Unlicensed Persons Administering Medications: Nursing Homes

Federal nursing home rules state the following:

42 CFR § 483.45 Pharmacy Services

The facility must provide routine and emergency drugs and biologicals to its residents or obtain them under an agreement described in CFR §483.70(g). The facility may permit unlicensed personnel to administer drugs if state law permits, but only under the general supervision of a licensed nurse.

Wisconsin nursing home rules state the following:


1. Personnel who may administer medications. In a nursing home, medication may be administered only by a nurse, a practitioner as defined in Wis Stat. § 450.07(1)(d), or a person who has completed training in a drug administration course approved by the department.

2. Responsibility for administration. Policies and procedures designed to provide safe and accurate administration of medications shall be developed by the facility and shall be followed by personnel assigned to prepare and administer medications and to record their administration.

For many years the Department has set criteria for and approved medication administration courses that nurse aides can take in order to administer medications in a
Student Nurses and Student Nurses Who Graduated

1. Student nurses and student nurses who have graduated are nurse aides and must comply with the training and testing requirements for nurse aides who work in nursing homes.

2. A nurse aide who has graduated from an accredited nursing school but has been unsuccessful on the nursing license exam and does not hold a temporary permit may continue to administer medications for a period of one year after graduation. The person must become a licensed nurse or pass the medication aide challenge exam within that one-year period in order to continue administering medications.

3. A nurse aide who is currently enrolled in a nursing program must be actively taking nursing courses. “Actively taking nursing courses” means there is no break of more than one year between nursing courses. This nurse aide must have passed the medication administration course of an accredited school of nursing in order to administer medications in the nursing home. The nursing home must have a record indicating this nurse aide has taken and passed a medication administration course. If this nurse aide is not actively taking nursing courses, the nurse aide must become a medication aide (by taking challenge exam) in order to continue to administer medications in a nursing home.

Medication Aide/Nurse Aide (MA/NA): Requirements to Maintain Status

1. MA/NAs must maintain their status on the Wisconsin Nurse Aide Registry.

2. MA/NAs must work a minimum of 100 hours annually as a medication aide to maintain MA/NA status. The MA/NA is responsible for keeping records of the annual number of medication administration hours for rolling three-year periods. This requirement took effect January 1, 2002.

3. Attend four hours of in-service annually that focuses on medication and medication administration. These four hours are in addition to the mandatory 12 hours of in-service that a nurse aide must attend annually. Instructors for these in-service trainings should have expertise in the topic areas presented.

Over-the-Counter (OTC) Contingency Supplies in a CBRF

As a reminder to CBRF survey staff, in 2014 the Bureau of Assisted Living, during a review of a waiver request for an OTC drug contingency supply request, was provided guidance that waivers were not necessary in all cases. The following is the information provided at that time.

First, NO CBRF is allowed to have a contingency supply of prescription medications. There may be some rare instances where a waiver or variance may be allowed for prescription drugs in contingency, but these will be very rare and usually in situations where a physician is based in the facility.

Second, the intent of the OTC packaging and labeling requirement in Wis. Admin. Code § DHS 83.37(1)(b) was that all residents would have their own supply of OTC products, which would have proper labeling when kept in the manufacturer’s bottle. In addition, doing so allowed CBRF residents
the option of purchasing the supply from a pharmacy or from other locations where OTC medications are sold.

From 2009-2014 some facilities were granted waivers to have contingency supplies of OTC medications. In these cases, the facility usually had policies, trained staff, and justification (e.g., medication waste, resident finances, and, in some cases, resident safety) as a rationale to limit individual supplies of OTC medications and use a contingency supply instead.

In 2014, another facility was requesting certain OTC medications to be placed into contingency rather than having individual supplies. In reviewing that waiver request a question was raised related to Wis. Admin. Code § DHS 83.37(1)(b), specifically the need to have a resident’s name on the container; this was being interpreted as a need to have individual supplies. During that discussion it was determined that a facility could be in compliance with the rule by placing multiple residents’ names on the same container, if the resident had an order for the medication and the OTC medication was maintained in the manufacturer’s container. Pursuant to the discussion for this waiver, it was determined that CBRFs do not need a waiver for OTC medication contingency supplies if all of the conditions are met. Per § DHS 83.37(1), a facility must do the following to have OTC contingency supplies of medications:
1. Have a written order for the OTC medication
2. Keep OTC medications in manufacturer container
3. Place each resident’s name on the label

The use of a contingency supply of medications does bring up issues of medication safety and infection prevention. Sometimes there can be different types of medication errors that occur with contingency supply, which may require specific training in the facility. These errors usually include selecting the wrong dose or not documenting the time an initial dose of medication was given, leading to a second dose being given too early. In addition to medication errors, infection prevention issues caused by contaminating the contingency supply may also occur. For example, using unwashed hands or an unclean device like a spatula or medication cup to prepare doses of medications. As a surveyor, if you see facilities with medication errors or infection prevention issues, you should investigate for possible violations.

Consultant Corner by Doug Englebert, R.Ph.

What is the best way for an assisted living facility to handle Aplisol (tuberculin testing)?
Does the facility need to have a prescription for each patient or staff member before the test can be administered?

Aplisol is a prescription drug. A CBRF would need orders to administer Aplisol to residents and staff. As it is an injection, a RN would need to administer or delegate to staff to administer. Since individual orders are required, the pharmacy needs to dispense individual doses. If the pharmacy is providing a vial to be used for many individuals, the only way this can be done is if the pharmacy is distributing the drug to an RN who is administering Aplisol by delegated authority from a physician to dispense under physician license. Assisted living facilities without a physician delegating, will need individual doses or they need to send staff and residents to their physicians to get the shots.

Can an end stage renal dialysis (ESRD) facility hang an intravenous bag of saline in a room for staff to draw/prepare saline syringes during the day?
Intravenous (IV) bags of solutions are intended to be used for a single patient. When multiple syringes are prepared from this IV bag and used for many patients, in most cases this would be considered an unsafe injection practice. When multiple syringes are prepared, this would be considered sterile compounding.

In reviewing the Centers for Disease Control (CDC) safe injection standards, the use of a single-use intravenous bag to prepare syringes for multiple patients is an unsafe practice. See the Safe Injection Practices to Prevent Transmission of Infections to Patients webpage at: https://www.cdc.gov/injectionsafety/ip07_standardprecaution.html

In reviewing the United States Pharmacopeia (USP) standards for sterile compounding, syringes prepared in a general air environment are to be used within one hour.

The Centers for Medicare & Medicaid Services (CMS) recently published S&C Memo 17-31. This memo indicates that the practice of preparing saline flush syringes from a single-use IV bag is prohibited. In addition, when entities prepare saline flushes within the dialysis facility, the syringes should be prepared as close as possible to time of administration. Please note that standards of practice (USP) would say the syringes prepared aseptically in general air environment are only good for one hour.