FR13- Drugs, Sex and Rock 'N Roll: Changing Times in LTC

Friday, March 23
1:30 PM- 3:00 PM

Session Description

The purpose of this session is to present a diverse panel of experts who will discuss the development of programs, policies, and clinical interventions at the Hebrew Home at Riverdale involving sexual expression and medical marijuana. This is a very unique opportunity for conference attendees to gain the perspectives of a CEO, CMD, and LTC consulting attorney in a fascinating 90-minute session that should not be missed.

Learning Objectives

Describe three novel programs at the Hebrew Home of Riverdale which may be used as models for change in participant facilities.
Discuss strengths and limitations to use of medical marijuana in LTC.
Review current or pending legislation which may impact the use of medical marijuana in LTC.
Discuss leadership skills which facilitate change in the LTC environment.

Presenter(s): Patricia Bach, PsyD, RN, MS; Daniel Reingold, JD, MSW; Zachary Palace, MD, CMD; Alan Horowitz, JD, RN

Presenter(s) Disclosures: Zachary Palace, MD, CMD: Has a financial disclosure; RiverSpring Health: Mr. Reingold is employed as the CEO of this company; Daniel Reingold, JD, MSW: Has a financial disclosure; RiverSpring Health: Dr. Palace is employed by RiverSpring Health at the Hebrew Home, where he serves as the CMD; All other speakers have reported they have no relevant financial relationships to disclose.
Drugs, Sex and Rock 'N Roll: Changing Times in Long-Term Care

Daniel Reingold, JD, MSW
Zachary Palace, MD, CMD, FACP
Alan Horowitz, JD, RN
Patricia Bach, PsyD, RN
March 23, 2018

Speaker Disclosures

Mr. Reingold, Mr. Horowitz, Dr. Palace and Dr. Bach have no financial relationships to disclose.

The presentation will include discussion of off-label use of medical marijuana in long term care.

Learning Objectives

By the end of the session, participants will be able to:

- Describe 3 programs at the Hebrew Home of Riverdale which may be used as models for change.
- Discuss benefits & liabilities regarding the use of medical marijuana in long term care.
- Describe current or pending legislation which may impact the use of medical marijuana in long term care.
- Discuss leadership skills which facilitate change in the long term care environment.

Hebrew Home at Riverdale

Daniel Reingold
President and CEO
RiverSpring Health
March 23, 2018

The Hebrew Home at Riverdale is located on 32 acres overlooking the Hudson River.

Art at the Hebrew Home at Riverdale.
Sexual Expression

End of Life
Music Therapy

At 90, Beverly Herzog is writing songs for the first time. Once a week, a music therapist helps Mrs. Herzog transform her thoughts into lyrics, then sings them back to her mellifluously over the strums of her guitar. The result can be transformative. When Mrs. Herzog listened during a session in December, she marveled at how magically the music reflected her views on love and life.

Medical Marijuana

Medical Cannabis in the Nursing Home
Zachary J. Palace MD CMD FACP
Medical Director, Hebrew Home at Riverdale
March 23, 2018

Objectives

- To appreciate the benefits of cannabis from an historical perspective.
- To appreciate the challenges associated with medical cannabis use in the nursing home.

Medical Cannabis in the Nursing Home

- History of cannabis
- Pharmacology
- Indications
- Contraindications
- Federal vs. State laws
- Challenges in the nursing home
**History of Cannabis**

- 2700 BC – China - cannabis described medicinally as treatment for malaria, constipation, and rheumatic pains.
- 1400 BC – India - Atharva Veda scriptures.
- 1000 BC – Tibet - Ayurvedic therapies.
- 70 AD – Greece - The Natural History
- 1839 – UK - Dr. William O’Shaugnessy

**History of Cannabis**

- 1842 - Publishes a landmark paper on the medicinal use of cannabis for antispasmodic, antiemetic, analgesic, anticonvulsant, and appetite stimulant effects.

**History of Cannabis**

- 1850-1900's - Cannabis is an accepted medical therapy. Over 100 scientific articles are published in Europe and US on efficacy of cannabis extract.
- Lancet article in 1880 stressing importance of dose titration to avoid “toxic effects” (Reynolds).

**Challenges to Cannabis Use**

- Variabilities in concentration/dosage
- Bioavailability/storage stability
- Unpredictability
- Synthetic alternatives

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- Variabilities in concentration/dosage
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- Synthetic alternatives

**Position of the AMA**

- “There is nothing in the medicinal use of Cannabis that has any relation to Cannabis addiction. I use the word ‘Cannabis’ in preference to the word ‘marihuana’, because Cannabis is the correct term for describing the plant and its products. The term ‘marihuana’ is a mongrel word that has crept into this country over the Mexican border and has no general meaning, except as it relates to the use of Cannabis preparations for smoking...To say, however, as has been proposed here, that the use of the drug should be prevented by a prohibitive tax, loses sight of the fact that future investigation may show that there are substantial medical uses for Cannabis.”

