

Drug Diversion in Long Term Care

Session # W42
April 29, 2015

Presented by Karen Kemerer
Omnicare Pharmacies of Northern
and Central Ohio
1-800-472-6337

1

Drug Diversion in Long Term Care

Program Outcomes

- Discuss chemical dependency and the nursing profession
- Recognize symptoms/signals of possible drug abuse
- Recognize how to detect abuse/diversion of medications in long term care facilities
- Discuss OBN rules relating to investigation of alleged violations of the Nurse Practice Act and OBN Rules
- Explain OBN complaint investigation and the Alternative Program for Chemical Dependency

2

Drug Diversion is All Around Us

- Occurs not just on the streets but also in Pharmacies, Hospitals, and Nursing Homes
- Occurs in Health Care Organizations by Nurses, Pharmacists, Physicians, other health care professionals, unlicensed staff, patients, and visitors/ general public

3

Chemical Dependency

- Chronic/Relapsing/Treatable
- Biopsychosocial disease
- Complex
 - Compulsion to use drugs
 - Lack of control-time and amount
 - Despite negative consequences
- Lifelong – no cure
- Serious consequences – physical, emotional, financial and legal

4

Chemical Dependency

- Criteria for Substance Dependence Diagnosis*
 - Difficulties in controlling substance-taking behavior
 - A strong desire or sense of compulsion to take the substance
 - Progressive neglect of alternative pleasures or interests
 - Persisting with substance use
 - Evidence of tolerance
 - A physiological withdrawal state when substance use has ceased or been reduced

■ *International Classification of Diseases-10 (ICD-10)

5

Chemical Dependency

Progression

- Abstinence
- Use/Social in nature
- Abuse
- Dependence
- Death

6

Nurses and Chemical Dependence

- Access
- Knowledge
- Tend to self-medicate
 - Emphasis on medications for relief
- Job stress
- Chronic/repetitive injuries or chronic pain
- Belief and confidence in use control

7

Symptoms/Signals of Drug Abuse

- | | |
|---|--|
| ■ Physical Signs | ■ Behavioral Signs |
| <ul style="list-style-type: none">○ Tremors/shakes○ Slurring speech○ Constricted pupils○ Diaphoresis○ Unsteady gait○ Runny nose○ Change in weight○ Change in skin tone/integrity | <ul style="list-style-type: none">○ Labile emotions○ Inappropriate responses○ Diminished alertness○ Confusion or memory loss○ Change in hygiene○ Wearing long sleeves○ Increased isolation |

8

Symptoms/Signals of Drug Abuse

- | | |
|--|--|
| ■ Job Performance Signs | <ul style="list-style-type: none">○ Absenteeism○ Frequent breaks or disappearances○ Difficulty with meeting schedules or deadlines○ Odor of alcohol on breath○ Elaborate excuses |
| <ul style="list-style-type: none">○ Changes in job performance○ Request change in work schedule○ Decline in documentation○ Errors in judgment | |

9

Symptoms/Signals of Drug Abuse

The presence of some of these symptoms does not prove that someone is abusing drugs/alcohol, but does warrant a closer review.

10

Recognizing Drug Diversion

- Discrepancies in medications/narcotic counts
- Narcotic count incorrect
- Number of narcotic record corrections
- Number and amounts of narcotic wastes: e.g., use Demerol 100 mg for a 25 mg dose
- Illogical/sloppy charting

11

Recognizing Drug Diversion

- Facility/Unit policies not followed
- Patients report no relief
- Adulterated vials/containers
- Vials or packaging altered

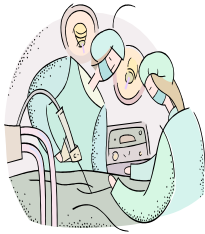
12

Recognizing Drug Diversion

- Excessive interest in analgesics
- Volunteers to administer medications for colleagues
- Disappears from unit/frequent absences
- Eager for night shift/overtime
- Frequent call-offs
- May smell of alcohol

13

Why Health Professionals?



