



the quality care coalition
 for patients in pain

ISSUE BRIEF

October 28, 2009

The Quality Care Coalition for Patients in Pain (QCCPP) is asking Congress to: amend the Controlled Substances Act to recognize chart orders as valid prescription orders for controlled drugs for long-term care residents, hospice and home health patients and to recognize that nurses in long-term care, hospice and home health act as agents of practitioners for purposes of documenting, transmitting and communicating prescription orders to the pharmacy.

Why: DEA rules and regulations for prescribing and dispensing of controlled drugs for long-term care residents, hospice and home health patients are impeding timely access to appropriate medications for seniors in nursing homes and terminally ill patients. Patients in pain are suffering needlessly while physicians, nurses and pharmacists struggle to comply with outdated rules that are causing serious and needless delays in treatment.

Pharmacists, physicians, nurse practitioners, and nurses have two major concerns:

1. DEA does not recognize the critical role of nurses in long-term care and hospice.

Nurses play a vital role in long-term care and hospice in communicating information to the prescriber, documenting the prescriber's orders in the patient's medical record and, in the case of medications, communicating those orders to the pharmacy. Although DEA regulations explicitly permit a practitioner to rely on an "agent" to prepare and transmit prescription drug orders, DEA does not recognize any "agency" relationship between a practitioner and a long-term care or hospice nurse. As a practical matter, this means that practitioners cannot rely on nurses in these care environments to document their orders and transmit them to the pharmacy.

2. DEA does not recognize chart orders.

For all non-controlled drugs, orders for medications are written into the patient's medical record or chart, either by the prescriber or by the nurse acting on orders from the prescriber, usually on forms that allow the nursing facility to fax a copy directly to the vendor pharmacy. While DEA permits this system in hospitals, DEA does not recognize these chart orders as valid orders for

controlled drugs in long-term care facilities or hospice. Instead, prescribers must prepare and sign paper prescriptions that may be faxed to the pharmacy but only by the prescriber himself or the prescriber's secretary or nurse.

Why is change needed?

- Over the years, the role of nursing homes has changed significantly from traditional long-term or custodial care. Today, the nursing home population is older, sicker and significantly frailer. The major patient groups populating today's nursing homes include post-acute patients admitted after a relatively brief hospital stay, long-term residential patients who have many chronic medical conditions and serious limitations in functional capacity, and hospice patients whom, by definition, have less than six months to live.
- Regardless of length of stay or reason for admission, the majority of nursing home residents and hospice patients experience medical instability, multiple complications, fluctuating conditions, and diverse comorbidities (coexisting diseases and risk factors), and many experience pain. Within the nursing home setting, over a quarter of all residents are receiving pain medication, and medications for pain management are the second most commonly prescribed products. In hospice, pain management is a primary focus of care, and many patients require pain management throughout their course of hospice services until death.
- Unlike the hospital, in both the nursing home and hospice environment, the attending prescriber is typically not physically present when a patient is admitted or experiences a change in condition requiring an adjustment in their medications. Further, many prescribers who care for these patients have no office-based practice. According to the American Medical Directors Association (AMDA), which represents more than 8,000 medical directors, 40 percent of their members do not have an office-based practice. Even those with offices are "on the run" most days, going from setting to setting. This means that in most instances, when a new patient is admitted who requires pain medication, or when there is a change in the resident's condition necessitating an adjustment to pain medications, the practitioner will not be near or have access to a fax machine.
- DEA's reliance on hard copy prescriptions and failure to acknowledge the role of nursing in long-term care and hospice place additional burdens on prescribers, pharmacists and nurses and can substantially delay and in some cases, impede access to appropriate pain medication. Practitioners, pharmacists and nurses are placed in the untenable position of having to make the choice between following the law or meeting the needs of their patients and risking DEA enforcement action. Those who choose to meet patient needs face significant administrative, civil and potential criminal fines and penalties.

The Quality Care Coalition for Patients in Pain

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What is QCCPP?

QCCPP members are physicians, nurse practitioners, nurses, pharmacists, health care facility and program administrators, and national and state associations representing long-term care, hospice and other post-acute care providers. We seek to ensure that nursing home residents, hospice patients and others have access to appropriate and timely pain medication by (1) advocating to eliminate barriers to access resulting from laws, regulations and policies governing the prescribing and dispensing of controlled substances; (2) promoting compliance and best practices by educating providers, prescribers, consumers and their caregivers about appropriate prescribing and dispensing practices. For more information about QCCPP, visit www.qccpp.org,

HOW CONGRESS CAN HELP

Congress can enact legislation amending the Controlled Substance Act to:

- Clarify that a long-term care or hospice nurse is an agent of the prescriber
- Expand the definition of a valid prescription order to include chart orders for long-term care and hospice patients.
- Ensure that pharmacists cannot be penalized for preparing prescription drug orders for the review and signature of a practitioner for long-term care residents and hospice patients.

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