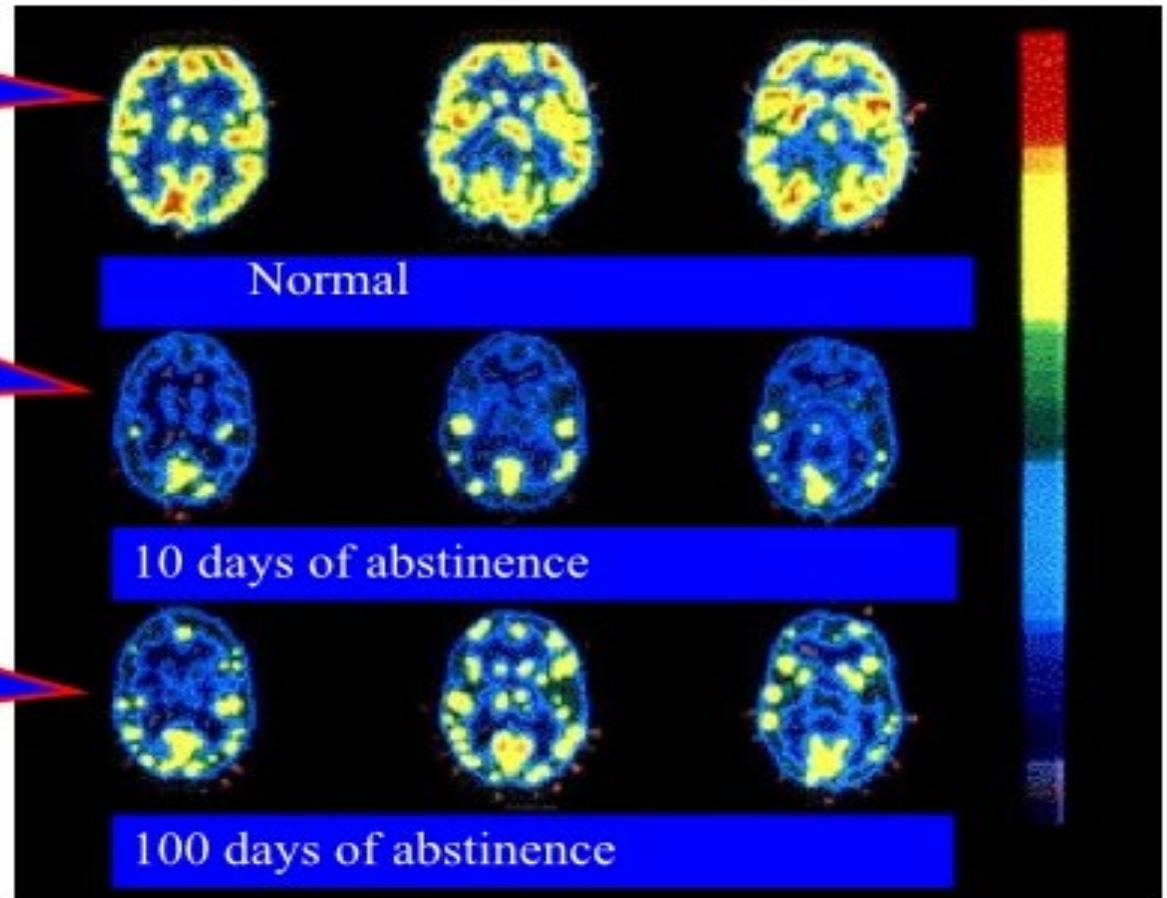


Brain Healing Takes Time

Normal levels of brain activity in PET scans show up in yellow to red

Reduced brain activity after regular use can be seen even after 10 days of abstinence

After 100 days of abstinence, we can see brain activity “starting” to recover



Source: Volkow ND, et al. Synapse 11:184-190, 1992; Volkow ND, et al. Synapse 14:169-177, 1993.

Science = Solutions

Substances Of Addiction

- Alcohol
- Opiates
- Benzodiazepines and Hypnosedatives
- Cocaine, Amphetamines
- Cannabinoids
- Hallucinogens
- Inhalants
- Tobacco
- Etc.



Process Addictions

- Gambling
- Sex, Love, Relationship
- Work
- Food
- Internet
- Video Game
- Gaming Disorder (W.H.O. added for ICD 11)

Anything that changes how one feels

Endogenous Opioid Peptides

Humans have many endogenous opioid peptides that have “morphine” like activity.

