Drug Diversion: Investigating and Making a Case

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What is a Controlled substance?

A substance that has been classified as having a potential for abuse/addiction

Controlled substances are classified in schedules ranging from Schedule I – Schedule VI
Drug Classifications

1. Schedule I – “street drugs” – they have no medicinal purpose
   (cocaine – PCP – methamphetamine – heroin)

2. Schedule II – high potential for abuse - Narcotics
   (Hydromorphone – Demerol – Morphine – Fentanyl)
   The new kid on the block - Nucynta
Drug Classifications

3. Schedule III – Opiates – Lesser potential for abuse that the II’s but also highly addictive

   (Oxycodone – Hydrodocone – T#3’s)

4. Schedule IV – Benzo’s, Tranqs and sleeping pills

   (Xanax – Valium – Dalmane – Lorazapam)
Drug Classifications

5. Schedule V – can obtain without a prescription but you must sign the narcotic ledger at the pharmacy – cough syrups with codeine; paragoeric containing compounds

6. Schedule VI – Marijhuana – NC is the only state that has a specific schedule for Marijhuana
Jurisdictional Issues

a. Federal Agencies
   1. DEA

b. State Agencies
   1. SBI

c. Local law enforcement
   1. Local sheriff’s and police departments

d. Regulatory Agencies
   1. Board of Pharmacy
   2. Board of Medicine
Understanding Accountability Systems

a. Manufacturer/Distribution networks
   (lot numbers)

b. Pharmacy
   CV logs – CII files – Computerized records – CSRS records – Triplicate prescriptions
Understanding Accountability Systems

c. Hospitals

1. Automated dispensing systems – SureMed
   Pyxis - Accudose
2. 24 hour count sheets
3. OR’s/Anesthesia/PACU’s/ER’s
Understanding Accountability Systems

d. Long Term Care Facilities
   1. ordering meds/ log in
   2. narcotic cabinet/box
   3. shift count
   4. Emergency box

e. Methadone facilities

f. MD offices - (samples)

g. Residential Hospices/Home Care situations
Detecting Diversion

What is diversion? – GS 90-108(a) (14)

*Paraphrased* – you sign out a controlled substance and there is no further documentation in the records to substantiate administration of the drug to the ultimate user (patient).

NCAC 36.0217 (b) (2) – illegally obtaining, possessing or distributing drugs or alcohol for personal or other use, or other violations of GS 90-86 to 90-113.8

*GS 90-108 (a) (10) (11) (13) (14)*
Identifying a Narcotic Discrepancy

A narcotic discrepancy will **ALWAYS** be a number and represents something not accounted for, or missing.

There is a difference between a narcotic discrepancy and poor practice. Examples of poor practice will be things like illegible handwriting; time discrepancies, documentation of a controlled substance to a patient only when the suspect works, etc.
Tools for Determining Diversion

a. The agency policy for documentation of controlled substances
b. The physician’s orders
c. The Controlled Substance sign out record/Pyxis log
d. The MAR/EMAR – need to understand how the system works -
   Does the med have to be scanned with the patient ID?
   Does the removal automatically document the med?
e. Access (unique identifier – log in code, hospital badge, etc.)
f. Waste records
Other investigative tools

a. Prior counseling records
b. Body fluid specimens
c. Background information
   Prior employment – NURSYS check – prior Board records – CSRS – CBC
Performing an accountability audit

a. Anesthesia
b. Long term care
c. General Duty
d. Emergency departments
Methods of Diversion

a. Substitution/ Dilution
b. Manipulation of narcotic records
c. Prescription forgery/Illegally obtaining – calling in Rx’s
d. Failure to document
e. Inaccurate waste records
Preparing for the report

Writing the report may be the most critical part of the case.

Remember

“If you can’t explain it simply – you don’t understand it well enough.”

Albert Einstein
Writing the Report

Always answer the 5 W’s


(should be answered in the first few paragraphs)

Be sure that you validate any statements submitted from the facility.

Be sure that you validate any audits sent by the facility.
Writing the Report

4. Be sure you verify the dates in the reported material.
5. If you reference a specific discrepancy, be sure those dates are included in your audit.
6. Give the total number of transactions and the discrepancy rate (there is a big difference between 600 transactions and 30 discrepancies for a 5% discrepancy rate vs. 600 transactions and 480 discrepancies for an 80% discrepancy rate).
7. Be specific about the dates of the audit
   (ex. – there is a big difference between an audit spanning Feb and March 2011 – approx. 8 weeks vs. February 22-March 7, 2011 – approx. 2 weeks).

8. Summarize your audit (after the summary of the actual discrepancies you can then add the things you learned that suggest poor practice

9. Be sure and have the entire suspect interview in the file.
Writing the Report

Always include specifically what the suspect admitted/denied.

Always ask them if they took the medication – do not assume that because they are not admitting diversion that they will say – no.
Example of report

On April 15, 2011 Joan Smith was assigned to work the 7p-7a shift on the 300 Hall at Scottie’s Hottie’s LTC Facility. The nurse that relieved Ms. Smith on the 7a-7p shift received complaints from several alert and oriented clients that reported not getting pain medication the previous shift when they requested it. The day shift nurse checked the MAR and each of the patients that complained had controlled substances signed out to them by Ms. Smith as often as the order allowed on Ms. Smith’s shift.

The day shift nurse reported this to the supervisor and this resulted in an investigation being conducted.
A limited accountability audit was conducted on Ms. Smith’s sign-outs of controlled substances from February 15 – April 15, 2011. The substances audited included: Oxycodone, Morphine and Xanax. There were 150 transactions and 125 discrepancies for an 80% discrepancy rate. The results of the audit included but may not be limited to:

a. Controlled substances were signed out without further documentation on the front or back of the MAR to substantiate administration of the drug to the client

b. Controlled substances were signed out to patients without a physicians order

c. Controlled substances were signed out without accountability for waste
Additionally, during the audited period, Ms. Smith was the only nurse to document giving Oxycodone to Client TS. On two (2) occasions Ms. Smith documented Client WR was sleeping comfortably with no complaints of pain, but she signed out two (2) Oxycodone to the client. Although there were only a few discrepancies in February, there was a big increase in the discrepancy rate after March 22, 2011 when Ms. Smith returned to the agency after injuring her back.

When questioned by Board staff Ms. Smith denied diverting the medication for herself or anyone else. Ms. Smith admitted that she was sloppy with her documentation and that she often forgot to document her medications when it was busy.
Closing

1. Having accurate information in the audit is critical in proving these cases.

2. Having an accurate and complete accounting of the suspect nurse interview is critical to the prosecution of the case and for attempts at settling a case.

3. Proving diversion is easy – proving the suspect nurse consumed the medication is a little more difficult. **BUT remember**
Closing – cont.

The difficult we do immediately - the impossible takes a little longer!

QUESTIONS?
Have a great day!!!!

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