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January 29, 2019

Lynn Kovich
Deputy Secretary for Mental Health
and Substance Abuse Services
Department of Human Services
Commonwealth of Pennsylvania
P. O. Box 2675
Harrisburg, PA 17105-2675

Dear Secretary Kovich:

Thank you for the opportunity to discuss the planned Pennsylvania regulations on Assisted Outpatient Treatment (AOT) for individuals with serious mental illness. On behalf of the Pennsylvania College of Emergency Physicians (PACEP), representing over 1,700 Emergency Physicians throughout the Commonwealth, we have the following recommendations regarding these regulations as a summary of our discussion on January 22nd:

1. *The regulations for AOT should educate stakeholders that the emergency department is not the pathway for initiating this process.*

We believe that the upcoming regulations should not result in modification of the existing process for compelling patients to undertake involuntary inpatient psychiatric care under Section 302 of the Mental Health Procedures Act. We, as Emergency Physicians, are well versed in the current 302 process, and we are very capable of determining “clear and present danger” for the purposes of the need for acute inpatient treatment. However, we recommend that the AOT pathway be separate and distinct, and unless an emergency medical condition exists, should not have patients go through the Emergency Department (ED). Most EDs in the state do not have on-site psychiatrists or clinical psychologists, who are required by law to assess the patient and mandate AOT. Additionally, determination on the need for AOT is best performed by a mental health professional who has an existing therapeutic relationship with the patient. Therefore, education for the public, mental health providers, primary care providers and emergency providers about the separate pathways is essential to ensure that patients are not brought to the ED for this service due to the risk of alienating patients or families, who may incur cost without benefit.

2. *For patients who are non-compliant with AOT requiring further judicial intervention, the regulations for AOT should educate stakeholders that the emergency department is not the location to receive or modify treatment plans.*

Similar to the above rationale, for patients who are non-compliant with AOT, it is critical that modifications in treatment plans under the legal process outlined in the statute should be effected by psychiatrists and psychologists with an established relationship with the patient with judicial oversight. As we, as Emergency Physicians, by definition do not have such an established relationship, PACEP recommends that the regulations educate stakeholders on alternative pathways other than the emergency department for patients and their families to seek remedy for non-compliance or treatment plan modifications under AOT. The one exception, as noted above, is if the patient has progressed to showing evidence for meeting the 'clear and present danger' standard under Section 302 requiring evaluation for immediate emergency inpatient treatment.

3. *For those patients who require a 302 evaluation under the remedies section of the AOT process, the ideal would be to bypass the emergency department unless the patient requires an emergency medical intervention. Such a bypass would allow direct presentation to an acute psychiatric facility. Should emergency department presentation be required, the MH 783 form should be filled out in the same detail as under current petitioning under Section 302.*

For patients who, as part of a modification of their AOT program, and by court order, require evaluation for involuntary inpatient commitment (via Section 302), we recommend that, unless an emergency medical condition exists, and if local resources are available, they be evaluated in a facility with appropriate mental health capability. If these patients must present to an ED, we recommend that information about the patient's "clear and present danger" be included in the existing MH 783 form to the same standard as other Section 302 petitions, so that the Emergency Physician can make a determination on whether or not involuntary inpatient psychiatric commitment is required.

4. *PACEP stands ready to work with the Department of Human Services on educational materials on pathways that can put the above recommendations into effect through dissemination to EDs in Pennsylvania.*

PACEP recommends that EDs throughout the Commonwealth be provided with County-specific pathways to assist them in determining the appropriate services available for involuntary inpatient psychiatric commitment as well as AOT. PACEP stands ready to help the department with development of educational materials on these pathways.

Thank you again for the opportunity to engage in the development of these regulations. We are happy to be involved and provide further assistance in any manner that would be helpful to you.

Sincerely,

Ankur A. Doshi MD, FACEP
President – Pennsylvania College of Emergency Physicians