

Long-Term Care Survey Alert

Regulatory Compliance: How to Navigate DEA's Tougher Stance on Controlled Meds in Nursing Homes

Know what you're up against and 2 ways to work around it.

Has tougher Drug Enforcement Administration enforcement caused your facility to experience delays in treating residents' pain? For a rundown on the clash between nursing homes' focus on managing pain -- and the DEA's concerns about prescription drug abuse and diversion in the nursing home setting -- read on. Experts also share tips on how facilities can keep patient care on track while complying with the tougher rules.

The basics: The Controlled Substances Act, which was enacted almost 40 years ago, hasn't changed. But last year, the DEA began saying that the resident's doctor has to contact the pharmacy directly to provide a prescription for a controlled substance, notes **Al Barber**, director of pharmacy services for Golden Living, and president elect of the American Society of Consultant Pharmacists (ASCP).

Reasoning: Under the act, "the nursing home nurse can't act as the agent of the prescriber because the nurse is not employed by the prescriber," says Barber. Thus, the prescriber or his agent, who could be a secretary, has to call in or fax the prescription to the pharmacist, he adds.

Barber assumes, however, that for "most of the last decade," the DEA has known that nursing home nurses would call doctors during off hours to obtain a phone order for a controlled med to treat a resident's pain. And if that medication were in the emergency kit, the nurse would administer a dose. The nurse would then notify the pharmacy that she had removed a dose from the kit, and request however many doses required to treat the person's pain. "The pharmacy would then request a prescription from the prescriber to cover the emergency dose and a separate prescription for the patient's ongoing medication needs," Barber explains.

If you work in a SNF in a hospital and wonder if these rules apply to your SNF -- they might. "Whether a pharmacy can dispense to residents in a hospital-based SNF based upon a chart order will depend on whether the hospital-based SNF is licensed as part of the hospital and included within the hospital's DEA registration," says **Claudia Schlosberg, JD**, director of policy and advocacy for the ASCP. "If not, then a hospital-based SNF must obtain prescriptions just like any other nursing facility."

Be Aware of the Potential for E-prescribing

The DEA published an interim final rule on March 31 that would allow prescribers to electronically transmit a prescription for a controlled substance. Using e-prescribing, the doctor would get a phone call from the nurse at 2 a.m., for example, enter the prescription on his smart phone, and transmit it simultaneously to the nursing home and pharmacy, says Barber. The pharmacy could then provide the medication if the prescription included all the elements of a retail prescription. The smart phone could have a fax feature if the pharmacist couldn't receive the prescriber's electronic transmission, Barber adds.

A catch: "Unfortunately, the vast majority of physicians in this country are not set up to do electronic prescribing yet," says Barber. He believes, however, that in "two to three years, or maybe more like five, people will have that ability and it will help resolve a lot of these issues."

2 Ways to Expedite Pain Management

Facilities can help ensure patients get needed pain relief by implementing these two strategies.

1. Develop a Plan B for an emergency. Nursing homes "need to have a back up plan for dealing with situations where residents are in severe and unexpected pain," advises Schlosberg. Some experts note, for example, that having nurse practitioners onsite who prescribe controlled substances can expedite pain management in emergent situations.
2. Get hospitals and attending physicians on the case. As an example, when St. Elizabeth Home gets patient referrals from the hospital, "we ask the physician to provide the narcotic prescriptions so" the SNF has those at admission, relays **Lisa Lavigne, RN**, at the East Greenwich, R.I. facility. "It's also important to educate physicians that they have to provide that prescription to the pharmacist or the patient won't get the medication."

Editor's note: A Senate subcommittee recently held a "listening session" to examine the impact of the DEA's clampdown on resident care in nursing homes. For more information, see the sidebar on page 34.