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FEBRUARY 6, 2018



Regulations in Parts 405 & 407 of 10 NYCRR

By Jena M. Grady

On January 10, 2018, the New York State Department of Health (DOH) gave notice of proposed rulemaking with regard to Public Health Law 2803-u, that requires hospitals to develop policies and procedures to identify and refer individuals with substance use disorders.

Recognizing a need to assist patients with accessing substance use treatment, this recently enacted statute and proposed rules will “require hospitals to establish policies and procedures to identify, assess and refer individuals with substance use disorders.” The proposed regulations not only mandate that hospitals develop written policies and procedures for the care of patients who have or are at risk for substance use disorders, but also establish minimum requirements that must be met within those policies and procedures.

According to the proposed rule, the policies and procedures must address inpatients and outpatients who either (1) have a documented substance use disorder, or (2) appear to have or to be at risk for a substance use disorder. To ensure that all patients targeted by these rules are identified, the proposed rule requires that hospitals rely on evidence-based approaches to detect and assess patients for substance use disorders. Once identified, hospitals must refer these individuals to substance use treatment.

Identification of targeted individuals should take place at all stages of treatment whether upon admission, during treatment and/or at the time of discharge. Once an individual is identified as being at risk of or as having a substance use disorder, pursuant to the regulations, hospital staff must verbally and/or in writing provide information to the patient of substance use treatment services that may be available to them. Again during the discharge planning process, hospital staff must provide the patient with educational materials that have been selected by the Office of Alcoholism and Substance Abuse Services (OASAS) and the DOH.

Once individuals are identified, hospital staff must not only refer patients to substance use treatment, but must also assist in the coordination of the appropriate services by securing admission to or setting up an appointment with a community treatment program or connecting the patient with a distant provider who can engage in telehealth services.

Finally, to ensure efficacy of these proposed rules, hospitals will be required to establish and implement trainings for all professionals providing direct care to patients with regard to the policies and procedures developed under subdivision (f).

Public comments can be submitted through March 12, 2018, a hearing has not been scheduled.

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