

# Pain Meds In The Spotlight

## Senate Staffers Get Demo Of DEA Regulations

Senate Special Committee on Aging staff paid a visit to the Methodist Home of the District of Columbia to get a first-hand look at how nursing staff there handle the complexities of meeting patient pain needs while adhering to strict Drug Enforcement Administration (DEA) interpretation under the Controlled Substances Act (CSA).

The reason for their interest, and that of their panel chairman, Sen. Herb Kohl (D-Wis.), is DEA's new enforcement of long term care pharmacy practices covered under the CSA pertaining to narcotics—pain drugs like morphine and Oxycontin.

Since last spring, DEA enforcement activity, which began in Ohio, Wisconsin, and Virginia and has since spread to other states, has unsettled decades-long practices that do not technically meet CSA requirements but do threaten the ability of patients to receive vital pain medications.

DEA has concerns that controlled substances, if not cared for properly, will be diverted from patients to those looking to abuse or sell them.

### Due Diligence The Norm

Senior committee staffers Kristine Blackwood and Jack Mitchell met with Methodist Home Chief Executive Officer/Administrator Sandy Douglass, who led a tour of the 110-bed facility—60 beds assisted living and 50 beds

nursing—and outlined the procedures for handling narcotics for patients with pain.

Douglass and her nursing staff described the numerous checks in

and key for emergencies in a contingency box (also known as an emergency box or kit), which can only be accessed behind a locked door in a locked box. Drugs needed on a routine basis are

also kept under lock, and their disbursement is documented in a tightly maintained log.

### Rules Complicate Pain Med Protocols

What the two Aging Committee staffers heard was that the CSA's rules and DEA's interpretation of those rules present a maze of procedures that can be difficult to meet, especially during off-business hours, like late at night or early in the morning.

The signing, preparation, and transmitting of prescriptions is made even more difficult by the fact that DEA does not consider nurses in nursing facilities as "agents" of the doctor (the medication prescriber), even if the doctor is the medical director of the same facility.

Added to the logistical issues of finding a doctor to prescribe pain medications is the labyrinth of rules on how to transmit by fax or by phone and the

need to decipher which practice is legal and which is not, during which time a patient is waiting for immediate pain relief. Douglass said the reality of life in a nursing facility is that a medical director is on site only for a portion of the time, and that the need for pain prescriptions knows no such timetable.



A nurse working at the Methodist Home of the District of Columbia demonstrates to Senate staff members the procedures for accessing patient drug prescriptions from a locked cabinet on the floor's nursing station.

the system to prevent drug diversion, notably the process to log narcotics into the facility and the physical location of such drugs. Though not used at the Methodist Home in the volumes seen in more high-acuity populations, the facility does keep a supply of pain management drugs in-house under lock

In fact, nursing facility residents are suffering delays ranging from one hour to more than two days for the administration of prescribed narcotics to relieve pain, according to initial findings from a survey conducted by the Quality Care Coalition for Patients in Pain (QCCPP), a group that counts the American Health Care Association and the American Medical Directors Association as members.

### Delays Significant

The preliminary data show that DEA's heightened enforcement has disrupted the long-standing, well-established practice of long term care nurses transcribing physician medication orders for CSA-controlled drugs and transmitting them to the pharmacy to be filled. Instead, physicians must now write each prescription and send it to the pharmacy themselves. Pharmacies

that violate the protocol are subject to significant fines.

The QCCPP survey drew 899 responses from providers in 46 states. Nearly two-thirds, 65.4 percent, of respondents said they had experienced delays in getting controlled pain medi-

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cation to patients, says Sandra Fitzler, AHCA's senior director of clinical operations, quoting the initial survey numbers.

Eight percent said they experienced delays of up to one hour, 40 percent

said delays were as long as one day, 40 reported delays of one to two days, and 12 percent said delays of two or more days had occurred.

The DEA/long term care issue, the subject of an October 2009 letter to Attorney General Eric Holder from Kohl and fellow committee member Sen. Sheldon Whitehouse (D-R.I.), suggested that DEA actions are not a viable protocol for the timely delivery of pain medication.

In a December 2009 response, the Department of Justice said that just because long term care facilities had established "improper patterns of behavior relating to the prescribing of controlled substances," it does not mean that such conduct should be "declared permissible going forward."

Aging panel members expect to convene a hearing on this issue sometime in January or February.

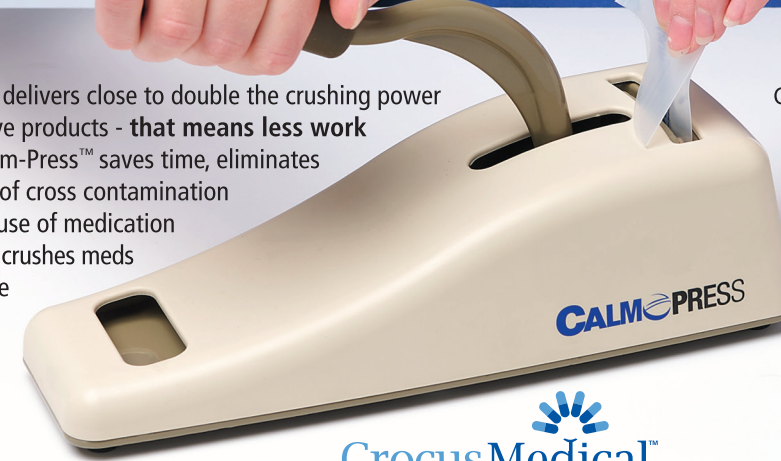
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