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Circular Letter: DHCQ 19-2-688

TO: Acute Care Hospitals and Satellite Emergency Facilities

FROM: Elizabeth Kelley, MBA, MPH, Bureau Director
Bureau of Health Care Safety and Quality

DATE: February 14, 2019

RE: Guidance Regarding 24 Hour Substance Use Disorder Evaluations and Medication for Opioid Use Disorder for Designated Patients in the Emergency Department

On August 9, 2018, Governor Baker signed into law chapter 208 of the acts of 2018, *An Act for Prevention and Access to Appropriate Care and Treatment of Addiction*. The law's provisions are designed to aid us all in our collective efforts to prevent opioid misuse and to provide critical access to addiction care and treatment. To assist in accomplishing these goals, the law includes updates to requirements for conducting substance use disorder evaluations in acute care hospitals and satellite emergency facilities (SEFs) and requires these facilities have protocols and maintain capacity to provide appropriate, evidence based interventions to patients following an overdose and prior to discharge.[1] At a high level, the law requires acute care hospital emergency departments (EDs) and SEFs to:

- Complete a substance use disorder evaluation (SUDE) for patients reasonably believed to be experiencing an opioid-related overdose or who were administered naloxone prior to arriving at the ED or SEF, and record findings of the SUDE in the patient's electronic medical record;
- Have protocols which require the ED or SEF to:
    - maintain capacity to provide appropriate, evidence-based interventions, including initiating or providing medication for opioid use disorder (MOUD), and
    - offer to initiate or provide MOUD to all patients following an overdose and prior to discharge. MOUD induction may occur during a SUDE or after the SUDE is conducted;
- Prior to discharge, directly connect patients who receive MOUD to an appropriate provider or treatment site to continue MOUD treatment, or other community-based program appropriate to the patient's needs.

The purpose of this circular letter is to guide acute care hospitals and SEFs in conducting SUDEs for patients who meet specific screening criteria, and to provide acute care hospitals and SEFs with best

[1] *See:* M.G.L. c. 111, §§ 25J½ and 51½

practices for initiating or providing medication for opioid use disorders (MOUD) to patients in these settings.

Patients Who Must Be Provided Substance Use Disorder Evaluation

Acute care hospital emergency departments and SEFs must provide a substance use disorder evaluation to the following patients within 24 hours of presentation:

- A patient whom the treating clinician reasonably believes is experiencing an opioid-related overdose; or
- A patient who was administered naloxone prior to arriving at the hospital or facility.

This evaluation and resulting diagnosis must be conducted by a licensed mental health professional, and may be provided through an emergency services program.[2] A licensed mental health professional, as identified in M.G.L. c. 111, § 51½, includes a: (i) licensed physician who specializes in the practice of psychiatry or addiction medicine; (ii) licensed psychologist; (iii) licensed independent clinical social worker; (iv) licensed clinical social worker; (v) licensed mental health counselor; (vi) licensed psychiatric clinical nurse specialist; (vii) certified addictions registered nurse; (viii) licensed alcohol and drug counselor I, as defined in section 1 of chapter 111J; or (ix) health care provider, as defined in M.G.L. c. 111 § 1, qualified within the scope of the individual's license to perform substance use disorder evaluations, including an intern, resident or fellow pursuant to the acute care hospital's or SEF's medical staff policies and practice[3].

Acute care hospitals may use other health care professionals under the supervision of an appropriate licensed mental health professional for the patient information gathering components of the required substance use disorder evaluation, provided that a licensed mental health professional makes the diagnosis of the status and nature of the patient's substance use disorder.

Acute care hospitals and SEFs are also encouraged to provide a substance use disorder evaluation, within 24 hours of presentation in an emergency department, of patients whom the treating clinician reasonably believes is experiencing <u>any</u> non-opioid-related overdose. Additionally, because patients in acute withdrawal may be extremely uncomfortable, find it difficult to engage in extended interviews or discussions about treatment options until their withdrawal is treated, and at high risk of leaving against medical advice if their withdrawal is not adequately treated, clinicians should use clinical judgment to determine when most appropriate to initiate MOUD. **MOUD induction may occur during a SUDE or after the SUDE is conducted.** These patients are also at high risk of leaving against medical advice to use opioids from another source if their withdrawal is not adequately treated.

Minimum Evaluation Components

[2] As a reminder, the Centers for Medicare and Medicaid Services (CMS) rules require hospitals to credential all practitioners who provide medical services, which include substance use disorder evaluations, whether or not those practitioners are in a direct contractual relationship with the hospital. Section 482.12 of the CMS Conditions of Participation permits the governing body to determine which categories of practitioners are eligible to receive medical staff privileges and perform medical services that are within the physician scope of practice, as defined by 42 U.S.C. 1395x.

[3] MGL c. 111 s. 1 defines "health care provider" as "any doctor of medicine, osteopathy, or dental science, or a registered nurse, social worker, doctor of chiropractic, or psychologist licensed under the provisions of chapter one hundred and twelve, or an intern, or a resident, fellow, or medical officer licensed under section nine of said chapter one hundred and twelve, or a hospital, clinic or nursing home licensed under the provisions of chapter one hundred and eleven and its agents and employees, or a public hospital and its agents and employees."

In accordance with state law, a substance use disorder evaluation must include at least the following components:

- History of the patient's use of alcohol, tobacco and other drugs, including age of onset, duration, patterns and consequences of use;
- The use of alcohol, tobacco and other drugs by family members;
- Types of and responses to previous treatment for substance use disorders or other psychological disorders;
- An assessment of the patient's psychological status including co-occurring disorders, trauma history and history of compulsive behaviors; and
- An assessment of the patient's human immunodeficiency virus, hepatitis C, and tuberculosis risk status.

