MHA INSIDE Track
News for Health Care Professionals

REGULATORY REVIEW

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New State Laws in 2016: Looking Ahead

The Missouri General Assembly's 2016 legislative session ended Friday, May 13. Gov. Jay Nixon's deadline to approve or veto newly-enacted bills was July 14. Now the implementation process begins. Most of the bills will take effect Aug. 28. A few will become law sooner, while some will take effect as late as January 2018. Several require state regulators to issue administrative regulations to clarify the details of compliance. We are working hard to help MHA members take advantage of new opportunities enacted this legislative session to improve state regulatory standards for hospitals and their practitioners.

The infection control bill (SB 579) is a good example. With the enactment of this legislation, we are working with the Department of Health and Senior Services to ensure its new regulations fully implement legislative directives to streamline hospital infection reporting requirements, eliminate duplicative reporting and ensure hospitals are reporting on things most important to the health of Missourians. The process will take time and careful effort to ensure that the intent of legislation is realized.

In May, MHA published a summary of the 2016 session of the Missouri General Assembly. Among the enacted bills, the following are highlighted for their effects on facility compliance standards. Most of the bills listed below have other components not described here.

SB 579 — Signed by the governor
Infection Reporting and Telehealth Services
As mentioned above, this bill modifies provisions relating to infection reporting of health care facilities, as well as telehealth services. The infection control components reflect a negotiated compromise with infection reporting advocates and their legislative allies. Under this bill, Missouri hospitals will begin reporting carbapenem-resistant enterobacteriaceae to DHSS in addition to methicillin-resistant staphylococcus aureus and vancomycin-resistant enterococcus. We will work with the department to identify how hospitals can report through the National Healthcare Safety Network in lieu of reporting through both the NHSN and Missouri Infection Reporting System for various different, yet closely-related, infections. Additionally, this legislation requires Missouri hospitals and ambulatory surgical centers to establish antimicrobial stewardship programs for surveillance of use and resistance of certain antibiotics by Aug. 28, 2017. Mental health facilities are excluded from the antibiotic stewardship requirement. When federal Stage 3 "meaningful use" regulations take effect, hospitals and ambulatory surgical centers will report through the NHSN Antimicrobial Use and Resistance Module. Hospitals can learn more about establishing an effective antibiotic stewardship program by reviewing resources from the Centers for Disease Control and Prevention.

SB 635, SB 732, SB 988 — Signed by the governor

Updates to Time Critical Diagnosis: Trauma, Stroke and STEMI Legislation
Three bills enact new laws to change TCD stroke center licensing, data reporting standards and education requirements for emergency department physicians of state-designated trauma, stroke and STEMI centers. The legislation authorizes an alternative process for designating and regulating hospitals as stroke centers based on certifications by accrediting organizations, such as The Joint Commission. Additional options are created for the submission of data while squelching duplicative requirements. DHSS will have new standards for collecting, analyzing and publishing data from designated stroke and STEMI centers. We will work with DHSS, the State Board of Registration for the Healing Arts and other provider associations to develop revised rules.

Updates to Brain and Spinal Cord Injury Reporting
SB 635 and SB 732 also change the reporting of brain and spinal cord injuries to the state's Brain and Spinal Cord Injury Registry. Both bills repeal the registry. Senate Bill 635 allows DHSS to use other sources of information, such as trauma registry data, motor vehicle crash and outcome data, and other publicly reported data, to create reports regarding brain and spinal injuries. Senate Bill 732 does not specifically authorize this alternative data. These laws take effect Aug. 28. This means hospitals will not need to submit information to the state Brain and Spinal Cord Injury Registry after that date. More guidance will be forthcoming.

SB 635, SB 973 — Signed by the governor
Hospital Licensure Regulation
Now is an interesting time in Missouri. We have the Centers for Medicare & Medicaid Services' adoption of the 2012 Life Safety Codes, as well as newly-enacted state laws that make major changes in hospital life safety and building code standards. One component of the new law allows state hospital licensure regulations to incorporate changes in construction codes without going through the lengthy regulatory review and revision process. Another component states that DHSS will promulgate regulations for the construction and renovation of hospitals that include life safety code standards that exclusively reflect the standards of the federal Medicare program — the 2012 version of the Life Safety Code. Additionally, current hospital licensure regulations reference the 1980 version of the "Facility Guidelines Institute for the Design and Construction of Health Care Facilities." The new legislation should bring us up to the 2010 version; however, it is not a cart blanc adoption of the guidelines. We will work with DHSS to shape its regulations to reflect the advantages of the new law. One advantage will be minimizing the need for hospitals to secure departmental waivers of obsolete standards. To compel timely departmental action in changing its standards, the new law states that after Jan. 1, 2018, any departmental regulations that conflict with the new standards will lapse. <

