



## The Evolution of Hospice: New York Trends



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## Hospice: Historic Overview

- 1978 – First Hospice established in NYS
- 1982 – Hospice Medicare benefit created
- All 62 NYS Counties Served by Hospice
- Currently 48 Hospices in New York State
- Palliative Care Added to Hospice Licensure Law in 2002
- Hospices Residences (statute 1995; regs 2002)
- Hospice added to Child Health Plus & Family Health Plus in 2003



## Topics to be covered...

- Palliative Care Information Act
- Medicaid Redesign – MRT #109 and MRT #209
  - Palliative Care Access Act
  - Hospice Modernization bill
- Family Health Care Decisions Act
- MOLST
- Pediatric Hospice & Palliative Care
  - Concurrent Care for Children – Affordable Care Act
  - CAH I & II Waiver – pediatric palliative care services
- NYS Cancer Control Plan
- We Honor Veterans



## New Legislation & Regulation

- PALLIATIVE CARE INFORMATION ACT (PCIA)
  - Passed and signed into law in 2010; effective February 2011
  - Requires physicians and nurse practitioners to offer information and counseling about palliative care to patients with terminal illnesses.



## PCIA (Continued)

- “Palliative Care:” Health care treatment, including interdisciplinary end-of-life care, and consultation with patients and family members, to prevent or relieve pain and suffering and to enhance the patient’s quality of life, including hospice care.
- “Terminal Illness or Condition:” Reasonably expected to cause death within 6 months.
- “Appropriate:” Consistent with applicable legal, health and professional standards, the patient’s clinical and other circumstances; and the patient’s reasonably known wishes and beliefs.



## PCIA, Continued

- **Attending health care practitioner:** “a physician or nurse practitioner who has primary responsibility for the care and treatment of the patient. Where more than one physician or nurse practitioner share that responsibility, each of them has responsibility [to offer information and counseling], unless they agree to assign that responsibility to one of them.



## PCIA, 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.



## PCIA, Continued

- Which clinicians are covered?
  - Physicians and nurse practitioners with “primary responsibility”
  - If physician assistant is treating the patient, the supervising physician is required to comply.



## PCIA, 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/](http://www.health.ny.gov/professionals/patients/patient_rights/palliative_care/)
- HPCANYS developed “PCIA Resource Center”
  - Available to HPCANYS members at:  
<http://hpcanys.org/members/PCIA/>
  - Available to Non-HPCANYS members at:  
[www.hpcanys.org](http://www.hpcanys.org)



## Medicaid Redesign Team

- Established January 2011
- 79 Recommendations accepted February 24, 2011; 73 of which were included in the April 1, 2011 NYS Budget
- Two proposals specific to palliative care and hospice—MRT #109 and MRT #209



## MRT # 109, Facilitate Access to Palliative Care

- Included in the 2011 Budget as the **Palliative Care Access Act (PCAA)** (PHL 2997-d)
- Effective September 27, 2011
- Expands on Palliative Care Information Act
- Applies to hospitals, nursing homes, home care agencies, and enhanced and special needs assisted living residences.



## PCAA, Continued

- Applies to patients with “advanced, life-limiting illnesses or conditions”
- 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 are developing FAQs for providers and consumers; will be available soon on the DOH Website



## MRT # 209, Expand Hospice

- Three Components:
  1. 12 month terminal prognosis
  2. Include Hospice in ACOs and Medical Homes
  3. Concurrent Care for Adults



## 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



## Hospice Modernization Bill, Continued

- DOES NOT APPLY TO MEDICARE (would require a change in Federal statute)
- 2<sup>nd</sup> Component, which supports PCAA:
  - Allows Hospices to employ/contract with health care professionals for the provision of palliative care. “Dear Administrator” Letter (DAL) from DOH expected soon.



## MRT #209, Continued

- Inclusion of Hospice and ACOs and Medical Homes will be accomplished through regulation
- Concurrent care for adults would require a change in the Social Security Act (unlikely) or a Medicaid waiver (more feasible)



## Family Health Care Decisions Act

- FHCDCA 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



## FHCDCA, Continued

- Changes processes for withholding & withdrawing life-sustaining therapies including intubation and mechanical ventilation, artificial nutrition & hydration
- FHCDCA Improvement Act, passed & signed into law August 2011, includes hospice—the decision to elect hospice and consent to the hospice plan of care, regardless of where the decision is made or where the care is provided



## MOLST

- Medical Orders for Life-sustaining Treatment
- Dr. Pat Bomba is the statewide “champion” for MOLST
- Passed and signed into law July 7, 2008
- MOLST is for patients who are seriously ill or near the end of their lives
- Revised to comply with FHCDA
- Electronic version available in 13 counties



## Pediatric Hospice & Palliative Care

- Affordable Care and Patient Protection Act (ACA) Includes Concurrent Care for Children
  - Section 2302 of ACA
  - Allows for a child under the age of 21 to receive hospice services while continuing to receive services that are related to the treatment of the child’s condition for which a diagnosis of terminal illness has been made.



## Concurrent Care for Children, Continued

- Must meet hospice eligibility criteria (terminal prognosis of 6 months or less if the disease runs its normal course).
- The new provision applies to Medicaid, Medicaid managed care, Family Health Plus and Child Health Plus recipients under age 21.



## Care at Home I/II Waiver

- CAH I/II is for children:
  - Under the age of 18
  - Physically disabled, under SSI program criteria
  - Require the level of care provided in a skilled nursing facility or hospital
  - Able to be cared for safely in the community
  - Unmarried



## CAH I/II, Continued

- CAH I/II includes:
  - Case Management
  - Respite
  - Home and Vehicle Modification
  - **Pediatric Palliative Care Services** (added in 2009)



## CAH I/II, Continued

- Pediatric Palliative Care Services Include:
  - Family Palliative Care Education
  - Pain & Symptom Management
  - Bereavement Services
  - Massage Therapy
  - Expressive Therapies (Music, Art and Play)



## CAH I/II, Continued

- Pediatric Palliative Care Services – Provider Qualifications:
  - **Certified Home Health Agency** – New York State (NYS) Public Health Law (PHL) Sections 3602, 3606
  - **Hospice Agency** – PHL Section 4008; 10 NYCRR Section 791.2



## New York State Cancer Control Plan

- Currently being revised for 2012 – 2016
- Includes a section on Palliative Care; proposed measureable outcomes include:
  - Increases in the number of hospice and palliative care certified physicians, nurses, and social workers
  - Increasing NY's CAPC Report Card grade from "B" to "A"



## We Honor Veterans

- We applaud VA for strong commitment to Hospice and Palliative Care nationally and in NYS
- “Shout out” for Dr. Carol Luhrs, Therese Cortez and Maureen Martin
- New York’s Hospice Veteran Partnership established in 2004
  - Regional HVPs across the state



## We Honor Veterans, Continued

- We Honor Veterans (WHV) is designed to empower hospice professionals to meet the unique needs of dying Veterans. The program teaches respectful inquiry, compassionate listening and grateful acknowledgement – to comfort patients with a history of military service and possibly physical or psychological trauma.
- Four levels of participation
- 24 NYS Hospices signed up for WHV
- For more information: [www.wehonorvets.org](http://www.wehonorvets.org)



# Questions

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# Contact Information

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