Evaluation Diagnosis

To determine an evaluation diagnosis, the acute care hospital or SEF must use the following references:

- Standardized definitions as set forth in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders as published by the American Psychiatric Association; or
- A diagnosis of a mental or behavioral disorder due to the use of psychoactive substances, as defined and coded by the World Health Organization.

Evaluation Communication and Documentation

The law requires findings from the evaluation be presented in person and in writing to each evaluated patient and be documented in the patient's medical record. Documentation must include the following:

- Recommendations for further treatment, if necessary; and
- An assessment of the appropriate level of care needed.

If the patient is a person under 18 years of age, the acute care hospital or SEF shall notify a parent or guardian that the minor has suffered from an opioid-related overdose and that an evaluation will be performed. A parent or guardian may be present when the findings of the evaluation are presented to the minor.

Evaluation Time Frame

- A hospital or satellite emergency facility may not discharge patients requiring a substance use disorder evaluation before the evaluation is complete. Hospitals and satellite emergency facilities should make every effort to conduct a substance use disorder evaluation within 24 hours of presentation.

Nothing in this section shall interfere with an individual's right to refuse care, based on an informed decision after a presentation of the risks and benefits.

No clinician shall be held liable in a civil suit for releasing a patient who does not wish to remain in the emergency department after stabilization, but before a substance use disorder evaluation has taken place.

Follow Up

Upon completion of a substance use disorder evaluation by a licensed mental health professional, the treating clinician must document in the patient's medical record whether further treatment is necessary. For those patients diagnosed with an opioid use disorder:

- Overdose risk reduction education and a naloxone rescue kit should be provided or prescribed by the treating providers.

- Upon patient consent, acute care hospitals and SEFs with available services should continue treating the patient. These services include, but are not limited to, induction to medication for opioid use disorders (MOUD). When clinically appropriate, acute care hospitals and SEFs are strongly encouraged to initiate MOUD. **MOUD induction may occur during a SUDE or after the SUDE is conducted.** A comprehensive best practices guide on MOUD induction can be accessed here: http://patientcarelink.org/improving-patient-care/substance-use-disorder-prevention-treatment-2/.
- If a patient consents to treatment but initiating MOUD is contraindicated, an acute care hospital or SEF must refer the patient to an appropriate and available hospital or a treatment provider. Whenever possible, the acute care hospital or SEF is strongly encouraged to directly connect the patient to treatment prior to discharge to help ensure continuity of care.
- If a patient refuses further treatment, and is otherwise medically stable, the acute care hospital or facility may initiate the discharge process. If the patient is in need of and agrees to further treatment following discharge pursuant to the substance use disorder evaluation, the acute care hospital or SEF must directly connect the patient with a community-based program prior to discharge or within a reasonable time following discharge when the community-based program is available. Whenever possible, the acute care hospital or SEF is strongly encouraged to directly connect the patient to treatment prior to discharge to help ensure continuity of care.

Upon discharge, the acute care hospital or SEF must provide to all evaluated patients, information on local and statewide treatment options, providers and other relevant information, such as overdose education and naloxone distribution programs, as deemed appropriate by the treating clinician.

An acute care hospital or SEF must record the opioid-related overdose and substance use disorder evaluation in the patient's electronic medical record and make the evaluation directly accessible by other healthcare providers consistent with federal and state privacy requirements through a secure electronic medical record, health information exchange or similar software or information systems in order to:

- Improve ease of access and utilization of data;
- Support integration of data within the electronic health records of a healthcare provider for purposes of treatment or diagnosis; or
- Allow healthcare providers and their vendors to maintain such data for the purposes of compiling and visualizing such data within the electronic health records of a healthcare provider that supports treatment or diagnoses.

Best Practice Guidance
Acute care hospitals and SEFs should use evidence-based and validated tools to perform the substance use disorder evaluation, such as the following:

- NIDA-ASSIST
- DAST-10
- Short Inventory of Problems (SID-AD)
- RODS
- TAPS
- DSM-5 Opioid Use Disorder Checklist

In addition, acute care hospitals and SEFs may consider using evidence-based screening tools to determine if someone is likely to suffer from a substance use disorder and requires an evaluation:

- Screening, Brief Intervention and Referral to Treatment (SBIRT) is a comprehensive, integrated, public health approach to the delivery of early intervention and treatment services for persons with substance use disorders, as well as those who are at risk of developing these disorders for use in community settings.
  http://www.integration.samhsa.gov/clinical-practice/sbirt
- National Institute on Drug Abuse-Modified Assist-A clinician screening tool for drug use in general medical setting.
  https://www.drugabuse.gov/nidamed-medical-health-professionals

Resources

Further information and resources (including a directory of programs) can be found through the Massachusetts Substance Use Information and Education Helpline: http://helplinema.org or by calling 1-800-327-5050. The Helpline is the only statewide, public resource for finding licensed and approved substance use treatment and recovery services.

The Substance Abuse and Mental Health Services Administration (SAMHSA) maintains a national helpline which is a free, confidential, 24/7, 365-day-a-year treatment referral and information service (in English and Spanish) for individuals and families facing substance use disorders. Further information can be found at https://www.samhsa.gov/find-help/national-helpline or by calling 1-800-662-HELP (4357).

Questions on compliance with these requirements may be directed to the Department, DPH.BHCSQ@Massmail.state.ma.us.