Legislative Update

California Hospital Association

AB 40: Ambulance Patient Offload Time (APOT)

- By ***7-1-24***, local emergency medical services agencies (LEMSAs) must establish an APOT standard, not to exceed 30 minutes, 90% of the time.
- By ***9-1-24***, hospitals must submit an APOT reduction protocol to the Emergency Medical Services Authority (EMSA). Must consult with ED staff and union.
- By ***12-31-24***, when a hospital has exceeded the APOT standard for the preceding month, EMSA must report this to the LEMSA, which must then:
  - Alert all EMS providers in their jurisdiction
  - Direct the hospital to implement its APOT reduction protocol
  - Host bi-weekly calls with relevant hospital administrators and other stakeholders
- EMSA must
  - By ***12-31-24***, implement an electronic signature protocol for use by ED and ambulance staff to record ambulance arrival/offload times
  - By ***12-31-24***, implement an audit tool to improve the accuracy of transfer of care data
- No financial penalties (yet!)

AB 1286: Pharmacy

- Reporting pharmacy medication errors
  - *Background: Existing law requires hospitals to report medication errors to CDPH only if the error leads to patient death or serious disability*
  - New law: report — within 14 days — **other** errors where the medication is incorrectly dispensed, even if there is no patient injury (no duplicate reporting required)
  - BOP will identify the entity(ies) authorized to receive and analyze these reports

Effective 1-1-24

AB 904: Doula Coverage

- By ***1-1-25***, payers must develop a maternal and infant health equity program that addresses racial health outcome disparities using doulas
- Medi-Cal managed care plan satisfies this requirement by providing coverage of doula services
  - DHCS issued standing MD order for Medi-Cal patients
- *Note existing law*: Patients have a right to visitors of their choosing (T22, CoP for patients' rights)
  - This includes doulas
  - Exceptions: limited space, infection control, disruption, roommate privacy, etc.
  - When a hospital adopts policies that limit or restrict patients' visitation rights, the burden of proof is on the hospital to demonstrate that the visitation restriction is reasonably necessary to provide safe care

Recommendation: Written Doula Policy

- A hospital must have **written** policies and procedures regarding the visitation rights of patients, including:
  - Any clinically necessary or reasonable restriction or limitation that the hospital may need to place on such rights, and
  - The reasons for the clinical restrictions or limitations
- Hospitals must inform each patient **in writing** of visitation rights – include sufficient detail on hours, clinical and other restrictions
- DHCS political pressure; legislation coming?

The medical record must contain documentation that the required notice was provided to the patient/representative/support person

SB 385: PA Abortion Scope of Practice, Training

- Allows a physician assistant (PA) who has completed specified training and achieved clinical competency to perform abortions by aspiration technique without personal presence of supervising physician (unless specified in practice agreement)

Effective 1-1-24

AB 352: Sensitive Services

- Intent: give special protections to information about abortion, contraception, gender transition services
- By ***7-1-24***, certain businesses (such as EHR developers) must develop the capability of segregating the above info to limit user access, prevent disclosure/transmission outside CA
  - Does not apply to providers
- Starting ***1-1-24***, providers may not cooperate with out of state investigators, or provide medical information to them, related to abortion, unless patient consents
  - Same with federal law enforcement agencies, unless required by federal law
- Starting ***1-1-24***, providers cannot allow abortion information to be shared out-of-state through HIE, unless specific patient authorization obtained (some exceptions)
  - No liability until ***1-31-26*** if trying to comply
  - Exception to state's DxF

AB 1697: Authorization for Release of Information

- Revises the Confidentiality of Medical Information Act (Civil Code) to allow for electronic signatures to authorize disclosure of medical information and genetic test results (this was already allowed by the Health and Safety Code)

- Allows an authorization form to specify an expiration "event" rather than requiring a date (now aligned with HIPAA)

- The expiration date or event must limit the duration of the authorization to one year or less, unless
  - The person signing the authorization requests a specific date beyond a year or
  - The authorization is related to a clinical trial or medical research study, in which case the authorization can extend no longer than the completion of the trial or study
- The authorization form must advise the person signing it of the right to receive a copy

