Overview and Legal and Fiscal Impact

The regulations establish minimum standards for palliative care programs within Maryland hospitals.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Hospitals: Acute General Hospitals and Special Hospitals:
COMAR 10.07.01.01 and .31

Legal Analysis

Background

Chapter 379 of 2013 directed the Maryland Health Care Commission to collaborate with the Department of Health and Mental Hygiene, Office of Heath Care Quality and the Maryland Hospital Association on a pilot study of geographically diverse hospital palliative care programs in order to gather data on costs, savings, access, and patient choice. In addition to data collection and analysis, Chapter 379 directed the commission to provide recommendations to be used to develop minimum standards for palliative care programs with the goal of expanding access to palliative care services statewide at hospitals with 50 beds or more by July 1, 2016. In December 2015, the commission submitted to the General Assembly the report Maryland Hospital Palliative Care Programs – Analysis and Recommendations which recommended minimum standards for hospice and palliative care programs. The regulations are primarily based on recommendations from the report.

Summary of Regulations

The regulations define “palliative care” as specialized medical care for individuals with serious illnesses or conditions that:
• is focused on providing patients with relief from the symptoms, pain, and stress of a serious illness or condition, whatever the diagnosis;

• has the goal of improving quality of life for the patient, the patient’s family, and other caregivers;

• is provided at any age and at any stage in a serious illness or condition; and

• can be provided along with curative treatment.

The regulations require acute general hospitals and special hospitals – chronic care with 50 or more beds to establish an active hospital-wide palliative care program that provides consultation services to patients suffering from pain and symptoms due to serious illnesses or conditions. The hospital is required to promote the palliative care program, provide information and referrals to patients and families regarding the availability of palliative care services, and inform patients of the patient’s right to request a palliative care consultation. The hospital must ensure that a qualified interdisciplinary care team with training in palliative care staff the palliative care program and that written policies and procedures for the hospital palliative care program are established, implemented, maintained, and updated periodically. The regulations require the hospital to provide and document certain training to medical and other clinical staff as determined by the hospital.

The regulations require that the palliative care patient’s interdisciplinary plan of care:

• incorporate the recommendations of the palliative care program;

• be reviewed and revised as necessary to meet the needs of the palliative care patient;

• be reviewed with the patient, patient’s family, health care professionals, and other team members; and

• include certain contents. The hospital must collaborate with the attending physician and any other health care provider managing the patient’s care and coordinate certain services to ensure continuity of care for the palliative care patient.

The hospital is also required to provide certain counseling to the patient or the patient’s authorized decision maker and to make referrals as appropriate and at the request of the patient. The hospital must document referrals made to inpatient or outpatient bereavement providers, psychological services for the patient and the patient’s family, spiritual care counseling, and hospice. The regulations require the hospital to conduct certain pain and symptom management, provide culturally and linguistically appropriate education and support about how to safely care for the patient at home or in an alternate setting, document and counsel the patient and certain other individuals about the active dying phase and imminent death as appropriate, comply with the
requirements of the Medical Orders for Life-Sustaining Treatment Form, and ensure interpreter services are available and accessible to the palliative care program. In addition, the hospital shall recognize the authority of an advance directive, and allow staff, patients, and the patient’s family access to an ethics committee to address ethical conflicts at the end of life.

The palliative care program must take part in the hospital’s quality improvement and performance improvement activities to the extent required by State and federal law. Finally, the department is authorized to access all data maintained through the hospital’s palliative care program to determine the hospital’s compliance with State and federal regulations.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§19-308 and 19-308.6 of the Health-General Article and §14-110.1 of the Public Safety Article as statutory authority for the regulations. More specifically, the regulations are authorized by §§19-308 and 19-308.9 of the Health-General Article. Section 19-308 requires the Secretary of Health and Mental Hygiene to adopt regulations that set standards of services for hospitals for the care of patients. Section 19-308.9 defines palliative care. Neither § 19-308.6 of the Health-General Article, which governs uniform emergency security codes for hospitals, or §14-110.1 of the Public Safety Article, which requires human service facilities to develop an emergency plan, are relevant to the regulations.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department has agreed to submit a replacement page to cite §§19-308 and 19-308.9 of the Health-General Article as authority for the regulations. The department agreed to make the change after being notified of the incorrect statutory reference by the Department of Legislative Services.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations establish minimum standards for palliative care programs within specified Maryland hospitals with 50 or more beds. The department advises that 31 hospitals currently have such programs in place, and that only 10 hospitals lack such a program. The department advises
that the total cost to implement the programs across all 10 hospitals will be approximately $2.1 million. As the individual hospitals are responsible for the costs of implementation, the department advises that the regulations have no fiscal impact on the State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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