Opioid receptors found in the brain, pituitary, spinal cord, GI track

Endogenous Opioid Peptides

Opioid Receptors

- β -Endorphins μ
- Enkephalins μ & δ
- Dynorphins κ
- Endomorphins μ

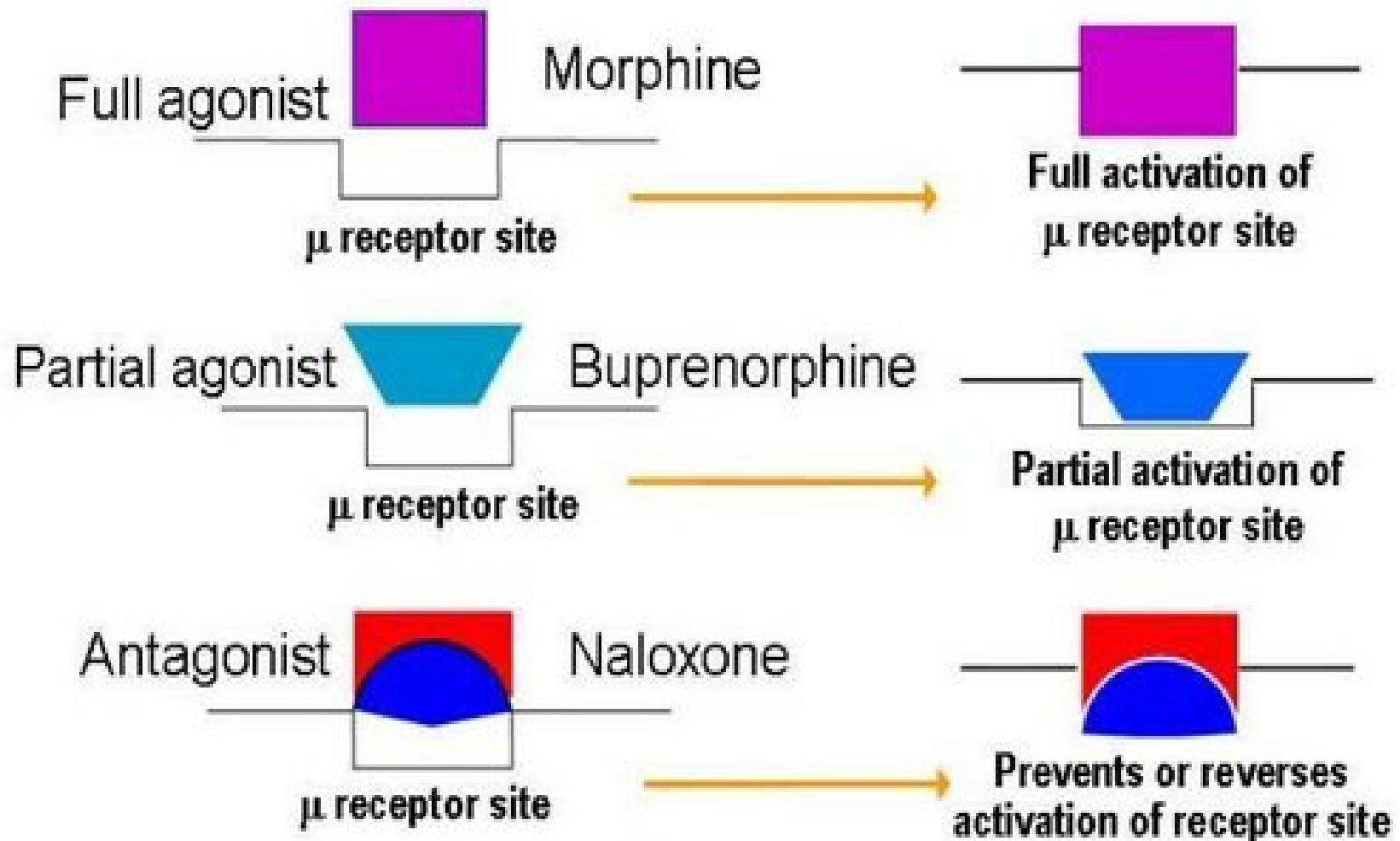
μ Opioid Receptor

Activation of μ -opioid receptor causes

- Analgesia, euphoria, respiratory depression, decreased GI tract motility leading to nausea, vomiting and constipation
- Tolerance
- Dependence

Agonist/Partial Agonist/Antagonist

Mu (μ) Receptor Activation



Lock & Key Analogy

Endorphin

Hormone or
Neurotransmitter



Unlocks &
Opens

Morphine
Heroin

Agonist



Unlocks &
Opens

Naloxone
(Narcan®)
Naltrexone

Antagonist



Occupies the
Lock, does
not open

Lock and Key Analogy



Antagonist

Naloxone

(Narcan®)

