



Guidelines for Handling Suspected Illicit Substances in Hospitals

Introduction

Hospital staff may remove suspected illicit substances from a patient's belongings or from the ward. The hospital pharmacist may be asked to store or destroy these substances. The pharmacist is obliged to respect and maintain the patient's confidentiality. At the same time, the pharmacist and other pharmacy staff must be aware of the potential legal ramifications of handling, carrying and transporting suspected illicit substances. Pharmacy staff who do not carefully and completely document the circumstances of handling or transporting a suspected illicit substance may risk criminal charges for possession or trafficking of a controlled substance.

These guidelines are intended to provide information to:

- maintain and protect the patient's right to confidentiality;
- protect the pharmacist and other pharmacy staff from exposure to criminal charges for possession or trafficking of a controlled substance; and
- provide the patient with a mechanism to apply for return of the property.

Relevant Legislation

Freedom of Information and Protection of Privacy Act

The patient's right to receive confidential health care is protected by the *Freedom of Information and Protection of Privacy Act* (FOIPPA). Information about the patient may be collected only for the purpose of providing health care during the hospital admission. This information must not be disclosed to any other person or public body (including law enforcement agencies) unless the patient gives specific consent for the release of the information.

Pharmacy Operations and Drug Scheduling Act

The *Pharmacy Operations and Drug Scheduling Act Bylaws, Section 21* requires pharmacists to maintain the confidentiality of patients' information. Pharmacists may collect and use patients' information only for providing pharmacy care.

Controlled Drugs and Substances Act

Controlled drugs and substances are regulated federally under the *Controlled Drugs and Substances Act* (CDSA). The pharmacist should review the definitions of "possession" and "trafficking." The pharmacist needs to be aware that carrying a suspected illicit substance without appropriate documentation or giving a suspected illicit substance back to a patient could expose the pharmacist to the risk of criminal charges for possession or trafficking of a controlled substance. Relevant excerpts from the CDSA are attached (Appendix 1).

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Documenting the Discovery and Removal of a Suspected Illicit Substance

Your hospital may already have existing policies and procedures for the hospital staff member(s) that discover or remove a suspected illicit substance. The staff member(s) may be required to initiate an incident or unusual occurrence report to describe the circumstances of the discovery of the suspected illicit substance.

A pharmacist is not usually involved in the discovery or removal of a suspected illicit substance but the nurse or security staff member may seek the assistance of the pharmacist at this point.

Transferring the Suspected Illicit Substance

If the nurse or security person has not already placed the suspected illicit substance in a tamper-evident bag, do so immediately. Some hospitals may have a supply of “exhibit” bags, which are used by the police for storing evidence. Exhibit bags are numbered, clear plastic bags with a tamper-evident seal. If an exhibit bag is not available, place the suspected illicit substance in a large, clear plastic bag. Fold the top over two or three times and devise a tamper-evident seal for the bag (try using a permanent pharmacy label, a tamper-evident pharmacy closure, a row of staples, etc.).

Do not label the bag with any information that would reveal the identity of the patient. **Do not** note the patient’s name, initials, PHN or hospital number on the bag. Exhibit bags have an identification number. If you do not have an exhibit bag, assign the bag a unique number (i.e. the number of the incident or unusual occurrence report form or a number such as “date-1”). Record the exhibit bag or assigned number on the initial incident or unusual occurrence report.

It is extremely important that every person who now transfers or receives the numbered, sealed bag documents his or her involvement in the transportation and transfer process. A second incident or unusual occurrence report (without patient identifiers) or a specific “transfer form” (see sample, Appendix 2) can be used. This document must accompany the sealed bag at all times. The following information must be documented:

- discovery or confiscation date,
- the exhibit bag number or reference number assigned to the bag,
- a factual description of the suspected illicit substance (e.g. form, colour, approximate quantity, etc),
- the name and signature of the person discovering or removing the substance from the ward or patient,
- the name and signature of a witness to the discovery or removal, if available,
- the name and signature of all persons who transfer or receive the sealed bag.

Tip: **Never include patient identifiers on the transfer form.** The transfer form documents only the handling and transfer of the suspected illicit substance between hospital security, nursing, pharmacy and the police. Patient information must remain confidential.

Tip: **Never speculate or refer to the identity of the substance.** By representing or “holding out” the suspected illicit substance to be a specific drug or substance, the hospital staff member risks being found to be in “possession” of an illicit substance.

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Tip: **Always use descriptive terms.** Describe the substance only as an “unidentified, white, powder”, “dried, leafy plant material”, etc.

