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

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
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

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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)

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Chemical Dependency

**Progression**

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

Symptoms/Signals of Drug Abuse

- **Physical Signs**
  - Tremors/shakes
  - Slurring speech
  - Constricted pupils
  - Diaphoresis
  - Unsteady gait
  - Runny nose
  - Change in weight
  - Change in skin tone/integrity

- **Behavioral Signs**
  - Labile emotions
  - Inappropriate responses
  - Diminished alertness
  - Confusion or memory loss
  - Change in hygiene
  - Wearing long sleeves
  - Increased isolation

Symptoms/Signals of Drug Abuse

- **Job Performance Signs**
  - Changes in job performance
  - Request change in work schedule
  - Decline in documentation
  - Errors in judgment

- Absenteeism
- Frequent breaks or disappearances
- Difficulty with meeting schedules or deadlines
- Odor of alcohol on breath
- Elaborate excuses
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.

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

Recognizing Drug Diversion

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

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

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
Other Drugs of Abuse – Not Just Controlled Substances

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

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”

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

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

Drug Diversion and the Nurse

Dealing with drug diversion and the addicted nurse
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

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

Investigation/Discipline

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

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

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
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

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

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)
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

If you suspect a co-worker
- Denial is common
- The goal is patient safety
- Avoid intervention without assistance
- Discuss with management

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
Typical Nurse Profile

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

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

OBN Actions

- Confidential monitoring
- Public Disciplinary Action
If the case goes the disciplinary route:

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

Board members decide action

- May request hearing
- Hearing officer
- Witnesses
- Evidence
- Mitigating circumstances

Board action is public and reported

Chapter 16

Alternatives to Disciplinary Process

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

Considerations for Facility Policy
- Methods to ID substance abuse
- Intervention strategy
- Employment status
- Mandatory reporting
- Return to work policies

Facility Actions

Methods to ID Substance Abuse

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

*After Employment*
- Be knowledgeable about addiction

Facility Actions

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

Typical Inspection Results – Drug Security

- Security
  - "Detect and Deterr 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

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
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

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

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
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

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?

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
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

Facility Actions

**Joint effort across disciplines**
- Nursing
- Pharmacy
- Employee health
- EAP
- Risk management
- Security
- HR
- Legal counsel

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
Recordkeeping

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

Recordkeeping

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

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
Drug Substitutions

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

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

Ohio Board of Nursing Resources

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

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

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
### 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.**

### 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”

### Failure to Report

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

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

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

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
Ohio Board of Nursing Resources

- www.state.oh.us/nur
- Ohio Board of Nursing
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  Columbus, OH  43215

Ohio State Board of Pharmacy

- E-Mail Addresses
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  o www.pharmacy.ohio.gov
  o www.fda.gov
  o www.usdoj.gov/dea
  o www.deadiversion.usdoj.gov

Questions/Discussion