

§ 558.861 Management of Drugs and Biologicals and Disposal of Controlled Substance Prescription Drugs in a Client's Home or Community Setting

(a) While a client is under hospice care, a hospice must provide drugs and biologicals related to the palliation and management of the terminal illness and related conditions, as identified in the hospice plan of care.

(b) A hospice must ensure that the interdisciplinary team (IDT) confers with a person with education and training in drug management, as defined in hospice policies and procedures and State law, who is an employee of or under contract with the hospice to ensure that drugs and biologicals meet a client's needs. The hospice must be able to demonstrate that the person has specific education and training in drug management. Persons with education and training in drug management include:

(1) a licensed pharmacist, a physician who is board certified in hospice and palliative medicine, or an RN who is certified in palliative nursing; or

(2) a physician, an RN, or an advanced practice nurse who completes a specific drug management course for hospice or palliation.

(c) Only a physician or an advanced practice nurse, in accordance with the plan of care, may order drugs for a client.

(d) If the drug order is verbal or given by or through electronic transmission:

(1) it must be given only to a licensed nurse, pharmacist, or physician; and

(2) the person receiving the order must record and sign it immediately and have the prescribing person sign it in accordance with the agency's policies and applicable State and federal regulations.

(e) A hospice must obtain drugs and biologicals from community or institutional pharmacists or stock drugs and biologicals itself. A hospice that dispenses, stores, and transports drugs must do so in accordance with federal, State, and local laws and regulations, as well as the hospice's own policies and procedures. A hospice that operates its own pharmacy must comply with the Texas Occupations Code, Subtitle J, and applicable pharmacy and pharmacists' regulations adopted by the Texas Board of Pharmacy under that subtitle.

(f) The IDT, as part of the review of the plan of care, must determine the ability of the client or the client's family to safely administer drugs and biologicals to the client in the client's home.

(g) Drugs and biologicals must be labeled in accordance with currently accepted professional practice and must include appropriate usage and cautionary instructions, as well as an expiration date, if applicable.

(h) A hospice must have written policies and procedures for the safe use and storage of drugs and biologicals in a client's home.

(i) A hospice must have written policies and procedures that address management of controlled substance prescription drugs in a client's home, including:

(1) at the time when controlled substance prescription drugs are first ordered;

(2) when controlled substance prescription drugs are discontinued;

(3) when a new controlled substance prescription drug is ordered; and

(4) when the client dies.

(j) At the time when controlled substance prescription drugs are first ordered for use in a client's home, the hospice must:

(1) provide a copy of the hospice's written policies and procedures on the management of controlled substance prescription drugs in a client's home to the client or client representative and family;

(2) discuss the hospice policies and procedures for managing the safe use of controlled substance prescription drugs with the client or LAR and the family in a language and manner that they understand, to ensure that these parties are educated regarding the safe use, storage, and disposal of controlled substance prescription drugs in the client's home; and

(3) document in the client record that the hospice provided and discussed its written policies and procedures for managing the safe use and storage of controlled substance prescription drugs in the client's home, as described in subsection (m) of this section.

(k) A hospice must have a written policy describing whether the agency will dispose of a client's unused controlled substance prescription drugs on the client's death or in other circumstances in which disposal is appropriate, as described in subsection (m) of this section.

(l) If a hospice agency's policy under subsection (k) of this section provides that the agency will dispose of a client's unused controlled substance prescription drugs as described in that subsection, the written policies and procedures which the hospice must implement and enforce, must:

(1) identify disposal methods that are consistent with recommendations by the United States Food and Drug Administration and the laws of the State of Texas;

(2) permit disposal described in subsection (k) of this section only by a hospice employee or contractor who is a health care practitioner licensed to perform medical or nursing services who meets the conditions of this section;

(3) require each health care practitioner responsible for disposal of an unused controlled substance of a client under this section to receive training regarding the secure and responsible disposal of controlled substance prescription drugs in accordance with paragraph (1) of this subsection and in a manner that discourages abuse, misuse, or diversion;

(4) require that hospice agency staff:

(A) provide a copy of the disposal policies and procedures to a licensed facility in which the client is residing or receiving short-term in-patient hospice services;

(B) provide a copy of the disposal policies and procedures to the client and the client's

family;

(C) discuss the policies and procedures with the patient and the client's family in a language and manner the client and client's family understand;

(D) document in the client's clinical record that the policies and procedures were provided and discussed as required by subsections (b) and (c) of this section; and

(E) document the client's agreement to the disposal of the client's unused controlled substance prescription drugs under circumstances described in subsection (m) of this section by a qualified health practitioner employed or contracted by the agency; and

(5) otherwise comply with state, federal, and local laws applicable to the disposal of drugs and biologicals in a facility.

(m) A health care practitioner qualified under subsection (l) of this section may confiscate and dispose of a client's unused controlled substance prescription drug if:

(1) the client has died;

(2) the drug has expired; or

(3) the client's physician has given written instructions that the patient should no longer use the drug.

(n) A hospice agency may not dispose of controlled prescription drugs not prescribed to the client.

(o) A health care practitioner qualified under subsection (l) of this section, confiscating the controlled substance prescription drug, must dispose of the drug in a manner consistent with recommendations of the United States Food and Drug Administration and the laws of the State of Texas.

(p) A health care practitioner qualified under subsection (l) of this section must dispose of a client's unused controlled substance prescription drugs as described in this section only at the location at which practitioner confiscated the drug.

(q) A health care practitioner disposal of a client's unused controlled substance prescription drugs as described in this section must be witnessed by another person 18 years of age or older. The witness does not have to be a hospice employee.

(r) After disposing of the client's unused controlled substance prescription drug, the health care practitioner shall document in the client's record:

(1) the name of the drug;

(2) the dosage of the drug the client was receiving;

(3) the route of controlled substance prescription drug administration;

(4) the quantity of the controlled substance prescription drug originally dispensed and the quantity of the drug remaining;

(5) the time, date, and manner of disposal; and

(6) name and relationship of the witness to the client.

(s) A health care practitioner shall document in the client's file if a family member of the client prevented the confiscation and disposal of a controlled substance prescription drug authorized under this section.

(t) A health care practitioner shall document in the client's file if an employee of a licensed facility where the client is receiving in-patient hospice services prevented the confiscation

and disposal of a controlled substance prescription drug otherwise authorized under this section.

Notes

26 Tex. Admin. Code § 558.861

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