- High Stress
 - Present when patient is in pain
 - Present when patient dies
 - Demand for perfection
- Drug Accessibility
 - Give almost all medications
 - Witness benefit of drugs

14

Ohio State Board of Pharmacy

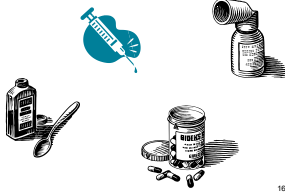
Purpose – Protection of the Public

- License
- Inspect
- Investigate
 - Law enforcement of Ohio and Federal Drug Laws
- Adjudicate
 - Peer review of Pharmacists and Pharmacy Interns

15

Other Drugs of Abuse – Not Just Controlled Substances

- Stadol Nasal Spray (now C-IV)
- Albuterol (Proventil, Ventolin) Inhaler
- Ultram
- Phenergan
- Lexapro
- Soma
- Seroquel



16

Pharmaceutical Diversion

- Definition
 - Illegal removal of a dangerous drug (i.e., requires prescription) at any point in its path from manufacturer to patient
- Scope of the Problem
 - Most likely drug to be abused in the workplace
 - “Only prescription drugs”

17

Why Rx Drugs

- Less risk of overdose
 - More likely to know what drug is
- Cheaper than cocaine and heroin
- Easier to obtain through “legal” Rx
- Less risk of detection
 - Lack of enforcement



Why the Staff Steals (Motive)

- Personal abuse/addiction
 - Drug of choice
 - Trade for their drug of choice
- Inadequate pain control for self or others
- Monetary gain through trafficking



19

Health Care Professional Investigations



- May falsify drug documents
- H/Ps usually do not sell their drugs
- H/Ps use and are impaired while at work
- Drug substitutions and compromises can be life threatening to patients

20

Drug Diversion and the Nurse

Dealing with drug diversion
and the
addicted nurse

21

Board of Nursing Responsibility

- Public protection through the regulation of nursing
- Investigating allegations of violations of the regulatory standards
- Taking regulatory action as appropriate, especially when the violation is related to a licensee's chemical dependency

22

Board of Nursing & Chemical Dependency

- OBN recognizes that chemical dependency is an illness that results in licensee behaviors and activities that have great risk potential
- Risk of harm to patients, other healthcare professionals and the licensees themselves

23

Investigation/Discipline

- Law and Rules
- Reporting
- Investigation
- Disciplinary Process
- Alternative Programs

24

Law/Rules

- Law
 - Enacted by General Assembly
 - What must be done
 - General in nature
- Rules
 - Adopted by OBN
 - How to do what must be done
 - Specific

25

Grounds for Discipline Relating to Chemical Dependency

- Section 4723.28 ORC
- Self administering
- Habitual indulgence
- Impairment
- Selling/giving away... other than therapeutic purposes
- Criminal conviction/guilty pleas/ILC

26

Offenses 4723.28 ORC

- Disciplinary action elsewhere
- Practice without a license
- Conviction, guilty plea, finding of no contest or treatment ILC in Ohio or elsewhere
 - > Misdemeanor in course of practice
 - > Felony/Crime-moral turpitude
 - > Violation of drug laws

27

Offenses (cont.)

- Self administration of drug not in accordance with valid prescription
- Habitual indulgence-impaired practice
- Impairment of ability to practice safely
 - Physical or mental disability*
 - *Standards of Safe Care

28

Board of Nursing and Chemical Dependency

How does OBN know?

- Report by others
 - Employers – mandate
 - Prosecutors – mandate
 - Healthcare professionals
 - Others
- Self-reporting resulting in self-referral to alternative program

29

Mandatory Reporting 4723.34 ORC

- Employers
- Prosecutors
- Nursing Associations
 - Report the name of ...has engaged in conduct that would be grounds for disciplinary action by the Board (4723.28)

30

Board of Nursing
and Chemical Dependency

Barriers to Self-reporting

- Denial
- Fear/lack of knowledge/Inability to ask for help
- Shame/guilt
- Loss of job/license
- Legal action
- Access to treatment

31

Board of Nursing
and Chemical Dependency

If you suspect a co-worker

- Denial is common
- The goal is patient safety
- Avoid intervention without assistance
- Discuss with management

32

Typical Nurse Profile

- Best nurse in the unit
- Never would have suspected him/her
- Willing to work extra shifts
- Stays late after shift ends
- Comes in early for shift



33

Typical Nurse Profile

- Frequently documents waste
- Nursing notes do not coincide with drugs given
- Signs out more narcotics than peers



34

Investigation- 4723.28 ORC

When OBN receives a complaint, it is required by law to investigate

- Determination whether complaint is a violation as set forth in the law
- Determine if the facts indicate that the licensee committed the offense as alleged
- Fact finding done
- All facts must be provable
- All investigations are confidential
- Once investigation is complete, Supervising Board Member for Disciplinary Matters (SBMDM) determines whether or not there is sufficient evidence of violation of law
- Take action only if there is a violation of 4723 ORC

35

OBN Actions

- Confidential monitoring
- Public Disciplinary Action

36

Disciplinary Process

If the case goes the disciplinary route:

- Due process
- Revoke, suspend, restrict, fine or otherwise discipline
- Permanent part of record