Cannabis Becomes Prohibited

- 1937-Marihuana Tax Act is enacted.
- 1942- US Pharmacopeia removes cannabis.
- 1944- LaGuardia Committee.
- 1956- Narcotics Control Act includes cannabis.
- 1971- Controlled Substances Act (schedule I).
- 1973- DEA established.

Pharmacology

- 1964-THC first isolated as an active component.
- 1990-Cannabinoid receptor system identified.
- Endocannabinoids/Phytocannabinoids

Endocannabinoid System

- N-arachidonoylethanolamine (anandamide).
- 2-arachidonoylglycerol (2-AG).
- Fatty acid amidohydrolase (FAAH).

Endocannabinoid System

- CB1 receptor primarily presynaptic in brain and peripheral neurons. Inhibits neurotransmitter release, psychoactive, cognition and memory, reward sensation, sensory perception, motor control, pain modulation, appetite, and emotional response.
- CB2 receptor primarily on cell membrane of B cells, T cells, and macrophages. Inhibits immune cell activation and cytokine production. Immunomodulatory and anti-inflammatory effects.

Pharmacology

- Over 100 identified. The two most active are:
  - Δ⁹-Tetrahydrocannabinol (THC)
  - Cannabidiol (CBD)

The “Entourage Effect” (?)
### Phytocannabinoids
- **Δ^9-THC** most psychoactive. CB1/CB2 receptor agonist. Metabolized to 11-OH-THC form.
- **CBD** not psychoactive. No direct CB1/CB2 binding. Inhibits FAAH, increasing [anandamide]. Inhibits metabolism of Δ^9-THC. COX inhibitor.

### Cannabinoids-FDA approved
- Dronabinol (THC) for anorexia HIV/AIDS, chemo-related refractory nausea/vomiting. (III)
- Nabilone (THC) for chemo-related nausea and vomiting. (II)
- **In phase 3 trials…**
  - Epidiolex (CBD) for refractory pediatric seizures.
  - Sativex (CBD:THC) for MS spasticity.

### Current Legal Status of Cannabis
- **Federal** – Schedule I.
- **State** – Currently 29 states, DC, Guam, PR, have passed legislation legalizing medicinal use of cannabis. California first in 1996.
- Lack of uniformity/variability among states.
- Rohrabacher-Farr Amendment (2014)
- Compassionate Care Act (NYSPHL, XIII:104)

### Approved Indications - NYS
- Multiple Sclerosis
- Parkinson’s Disease
- Huntington’s Disease
- ALS
- Seizures
- Spinal cord injury
- Chronic pain
- Neuropathy
- **Cancer**
- **HIV**
- **AIDS**
- **IBD**

### Case studies
- Ruth B.
- Joanna P.
- Helen W.

### Health Affairs, July 6, 2016
- Data source: Medicare Part D enrollees from 2010 to 2013, in District of Colombia and 17 states where medical marijuana laws were enacted.
- Data collected: Total number of prescriptions filled during the study period.
- National reductions in Medicare program and enrollee spending when states implemented medical marijuana laws were estimated to be $165.2 million/year in 2013.
**Health Affairs, July 6, 2016**

- Findings: Use of prescription drugs for pain, depression, seizures, anxiety, nausea, psychoses, and sleep disorders decreased significantly, once a medical marijuana law was implemented.

**Concerns in the Elderly**

- Cognitive impairment
- Dizziness
- Falls risk
- Increased cardiac output

**Challenges In the Nursing Home**

- Federal law – skilled nursing facility. Restrictions on possession, administration
- State law – patient. Rights of the individual NYS resident

How can we find a safe (and legal) balance?

**Conclusions**

- Wealth of historical clinical experience.
- Limited high quality scientific clinical trials.
- Symptom management – spasticity, pain, emesis, seizure.
- Clinical decision-making should always be individualized.
- Residing in a NH should not be a contraindication to use.

**Clinical Reference**


[https://www.nap.edu/read/24625](https://www.nap.edu/read/24625)

**Hebrew Home Medical Cannabis Program**

- The woman tried medical weed for the first time at 85 years old
Learning Objectives

By the end of the session, participants will be able to:

- Identify risks associated with cognitively impaired residents who are (or desire to be) sexually active.
- Discuss strategies for balancing resident rights and resident safety, while avoiding legal liability.
- Appreciate the current legal landscape and legislative efforts regarding medical marijuana.
- Identify and mitigate the legal liability regarding medical marijuana in the post-acute and long-term care setting.

Number of People in U.S. with Alzheimer's 2017

- 5.5 million
- 5.3 million are age 65 or older

1 in 10 adults over age 65 has Alzheimer's dementia

Total Nursing Home Residents – Approx. 1.6 million

- Percentages of sexually active adults by age group:
  - 57 – 63 years 73%
  - 65 – 74 years 53%
  - 75 – 85 years 26%
CMS Requirements for Participation

- 42 C.F.R. § 483.12
- Freedom from abuse, neglect, and exploitation. The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart.
- Regulatory definition of “abuse” specifically includes “sexual abuse.”

