Hospice and Palliative Care in Our Changing Environment: What Opportunities are There for You?

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Topics to be covered:

- Federal Legislation/Regulation
  - Patient Protection & Affordable Care Act (ACA)
  - HELP Hospice Act

- State Legislation/Regulation
  - Updates on Implementation of State Legislation/Regulation
  - HPCANYS 2013 Legislative/Regulatory Platform
Topics to be covered:

- Overview of Hospice Care
- Nursing Home & Hospice Partnership
- The Changing CON Environment

Federal Legislative/Regulatory Update
Federal Issues

- Federal Patient Protection and Affordable Care Act (ACA) – Passed in March 2010
  - Essential Health Benefits – Hospice included; HPCANYS advocating for inclusion of palliative care under chronic illness management

ACA, continued

- Essential Health Benefits
  - Hospice included in benchmark plan submitted by DOH to CMS
  - HPCANYS will continue to advocate for removal of limitations to hospice benefit (e.g. max. 210 days)
  - HPCANYS advocating for inclusion of palliative care under chronic illness management
ACA, continued

- Health Benefit Exchanges – Regional Health Benefit Exchange Advisory Committees just established; first set of meetings held in September
  - HPCANYS has representation on 4 of the 5 regional committees

HELP Hospice Act

- HELP Hospice Act (S.722/H.R. 3506)
  - Test & evaluate any new reimbursement methodology
  - Increase survey frequency
  - Amend F2F encounter: 1) allow Clinical Nurse Specialists and PAs to conduct the visit, and 2) hospices have 7 days after initial election to complete the encounter
State Legislative/Regulatory Update

Palliative Care Access Act (PCAA)

- Implementation of Palliative Care Access Act (PCAA)
- From Medicaid Redesign Team Proposal #109, Facilitate Access to Palliative Care
- Included in 2011 Budget Bill
- PHL 2997-d; Effective Sept. 27, 2011
- Expands on Palliative Care Information Act (2010)
Palliative Care Access Act (PCAA)

- Applies to hospitals, nursing homes, home care agencies, and enhanced and special needs assisted living residences
- Applies to patients with “advanced, life-limiting illnesses or conditions”

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What entities must provide:

- Facilitate access to appropriate Palliative Care consultations and services, including associated pain management
- Including but not limited to referrals consistent with patient needs and preferences
PCAA…continued

- Policies and Procedures
  - Must address how to identify the appropriate patient who will benefit from Palliative Care; and
  - Must contain provisions which allow persons who are legally authorized to make medical decisions to make decisions on behalf of patients who lack capacity so that such information and counseling is provided.

PCAA…continued

- DOH Staff and Palliative Care Education and Training Council have developed FAQs for providers and consumers that are available on the DOH Website

- HPCANYS is working on a grant proposal that would focus on implementing PCAA
Palliative Care DOH Web Page

http://www.health.ny.gov/professionals/Patients/patient_rights/palliative_care/

Hospice Modernization Act

- Passed and signed into law August 2011; effective immediately
- Implements 12-month terminal prognosis component of MRT #209. IMPORTANT:
  - Currently applies only to private pay/private insurance
  - NYS DOH has submitted a State Plan Amendment to CMS requesting that the 12-month terminal prognosis apply to Medicaid
  - HPCANYS in discussion with DOH re. Dept. of Ed./Corporate Practice of Medicine
PALLIATIVE CARE INFORMATION ACT

- PCIA passed and signed into law in August 2010; effective February 2011
- Requires physicians and nurse practitioners to offer information and counseling about palliative care to patients with terminal illnesses

Palliative Care Information Act …continued

- Information and counseling to be offered:
  - Range of options appropriate to the patient;
  - Prognosis;
  - Risks and benefits of various options; and
  - Patient’s “legal rights to comprehensive pain and symptom management at the end of life.”
- May be provided orally or in writing;
- If patient lacks capacity, information and counseling is to be provided to the health care decision-maker.
Palliative Care Information Act …continued

