



1321 Duke Street 4th Floor ▪ Alexandria, VA 22314
(703) 739-1300, ext 128 ▪ www.qccpp.com ▪ qccpp@ascp.com

December 10, 2009

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Holder:

The Quality Care Coalition for Patients in Pain is comprised of more than 100 individual and organizational members representing the interests of doctors, nurses, pharmacists and other health care professionals who practice in the fields of long-term and hospice care. We are writing to express our concern with the official response from your office to Senators Kohl and Whitehouse regarding the inability of nursing home and hospice patients to receive timely and adequate pain medication and other controlled drugs due to the policies and rules of the Drug Enforcement Administration (DEA). While your response provides some details regarding recent investigations, the critical issue remains -- namely, that compliance with DEA rules and policies in long-term care and hospice leaves patients suffering in agony without appropriate treatment.

The divergence between the needs of these very fragile patients and DEA requirements is not a new issue. Pharmacists, physicians and nurses have, for years, engaged in discussions with the DEA about how practice standards and federal regulations governing quality of care in long-term care and hospice are at odds with DEA requirements - most of which were written decades ago. Indeed, the official response from your office identifies a number of the practices at issue, including the use of chart orders and physicians' reliance on nursing staff both to document orders and to communicate information to the pharmacy. Although DEA permits such practices in hospital settings, such practices are not permitted in post-acute or long-term care settings. Instead, DEA requires health professionals in long-term care to follow cumbersome rules and policies that deny patients appropriate treatment. As an example:

QCCPP National Advisory Committee Members

American Association of Homes and Services for the Aging ▪ American Health Care Association ▪
American Pharmacists Association ▪ American Society of Consultant Pharmacists ▪ Long Term Care Pharmacy Alliance
National Association of Directors of Nursing Administration in Long Term Care
National Association of State Pharmacy Associations ▪ National Community Pharmacists Association
National Hospice and Palliative Care Organization ▪ Senior Care Pharmacy Alliance

A nursing home resident is experiencing break through pain. The resident's doctor has given the facility nurse a verbal authorization over the telephone to administer an emergency dose of morphine from the emergency drug box located in the facility. Under DEA rules and policies, the nurse cannot legally administer the drug to the resident until (1) the physician has called or faxed the drug order to the pharmacy, and (2) the nurse has called the pharmacy and confirmed receipt of the doctor's drug order.

Strict compliance with DEA rules and policies adds additional steps that can significantly delay treatment. We have documented treatment delays of several hours to several days. During this time, nurses are unable to do their job, leaving patients to suffer needlessly. In fact, we are documenting numerous incidents where compliance with DEA rules and policies is not only harming patients, but is increasing health care costs and, as an unintended consequence, creating more risk for diversion.

While we respect and support DEA's mission to ensure that controlled drugs are not being diverted and are only used for legitimate medical purposes, the needless suffering that patients are now enduring demands that a balance be achieved that addresses these legitimate law enforcement concerns without causing harm to patients.

We know that you and your colleagues do not intend for DEA policy to result in long- term care and hospice patients suffering in agony without appropriate treatment. So, we respectfully request the opportunity to meet with you so that members of our Coalition may present our concerns regarding patient harm and diversion risk first hand. We would like to work with your office to achieve the balance that is so urgently needed. Your office may coordinate with Claudia Schlosberg, J.D., Director of Policy and Advocacy at the American Society of Consultant Pharmacists, who serves as the convener and lead contact for QCCPP; she can be reached at 703-739-1316, ext 128, or by e-mailing cschlosberg@ascp.com.

Thank you for your attention to this urgent matter.

Sincerely,

The Quality Care Coalition for Patients in Pain

CC: The Honorable Kathleen Sebelius
The Honorable Herb Kohl
The Honorable Bob Corker
The Honorable Sheldon Whitehouse