Effective 1-1-24

SB 302: Compassionate Access to Medical Cannabis Act

- Expands Ryan's Law, which allows medical cannabis access in health facilities, to:
  - Patients > 65 **and**
  - Have a chronic disease for which patient has a physician's assessment declaring that the patient has a serious medical condition (per Compassionate Use Act, § 11362.7(h)) and that the use of medicinal cannabis is appropriate
  - Notwithstanding this, a general acute care hospital **"shall not permit a patient with a chronic disease to use medicinal cannabis."**
- Adds **licensed home health agencies** to those subject to medical cannabis access requirements, with modifications
  - Limits prohibition on smoking/vaping to immediately before or while agency staff are present
  - Exempts home health agencies from requirements applicable to other facilities
    - Secure storage of medicinal cannabis in a locked container

Effective 1-1-24

AB 1740: Human Trafficking Signage

- *Background: Existing law requires emergency departments and urgent care centers to post human trafficking informational signs at the public entrance or in another conspicuous location*

- This bill adds facilities that provide "pediatric services" -- all medical services rendered by any licensed physician to persons from birth to 21 years of age, including attendance at labor and delivery

- Signs and required languages for each county are found at the Department of Justice's website: https://oag.ca.gov/human-trafficking/model-notice

Effective 1-1-24

AB 48: SNF Informed Consent

- Requires informed consent for psychotherapeutic drugs (drugs to control behavior or to treat thought disorder processes, excluding antidepressants)
  - Right to be free from psychotherapeutic drugs used for purposes of resident discipline, convenience, or as a chemical restraint (except per 22 CCR §§ 72528, 73524(e))
  - Must provide "material information": the information a reasonable person in the resident's condition and circumstances would consider material to a decision to accept or refuse the drug
    - Information specified in 22 CCR §§ 72528 (informed consent) and 73523 (patients' rights) **plus**
    - New statutory requirements, including
      - Whether the drug has a current boxed warning label along with a summary of, and information about how to find, the contraindications, warnings, and precautions required by the FDA
      - Whether a proposed drug is being prescribed for a purpose that has or has not been approved by the United States Food and Drug Administration

AB 48: SNF Informed Consent (cont.)

- Detailed requirements for obtaining and documenting informed consent
  - Prescriber must personally examine the resident, disclose material information, and obtain the written informed consent (remote technology OK)
  - Facility staff must verify that resident's health record contains signed consent before initiating treatment with psychotherapeutic drugs
    - If prescription was written prior to and encompasses resident's admission, facility staff must verify that informed consent was given and document that in the record
  - If can't obtain signature of patient/representative, licensed nurse must sign the form and verify that they confirmed informed consent with resident/representative, providing the name of the person who provided the informed consent and date
  - Facility to provide written notice every 6 months to resident/representative of any recommended dosage adjustments and resident's right to revoke consent
- CDPH to develop standardized informed consent form to be available by ***12-31-25***

AB 48: SNF Informed Consent

- Residents' rights P & Ps concerning informed consent must specify how facility will verify that resident provided informed consent or refused treatment/procedure pertaining to administration of psychotherapeutic drugs
- Facility not required to obtain informed consent each time a drug is administered absent change in material circumstances or risks

AB 1309: SNF Discharges

- **Right to appeal:** Established LTC resident's right to appeal an involuntary transfer or discharge through appeal process in 42 CFR § 483.204 **regardless of resident's payment source or whether the facility is Medi-Cal or Medicare certified**.
- Within 48 hours of giving required written notice of involuntary transfer or discharge, LTC must provide resident/representative:
  - Evaluation of resident's discharge needs and discharge plan as required by federal law or most current discharge plan; and
  - If transfer/discharge is because resident's needs cannot be met, all of the following (if not in most current discharge plan)
    - Written description of the specific resident's needs that cannot be met;
    - Facility attempts to meet the resident's needs; and,
    - Services available at the receiving facility that meet the resident's needs
- Prior to proposed transfer/discharge, facility must provide a copy of the discharge summary
- If transfer or discharge appeal hearing is requested, resident/representative must be able to examine, prior to and during the hearing, all documents and records to be used by the facility at the hearing.
  - Facility has same access rights to resident's hearing evidence

AB 1417: Elder and Dependent Adult Abuse

- Abuse that is known, suspected, or alleged:
  - Report immediately or as soon as practically possible by phone or confidential internet reporting tool
  - If initial report is by phone, must be followed by a written or internet report within two working days
    - Abuse defined in Welf. & Inst. Code § 15610.63: physical abuse as specified or physical or chemical restraint or psychotropic medication under specified conditions
- Abuse occurring in LTC facility (excluding state mental health hospital or state developmental center)
  - Abuse allegedly caused by **another resident who has been diagnosed with dementia** by licensed physician AND there was **no serious bodily injury**
    - Written report within 24 hours to LTC ombudsman and local law enforcement only

AB 1417: Elder and Dependent Adult Abuse (cont.)