“Sexual abuse is non-consensual sexual contact of any type with a resident.”
CMS Guidance to Surveyors

- When investigating an allegation of sexual abuse, the facility must conduct a thorough investigation to determine the facts specific to the case investigated, including whether the resident had the capacity to consent and whether the resident actually consented to the sexual activity.
- A resident’s voluntary engagement in sexual activity may appear to mean consent to the activity; in these instances, if the facility has reason to suspect that the resident may not have the capacity to consent, the facility must protect the resident from potential sexual abuse while the investigation is in progress.

Challenges to Legally Sufficient Consent in Dementia

- No universally accepted definition or criteria for capacity consent in dementia
- No standardized tools for assessment
- No legal standard for the assessment process
- Cultural diversity in sexual ethics
- Lack of knowledge, ageist bias re: older adult intimacy
- Potential tension between patient privacy and role of family
- Consensual vs. inappropriate vs. abuse vs. rape
- Resident rights vs. resident safety

Strategies to Mitigate Risks re: Sexuality & Dementia

- Document, document, document
- Capacity Assessment (fluid and ongoing; PRN, not static)
- Input from all stakeholders (attending physician, medical director, psychologist/psychiatrist, IDT, family, LTC Ombudsman, SW, clergy, etc.
- Develop appropriate P & P (revise PRN)
- Staff education, in-services
- Ethics, QAPI, Compliance Program involvement
- Advance Directives?
- Compassion contract? (Justice O’Connor)
- Inform prospective residents/families

Legal Aspects of Medical Marijuana

States Where Marijuana is Legal – State Law Only

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Legal Aspects of Medical Marijuana

- 29 States and the District of Columbia now permit the possession of medical marijuana in accordance with State law.
- The Federal government considers marijuana a Schedule I controlled substance – growth, distribution, sale, and/or possession is a crime.
- All nursing facilities that participate in Medicare and Medicaid agree to comply with ALL federal, state and local laws.
- So, what’s a provider to do???

Current Uncertainty at the Federal level: Is the Federal Approach Schizophrenic?

- The “Cole Memo” 2013
- AG Sessions’ rescission of the Cole Memo 1/4/18
- Letter from 29 Attorneys General 1/16/18
- McClintock-Polis Amendment
- U.S. v. McIntosh

Current Legislative Efforts

- Marijuana Justice Act S.1689
- Respect State Marijuana Laws Act of 2017 H.R. 975
- Ending Marijuana Prohibition Act of 2017 H.R. 1227
- Medical Marijuana Research Act of 2017 H.R. 3391
- Marijuana Effective Drug Study Act of 2017 S.1803
- Others pending

Practical Considerations for Post-Acute and LTC Practitioners

- What does State law permit?
- Can physicians prescribe, recommend or neither?
- Can nurses store on medical carts (or elsewhere)?
- Can nurses administer?
- How is medical marijuana documented on the MAR?
- Are there designated areas for smoking medical marijuana?
- Can a staff member assist a resident who needs supervised smoking?
- How will qualified caregivers be trained to administer the medication?
- What are the implications for SNFs, physicians, nurses, & others if a caregiver or resident transports medical marijuana across state lines?

Federation of State Medical Boards

- Model Guidelines for the Recommendation of Marijuana in Patient Care
- Report of the FSMB Workgroup on Marijuana and Medical Regulation
- Adopted as policy by the Federation of State Medical Boards, April 2016

Federation of State Medical Boards

- “Due to the increasing number of state governments authorizing the use of marijuana and marijuana infused product for ‘medicinal purposes,’ state medical and osteopathic boards now have the added responsibility for the regulatory oversight of physicians choosing to incorporate the recommendation of marijuana in patient care and management.”
Policy and Procedure
Where to Begin?

Determine your Facility/Center’s Position

- No marijuana (recreational or medical) at all
- All marijuana allowed – consistent with State law
- Only medical marijuana allowed
  - All forms of medical marijuana
  - Only edibles and lotions
  At a minimum, strict compliance with State laws is required
  Note: Marijuana is still illegal at the Federal level

Recommendations

- Consult State LTC Ombudsman
- Consult State survey agency
- Consult State Departments of Health and DEA
- Obtain consent from resident, POA or guardian
- Consult competent legal counsel
- Review guidance from professional organizations
- Develop and implement appropriate policies and procedures (revise prn)
- Adopt (and periodically review) appropriate guidelines
- Involve compliance and ethics programs as well as QAPI Committee

The Time to Consider Your Approach is Now

Resources

- Hebrew Home of Riverdale
  - Medical Policy and Procedure Manual
    - Medical Use of Marijuana 6-20-2016
- Hebrew Home at Riverdale Medical Cannabis Program Video
  - https://youtu.be/dbnl7SgjXoE

Questions???

Thank You!