Legislative changes on medication administration in residential aged care

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The Place To Be

What did we change from?

- Focus of regulation shifted from the setting…….
  - Regulation 45 of the *Drugs Poisons and Controlled Substances Regulations 1995* required that only a nurse could administer medication to a resident of a nursing home
  - A nursing home was an aged care service where all places are allocated to the provision of high care.
  - No regulation in any other circumstance

What have we changed to?

- Focus of regulation now on the resident
  - Law now requires that administration of medication to high care **residents** must be *managed* by a nurse rather than necessarily administered by a nurse in every instance.
  - Allows delegation of administration to Division 2 nurses and personal care workers.
  - No change in requirements for low care residents.

Why change now?

- DP&CS Regulations was due to 'sunset'
- Clear that Regulation 45 needed to be changed to reflect current aged care
- Long consultation process to identify best approach
- Must be demonstrated that regulation is essential
- Other change made us better prepared to allow delegation:
  - Extension of scope of practice of Division 2 nurses
  - Certificate 3 training for care workers

Who is affected by the changes?

- Residents – law covers an extra 9,500 high care residents. Total now 24,000
- Approved providers – responsibility is with ‘approved provider’ rather than ‘managers’, in at least 300 additional services (Reg 45 covered only 336 ‘nursing homes’).
- Registered Nurses - Division 1,3 or 4 who manage the administration of medication.

The Drugs Poisons and Controlled Substances Act and Regulations

- DP&CS Act and regulations are principally concerned with the supply, possession and storage of scheduled substances – not with professional practice
- Reach of the Act and Regulations generally ends at the point of supply on prescription
- Aged Care is the only context in which there is control over a medication that has been supplied on prescription

The legislative changes - summary

- Provision in the DP&CS Act that a nurse must manage administration for any high care resident
- Nurse must have regard to NBV code
- Provision in Nurses Act to make incitement to unprofessional conduct an offence
- Supporting changes to DP&CS Regulations

Legislative change - definitions

- **'aged care service'** has the same meaning as it has in the *Aged Care Act 1997* of the Commonwealth
- **'approved provider'** and '**high level residential care'** also have the same meaning as in the *Aged Care Act*
- **'nurse'** means a person registered in division 1, division 3 or division 4 of the register of nurses established under the *Nurses Act 1993*

Legislation
DP&CS Act provisions

Section 36E A person who is an approved provider of an aged care service must ensure that a nurse manages the administration of any drug of dependence, Schedule 9 poison, Schedule 8 poison or Schedule 4 poison to a resident in an aged care service—

(a) who is receiving high level residential care; and

(b) for whom that drug or poison has been supplied on prescription.

Penalty:In the case of a natural person, 120 penalty units; in the case of a body corporate, 600 penalty units.

Legislation
DP&CS Act provisions

Section 36F

A nurse who manages the administration of any drug of dependence, Schedule 9 poison, Schedule 8 poison or Schedule 4 poison to a resident in an aged care service in accordance with this Division must do so in accordance with the relevant code for guidance (if any) issued by the Nurses Board of Victoria under the Nurses Act 1993.

Legislation
Nurses Act provisions

Section 63AA

(1) A person must not direct or incite a nurse to do any thing, in the course of professional practice, that would constitute unprofessional conduct or professional misconduct.

Penalty: In the case of a natural person, 240 penalty units; in the case of a body corporate, 1200 penalty units.

(2) If a court convicts or finds a person guilty of an offence against this section, the court must cause the Nurses Board of Victoria to be notified in writing of the conviction or finding.

Code for Guidance issued by the Nurses Board of Victoria

- Section 66(h) of the Nurses Act 1993 empowers the Nurses Board of Victoria (NBV) to make codes for guidance for registered nurses
- A 'Code for Guidance in the management of the administration of medications for high care residents in an aged care service' has been published by the NBV
- The code provides guidance for nurses who are managing the administration of medication that has been supplied on prescription to high care residents of aged care services. Nurses are obliged to act in accordance with the code.
- Code has been amended to make clear that there will be an implementation period. Latest version is dated 26 June 2006.

The Code specifies that:

A nurse who manages the administration of medication:

- Must be in charge of the medication administration process
- May delegate the task to a suitably qualified or trained person
- Must be satisfied that the person is competent
- Must *not* delegate outside that person's scope of practice
- Must *not* delegate injections
- Must ensure there is an appropriate system of supervision of the administration process

Delegation of Medication Administration

- Prior to making a decision about who should carry out medication administration tasks, a nurse must consider:
  - Assessment of the resident
  - Assessment of the drug regimen
  - Competence of the worker

Management and Supervision

- Supervision is an element of management. They are not the same thing.
- The code requires that there is an appropriate *system* of supervision of delegated tasks with the medication administration process.
- The code allows for indirect supervision of medication administration – i.e. the work is not directly observed.
- However, the code prescribes a minimum requirement for supervision of personal care workers administering medication – that a nurse is on the premises when administration occurs.

What will it look like on the ground?

- These changes do not mean 'anyone' will be able to administer medication
- Nurses must assess which worker is appropriate to delegate to
- Management within the context of properly established medication management policies
- Appropriate supervision – requires a nurse on duty ***when*** medication administered to a high-care resident.
- This does not necessarily meant that there must be a nurse on every shift – but arrangements must be put in place to ensure that the provisions of the code will be met.

Taking this information further

- DHS and the NBV have prepared questions and answers that may assist in communicating with residents, families and staff – see the websites.
- Nurses Board will conduct up to 40 information sessions across the State for nurses and care managers on the implementation of the Code – starts 29 August.
- Sessions will be linked to those on the new Resource Kit to assist in implementation of the APAC Guidelines, which is about to be published.

References

- Copies of the legislation (*Drugs Poisons and Controlled Substances Act 1981* and Regulations 2006, and *Nurses Act 1993* can be accessed at:
  - http://www.dms.dpc.vic.gov.au/
- Fact sheets and additional explanatory material are available at:
  - http://www.health.vic.gov.au/dpu/
- The Nurses Board of Victoria Code is available at:
  - http://www.nbv.org.au