37

Disciplinary Process

- Board members decide action
 - May request hearing
 - Hearing officer
 - Witnesses
 - Evidence
 - Mitigating circumstances
- Board action is public and reported
- Chapter 16

38

Disciplinary Process

Alternatives to Disciplinary Process

- Consent Agreement
- Alternative Programs
 - PIIP 4723-18 OAC
 - Alternative Program for Chemical Dependency 4723-6 OAC

39

Facility Actions

Considerations for Facility Policy

- Methods to ID substance abuse
- Intervention strategy
- Employment status
- Mandatory reporting
- Return to work policies

40

Facility Actions

Methods to ID Substance Abuse

Pre-employment

- *Work history – gaps or job hopping*
- *Physical*
- *Drug testing*

After Employment

- Be knowledgeable about addiction

41

Facility Actions

■ Intervention Strategies

- Document all unusual circumstances
- Proactively review documentation
 - Clinical records
 - MARs
 - Narcotic count records
- Develop/adhere to policy
- Confront problem

42

Inspections

- Focus on minimum drug standards
 - Security
 - Accountability
 - Recordkeeping
- When minimum standards aren't met, facility is at greater risk for drug diversion to occur



43

Typical Inspection Results – Drug Security

- Security
 - “**Detect** and **Deter** diversion” 4729-17-03
 - Access of drug stock to non-authorized personnel (intentional and unintentional)
 - Master key...what does it open?
 - Carts/med rooms left open



44

Drug Security

- “Detect and deter” diversion
- “Tamper-evident”
- Keys
- Who may have access
 - “Adequate and personal supervision”
- Types of drugs
 - Dangerous drugs vs. controlled substances
- Other security concerns
 - Syringes/needles, sharps containers, oxygen

45

How the Staff Steals (Opportunity)

Theft

- Inadequate physical deterrents
 - Unlocked or propped open carts/doors/cabinets
 - Punch button, rather than keyed locks
 - Unchanged, common access codes
 - Privacy
 - Unsecured drugs/syringes



46

Typical Inspection Results - Accountability

Accountability

- “Must have complete accountability of all dangerous drugs throughout facility including all deliveries, administrations, destructions, and returns”
- Chain of custody breeches
- Shift to shift counts compromised
- Integrity of drug products not checked/questioned



47

How the Staff Steals (Opportunity)

Theft

- Taking advantage of co-worker trust
 - No waste witness, just signature
 - Waste of unknown substance
 - Med signed out, but no order
 - Med signed out, but not given
 - Stealing documents as well as drugs
 - Math errors
- Falsifying documents
 - Meds charted as administered but not
 - Patient did not need
- Insufficient chain of custody
 - More than one person with access
 - Poor recordkeeping and shift counts

48

Drug Accountability – Suggested Procedures

- Chain of Custody
 - Document every time a drug changes hands/access (2 signatures)
 - Have another verify each transaction
- Shift Count (any time keys change hands)
 - Both nurses should see drug and paperwork
 - Verify quantity and integrity of drug
 - Verify changes in proof-of-use sheets
 - Verify quantity of proof-of-use sheets

49

Drug Accountability – Suggested Procedures

- Random, routine audits of withdrawals vs.
 - Orders
 - Administrations
 - Wastage
- Is anyone auditing dangerous drug returns?
- Are dangerous drugs being ordered too early?



50

Drug Accountability – Suggested Audits

- Review of Proof of Use Sheets
 - Borrows
 - Wastes without witness
 - Scratch outs
 - One person doing all the withdrawals or maximum
- Automated Storage Systems (i.e., Pyxis)
 - Short time outs, log offs
 - Positive ID, blind counts, 1 CS/access
 - Reviewing reports for trends



51

Facility Actions

Return to work

- Review of job duties and environment
- Staff involvement/confidentiality
- Narcotics restriction
- RTW agreements – job and Alternative Program
- All changes reviewed by SBMDM

52

Facility Actions

Joint effort across disciplines

- Nursing
- Pharmacy
- Employee health
- EAP
- Risk management
- Security
- HR
- Legal counsel

53

Recordkeeping

- Record Retention
 - 3 years (7 to 10 years for Medicaid)
 - All drug paperwork
- Security/Accountability of Records
 - Verify transfer of information to next log
 - Active filing to assure retention



54

Recordkeeping

- Receipts
- Shift Logs, also
 - CS proof of use sheets
 - Contingency stock forms
- Administration
 - MARs
 - Nurses' notes



55

Recordkeeping

- Wastes
 - Witness required on controlled substances
 - At preparation, while observed
 - Partial doses only
- Returns
- Destructions
 - Permission for CS disposal granted by OSBP to pharmacy with witness, not two nurses