SB 635 — Signed by the governor
Registered Nurse Compact: Make it an Even Ten
Missouri is the 10th state to enact the enhanced nurse licensing compact, which allows nurses licensed in one state to practice freely in all other states that have joined the compact. Arizona, Florida, Idaho, New Hampshire, Oklahoma, South Dakota, Tennessee, Virginia and Wyoming have joined the compact. More states are expected to join the reciprocal licensure compact in 2017. The enhanced nurse licensing compact will take effect when either 26 states pass it or by Dec. 31, 2018, whichever comes first.

SB 732 — Signed by the governor
Public Safety and Transport
SB 732 modifies numerous provisions related to public safety. Of particular interest to Missouri hospitals are the changes to the TCD system as outlined above, changes to hospital helipad regulations to eliminate a state role in that area, as well as a number of emergency medical services changes. Also, first responders are added to the list of mandated reporters of elder abuse, and "bullying" becomes a reportable incident. In addition, the legislation gives emergency medical technicians liability protection for transporting a patient for evaluation or treatment under the involuntary commitment laws, or for using physical or chemical restraints during transportation to ensure the safety of an at-risk behavioral health patient or EMT. To qualify, the EMT must act in good faith and without gross negligence. Nurses, physicians and other health care workers are currently afforded the same protections.

The legislation creates a new law, Section 190.240, which directs hospitals and nursing homes to have policies and procedures that require notification of EMS personnel prior to transport of an at-risk behavioral health patient. Affected patients include those who display violent, homicidal or suicidal ideation or behavior. Hospitals need to review their policies and procedures related to transport, emergency services, discharge, etc., to ensure compliance regarding transport or discharge of an at-risk behavioral patient by EMS. The new law also addresses the training of EMS personnel related to restraining procedures and nonmedical management techniques that can be used before and during transport.

There is another significant change regarding the transport of at-risk behavioral patients. A physician treating an at-risk behavioral patient in an emergency situation who has reasonable cause to believe the patient may cause imminent harm to himself, herself or others unless the patient is immediately transported to another appropriate facility, may place the patient on a temporary involuntary hold for a period of time needed to transport the patient. During such transport, EMS personnel can rely on the physician's hold order. The order serves as implied consent to treat and transport the patient and negates liability for any claims of negligence, false imprisonment or invasion of privacy based on the temporary hold, treatment and transport of the patient. It is important to note that this section will not limit the patients' rights under the federal Mental Health Patient's Bill of Rights. The process for a civil involuntary commitment must be initiated either by the sending or receiving facility. Additionally, there needs to be a physician order for an involuntary hold, including transport.

In addition to these new state laws, law enforcement personnel, under their police power authority, may detain a person believed to be imminently harmful because of a mental disorder or alcohol or drug abuse, and transport them to an appropriate facility for evaluation and admission.

Access Crisis Intervention system staff can assist with the civil involuntary detention process. By calling the toll-free, 24-hour ACI crisis number, the caller will be able to talk to a mental health professional who will evaluate the current situation and assist with the appropriate response. Facilities that are recognized by the Department of Mental Health to provide civil involuntary detention services have mental health professionals who are designated and approved to initiate on-site civil involuntary detention for individuals in need of emergency evaluation and treatment. These professionals may be psychiatrists, licensed physicians, psychiatric residents, psychologists, nurses or social workers, licensed professional counselors or qualified substance abuse counselors.

SB 608 — Vetoed by governor, but a veto override is possible
Health Care Price Transparency

The General Assembly enacted SB 608, which included a number of components, one of which involved public disclosure of prices for health care services. The bill was vetoed, but it is possible that the veto will be overridden by the General Assembly when it convenes for its annual veto session in mid-September. If the veto is overridden, we will provide further information and guidance.

The health care transparency requirements of SB 608, as they affect hospitals, largely reflect what most MHA members already are doing as part of a voluntary MHA initiative implemented earlier this year. The price transparency initiative involves the posting of hospital pricing data on MHA's website, Focus on Hospitals. SB 608 includes a component for providers of all types to respond to written patient requests for price estimates for diagnostic or treatment procedures when accompanied by a practitioner's patient-specific medical treatment plan.

While this is just a snapshot of legislatures' work this season, hopefully it will serve as a springboard to think about how to implement these changes if you haven't already. Many of the above topics may involve further direction and assistance from us as we work with DHSS and others to ensure regulations meet the intent of the laws. Your feedback is always welcomed and appreciated.

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