Naltrexone



Partial Agonist

Buprenorphine



Agonist

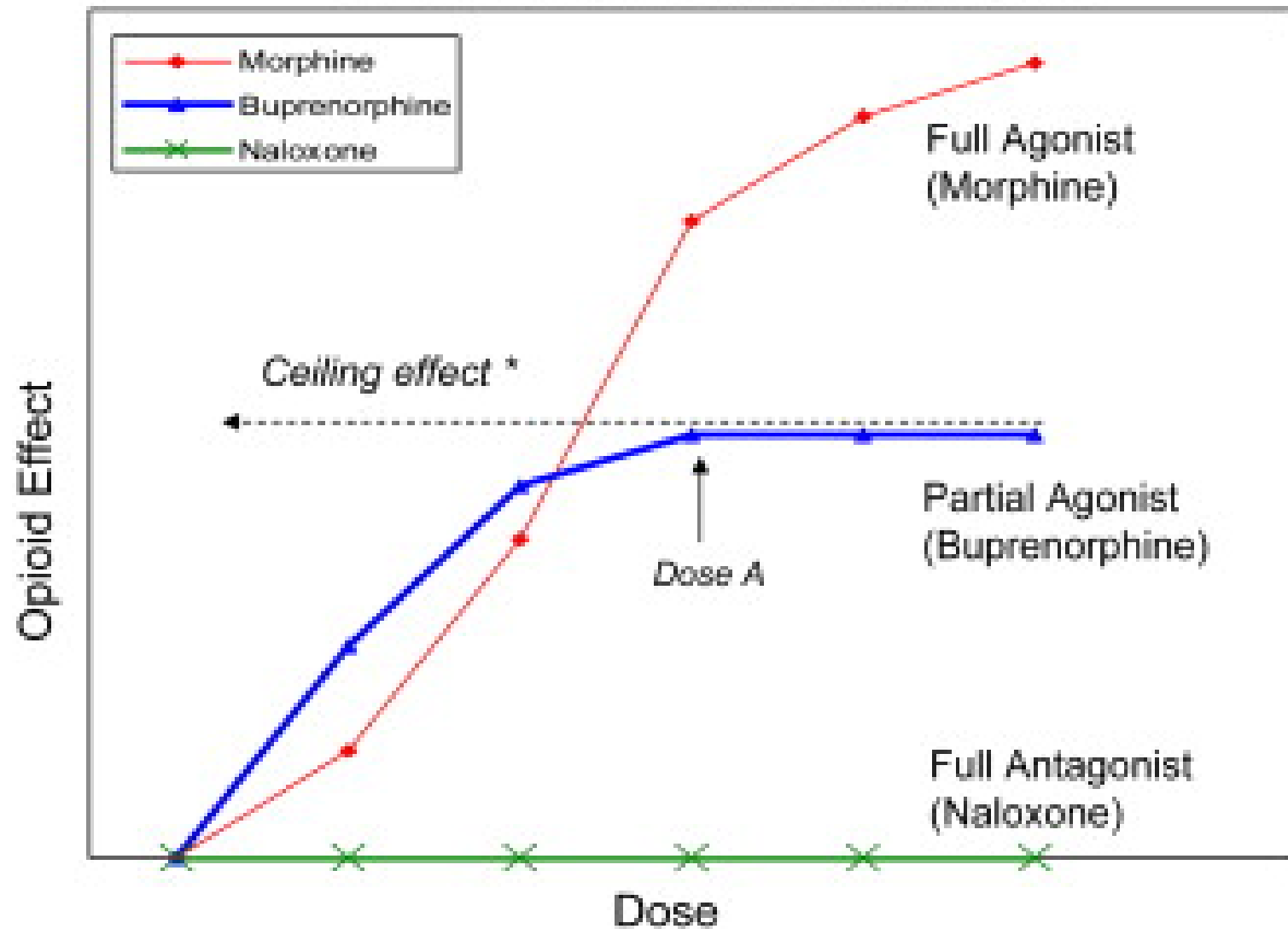
Morphine

Methadone

Heroin



Conceptual Representation of the Dose-Response Curve of Morphine and Buprenorphine



* The effects of morphine (analgesia, respiratory depression) increase with increasing doses. The effects of buprenorphine increase until "Dose A" is reached. No further effect is seen with an increase in dose beyond "Dose A."

Medication-Assisted Treatment (MAT)

Also called Medication for Opioid Use Disorder (MOUD) is the use of medications in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

MAT/MOUD

Used for the treatment of Opioid addiction such as heroin and oxycodone primarily by inadequately trained healthcare providers.

The DEA requires an 8-hour Continue Medical Education video course to prescribe buprenorphine. Many MAT clinics are self-pay.

MAT Medications

FDA has approved several different medications to treat Opioid Use Disorder/Addiction.

