



2577

THE HOSPITAL & HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA

November 20, 2006

Gerald F. Radke, Director
Bureau of Facility Licensure and Certification
Department of Health
Room 932, Health & Welfare Building
7th and Forster Streets
Harrisburg, PA 17120

INDEPENDENT REGULATORY
REVIEW COMMISSION

2006 NOV 27 AM 11:22

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Dear Mr. Radke:

The Hospital and Healthsystem Association of Pennsylvania (HAP), on behalf of its members (more than 250 acute and specialty hospitals and health systems in the commonwealth), appreciates the opportunity to comment on the Department of Health's proposed regulations to provide guidelines for a comprehensive approach to standardizing treatment provided to sexual assault victims at Pennsylvania hospitals. HAP recognizes the important role the Department of Health has in protecting and promoting public health and in assuring access to quality care.

HAP convened an ad-hoc work group of member hospitals and health systems to garner a greater understanding of current standards of practice in the provider community, as well as to assist HAP in developing our detailed comments.

HAP acknowledges the Department of Health's efforts to develop a regulatory package that encompasses a comprehensive approach to the treatment of sexual assault victims. However, HAP questions whether such a regulatory package is necessary and questions whether the Department of Health has the statutory authority to mandate specific clinical treatment and/or testing on regulation.

HAP also encourages the Department of Health to structure regulations that focus on the establishment of parameters for providing necessary care, rather than specify specific treatments, diagnostic tests, etc. This enables facilities to provide the care that best meets the needs of the patient, as well as for improved care as practices evolve.

Please feel free to contact me at (717) 561-5344, or Melissa N. Speck, director, policy development, at (717) 561-5356 should you have any questions regarding our technical comments on this proposed regulation.

Sincerely,

PAULA A. BUSSARD
Senior Vice President
Policy and Regulatory Services

PAB/dd

Attachment: HAP Technical Comments

HAP Technical Comments

§ 117.52 Minimum requirements for sexual assault emergency services

HAP agrees that hospitals providing services to sexual assault victims should be in accordance with established standards of care. However, as drafted these proposed minimum requirements appear to exceed what is currently the standard of care.

HAP suggests the following changes:

(a)(2) Oral and written information concerning the possibility of sexually transmitted disease, ~~and pregnancy~~ and emergency contraception resulting from sexual assault.

In order to assure accuracy and consistency of the information to be provided to the patient, DOH should serve as the organization responsible for developing the informational materials that can then be provided to hospitals for dissemination.

(a)(3) Oral and written information concerning accepted ~~medical procedures~~ standards of care, medication, to include emergency contraception, and possible contraindications of such medication available for the prevention or treatment of infection, disease or pregnancy, resulting from the sexual assault.

Again, in order to assure accuracy and consistency of the information to be provided to the patient, DOH should serve as the organization responsible for developing the informational materials that can then be provided to hospitals for dissemination.

(a) (4) ~~Such medication as is deemed appropriate by the attending physician, including HIV and sexually transmitted disease prophylaxis.~~ Diagnostic testing and treatment as is deemed appropriate by the attending physician.

HAP does not feel it is appropriate to mandate specific diagnostic and treatment therapies, rather, such diagnostic and treatment therapies should be determined by the attending physician based on a case-by-case evaluation. In addition, it is important to recognize that many prophylactic treatments and diagnostic testing require follow-up and/or secondary doses, for which the emergency department will not be able to ensure are carried out post the initial emergency room encounter.

(a)(5) HAP recommends this provision be deleted.

As reflected in comments under (a)(4), diagnostic testing and treatment should be conducted based on a case-by-case evaluation.

(a)(6) HAP recommends this provision be deleted.

HAP suggests that this provision is encompassed in (a)(3).

§ 117.53 Emergency Contraception

HAP is concerned that mandating hospitals to offer emergency contraception sets a precedent for the mandating of future forms of treatment or medical therapies for other medical situations. While HAP does agree that patients should have access to all necessary, appropriate and available treatment options, mandating specific treatments through regulation is not appropriate. Such provisions are established through standards of care and practice within the provider community. There also is concern that codifying in regulation a specific treatment will not recognize future modalities, and in essence, could very quickly make a specific provision obsolete. Regulations should establish parameters for providing care, not specifying exactly what the care is or should encompass, especially requirements regarding specific drugs and/or procedures.

§ 117.54 Prevention of sexually transmitted diseases

(a)(b)(c) Hospitals and health systems do not always conduct a formal assessment of the patient's risk as the patient is presumed (by virtue of the assault) to be at risk for sexually transmitted disease. Informational materials provided to the patient would include information on risk associated with exposure and deferral of treatment of sexually transmitted diseases. In order to assure accuracy and consistency of the information to be provided to the patient, DOH should serve as the organization responsible for developing the informational materials that can then be provided to hospitals for dissemination. This material is addressed in § 117.52 (a). As such, § 117.54 should be deleted as it is duplicative.

(d) While HAP agrees that patients should have access to all necessary, appropriate and available treatment options, mandating specific treatments through regulation is not appropriate. Such provisions are established through standards of care and practice within the provider community. There also is concern that codifying in regulation a specific treatment will not recognize future modalities, and in essence, could very quickly make a specific provision obsolete. Regulations should establish parameters for providing care, not specifying exactly what the care is.

HAP recommends that 117.54(d) be deleted.

§ 117.55 Emergency Contraception Informational Materials

This section should be deleted, as it is addressed in § 117.52 (a)(2) and (a)(3).

§ 117.56 Payment for sexual assault emergency services

A hospital shall inform a sexual assault victim receiving sexual assault emergency services at the hospital of the availability of known financial resources for services provided to the victim due to the sexual assault, including payments by the victim's medical insurer, if applicable, the Crime Victim's Compensation Program administered by the Pennsylvania Commission on Crime and Delinquency, and any programs administered by the hospital. The hospital shall provide the victim any information required to secure such services, including copies of itemized bills and medical records.

Hospitals and health systems already provide information regarding financial resources. In addition hospitals provide copies of medical records and itemized bills, etc. upon request. Information specific to resources relate to the sexual assault should be included in material developed by the Department of Health.

This provision is not necessary, and should be deleted.

§ 117.57 Religious Exemptions

HAP suggests this provision be amended to read as follows:

Nothing in these regulations shall require or shall be construed to require a religiously affiliated health care facility to provide, participate in providing, or refer or transport a victim for emergency contraception if such activity would be contrary to the stated religious beliefs practices or policies of the facility so long as the facility provides notice to a victim of its policies regarding emergency contraception and complies with §101.202 (a)(2) and (a)(3). The notice must be posted conspicuously in the emergency room or waiting area of the facility.

§ 117.58 Hospitals not providing sexual assault emergency services

HAP recommends the following amendment:

(b)(2) Upon request of the victim, arrange for the immediate transfer of the victim, at no cost, to a Pennsylvania hospital in close proximity that does provide those services.