



DHMH

Maryland Department of Health and Mental Hygiene

Office of Health Care Quality

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Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

TRANSMITTAL

TO: All Hospices, Nursing Homes and Hospitals

FROM: Margie Heald, Acting Director
Office of Health Care Quality

RE: Regulatory Standards for Physician Documentation

DATE: October 19, 2009

During the course of surveying health care facilities and programs, several physician practices have come to the attention of the Office of Health Care Quality. Some of these practices have been referred to the Board of Physicians and other licensing boards.

Assisted Living Facilities: A physician who visits residents in an assisted living facility signed blank order forms. These signed forms were left at the facility without a resident's name on the sheet. The certified medication technician filled in medication orders and faxed them to the pharmacy independently and without consultation with the physician or delegating nurse. A certified medication technician is not qualified or authorized to prescribe medications. Pursuant to section 14-401(k)(2) Maryland Medical Practice Act, the practice of medicine includes... prescribing for ... The Board of Physician's position is that prescribing medication is the practice of medicine and requires medical decision making. Without physician involvement prior to filling the medication orders and faxing, the Board may construe such actions as unprofessional conduct in the practice of medicine subject to disciplinary action by the Board. The Board may also construe the actions as aiding and abetting an individual in the practice of medicine also subject to discipline.

Nursing Homes: A physician signed a blank *Instructions on Life-Sustaining Treatment Options* form at the time of a patient's admission. This form is used to document the patient's goals of care and instructions about life-sustaining treatment options. Although it is not an order form, it provides information about the patient's wishes. At a future time the social worker and the patient and/or surrogate completed the form. The social worker then filled in the date by the doctor's signature. The physician did not review the completed form at a later date. If the instructions completed by the social worker include actions constituting the practice of medicine, the Board may construe such actions as unprofessional conduct in the practice of medicine subject to disciplinary action by the Board. The

Board may also construe the actions as aiding and abetting an individual in the practice of medicine also subject to discipline.

Hospices and Nursing Homes: Physicians signed blank *Maryland Emergency Medical Services (EMS) Do Not Resuscitate (DNR) and Medical Care Order* forms in bulk. These forms were left with a social worker, nurse, or administrative person. Another licensed healthcare professional would complete the form in the future and fill in the date by the doctor's name. The EMS DNR form states "I hereby certify that this order is entered as a result of discussion with, and the informed consent of" or "If none of these are indicated, I certify that I entered this order on the basis of" an advance directive or two physicians certifying that CPR is medically ineffective. By signing blank order forms, the physician or nurse practitioner cannot certify that the order is correct for this individual and on what basis the order is written. If there is no advance directive and the decision is not based on medical ineffectiveness, these forms require that the certification be entered as a result of discussion with and informed consent of the patient or the authorized decision maker. The act of pre-signing the forms by a physician indicating and certifying that he discussed it and obtained informed consent, when the physician did not, may be construed as the making or filing of a false report in the practice of medicine subject to disciplinary action. The Board may also construe such actions as unprofessional conduct and aiding and abetting an individual in the practice of medicine also subject to discipline.

Nursing Homes: Physicians signed blank *Certification of Medical Condition* forms with no patient's name on the form. The signed forms were left with social workers or nurse managers. This form stated "I, _____, MD, have examined _____ (resident) on _____. Based on this examination, I hereby certify that the resident's condition is" . . . an end-stage condition, persistent vegetative state, or a terminal condition. These signed forms may be used for patients that the physician never examines. The Board may construe such acts, that is certifying acts that were not performed, as unprofessional conduct and willfully making a false report in the practice of medicine subject to discipline. In the past, the Board found that similar acts violated the Maryland Medical Act and imposed sanctions.

Nursing Homes: Physicians signed blank *Certification of Incapacity* forms. The form stated "I have examined _____ (resident) on _____" and the resident is "incapable of making decisions." These signed forms may be used for patients that the physician never examines. The Board may construe such acts, that is certifying acts that were not performed, as unprofessional conduct and willfully making a false report in the practice of medicine subject to discipline. The Board in the past found that similar acts violated the Maryland Medical Act and imposed sanctions.

Hospitals: A physician signed hospital restraint and seclusion order forms that were otherwise blank. The purpose of this form is to document the physician's clinical rationale for a specific restraint or seclusion. These signed blank forms could be used for the future restraint or seclusion of any individual. The Board may construe such acts, as pre-signing restraint and seclusion forms, to be unprofessional conduct and willfully making a false report in the practice of medicine. In the past, the Board imposed sanctions for pre-signing certification forms.

Death Certificates: Questions have arisen about signing blank death certificates. Generally a physician is given a blank death certificate to sign with the patient's name written on the top tear-off portion of the form. The physician completes the accompanying worksheet for a specific deceased individual. The

signed blank death certificate and completed worksheet are given to the Funeral Home. As specifically described above, the Office of Health Care Quality would not cite this specific practice as deficient. As specifically described above, the Board may not find this to be a violation of the Act. If, however, physicians sign blank death certificates or use them in other ways, the practice may be investigated. The Board would investigate cases involving death certificate complaints alleging violations of the Act.

For additional information, please contact:

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