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# Eli's Hospice Insider

## LEGAL TRENDS: Gear Up to Keep Controlled Medications Out of the Wrong Hands

Find out how hospices can have a hand in preventing, addressing drug diversion.

Whenever federal agencies team up to tackle a growing public health threat, the stakes are high for providers to take a proactive stance on the issue. That's definitely the case for hospices trying to navigate Food & Drug Administration and Drug Enforcement Agency concerns about prescription drug diversion that primarily involve opioids.

The crux of the problem: "The government has seen an epidemic of diversion in the past seven to eight years, and none of the things it's tried has worked so far," says **Judi Lund Person, MPH,** with the National Hospice and Palliative Care Organization (NHPCO).

Drug diversion in the home setting can have deadly consequences. "We have encountered instances where a transdermal patch was stolen," reports Person.

"In one case, in which the Centers for Medicare & Medicaid Services got involved," a teenager put on two transdermal fentantyl patches that belonged to his grandmother who was on hospice care. The boy died.

An expanding balancing act: The FDA is developing Risk Evaluation and Mitigation Strategies or REMS to tackle the diversion problem, says Person. "The REMS started out targeting a few long-acting opioids, but may end up encompassing extended release [oral] opioids, and eventually even methadone, and fentanyl transdermal patches," says Person. One option the FDA is considering is to require drug manufacturers to make abuse-proof pills that eliminate the ability for people to get high when they crush or chew the pill. But the government is also considering requiring clinicians and pharmacies to be certified in order to provide opioids, Person notes.

Act now: Hospices should consider shoring up their practices for preventing and following reporting requirements for drug diversion in the home setting. Experts suggest these key steps:

Perform a Risk Evaluation

As one strategy for preventing diversion, NHPCO has suggested that hospices could do an evaluation of the risk for diversion in the home. In assessing such risk, "the first thing you do is do a good patient history," advises **Albert Barber, PharmD,** with Golden Living in Ft. Worth, Ark. One "tip off," is a patient with a list of allergies to opioids or psychoactive drugs that people don't normally have as part of their history, says Barber. "That person may have mental illness or chronic pain -- or the person may have a history of taking a lot of psychoactive medications," which could signal drug dependency or other issues. "If the person has a circle of friends who abuse illicit and prescription drugs, he may be used to giving other people his opioids or other psychoactive medications to help them out," cautions Barber.

In other cases, the family may let you know that someone living in the house has a drug problem and could potentially take the medication, notes **Tim Simpson, RN, CHPN,** VP of clinical services for Seasons Hospice & Palliative Care in Des Plaines, Ill.

Watch for this: In addition to assessing the risk for drug diversion, the hospice should be on the lookout for warning signs that someone other than the patient is taking the meds. "The first red flag may be a family member calling for more frequent refills or saying that the medication was lost or accidentally discarded or spilled," cautions Simpson.

Develop a Plan to Prevent Diversion

If the hospice identifies the risk for diversion, "it has to be proactive" and plan to avoid the problem, says Simpson. For example, if the patient is alert enough, Seasons Hospice might put medication in a lock box where the patient controls the box. If the patient can't manage his own medications, "we may use a fentanyl patch and apply it only when the nurse visits the patient, and not leave extra doses in the home," he adds.

Patients with a history of drug abuse or a circle of friends with that penchant might sometimes be candidates for PCA (patient-controlledanalgesia) pumps or sometimes a patch, says Barber. "We have had situations where someone [designated by the hospice] would come by each day to make sure the patch was still on the patient."

Another idea: Instead of using liquid morphine, Seasons Hospice may use one of the dissolvable oral tablets in order to have an actual count and make sure no one has diluted the medication, Simpson reports.

Must-do: Develop policies for getting unused drugs out of the home after the patient dies (for details, see the next **Eli's Hospice Insider**).

**Nail Down Reporting Requirements**

If you do uncover suspected diversion, keep in mind that the hospice may have to comply with multiple reporting requirements, depending on the situation, says attorney **Marie Berliner** in Austin, Texas. "If there's criminal activity, the federal Drug Enforcement Agency or state corollary agency may become involved, and/or the police."

Bottom line: "Someone within the hospice organization should be responsible for knowing the reporting requirements and assimilating them into a policy and procedure," advises Berliner. "Hospices can always consult with legal counsel if the reporting requirements are unclear," she adds.

Also educate staff about the requirements, and address the issue of diversion in the hospice's quality assessment and performance improvement committees, "if problems come up," suggests Berliner. And "document everything."