NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

December 14, 2011

Dear CEO/Administrator:

On September 27, 2011, Public Health Law §2997-d (commonly known as the Palliative Care Access Act) became effective. It requires that hospitals, nursing homes, home care agencies, special needs assisted living residences, and enhanced assisted living residences provide access to information and counseling regarding options for palliative care appropriate to patients with advance life limiting conditions and illnesses. These providers and residences must also facilitate access to appropriate palliative care consultation and services, including associated pain management consultation and services, consistent with patient or resident needs and preferences. When the patient or resident lacks capacity to make medical decisions, the provider or residence must have policies so that access to such information and counseling will be provided to the persons who are legally authorized to make medical decisions on behalf of such patients or residents.

The Palliative Care Access Act (PCAA) expands upon the requirements of the Palliative Care Information Act (PCIA) which took effect on February 1, 2011. The PCIA requires physicians and nurse practitioners to offer information and counseling about palliative care to patients with a terminal illness.

The PCAA builds upon the PCIA in the following ways:

- It applies directly to health care facilities, home care agencies, enhanced assisted living residences, and special needs assisted living residences, whereas the PCIA applies to physicians and nurse practitioners;
- It applies to patients/residents with "advanced life-limiting conditions or illnesses who might benefit from palliative care" and not just those who are terminally ill; and
- It requires, not only an offer of information and counseling, but also that the covered health care provider or residence "facilitate access to appropriate palliative care consultation and services, including associated pain management consultations and services."

Like the PCIA, the PCAA is intended to ensure that patients are fully informed of the options available to them when they are faced with a serious illness or condition, so that they are empowered to make choices consistent with their goals for care, wishes and beliefs, and to optimize their quality of life. The law is not intended to limit the options available to patients. Nor is it intended to discourage conversations about palliative care with patients who have distressing symptoms and serious conditions, but do not technically fall within the law's requirements. Patients and providers should recognize that palliative care and disease-modifying therapies are *not* mutually exclusive. Patients may opt to pursue palliative care while also pursuing aggressive treatment. Palliative care may be provided together with life-prolonging or curative care or as the main focus of care.

Additional information and resources, including Frequently Asked Questions, can be found on the department's website at:
http://www.health.ny.gov/professionals/patients/patient_rights/palliative_care/

Thank you for your prompt attention to this law and to those patients and residents with advanced life- limiting conditions or illnesses that might benefit from this information.

Sincerely,

Richard M. Cook

Richard M. Cook
Deputy Commissioner
Office of Health Systems Management