56

Waste Documentation

- Two Licensed Staff
 - Recommend waste be done before administration
 - Witness can watch while obtaining, pulling up, and wasting
- Wasted Drugs Must be Made "Irretrievable"
- Fentanyl (Duragesic) Patches
 - Document shift-to-shift verification of placement on MAR
 - Witness waste at removal by flushing

57

Drug Substitutions

- Most dangerous kind of diversion
- Replaces controlled substances with other pharmaceuticals
- Replaces controlled substances with water or saline



58

How the Staff Steals (Opportunity)

- Tampering
 - Substitution
 - At administration
 - Ex. Give Tylenol instead of Vicodin
 - Left for others
 - Twist top on injectables
 - Dimpling on plastic top or alum seal on injectables
 - Change in color, smell, viscosity
 - Dilution
 - Change in color, smell, viscosity

59

Ohio Board of Nursing Resources

- | | |
|-----------------------|---------------------|
| ■ Monitoring Unit | ■ Compliance Unit |
| ■ Alternative Program | ■ Tel: 614-466-9558 |
| ■ Tel: 614-466-0376 | ■ Fax: 614-995-3686 |
| ■ Fax: 614-466-0710 | |

60

Ohio Administrative Code (OAC)

- 4729-05-01(N)
 - Positive ID of prescribers and those who administer
 - Need OSBP review/approval for BCMA
- 4729-09 Dangerous Drugs
 - 4729-9-05 Security requirements
 - 4729-9-06 Disposal of dangerous drugs which are CS
 - 4729-9-11 Security & control of dangerous drugs
 - 4729-9-14 Records of controlled substances
 - 4729-9-15 Report of theft or loss of dangerous drugs
 - 4729-9-22 Records of dangerous drugs

61

Ohio Administrative Code

- 4729-17 Institutional Facilities
 - 4729-17-03 Security & control of drugs
 - 4729-17-04 Records
 - 4729-17-05 CS recordkeeping
 - 4729-17-09 Drug orders for patients
- 4729-22 Retail Sellers of Oxygen
 - Facility may need an oxygen license
- 4729-35 Drug Repository Donations

62

Reporting Theft/Loss

- Report every unresolved dangerous drug discrepancy
- Monitor paperwork and perform audits looking for diversion
- Unresolved losses
 - Report to the Ohio Board of Pharmacy
 - Report to local law enforcement
 - If licensed with DEA, report CS thefts to DEA



63

Required Reporting of Theft and/or Loss of Dangerous Drugs

- Report **upon discovery** by telephone to the Ohio State Board of Pharmacy
- Report to local law enforcement
- Report to the DEA if controlled substances are involved
 - Use a DEA 106 form to report/document loss
- Report to ODH if drug was diverted from resident supply = misappropriation of resident property.

64

Employees Must Report Loss/Theft

- CFR 1301.91
 - Employee responsibility to report drug diversion
 - "...employee who has knowledge of drug diversion from his employer by a fellow employee has an obligation to report such information to a responsible security official of the employer"
 - "The employer shall inform **all** employees concerning this policy"

65

Failure to Report

- Facilitates Addiction
- Prevents/Delays Rehabilitation
- Endangers Patients
- Possible Criminal Offense:
 - CFR 1301.76(b)
 - ORC 2921.22
 - OAC 4729-09-15

66

DID YOU KNOW THAT

Theft of ANY Prescription Medication is a FELONY in Ohio!!

67

Trends of Drug Theft

- No oversight to assure proof of use sheet accountability
 - Weak, inadequate nursing leadership
 - Stealing proof of use sheets with drugs
- Agency Nurses
- Duragesic Patches
 - Confirm placement at shift changes
 - Witness waste at removal
- Roxanol Multi-Dose
 - Now available in unit dose packaging

68

Ohio Revised Code (ORC) Criminal Charges

- 2913.02 (B6) Theft: F-4
- 2913.31 Forgery: F-5
- 2925.03 Trafficking
- 2925.11 Drug Possession: F-4
- 2925:22 Deception to obtain: F-5
- 2925.23 Illegal processing drug documents F-5
- 2925.24 Tampering: F-3; patient harm = F-2

69

Ohio Board of Nursing Resources

- www.state.oh.us/nur
- Ohio Board of Nursing
17 S. High Street, Suite 400
Columbus, OH 43215

70

Ohio State Board of Pharmacy

- E-Mail Addresses
 - exec@bop.state.oh.us
- Web Addresses
 - www.pharmacy.ohio.gov
 - www.fda.gov
 - www.usdoj.gov/dea
 - www.dea diversion.usdoj.gov



71

Questions/Discussion