• DOH Staff and Palliative Care Education and Training Council developed FAQs to assist with implementation. Available at: http://www.health.ny.gov/professionals/patients/patient_rights/palliative_care/

• HPCANYS developed “PCIA/PCAA Resource Center”
  ➢ Available to HPCANYS members at: http://www.hpcanys.org/members/PCIA/
  ➢ Available to Non-HPCANYS members at: www.hpcanys.org

The Palliative Care Information Act was amended in August 2012:
  ➢ Requiring that physicians and NPs offer information regarding other treatment options should the patient wish to initiate or continue treatment
  ➢ Where health care practitioner does not feel qualified to provide info/counseling he/she may arrange for another physician or NP to do so
Family Health Care Decisions Act

- FHCD passed and signed into law March 2010 (after 17 years!)
- Surrogate decision making for patients without capacity who do not have a health care proxy
- Surrogate decision making applied only in hospital or nursing facilities
- FHD Improvement Act, passed and signed into law in 2011 added hospice
- Outstanding issue: the Isolated Patient

HPCANYS FHCDA Resource Center

- Developed as a resource for HPCANYS members; includes:
  - Hospice statute provisions
  - Policy & Procedure sample – consent to hospice care for incapacitated patient without a representative
  - FHCDA provisions addressing ethics committees
HPCANYS FHCDA Resource Center…continued

- Sample Ethics Committee Policy & Procedures
- HPCANYS FHCDA Algorithm
- Link to NYS Bar Association FHCDA FAQs

Medical Orders for Life Sustaining Treatment (MOLST)

- E-MOLST now up and running
- MOLST for the Minor Patient under development
- More info: MOLST on DOH.gov and CompassionAndSupport.org
I-STOP Act

- I-STOP = Internet System for Tracking Over-Prescribing
  - Passed and signed into law this summer
  - Real time registry
  - Duty to consult registry
    ✓ Hospice exempt
    ✓ HPCANYS will advocate for exemption of palliative care
  - Mandates electronic prescribing for controlled substances

I-STOP Act…continued

- Expands controlled substance schedule
- Expands function of Prescription Pain Medication Awareness Program
- Establishes safe disposal program for unused controlled substances
- More pain medication legislation expected to be introduced in 2013
HPCANYS 2013
Legislative/Regulatory Platform

- Access to Hospice and Palliative Care in Managed Care
- CON and Hospice (need calculation for hospice and GIP)
- Definition of advanced progressive illness in Article 40 – amend to align with definition for Palliative Care Access Act

HPCANYS 2013
Legislative/Regulatory Platform

- Family Health Care Decisions Act – the Isolated Patient
- Hospice and Palliative Care in NY’s Essential Health Benefits package
HPCANYS 2013
Legislative/Regulatory Platform

- Pain legislation including: access to appropriate prescription medication; and amending I-STOP to exempt p.c. patients
- Authorization of funds appropriated for Palliative Care Education and Training Grants
- Hospice Residences – emerging issues

Managed Care

- Managed Long Term Care Programs (MLTCP)
  - Language included in 2013 Budget Bill to enable MLTCP enrollees to access hospice benefit without disenrolling from MLTCP. Systems changes being made; anticipated by end of May
- Accountable Care Organizations (ACOs)
- Medical Health Homes
Managed Care

- Dual Eligible Patients (FIDA – Fully Integrated Duals Advantage program)
- HPCANYS has established an Innovations/Managed Care Task Force; Managed Care Tool Kit was rolled out at Nov. 30, 2012 Leadership Institute

CON Streamlining

- Public Health Planning Council met Friday, October 12, 2012
- Discussed Hospice need methodology (90%/10%)
- HPCANYS is taking a proactive approach
  - HPCANYS established a CON Task Force
  - working with Hospice Analytics on modeling, a “white paper,” and recommendation
Questions


Contact Information

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