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New Requirements Under the Illinois Hospital Licensing Act

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On November 8, 2019, the Illinois Department of Public Health published a Notice of Adopted Amendments to the Hospital Licensing Requirements (the Amendments) as set forth in Title 77 of the Illinois Administrative Code, Part 250 (the Code). The Amendments, among other things, update the rules for hospitals regarding anesthesia services, add new document preservation procedures, and require notification to the department by hospitals prior to clinical staff strikes and incidents that require the transfer of patients to other parts of the facility or other facilities. The Amendments were effective on October 22, 2019.

The Amendments revise the Code as follows:

Referrals for Home Health Services

The Amendments add a new subsection (b) to Code § 250.240: Admission and Discharge, which prohibits a hospital from referring a patient for home health services unless the agency is licensed under the Home Health, Home Services and Home Nursing Agency Licensing Act, 210 Illinois Consolidated Statutes §55 et seq.. More specifically, the Amendments state:

(b) A hospital licensed under the Hospital Licensing Act may not refer a patient or the family of a patient, or have an entity on a resource reference list for a patient or the family of a patient, *to* a home health, home services, or home nursing agency *unless the agency is licensed under the Home Health, Home Services, and Home Nursing Agency Licensing Act*. (Section 3.8 of the Home Health, Home Services, and Home Nursing Agency Licensing Act) A hospital shall verify that an agency is currently on the Department's list of licensed home health, home services, and home nursing agencies posted on the Department's website or obtain a copy of an agency's license prior to making a referral to that agency.

Antibiotic Stewardship Programs

The Amendments amend Code § 250.1100: Infection Control to require hospitals to designate a person or persons to develop and implement Antibiotic Stewardship Programs (ASPs) as required by the accreditation requirements of the Department of Health and Humans Services, Centers for

Medicare and Medicaid Services and federal guidelines. The Centers for Disease Control and Prevention (CDC) has published a 2019 Guide on hospital ASPs, which includes the federally required core elements for ASPs, as follows:

- **Hospital Leadership Commitment:** Dedicate necessary human, financial, and information technology resources.
- **Accountability:** Appoint a leader or co-leaders, such as a physician and pharmacist, responsible for program management and outcomes.
- **Pharmacy Expertise (previously Drug Expertise):** Appoint a pharmacist, ideally as the co-leader of the stewardship program, to help lead implementation efforts to improve antibiotic use.
- **Action:** Implement interventions, such as prospective audit and feedback or preauthorization, to improve antibiotic use.
- **Tracking:** Monitor antibiotic prescribing, impact of interventions, and other important outcomes, like C. difficile infections and resistance patterns.
- **Reporting:** Regularly report information on antibiotic use and resistance to prescribers, pharmacists, nurses, and hospital leadership.
- **Education:** Educate prescribers, pharmacists, nurses, and patients about adverse reactions from antibiotics, antibiotic resistance, and optimal prescribing.

The 2019 Guide explains the core elements in greater detail and includes an ASP assessment tool that enables hospitals to evaluate the effectiveness of their ASP and identify how to improve it.

Board Certification for Anesthesia Service

The Amendments revised subsection 250.1410(b) of the Code to require anesthesiologists to be “Board certified, or a candidate for Board Certification in the American Board of Anesthesiology examination system.” The prior language of this subsection simply recommended that an anesthesiologist be Board Certified or Board Eligible. Thus, board certification or eligibility is now a **requirement, and not a suggestion**.

Subsection 250.1410(j)(1) of the Code previously required physicians to perform a history and physical (H&P) examination within 48 hours prior to surgery, with such findings to be recorded in the patient’s record. The Amendments now permit the H&P exam to be performed on a less expedited time frame, and states that,

There shall be a history and physical examination by a physician no more than 30 days prior to nonemergency surgery or a procedure requiring anesthesia services, or within 24 hours after admission or registration for a surgery or procedure requiring anesthesia services. Findings must be recorded in the patient's record prior to surgery or a procedure requiring anesthesia services. For dental surgery, the history and physical examination may be performed by a dentist who has been granted privileges by the hospital medical staff.

The Amendments revise subsection 250.1410(l) of the Code to permit post-anesthetic follows-ups to be performed 48 hours after an operation. Previously, such follow-up care was required within 24 hours after the operation.

Medical Records – Change of Ownership Notification

The Amendments add a new subsection 250.1510(e)(3): Admission and Discharge to the Code, which requires hospitals to inform the Department of Public Health where records will be maintained upon a change of ownership. Specifically, the Amendments require:

Prior to completing a change of ownership pursuant to Section 250.120(g) and (h), the buyer and seller shall inform the Department which party is responsible for record preservation. If one single party is not responsible for complete record preservation, then the parties shall provide the Department with a list identifying the records each party is responsible for preserving. No new license will be issued to the new person, legal entity, or partnership until the plan for record preservation is submitted to the Department.

Reporting Requirements

Subsection 250.1520(f) of the Code previously required hospitals to report any incident or occurrence in the hospital that could be considered a catastrophe or create an immediate jeopardy or dangerous threat that requires the transfer of patients to other parts of the facility or other facilities. The Amendments revise the subsection to require reporting should an incident or occurrence result in immediate jeopardy within 24 hours after the occurrence (as opposed to two working days, as previously required). Reports should be directed to DPH.HospitalReports@illinois.gov.

The Amendments also add a new subsection 250.1520(h) to the Code, which requires hospitals to notify the Department in the event of a strike involving staff who provide direct patient care. Specifically, it states that:

Each hospital shall notify the Department within 24 hours after receiving a notice of impending strike of staff providing direct care. The hospital shall submit a strike contingency plan to the Department no later than three calendar days prior to the impending strike.

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