

**State Health Plan for Facilities and Services  
Hospice Services: COMAR 10.24.13  
Adoption as Final Regulations**

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# Where have we been?

- Developed draft Hospice Chapter
- Met with the Hospice Work Group (including industry representatives designated by the Hospice Network) October 2011; November 2011; August 2012
- Presented new Chapter (COMAR 10.24.13) to Commission April 2012 to release for 1<sup>st</sup> Informal Public Comment
- 1<sup>st</sup> Informal Public Comment period: 46 comments received; 23 from legislators
- Met with Senate Finance Committee September 2012
- Committee urged MHCC to meet again with hospice representatives

# Where have we been (continued)?

- Reviewed methodology presented by Hospice Network; assessed and updated with 2011 data
- Reconvened Hospice Work Group (January 16, 2013) and reached consensus on revised methodology
- Met with Senate Finance Committee on January 24, 2013
- Presentation to April 2013 Commission meeting
- Held 2<sup>nd</sup> Informal Public Comment Period (April 10-May 10, 2013); 12 comments received
- Convened Hospice Education Work Group (April 2013)

# Where have we been (continued)?

- Presented draft Chapter to June 20, 2013 Commission meeting
- Commission voted to release COMAR 10.24.13 as Proposed Permanent Regulations
- Published in *Maryland Register* (7/26/13)
- Formal comment period: July 26-August 26, 2013

# Formal Public Comment Period

- Comments received from 12 organizations:
  - Senate Finance Committee
  - Calvert Hospice
  - Gilchrist Hospice
  - Holy Cross Home Care and Hospice
  - Hospice and Palliative Care Network of Maryland
  - Hospice of Queen Anne's
  - Hospice of St. Mary's
  - Hospice of the Chesapeake
  - Joseph Richey Hospice
  - LifeBridge Health
  - Montgomery Hospice
  - Seasons Hospice
  - Stella Maris
  - Western Maryland Health System

# Comment Categories for Discussion

- Quality Measures: Section .03
- Docketing and Exception Rules: Section .04
- Public Education Standards: Section .05
- Inpatient Unit Standards: Section .05
- Methodology Issues: Section .06

# Quality Measures: Section .03: Public Comments

- Recommendation for work on Quality Measures
  - “The Senate Finance Committee encourages MHCC to work with the Hospice Network to develop measures of quality assessment regarding the provision of hospice services.”

# Staff Response: Quality Measures

- Plan Chapter (Policy 2) highlights the importance of quality measurement
- National development of quality measures for hospice lags behind other service areas
- CMS initiating data collection for quality measures in 2014-2015
- MHCC Staff (Center for Quality and Reporting) working with hospices on data collection for quality measures
- Initially pilot test; later used for Consumer Guide for Long Term Care

# Docketing and Exception Rules:

## Section .04: Public Comments

- “An application to establish a new general hospice in Maryland, or to expand the services of an existing general Maryland hospice to a new jurisdiction will be docketed if, and only if, analysis determines that the current infrastructure cannot meet the additional need.”
- Docketing Rules: Inpatient Services
  - “A Certificate of Need is not required to locate the inpatient capacity of an existing general hospice program to another site within the same jurisdiction, such as when a hospice relocates after being acquired by another health care facility.”
  - “A Certificate of Need is not required for a... hospice program to provide inpatient hospice services to inpatients located at another health facility...so long as...(1) program has a Certificate of Need...(2) hospice services are provided...in ...licensed and approved beds, whether or not such beds are ‘clustered into a single unit.’”

# Staff Response: Docketing Rules Issues

- Need methodology explicitly accounts for capacity of existing providers to meet future demand
- Inpatient:
  - Wording is vague but appears that it requires change in statute or procedural regulations
  - Hospices can enter into agreements with health care facilities for admission of hospice patients
  - Beds cannot be dedicated for exclusive use as hospice beds without CON review
  - MHCC approach aligns with OHCQ regulations

# Hospice Standards: Section .05

## Public Education: Public Comments

- **Public Education**
  - “The Senate Finance Committee supports enhanced educational outreach by MHCC and the Hospice Network to meet the potential unmet need for hospice services in Maryland.”
  - “It was the understanding of the legislature and the Network that no regulations would be proposed until the Hospice Education Workgroup conducted its business and developed a mechanism to account for existing hospices abilities to meet need among diverse populations.”

# Staff Response: Hospice Education Issues

- COMAR 10.24.13.05N includes standard on public education
- Discussion at Senate Finance: recognition that Baltimore City and Prince George's County have low hospice use rates and high African American populations
- Commission has convened a Hospice Education Work Group
- Group met on April 29<sup>th</sup> and July 29<sup>th</sup> and is scheduled to meet next week (September 24<sup>th</sup>)
- Membership has grown and members have shared experiences with education successes and failures
- Commission staff serves as facilitator, but does not provide education directly
- Hospice programs are in the best position to understand needs of their communities and to provide education and outreach

# Hospice Standards: Section .05: Inpatient Units: Public Comments

- “The Network urges MHCC to collaborate with the Network on an IPU Workgroup to determine need criteria and formula for in-patient hospice units. The Hospice Regulations should not move forward until an IPU need formula is collaboratively developed and incorporated into the State Health Plan.”

# Staff Response: Hospice Inpatient Units

- Inpatient hospice is an integral part of the continuum of care for hospice services
- Chapter as drafted provides enhanced guidance for review of need, impact, and cost effectiveness
- Medicare limits the amount of general inpatient care (GIP) by limiting to 20% of total patient days; Medicare pays by level of care, not setting
- Most hospices do not have their own inpatient units, but contract for care with hospitals and nursing homes
- Hospice is defined as “health care facility;” Prior to 2010, CON review if over capital threshold
- Change in policy discussed with hospices in 2010
- Current providers were permitted to grandfather existing units

# Methodology Issues: Section .06: Public Comments

- “The Senate Finance Committee has significant concerns regarding the methodology that was used to determine the need for additional hospice CONs in several Maryland jurisdictions, most recently Prince George’s County and Baltimore City.”
- “The plan as prematurely drafted does not reflect or consider that the current providers in these jurisdictions have the infrastructure, capacity, and scale to serve additional patients...there is adequate access and capacity for hospice care given by the ten providers in Baltimore City and nine providers in Prince George’s County.”
- “LifeBridge wholeheartedly agrees with the Commission that Baltimore City has a need for additional hospice capacity. Baltimore City is currently underserved...”

# Staff Response: Methodology Issues

- MHCC staff worked with Hospice Network to change from a demand formula to the “aspirational approach” recommended by the Hospice Network
- Assumptions of formula and current outcome (need in Baltimore City and Prince George’s County) were discussed at Hospice Work Group meetings
- Baltimore City: nine providers; 2 account for 72% of market share
- Prince George’s: nine providers; 3 account for 78% of market share
- MHCC recommendation: publish schedule in *Maryland Register* to not permit docketing of letters of intent until mid 2015
- By then, staff can evaluate improvement in hospice use rates as well as success in education, outreach, and quality measures

# Next Steps

- Recommend Commission adoption of final regulations
- This would enact COMAR 10.24.13 and remove parts of COMAR 10.24.08 relating to hospice services
- Publish final notice in *Maryland Register*; regulations effective 10 days later
- Schedule for CON review published in September 6<sup>th</sup> issue of *Maryland Register*
- Continue work with Hospice Education Work Group
- Continue work on Hospice Quality Measures