- All other instances:
  - Verbal report to local law enforcement agency as soon as practically possible, but no longer than two hours
  - Written report within 24 hours to all of the following:
    - LTC ombudsman
    - Local law enforcement agency
    - Corresponding state licensing agency

AB 979: LTC Facilities: Family Councils

- Permits family council to meet virtually or at an offsite location (in addition to common meeting room of facility)
- SNFs and ICFs: requires that family council approve the designated staff liaison
  - All can request alternate staff person as needed
- Facility must provide written response to family council's written requests, concerns, recommendations
  - Within **14 calendar days** (previously 10) regarding action/inaction taken in response and
  - Provide rationale for response
- Must notify family members/representatives of new residents of family council within 5 business days after admission or, if no family council exists, of their right to form one
- Requires facilities to provide names, email addresses, and other contact info for each resident's representatives, family members or other designated individuals with resident's written consent

Additional Updates

HCAI: Hospital Fair Pricing Policies Regulations

Charity care: billing and collections – new regs take effect *1-1-24*

- Enforcement transferred to HCAI (no longer CDPH). Requirements about:
  - Eligibility determination letters, taglines
  - Policies and notices
  - Signage, website language
  - Responding to patient/HCAI complaints
- HCAI will review policies for compliance, may visit hospitals to inspect signage, etc.
  - Penalties for late filing, noncompliance with legal requirements

AB 1392: Supplier Diversity

- Starting ***7-1-25***, submit plan to HCAI to increase procurement from minority, women, LGBT, and disabled veteran businesses
- Like currently-required report, but plan must also include:
  - The planned and past implementation of relevant recommendations made by the HCAI's hospital diversity commission
  - How the hospital resolves any issues that may limit or impede an enterprise from becoming a supplier
  - A "diverse business outreach liaison"
- HCAI responsibilities:
  - Post plans on its website
  - May review hospital plans for completeness, issue late fine of $100/day
- Applies to system hospitals ≥ $25 million annual operating expenses ($50 million for standalone hospitals)

SB 253 and 261: Climate Change

- Climate change
  - Report annual greenhouse gas emissions – businesses with annual revenue ≥ $1 billion
  - Report climate-related financial risk – businesses with annual revenue ≥ $500 million
  - Regulations coming from California Air Resources Board (CARB)

AB 242: Physician Employment

- Background: AB 2024 (2016) authorized Critical Access Hospitals to employ physicians and charge for professional services rendered by them.
  - *Required that medical staff concur by an affirmative vote that the physician's employment is in the best interest of the communities served by the hospital*
  - *Hospital must not interfere with, control, or otherwise direct physician's professional judgment in a manner prohibited by law*
  - *Was set to expire on 1-1-24*
- AB 242 eliminates the 1-1-24 expiration date, **extending permanently the authority for Critical Access Hospitals to employ physicians directly**
- Eliminates hospital's annual reporting requirements to HCAI

AB 816: Minor Consent to Buprenorphine

Background: Existing law expressly exempts "narcotic replacement" therapy from the kinds of services to which a minor may self-consent.

- Allows a minor ≥ 16 to self-consent to receiving medications for opioid use disorder from a licensed narcotic treatment program as replacement narcotic therapy, but only if/to the extent expressly permitted by federal law

- Clarifies that a minor ≥ 16 may self-consent to opioid use disorder treatment that includes buprenorphine

  – Applies to physician's office, clinic, or health facility

  – Treatment must be by licensed physician or other health care provider acting within the scope of their practice

Effective 1-1-24

AB 665: Minors' Consent to Mental Health Services

For minors ≥ 12 who consent for their mental health treatment, counseling, or residential services:

- **Eliminates requirement** that minor either
  - Present a danger of serious physical or mental harm to themselves/others without the services OR
  - Be an alleged victim of rape or incest
- **Adds requirement** that treating professional must **first consult with the minor** before determining that involvement of minor's parent/guardian in minor's mental health treatment or counseling would be inappropriate
- **Expands** definition of "professional person" providing services to incorporate the definition in Health & Safety Code § 124260

Effective 7-1-24

Questions?

California Hospital Association

Thank you

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