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New York State Department of Health finalizes requirement for hospitals regarding substance use disorder policies and procedures

By Jena Grady and Christopher Tonellato

On January 10, 2018, the New York State Department of Health proposed to require hospitals to establish policies and procedures to identify, assess and refer individuals with substance use disorders (SUD) (Nixon Peabody's previous alert summarizing this proposed rule is available [here](#)). On June 22, 2018, the final rule was adopted with no changes.

The Greater New York Hospital Association (GNYHA) responded to the proposed rule and recommended that DOH allow flexibility in determining approaches to identify and assess individuals with SUD. For example, while DOH in the regulatory impact statement of the proposed rule noted the use of Screening, Brief Intervention and Referral to Treatment (SBIRT), GNYHA provided that the use of SBIRT by hospitals is not always reimbursed under Medicaid. DOH responded that although SBIRT was provided as an example approach, hospitals have the flexibility to use other evidence-based approaches to identify and assess individuals with SUD. Furthermore, DOH noted it had contacted GNYHA to discuss resolving SBIRT reimbursement as appropriate.

GNYHA also suggested that consultation with the state's prescription monitoring program (PMP) database should be an accepted approach for identification and assessment of a SUD. DOH stated that in some instances PMP may help; however, additional information will most likely be needed to fulfill the requirement of an evidence-based approach.

Lastly, GNYHA recommended that DOH allow hospitals to rely on health homes or other care coordination entities to help connect providers of SUD treatment services with eligible patients. DOH stated that a referral to a health home or other entity would satisfy the requirement of the regulation, if the individual with SUD is connected to the needed services.

The effective date of the final rule was July 11, 2018.

Notice of Adoption is available [here](#).

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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