



# RADIOACTIVE PHYSICIANS: 100 YEARS OF CRIMINALIZATION

BY MICHAEL BARON, MD, MPH, DFASAM  
Medical Director

**Why do physicians convicted due to an Opioid Use Disorder (OUD) become unemployable, compared to those convicted because of an Alcohol Use Disorder (AUD)?** During Drug War I, physicians who prescribed morphine were arrested and prosecuted under the Harrison Narcotics Act of 1914. Treasury agents used this relatively benign tax act to define “legitimate” medical practice and prosecuted thousands of doctors. Unfortunately, this approach to addiction hasn’t changed; in fact, it has gotten worse.

More than 100 years and many federal and state laws later, we are still convicting physicians with addiction and rendering those with certain types of addiction unemployable, even after receiving excellent treatment.

Just over half of physicians diagnosed with a substance use disorder use alcohol as their Drug of Choice (DOC), whereas, about 30%-40% of physicians use an opioid as their DOC. Most physicians in the OUD group are initially prescribed or exposed to an opioid by a licensed provider for legitimate medical reasons. And like 15% of the population, they have the genetics and trauma and very quickly develop the disease of addiction; eventually their use escalates and involves self-prescribing. Self-prescribing of an opioid or any controlled substance violates state and federal laws; it’s no secret that most physicians with an OUD have violated these laws at some point. However, these self-prescribed drugs are not diverted for money or for anyone else’s use; they do not end up on the street. Every self-prescribed pill written and filled by a physician with OUD is for their own use, much like every beer, whiskey, or wine bought by a physician with an alcohol use disorder is typically for themselves.

Addicts tend to have their preference or DOC - whether it is opioids, alcohol, tobacco, or even gambling - but addiction is a single disease with many phenotypes. It’s all the same disease, so why do we think of and treat these phenotypes so differently?

The Harrison Narcotics Act started this crescendo of criminalization and ruin in 1914. Today, when a physician is convicted of a controlled substance violation, they are added to the federal Office of Inspector General (OIG) list for a minimum of five years. Once added to the OIG list, the physician is excluded from working anywhere that accepts federal healthcare funds, which is basically everywhere. For at least five years, physicians on that list can receive no payment from federal health care programs for any items or services they furnish, order, or

prescribe. It makes the physician unemployable, basically radioactive. No one will go near them or employ them, because anyone who hires an individual or entity on the OIG list is subject to steep civil monetary penalties.

It gets worse. Many physicians with OUD who self-prescribe enter into a plea known as deferred adjudication, which means judgment of conviction has been withheld. Unfortunately, that does not give them a pass: in the eyes of the Inspector General, a deferred adjudication is a conviction, and that warrants inclusion on the OIG list.

Even worse, if a Tennessee licensed physician is convicted of a controlled substance violation, whether for self-prescribing of opioids or simple possession of a gram of marijuana, their medical license is revoked, automatically and without due process (TCA 63-1-170, passed in 2021):

*If [...] the healthcare prescriber is convicted of a federal or state criminal offense that involves a controlled substance violation or sexual offense, then the chair of the licensing authority or administrative staff of the licensing authority designated by the chair shall automatically and immediately, without further action by the licensing authority, revoke the license of the healthcare prescriber.*

By contrast, Tennessee physicians convicted of a DUI with alcohol use disorder have to jump through some

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# THE POWER OF PERSISTENCE

BY JENNIFER RAINWATER  
Executive Director

I read an article recently about eight famous successful people who had some challenges that many would see as insurmountable. Oppression, poverty, severe physical disabilities, personal and professional failures – each of these people suffered considerable setbacks due to these challenges. But they had one thing in common: persistence. They kept going, kept pursuing, kept pressing on despite their circumstances.

As we look at the challenges of addictive disease, mental illness, burnout, and suicide, they can sometimes seem insurmountable. The opioid epidemic in our country seems too big a foe to overcome. But at the TMF we overcome these challenges, one person at a time, with persistence. We keep helping, educating, seeking, and reaching healthcare providers in Tennessee. Our participants also know the power of persistence. They keep pursuing solid recovery and better mental health, and the TMF is here to help them every step of the way.



Your persistence in giving to the TMF allows us to keep going, keep helping, and keep overcoming these challenges in Tennessee. We are grateful for your continued support! ▼

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state criminal justice hoops, but they will be appropriately referred to the TMF-PHP for an assessment and treatment, if indicated, and offered a path to recovery and restoration. Their medical license remains intact.

Recovery and restoration should be extended to all health professionals with addiction, regardless of their drug of choice. It is evident that we treat opioids and other controlled substances very different from alcohol and tobacco, yet alcohol and tobacco kill more people than all the controlled drugs or scheduled medications combined.

Many years ago, I was told by a friend at the Tennessee Bureau of Investigation (TBI) that we cannot arrest ourselves out of the current opioid use/overdose epidemic. Yet we continue to legislate archaic, draconian laws that do nothing but drive the sick physician underground and prevent those that do find recovery from practicing.

The data is clear: a physician treated and monitored by the TMF-PHP has a lower risk of drug or alcohol use than the average physician. A treated and monitored physician also has a lower malpractice risk than the average

physician. In other words, the addicted physician who is treated and monitored and in recovery is safer, better, and a lower risk than their non-recovering peers. And yet we make them radioactive, unemployable.

We cannot afford to lose healthy, productive physicians or any healthcare provider to laws and rules that are counterproductive and even unconstitutional. We need to re-tool our approach to addiction and change state and federal laws that “irradiate” healthy recovering physicians and revoke the licenses of those physicians whose addictions involve controlled substances. The TMF reminds you that you have as much right as any other citizen to voice your opinion on this matter. ▼

Share your thoughts with Dr. Baron at [michaelb@e-tmf.org](mailto:michaelb@e-tmf.org).