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State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

January 27, 2014

AFL 14-05

TO: General Acute Care Hospitals

SUBJECT: Verifying informed consent for psychotherapeutic drugs before transferring patients to Skilled Nursing Facilities

AUTHORITY: California Code of Regulations, Title 22 Sections 72052, Health and Safety Code Section 1262.5

The purpose of this letter is to encourage all general acute care hospitals (GACHs) to assist in the transfer of patients to skilled nursing facilities (SNFs) by ensuring the transfer documents include documentation pertaining to informed consent – specifically as it relates to psychotherapeutic drugs and the direct transfer from GACHs to SNFs.

In August 2012, the California Department of Public Health (CDPH), the Centers for Medicare and Medicaid Services (CMS) and several nursing home stakeholders formed a partnership to improve dementia care and reduce unnecessary antipsychotic drug use in SNFs. The partnership has focused some of its attention on the issue of nursing home residents who are admitted directly from a GACH where antipsychotic drugs were initiated. For nursing home residents, especially those who are elderly and suffer from dementia, antipsychotic drugs can be very dangerous, and should only be administered when other treatment alternatives have been exhausted or are impractical due to an emergency. The FDA requires that both conventional and atypical antipsychotics be labeled with a black box warning, cautioning users of a 1.6 – 1.7 increase in mortality.

When GACH patients are transferred to SNFs, the SNF staff must be able to verify that informed consent was obtained for any continuing psychotherapeutic drug prescriptions. This requirement applies to all psychotherapeutic medications (e.g., antidepressants, mood stabilizers, anxiolytics, hypnotics), and is not limited to antipsychotic drugs. If proper consent is not obtained, there is significant risk of patient impact and the ability to receive proper care. The fact that this treatment was initiated prior to the resident's transfer does not relieve the SNF of the obligation to verify that informed consent was obtained.

If a SNF is unable to verify informed consent from a GACH where psychotherapeutic drugs are currently being administered, the SNF must either refuse to admit the patient or suspend ordered treatment until consent can be obtained.

Health and Safety Code Section 1262.5 requires that a transfer summary accompany the patient upon transfer to a SNF which must include essential information related to the patient's diagnosis including treatments and medications. To ensure successful patient transfers, CDPH strongly encourage that all GACHs include information about the consent for psychotherapeutic drugs obtained from the patient or their designee as part of the patient's transfer summary.

Facilities are responsible for following all applicable laws. CDPH's failure to expressly notify facilities of statutory or regulatory requirements does not relieve facilities of their responsibility for following all laws and regulations. Facilities should refer to the full text of all applicable sections of the Health and Safety Code and Title 22 of the California Code of Regulations to ensure compliance.

If you have any questions, regarding this AFL, please contact your local Licensing and Certification District Office.

Sincerely,

Original signed by Pamela Dickfoss

Pamela Dickfoss
Acting Deputy Director
Center for Health Care Quality