

# Senate Probes DEA Action in Nursing Homes

BY KEITH HAGLUND

A hearing of the Senate Special Committee on Aging last month featured complaints from providers about recent Drug Enforcement Administration actions in long-term care settings, as well as agreement from a top DEA official to consider creating a new registration category for nursing homes.

To address concerns about pain management in light of the DEA's recent enforcement of controlled substance regulations in nursing facilities, Committee Chair Herb Kohl (D-Wis.) conducted the hearing under the title "The War on Drugs Meets the War on Pain: Nursing Home Patients Caught in the Cross Fire."

American Geriatrics Society (AGS) President Cheryl Phillips spoke on behalf of physicians. "I am here because every day, across the country, the real-life consequence of the [DEA] interpretation of the Controlled Substance Act is that, collectively, we are preventing patients in long-term care settings from receiving much-needed pain relief and other medications in a timely manner."

In testimony presented to the committee in writing, Dr. Jonathan Musher, representing the American Medical Directors Association (AMDA), explained the problem. DEA's recent stand that in the long-term care (LTC) setting "a nurse is not viewed as an agent of the provider" has had the result that "physicians are being required to bypass giving a class medication order to a nurse and give that order directly to a dispensing pharmacist. ... [T]hese actions are causing the delay of the receipt of needed pain medications in the nursing home."

Dr. Musher concluded, "AMDA believes that nurses should be viewed as the agent of the provider. This would continue to allow the important dialogue between the physician and the nurse, which is essential for proper care and treatment. It also would allow for the necessary checks and balances regarding or-



Patients in long-term care settings are not receiving much-needed pain relief, said Dr. Cheryl Phillips.

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dering, receiving, and administering controlled substances to the patients under our care."

In her testimony, Dr. Phillips described the current situation in nursing homes more personally. "If I am called after hours or I am covering for another physician and I am notified of an acute pain issue, I cannot merely leave the order for the pain medication for the nurse to fill. ... In fact, according to the DEA rules, I must identify the dis-

persing pharmacy and call the pharmacy, most often through a 1-800 number, and leave a message for the pharmacist to return my call. When I am able to speak in person, I must place my order—followed by a fax of that order with my signature. I must then call the nursing home and relay the same order to the nurse where she awaits delivery of the medication or release from the narcotic emergency box by the pharmacist. Even when this goes as described above in perfect order, it is often 30 minutes to an hour to complete the process."

Testifying for the DEA was Joseph Rannazzisi, the agency's deputy assistant administrator. He asserted that the DEA recognizes the unique nature of the LTC setting and so has implemented numerous regulations over the years to make it easier to dispense controlled substances.

The DEA official also said that his agency would soon publish a rule allowing electronic prescribing of controlled substances by "computer, laptop, or PDA device to send a prescription to a pharmacy from a remote location instantaneously." ■

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