



Maryland
Hospital Association

August 7, 2017

Renee Webster, REHS
Assistant Director for Hospitals
Office of Health Care Quality
Maryland Department of Health
55 Wade Avenue
Catonsville, MD 21228

Reference: PROPOSED 10.07.01 Acute General and Special Hospitals regulation changes for informal comment

Dear Ms. Webster,

On behalf of the Maryland Hospital Association's (MHA) 64 member hospitals and health systems, we appreciate the opportunity to submit informal comments on the draft regulations to amend COMAR 10.07.01- Acute General and Special Hospitals.

MHA acknowledges the state's effort to align, where possible, the regulations and statutory provisions, and not create undue regulatory burden on Maryland's hospitals. We believe any additional administrative processes must be fully vetted to determine their full impact. MHA intends to provide additional comment, as appropriate, on the potential administrative impact of these proposed rules during the formal comment period.

There are two specific areas where the proposed regulations may add an unintended layer of complexity to compliance.

Designation of Lay Caregivers

MHA supports the proposed rules as drafted, with the exception of one provision. The language in (.36 E. 2) may, unintentionally, be narrowing the existing rule regarding disclosure of medical information without authorization. The proposed rule says:

(2) Unless otherwise consented to by the patient or legal guardian of the patient, only the necessary records required for the lay caregiver to perform their duties shall be released to the lay caregiver.

However, existing statute (Health-Gen 4-305(b)(7)) permits disclosure:

(7) Except if the patient has instructed the health care provider not to make the disclosure, or if the record has been developed primarily in connection with the provision of mental health services, to immediate family members of the patient or any other individual with whom the

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patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice;

The proposed language could be seen as a stricter standard and consequently, under the proposed regulations, providers would be less free to share information with a designated lay caregiver than they would be with other family members or other sources of support. MHA does not believe this was the intent, and therefore recommends the deletion of clause (2).

Notice to Patients of Outpatient on Observation Status

Senate Bill 195, introduced during the 2013 legislative session, requires a hospital to provide oral and written notice to a patient of the patient's outpatient status, the billing implications of the outpatient status, and the impact of that status on the patient's eligibility for Medicare rehabilitation services. Specifically, a hospital must provide such notice if the patient receives on-site services (including a hospital bed and meals provided in an area of the hospital other than the emergency room) from the hospital for more than 23 consecutive hours, and the patient is classified as an outpatient at the hospital for observation rather than as an admitted inpatient. Since the enactment of Maryland's law, the federal Notice of Observation Treatment and Implication for Care Eligibility (NOTICE Act) was passed, which requires a different time standard of more than 24 hours and use of a specific form. MHA supports the provision in (.F) which provides that, for Medicare patients, complying with the Medicare rule will suffice as compliance with these regulations. We must point out that hospitals will be required to use different forms and different standards to communicate this important information to patients based on their insurance. We therefore urge consideration of how these requirements can be better aligned to allow for the use of a single form and, ideally, the same time standard. We would support consideration of legislation that provides such alignment.

We appreciate the department's consideration of our comments and look forward to a continued partnership on these important provisions.

Respectfully,

/s/

Nicole Dempsey Stallings, MPP
Vice President, Policy & Data Analytics