When the sealed bag is transferred from or received by different hospital departments, a copy of the incident report or transfer form should be kept for the department record.

Storing the Suspected Illicit Substance

The sealed bag containing the suspected illicit substance and the transfer form must be stored together securely in a controlled and restricted access area (e.g. the pharmacy narcotic vault). The pharmacy department may either retain the sealed bag or contact the police to make arrangements to transfer the sealed bag to the local police detachment.

There is no legal requirement for the pharmacy department to retain and store the suspected illicit substance for a specific duration. A pharmacy department policy should be determined and followed. The duration that a suspected illicit substance is retained may also be dependant on the patient’s clinical condition (i.e. chemical analysis of the substance may be indicated in specific drug overdose cases). After the retention period, the suspected illicit substance may be destroyed with another licensed health professional as a witness. The destruction must also be documented on the bag’s transfer form or incident report.

The police are required by the CDSA to retain seized, suspected illicit substances for a period of 60 days from the time of seizure. If a suspected illicit substance is transferred to the police, ensure that the discovery or confiscation date is noted on the transfer form.

Maintaining Patient Confidentiality

The pharmacist must not release patient information to the police. Patient information collected in the hospital may be used only to provide health care. If the police wish to investigate the source of the suspected illicit substance, refer the police officer to the hospital or health authority official who is named as the “head” of the hospital for the purposes of FOIPPA.

Returning a Suspected Illicit Substance

A patient may request the return of the suspected illicit substance. **Never** give the suspected illicit substance or the sealed bag directly to the patient (see CDSA definition of trafficking). The CDSA has provisions to return seized substances to the owner. This must be handled through the police department and courts.

If the patient requests the return of the suspected illicit substance, contact the police and arrange to have the sealed bag and contents transferred to the local police detachment. The patient may then be referred to the police department to voluntarily disclose his or her identity and to request the return of the suspected illicit substance in accordance with the provisions of the CDSA.

Extracts from the *Controlled Drugs and Substances Act, 1993*

Definitions

“controlled substance” means a substance included in Schedule I, II, III, IV or V

A brief synopsis of the schedules is provided. For complete information, refer to Schedules I - VII to the CDSA.

Schedule I	all narcotics, cocaine, PCP
Schedule II	cannabis, including plant and plant extracts, and synthetic derivatives
Schedule III	amphetamines, methylphenidate, LSD, other hallucinogens and “designer” drugs
Schedule IV	barbiturates, hypnotics, benzodiazepines, “diet” drugs and anabolic steroids
Schedule V	phenylpropanolamine and other precursors for illicit drug manufacture

“traffic” means, in respect of a substance included in any of Schedules I to IV,

- (a) to sell, administer, give, transfer, transport, send or deliver the substance,
- (b) to sell an authorization to obtain the substance, or
- (c) to offer to do anything mentioned in paragraph (a) or (b),

otherwise than under the authority of the regulations.

Offences

- Possession of substance 4 (1) Except as authorized under the regulations, no person shall possess a substance included in Schedule I, II or III.

- Trafficking in substance 5 (1) No person shall traffic in a substance included in Schedule I, II, III or IV or in any substance represented or held out by that person to be such a substance.

Disposal of Controlled Substances

- Application for return 24 (1) Where a controlled substance has been seized, found or otherwise acquired by a peace officer, or an inspector, any person may, within 60 days after the date of the seizure, finding or acquisition, on prior notification being given to the Attorney General in the prescribed manner, apply, by notice in writing to a justice in the jurisdiction in which the substance is being detained, for an order to return that substance to the person.

Sample Transfer Form for Suspected Illicit Substance

Date Discovered:

Bag Identity Number:

Description of Suspected Illicit Substance:

Form:

Colour:

Approx. Quantity:

Other:

Found or Removed by:

Name:

Witness name:

Title / Dept:

Title / Dept:

Signature:

Signature:

Date/time:

Location:

Transfer (if applicable):

Transferred by:

Received by:

Title / Dept:

Title / Dept:

Signature:

Signature:

Date/time:

Location:

Transfer to Pharmacy:

Transferred by:

Received by:

Title / Dept:

Title / Dept:

Signature:

Signature:

Date/time:

Location:

Transfer to Police:

Transferred by:

Received by:

Title / Dept:

Title / Dept:

Signature:

Signature:

Date/time:

Location:

Seal the suspected illicit substance in a tamper-evident bag.

Do not label the sealed bag or this form with any information that could identify the patient.

The **original** copy of this form must accompany the bag at all times. Each time the bag is transferred, a copy of this form should be made and provided to the person transferring and receiving the bag containing the suspected illicit substance.