



June 10, 2009

Notice: "Emergency Room Alternative" Draft Regulations

Action: Request for Comment- DOH Deadline: June 30

The Governor's Office of Health Care Reform has directed the PA Department of Health (DOH) to disseminate draft regulations which would require hospitals to establish a separate area of the hospital to provide treatment for urgent care services on a 24/7 basis, or enter into a contractual arrangement with an entity located within 15 miles from the hospital.

This would require EDs to establish protocols for patients who have been "screened" and do not have an emergency medical condition to be referred to an alternate site for treatment. Hospitals would be required to provide transport to the alternate site at their own expense.

To obtain the draft regulations:

<http://www.dsf.health.state.pa.us/health/lib/health/ambulatory/EDalternativereqs052109.pdf>

PaACEP has several concerns regarding the proposed regulations, which may not be in the best interest of patients and place them at undue risk:

1. These regulations were developed under the erroneous assumptions that EDs are crowded due to patients with non-emergency conditions inappropriately using EDs, and that reducing ED utilization would result in cost savings for the health care system in PA. It is clear that ED crowding is the direct result of boarding of admitted patients.
2. Hospitals have a federal mandate under EMTALA to provide a medical screening exam for all who present to an ED for care to ensure that no emergency medical condition exists. As any emergency physician knows, it is often difficult or impossible to determine whether patients with undifferentiated complaints have an emergency medical condition without performing a medical evaluation, which is often the same level of service that would be provided by an ED visit. The regulations call for "pre-screening" to determine who "may have" an emergency medical condition. However, this appears to violate EMTALA, as the medical screening examination must be the same for all and must be sufficient to determine if an emergency medical condition exists; only AFTER the medical screening exam is completed could the patient be moved to another location. This would paradoxically increase the cost, the medical risks to the patient, and liability exposure of the hospital for such patients. By implementing these regulations, very few ED visits will be avoided and any potential cost savings would not be realized.
3. The regulations state that treatment at an "appropriate location" would be more efficient than providing such services in the emergency department, however after a medical screening examination and transport to an alternate site, perceived efficiencies would be lost.
4. Although these regulations were developed as a means of expanding access to care, the true root cause for lack of access to care in PA is an inadequate primary care network. Opening urgent care centers to provide unscheduled care will not improve primary care access, nor unburden crowded EDs.
5. There will be a substantial cost for hospitals to develop and implement on site urgent care centers or to transport patients to an alternate site under a contractual agreement. In many communities, the volume of urgent care would not support that a hospital provide this service on a 24/7 basis. As a result, this will further strain

institutions that are struggling to remain financially solvent.

What PaACEP is doing?

PaACEP President Michael Turturro, MD, FACEP, has discussed the draft regulations with senior staff of the Hospital & Healthsystem Association of Pennsylvania (HAP). Prior to submitting written comments, chapter leaders will relay our concerns to the Secretary of Health at a June 15 meeting.

What you can do:

Send your comments to the DOH on how these regulations may negatively impact patient care and the provision of emergency services. Written comments should be forwarded no later than **June 30, 2009**, to:

Melanie Waters, Director
Pennsylvania Department of Health
Bureau of Facility Licensure and Certification
625 Forster Street
Room 932 Health and Welfare Building
Harrisburg, PA-17120
Attn: Hospital Urgent Care Regulations—Comments

Please e-mail (dblunk@pamedsoc.org) a copy of your comments to the chapter.

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