

March 19, 2017

George Zachos

Executive Director

Board of Registration in Medicine

200 Harvard Mills Square, Suite 330

Wakefield, MA 01880.

**Re: Proposed Amendments to BORIM Regulations 243 CMR 2.00**

Dear Mr. Zachos:

On behalf of Cambridge Health Alliance, we are pleased to offer comments on the proposed amendments to 243 CMR 2.00 in the Board of Registration in Medicine (Board).

We fully support the written comments submitted by the Massachusetts Health and Hospital Association and the Conference of Boston Teaching Hospitals, and the Massachusetts Medical Society. Our comments focus on a few specific areas of notable concern by the section numbers in the proposed regulations.

**243 CMR 2.01, 2.02(1)(p), 2.02(2)(k), 2.06(2)(f) - Participation in MassHealth Program**

As a safety net health system, we appreciate that the Board wants to ensure that all licensed physicians in the Commonwealth participate in the state's Medicaid program, MassHealth.  However, this requirement raises a number of questions that require clarification before implementation.  For instance, some of these questions include: when in the licensure process will the application and approval take place, how will limited licensees who are not able to separately bill be handled, how will licensees with no affiliation with any health insurer be treated, and who will apply - the candidate directly or a designated contact at their institution.  The proposed requirement that an applicant for licensure be enrolled in MassHealth is inconsistent with the current MassHealth requirement that an applicant be a MA licensed physician. Given the significant workload and resource constraints of both the Board and MassHealth, we are concerned that this requirement will result in unnecessary delays in licensure and operational issues that could have the opposite result of the Board's intent and limit access.

We recommend that the Board delay action on this regulatory provision until both the Board and MassHealth are able to address these integral matters and develop an adequate implementation plan, on which our hospital would be happy to contribute.

**243 CMR 2.07(4) Delegation of Medical Services**

The proposed change to this section eliminates any allowance for the delegation of medical services. At a time when new models of team based care delivery - such as patient centered medical homes and accountable care organizations - are being encouraged by state and federal policy makers, we do not understand why the existing ability to delegate some medical services is being disallowed. If enacted, the provision would conflict with the Centers for Medicaid and

Medicare Services' Conditions of Participation. These federal regulations (42 CFR 482.12(c)(1)(i)) provide physicians with authority to delegate medical services to qualified professionals and establishes standards on the individuals' licensure or certification.

Therefore, we recommend that no changes be made to 243 CMR 2.07(4).

**243 CMR 2.07(14) - Providing Cancer Patients with Treatment Information**

Section 2.07(14) is new and would require physicians to provide certain information on treatment options to patients with "known or suspected cancer" and further require the physician and patient to document that such information was provided. Discussing the options available for treatment and outlining the potential benefits and risks of those options is a standard of care for all physicians, regardless of whether they are treating a patient for cancer or any other disease or condition. This new requirement would not enhance the care of patients but would add to the already considerable regulatory and administrative requirements that often, while certainly not intended, serve to weaken the patient-physician relationships.

As such, we recommend that 243 CMR 2.07(14) as proposed be deleted.

**243 CMR 2.07(26) – Informed Consent and Patient Rights**

Similar to the comments that we filed in the previously proposed regulations related to informed consent requirements within 243 CMR 3.10, we also request that the entire section 243 CMR 2.07(26) be removed.

In particular, the newly proposed subsection outlines several new informed consent and patient notification requirements that as currently drafted would apply to any “diagnostic, therapeutic, or invasive procedures, medical interventions, or treatments,” in a manner that is so broad that it could be interpreted to apply to nearly every patient/physician interaction. Therefore, there is concern that without needed refinement and clarity of scope that such a provision could delay the overall delivery of care. To that end, we respectfully request that the Board remove this specific subsection and form a stakeholder group to help develop appropriate requirements that promote patient safety but do not add unreasonable operational burdens on healthcare providers.

There are considerable areas where the language may conflict with federal Centers for Medicare and Medicaid Services Conditions of Participation, Joint Commission Standards, and more. The provisions would also unnecessarily add costs to the overall system and decrease the amount of time that a provider spends with a patient providing clinical services, and instead spend more time doing administrative paperwork for routine health care activities such a physical exam.

Thank you for the opportunity to submit comments. We appreciate the Board’s consideration of the recommendations in our letter and those from Massachusetts Health and Hospital Association and the Conference of Boston Teaching Hospitals. We welcome the opportunity to respond to any questions and to collaborate with the Board.

Sincerely

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