



Department of Health

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Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

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DHDTC DAL 18-13

Dear Chief Executive Officer:

The New York State Department of Health (Department) recently issued regulations that would help ensure that hospitals identify, assess and refer individuals with substance use disorders (SUD) or who appear to be at risk for such disorders.

The Department's regulations implement Public Health Law (PHL) § 2803-u, reproduced below, which was enacted as Part C of Chapter 70 of the Laws of 2016. The legislation is part of a comprehensive approach to address the prevalence of substance use disorders and in particular the opioid crisis – a serious public health issue.

Public Health Law § 2803-u requires general hospitals to develop, maintain and disseminate written policies and procedures for the identification, assessment and referral of individuals with documented SUD or who appear to have or be at risk for SUD and requires them to train their licensed and certified clinical staff members who provide direct patient care in such policies and procedures. The law also requires hospitals to inform individuals with documented SUD or who appear to have or be at risk for SUD of the availability of treatment services that may be available through a substance use disorder services program.

The regulations, which took effect July 11, 2018, are available at: https://regs.health.ny.gov/sites/default/files/pdf/recently_adopted_regulations/Hospital%20Policies%20and%20Procedures%20for%20Individuals%20with%20Substance%20Use%20Disorders.pdf. As amended, 10 NYCRR §§ 405.9, 405.19, 405.20 and 407.5 require general hospitals to:

(1) establish written policies and procedures for the identification and assessment of individuals in inpatient settings, outpatient settings, observation services and the emergency department using an evidence-based approach;

(2) inform individuals who have or appear to have SUD of treatment services that may be available, which may be done verbally and/or in writing, as appropriate;

(3) refer individuals who have or appear to have SUD to appropriate substance use disorder programs and coordinate with such programs;

(4) during discharge planning provide individuals who have or appear to have SUDs with educational materials, developed by the Office of Alcoholism and Substance Abuse Services (OASAS) in consultation with the Department, as part of discharge planning (see attached document to be distributed at discharge); and

(5) establish and maintain training, in addition to current training programs, for all staff licensed or certified under Title VIII of the Education Law who provide direct care regarding the policies and procedures.

Critical access hospitals, as defined in Part 407.5, are also subject to these requirements.

The law and the regulations define “substance use disorder or who appear to be at risk for a substance use disorder” as per Mental Hygiene Law § 1.03. You should refer to the language of that statute, but essentially SUD means the misuse of, dependence on, or addiction to alcohol and/or legal or illegal drugs leading to effects that are detrimental to the individual's physical and mental health, or the welfare of others and shall include alcoholism, alcohol abuse, substance abuse, substance dependence, chemical abuse, and/or chemical dependence. SUD services include the examination, evaluation, diagnosis, care, treatment, rehabilitation, or training of persons with SUD and their families or significant others.

The following resources are available:

- Information on the Screening, Brief Intervention and Referral to Treatment (SBIRT), an evidence-based approach that can be used to identify and assess individuals with substance use disorder, available on the OASAS website at <http://www.oasas.ny.gov/adMed/sbirt/index.cfm>;
- The OASAS Treatment Availability Dashboard, found at <https://findaddictiontreatment.ny.gov>, can be used to search for state certified outpatient or bedded programs, and includes a description of levels of care within each of the major service categories of substance use disorder treatment services at https://www.oasas.ny.gov/hps/state/CD_descriptions.cfm; and
- Information on addiction and substance use services and program is available at the New York State Combat Addiction website at <https://oasas.ny.gov/combataddiction>.

The Department appreciates your partnership as we work to combat the threat of substance use, including the prevalence of opioid-related substance use disorders, and provide comprehensive care to patients. If you have questions regarding the general requirements of the statute or the regulations as discussed above, please direct them to the Division of Hospitals and Diagnostic & Treatment Centers at 518-402-1004.

Sincerely,

Ruth Leslie
Director
Division of Hospitals and Diagnostic and
Treatment Centers

Attachment

Public Health Law § 2803-u

§ 2803-u. Hospital substance use disorder policies and procedures. 1. The office of alcoholism and substance abuse services, in consultation with the department, shall develop or utilize existing educational materials to be provided to general hospitals to disseminate to individuals with a documented substance use disorder or who appear to have or be at risk for a substance use disorder during discharge planning pursuant to section twenty-eight hundred three-i of this chapter. Such materials shall include information regarding the various types of treatment and recovery services, including but not limited to: inpatient, outpatient, and medication-assisted treatment; how to recognize the need for treatment services; information for individuals to determine what type and level of treatment is most appropriate and what resources are available to them; and any other information the commissioner deems appropriate.

2. Every general hospital shall: (a) within existing or in addition to current policies and procedures, develop, maintain and disseminate, written policies and procedures, for the identification, assessment and referral of individuals with a documented substance use disorder or who appear to have or be at risk for a substance use disorder as defined in section 1.03 of the mental hygiene law;

(b) establish and implement training, within existing or in addition to current training programs, for all individuals licensed or certified pursuant to title eight of the education law who provide direct patient care regarding the policies and procedures established pursuant to this section; and

(c) except where an individual has come into the hospital under section 22.09 of the mental hygiene law, if the hospital does not directly provide substance use disorder services, then it shall refer individuals in need of substance use disorder services to and coordinate with substance use disorder services programs that provide behavioral health services, as defined in section 1.03 of the mental hygiene law.

3. Upon commencement of treatment, admission, or discharge of an individual with a documented substance use disorder or who appears to have or be at risk for a substance use disorder, including discharge from the emergency department, such hospital shall inform the individual of the availability of the substance use disorder treatment services that may be available to them through a substance use disorder services program.

4. The commissioner, in consultation with the commissioner of the office of alcoholism and substance abuse services, shall make regulations as may be necessary and proper to carry out the provisions of this section.