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NYS Department Of Health Consumer Initiatives

NYS Hospital Profiles Now Available Online

Profiles on all 239 New York State licensed hospitals are now available to the public on the State Department of Health's (DOH) website:

<http://www.health.state.ny.us/nysdoh/healthinfo/index.htm>. DOH Commissioner Dr. Antonia C. Novella acknowledged that "New York State is recognized as a national leader in providing the public with accurate and reliable health care information so that they can make well-informed decisions about their medical needs." The hospital profiles are intended as a "catalyst" for patients to begin discussions with health care providers prior to undergoing specific procedures or treatments.

Consumers can search the website by clicking on the State map or selecting a region or county, or through a name search, alphabetical search or a specific procedure search. The profiles provide demographic and contact information, the number of licensed beds and available services, including special designations such as trauma or burn center, for each hospital. The profiles also contain information on quality measures and treatment for specific patient conditions as well as a tool for comparing hospitals. DOH intends to make quarterly updates to the profiles.

It is too early to say how much the public will use the new hospital profile website. If past experience is any indicator, use may be considerable - the physician profile website reportedly received over eleven million hits in 2005. Hospitals should be cognizant of their information posted on the website and should periodically review their profile to ensure accuracy.

New Streamlined Hospital Complaint Hotline

DOH has created a confidential toll-free complaint hotline for consumers regarding care rendered in licensed hospitals, diagnostic and treatment centers and community health clinics. The hotline will be

staffed by registered nurses who will speak directly with callers. The nurses will document and assess complaints, then hand them over to DOH inspectors for investigation.

Subject facilities are required to make the toll free hotline number (1-800-804-5447) available to patients. The number is currently included in DOH's booklet: "Your Rights as a Hospital Patient in New York State", revised February 2006, which hospitals must download in PDF from the DOH website for printing and distribution to patients. This booklet is available at:

http://www.health.state.ny.us/nysdoh/hospital/patient_rights/en/provider_intro.htm

Compliance Corner

OIG Issues Its First Two Advisory Opinions for 2006 - Both Unfavorable

In Advisory Opinion 06-01 the Requester, a home health care agency, proposed an arrangement through which it would provide a preoperative home safety assessment to patients, which is not reimbursable under any Federal Health Care program. Nonetheless, because the home health care agency also provides post-operative services which are reimbursable, the OIG felt that providing the home safety assessment could be an inducement to federal beneficiaries to select the agency for its other, reimbursable home health care needs such that according to OIG, the structure and operation of the arrangement "appear calculated to generate postoperative business for the Requester." The fact that the Requester provided a list of other home health care agencies to the patients for post-operative services was not considered enough to avoid potential sanctions.

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OIG Issues Its First Two Advisory Opinions for 2006 - Both Unfavorable

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In Advisory Opinion 06-02 the Requester, a DME and orthotics manufacturer and supplier, proposed two programs for physicians. The first program was available only for non-Federal Health program beneficiaries. It permitted participating physicians to become, in effect, DME suppliers of the Requester's products through various contractual arrangements. The second program was available for all patients. The physicians were offered the opportunity to provide a consignment closet and DME inventory management services for the Requester's products for a fee. With respect to the first program, the OIG found it was a contractual joint venture and the fact that it 'carved out' federal beneficiaries was "not dispositive" on whether or not the anti-kickback statute was violated because such arrangements could be used to disguise remuneration for Federal program referrals.

With respect to the second program, among other things, the OIG noted the inability of the Requester to adequately explain why a physician practice would lease a technician to provide services that appear duplicative. Due to this "lack of clarity," the OIG could not conclude that the arrangement was truly an arms length, fair market value for necessary services. The OIG also warned it is wary of arrangements in which a supplier/manufacturer supplies "management services" to physicians that afford it a presence in the physicians' offices, finding that "[n]o apparent business rationale would appear to exist for a manufacturer or supplier to forge these ties to physician practices, apart from the potential for generating additional business."

Criminal History Record Check Revisions For Nursing Homes And Home Care Services

In furtherance of the original criminal history record check (CHRC) regulations promulgated for nursing homes and home care services, effective April 2005, new legislation was enacted on February 3, 2006, creating a statewide record check system to be run through the Division of Criminal Justice Services. The new system is more efficient, shifting the burden of the CHRC process in large part to the Department of Health (DOH) and eliminating the need for duplicative checks, as required by the original regulations.

The original DOH regulations, which were enacted pursuant to federal law, required nursing homes and home care services to request and pay for CHRCs for prospective employees through the FBI database. Employers were then required to make a determination as to an individual's employability, denying employment to those individuals who were convicted of a crime set forth in the DOH regulations.

The new Article 28-E of the Public Health Law and revised Executive Law §845-b provide for a statewide registry of criminal history information and require health care providers to submit a potential employee's information to the DOH. The DOH will conduct a review and make a determination as to the individual's employability. The federal law under which the original DOH regulations were promulgated does not provide for such a statewide registry. Nursing homes and home care providers were required to check an employee's criminal history through the FBI every time the employee moved to a different setting. This was very expensive and time consuming to the nursing homes and home care industries, which experience a great amount of turnover. The new legislation is a more cost effective and efficient method of protecting patients.

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