



KENTUCKY BOARD OF PHARMACY

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OPINION AND DECLARATORY RULING: PRESCRIPTIONS FOR INDEPENDENT USE AFTER NURSING HOME DISCHARGE OR LEAVE

Issued on: August 31, 2021

The Kentucky Board of Pharmacy issues this declaratory ruling to clarify whether nursing staff are authorized to prepare medication for independent use of a resident after they are discharged or leave the facility, and if that action constitutes dispensing by a nurse. The Board of Pharmacy is authorized to issue Opinion and Declaratory Judgments pursuant to KRS 13A.130(3) and 13A.010(2)(b). A declaratory ruling does not create a new law or modify an existing one. Board of Pharmacy declaratory rulings are not binding, and are only offered as a guideline to licensees, permit-holders and registrants who wish to engage in a safe practice of pharmacy that promotes, preserves and protects public health, safety and welfare of the citizens of the Commonwealth.

The Kentucky Board of Pharmacy is authorized by Kentucky Revised Statute (KRS) 315 to regulate pharmacies, pharmacists, pharmacist interns, pharmacy technicians, manufacturers, wholesalers, outsourcing facilities and third-party logistics providers within the Commonwealth of Kentucky or transacting business within the Commonwealth of Kentucky in order to promote, preserve, and protect public health, safety and welfare of the citizens of the Commonwealth.

The Kentucky Board of Pharmacy has been asked by the Cabinet for Health and Family Services, Office of Inspector General, if nursing staff giving out medications for independent use of a resident upon exiting the facility constitutes dispensing, thereby making it a prohibited action for a nurse to perform.

Prescriptions that have been dispensed by a pharmacy to a patient in a long-term care facility can be held by the facility for patient use. The prescription may then be returned to the patient upon their departure, whether permanent or temporary, from the facility. Giving the patient custody of their medication will not be considered dispensing by nursing staff if the following circumstances exist:

(1) The original prescription was filled for a patient and the patient, or their third-party payer, excluding Medicare Part A, was billed. In this situation, the prescription is considered the patient's property.

(2) The dispensed prescription medication is labeled by the dispensing pharmacy, and the prescription drug remains in the original container with the original labeling. The prescription may not be altered in any way from the condition it was originally dispensed from the pharmacy. For temporary departures from the facility, it is recommended that notice be given to the facility within a reasonable time so the dispensing pharmacy for the facility or backup pharmacy can dispense medications properly packaged and labeled for patient use outside of the facility.

(3) When the patient is discharged, the patient is required to sign for the medications given to them upon departure. The signature log must state the medications are not in child-proof containers (if applicable) and it must list the name, dose, and quantity provided to the patient at discharge. For patient safety, it is recommended that prior to the patient's discharge, all medications are reconciled by nursing staff and a pharmacist with the medication administration record and physician orders from the physician in charge of their care at the facility to ensure only active medications with active order are sent with the patient.

The following cannot be performed by nursing staff as it would constitute the unauthorized practice of pharmacy:

(1) Nursing staff cannot give patients medication from their facility drug stock at discharge or leave. Taking medication that is used for multiple residents, removing doses from an emergency stock or from any source other than an individual patient's medication stock and subsequently labeling it to give to a patient is considered dispensing.

(2) For skilled patients, such as Medicare Part A, where the facility, not the patient or their insurance, is charged for the medication by the pharmacy, the medication must be returned to the pharmacy upon patient discharge. This is not considered patient property and providing it to the patient would constitute dispensing.

(3) Any medications belonging to deceased patients should be destroyed by the nursing home or returned to the pharmacy. Giving the medication to any other patient, individual or family member without authorization would constitute dispensing.

(4) The nursing home staff cannot remove any of the patient-specific medication from the original prescription container with the intent of sending with the patient on a temporary or permanent discharge or visit. Nursing staff cannot place any of the medication in alternative packaging, like envelopes. They also cannot write new instructions on the packaging, this would be considered labeling a prescription drug, a task constituting the practice of pharmacy.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Hadley".

Larry Hadley, Executive Director
Kentucky Board of Pharmacy

APPLICABLE KENTUCKY LAW

KRS 315.010(9)

"Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug."

902 KAR 20:048

"The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited."

"Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws."

"The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home."

"The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited."

"Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations."

"Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations."

201 KAR 2:074

"If a medication needs to be repackaged: a pharmacist, pharmacist intern, or certified pharmacy technician shall perform the repackaging and validate the presence of an accurate bar code on the unit dose packaging."