- **Methadone** (agonist) used in MAT for opioid treatment can only be dispensed through a SAMHSA-certified Opioid Treatment Program.
- **Buprenorphine with and without naloxone**
Suboxone®, **Subutex®** (partial agonist) can only be prescribed by DEA waived providers.
- **Naltrexone Vivitrol®** (antagonist) needs no special waiver or certification.

Methadone - Agonist

Has been used for decades to treat people who are addicted to heroin and other opioids. For optimal results, patients should also participate in a comprehensive program that includes counseling and social support.

By law, methadone for OUD can only be dispensed through an opioid treatment program (OTP) certified by SAMHSA.

Buprenorphine (Suboxone®[®], Subutex®[®])

Partial Agonist

Reduces cravings for opioids. It can come in a sublingual tablet, film or injectable.

Approved for clinical use in October 2002 by the Food and Drug Administration (FDA),

Can be prescribed or dispensed in physician offices, significantly increasing treatment access.

It does produce euphoria and respiratory depression but weaker or less so than those of heroin and methadone.

Naltrexone

Naltrexone blocks the euphoric and other effects of heroin, morphine and other agonist and partial agonist drugs. Naltrexone binds and blocks opioid receptors. There is no abuse and diversion potential with naltrexone. Naltrexone prevents the euphoria - the feeling of getting high with very little risk.

Naltrexone -risks

Patients on naltrexone will have reduced tolerance to opioids. If a patient stops naltrexone and uses the same amount of heroin or other opioid they had previously used, they are prone to an overdose as the body has loses tolerance in 2-3 weeks.

Can be given as a monthly injectable to prevent the risk of relapse and overdose.

MAT - The Upside

The ultimate goal of MAT is full recovery, including the ability to live a self-directed life.

This treatment approach has been shown to:

- Improve patient survival
- Increase retention in treatment
- Decrease illicit opiate use and other criminal activity among people with substance use disorders
- Increase patients' ability to gain and maintain employment

MAT - The Downside

- Harm reduction model.
- Doesn't allow the brain to heal- research is ongoing.
- Buprenorphine is highly diverted and mis-used.
- Often self-regulated.
- Very difficult to wean someone off in the outpatient environment
- Potential for cognitive impairment- especially when extra dose is taken or in withdrawal

Department of Justice

March 25, 2022

U.S. Attorney's Office

Southern District of Indiana

Justice Department Finds that Indiana State Nursing Board Discriminates Against People with Opioid Use Disorder

INDIANAPOLIS – Today, the Justice Department found that the Indiana State Board of Nursing (Nursing Board) violated the Americans with Disabilities Act (ADA) by prohibiting nurses who take medication to treat Opioid Use Disorder (OUD) from participating in the Indiana State Nursing Assistance Program. The program assists in rehabilitating and monitoring nurses with substance use disorders, and is often required for these nurses to maintain an active license or have one reinstated. The letter of findings asks the Nursing Board to work with the Justice Department to resolve the civil rights violations identified during the course of its investigation.

News Release- The US Attorney's Office, Southern District of Indiana

MAT -LAP

Outcomes associated with the LAP/Physician Health Program model have achieved unprecedented long-term recovery rates that approach 85% at 5 years. Such outcomes were observed during an era of treatment in which medications for opioid use disorder were not recommended for monitored health professionals.

If it ain't broke...

MAT-LAP

Extended-release naltrexone has been widely used for monitored Safety Sensitive Workers. It has:

- No abuse potential
- Is easily monitored
- No known cognitive impact
- Highly protective against return to use, overdose, and impairment

Extended-release naltrexone is as effective as agonist/partial agonist therapies in head-to-head comparison studies and has similar effectiveness in return to drug use and overdose prevention.

MAT-LAP

Opioid agonist/partial agonist medications present challenges for the monitored professional and the LAP.

Overuse or self-discontinuation causing withdrawal and cognitive impairment, and the potential for return to drug use, overdose, and death is perilous for the professional and their clients.

LAP monitoring protocols cannot detect misuse, self-directed dose variations which can adversely impact cognition and performance.

MAT-LAP Conclusions

- Strong outcome data using antagonist medication.
- Naltrexone is a MAT medication and very safe
- Near impossible to monitor daily dosing of agonist or partial agonist.
- Agonist and partial agonist are highly diverted and abused.
- There is a strong push by industry and ASAM to promote MAT – partial agonist for professionals.
- A written policy can create a public relations problem.
- Would suggest not going down the “is buprenorphine true recovery” debate rabbit hole

Thank you.

Questions ???

THE GOAL OF BEST-PRACTICES MONITORING



Healthy Professionals Fit-to-Practice



THANK YOU!

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