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Department of Public Health
Bureau of Health Care Safety and Quality
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Circular Letter: DHCQ 12-12-578

TO: Chief Executive Officers, Acute Care Hospitals

FROM: Madeleine Biondolillo, MD
Director, Bureau of Health Care Safety and Quality

DATE: December 3, 2012

RE: Maternal and Newborn Service

The purpose of this letter is to provide regulatory guidance for Hospital Licensure Regulation 105 CMR 130.630(C)(5) for Level I Maternal and Newborn Services.

The Department received several requests from interested parties regarding a waiver of the regulatory requirement at 105 CMR 130.630(C)(5) for a pediatrician to be present during the transfer of a neonate to a more acute level of care (Level III Service). It was suggested that this requirement poses an undue burden on hospitals and may delay necessary care while awaiting a pediatrician. It was proposed that hospitals be allowed to substitute specially trained family physicians and/or neonatal nurse practitioners instead of a pediatrician during such transfers.

According to 105 CMR 130.630(C)(5), Level I Maternal and Newborn Services shall provide the following:

> Emergency management of neonates, including the capacity to resuscitate and stabilize the patient prior to transfer. In the event of the need for emergency resuscitation and/or stabilization of the infant a pediatrician shall be either onsite or called to come in to manage the emergency prior to transport of the infant to a Level III service. All infants requiring ongoing mechanical ventilation shall be transferred to a Level III service.

Additionally, according to 105 CMR 130.616(D)(8), each maternal and newborn service shall develop and implement written patient care policies and procedures, supported by evidence based resources, which shall include provisions for the criteria that identify when the presence of a pediatrician and specialized personnel are required at birth.

The Department has reviewed the correspondence from interested parties and discussed the issue with the Department's Perinatal Advisory Committee. The Department will consider hospital-specific waiver requests pertaining to Hospital Licensure regulation 105 CMR 130.630(C)(5), from hospitals with a designated Level I Maternal and Newborn Service. In lieu of the requirement to provide a pediatrician, either onsite or called to come in to manage an emergency prior to transport of the infant to a Level III Service, use of a specially trained family physician and/or a neonatal nurse practitioner to manage and oversee the emergency transfer of neonates will be considered, provided the hospital can satisfactorily demonstrate to the Department that family physicians and/or neonatal nurse practitioners, at a minimum, meet the following criteria:

1) Have all the necessary licensure requirements to provide such services within their scope of practice as defined by their respective Board of Registration;

2) Have documented skills and experience to oversee the transfer; including but not limited to current Neonatal Resuscitation Program/Neonatal Advanced Life Support certification; and

3) Are credentialed and privileged in accordance with the hospital's medical staff bylaws and rules and regulations to perform the necessary services and procedures.

A written request for a waiver from each interested facility, and approval by the Department are required. The Department will review each waiver and may request input from the Perinatal Advisory Committee. No hospital should rely on this letter as a guarantee of waiver approval.

If a hospital with a Level I Maternal and Newborn Service is interested in applying for a waiver and meets the criteria specified above, the hospital may request a waiver review by the Department. The applicant should submit the waiver request on the form available on the DPH web link listed below.

http://www.mass.gov/eohhs/docs/dph/quality/hcq-plan-review/physical-plant-waiver-form.rtf

If you have any questions about the information in this correspondence, please contact: Cheryl Campbell, M.S., J.D, Program Manager of Regulatory Development (Cheryl.Campbell@state.MA.US), or Gail Pameri, R.N., M.A., Program Manager at Gail.Palmeri@state.MA.US.

Please mail the waiver request to:

Gail Palmeri, R.N., M.A.
Program Manager
MA Department of Public Health
Bureau of Health Care Safety and Quality
99 Chauncy Street, 11th Floor
Boston, MA 02111

We request that you forward this circular letter to the following staff at your hospital, and any others as appropriate*:* Chief Medical Officer, Chief of Obstetrics, Chief of Pediatrics, Chief of Neonatology, Chief Nursing Officer, Director of Maternal and Child Health, and QA Director/Risk Manager.