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Re: October 15 NYS State Register Proposed Regulations on Integrated Outpatient Services (I.D. No. HLT-41-14-00022-P)

The New York State Council for Community Behavioral Healthcare appreciates the opportunity to submit comments on behalf of our members on the DOH/OASAS/OMH proposed regulations on Integrated Outpatient Services to promote access to physical and behavioral health services at a single site and to foster the delivery of integrated services. We previously submitted comments on the draft regulations and this letter reiterates some of those concerns.

The NYS Council is a statewide non-profit membership association representing the interests of nearly 100 behavioral health (mental health and substance use) prevention, treatment and recovery organizations across New York. Our members include free standing community-based agencies, general hospitals, and counties that operate direct services.

**Overall Comments and Concerns**

*Licensure/Co-Location*

The NYS Council is pleased that the State is moving toward a more integrated, and a less bifurcated, system of care for behavioral health care recipients across the state. Integrated care will ultimately be more efficient for both patients and providers, more cost effective, and will allow for better treatment and quality of care.

More integrated care, including a single license of care and co-location of services, should not only provide a streamlined system of care but should provide an opportunity to foster truly collaborative care and thus streamline the numerous and burdensome regulations that providers are required to meet. We believe that although the intent of this proposed regulation is to streamline services and licenses, it does not go that next step of streamlining the regulations and encouraging truly collaborative care. Instead, these proposed regulations appear to merge the regulations from each agency together to then require that if you provide multiple services under one license you will be required to meet the regulations of each of those multiple agencies.
One of the goals the agencies identified for this project is that “the clinic provider would need to possess licenses from at least 2 of the 3 participating State agencies within their network.” Integration should be encouraged from all providers, whether they are currently in possession of two licenses or not. Currently, single license providers may be providing other services but not meet the threshold requirement to obtain a license. For instance, mental health clinics may already provide up to 10% of visits as medical services. So, in that case, they are providing the service but want to expand to offer more.

Billing Rates and Services
Billing and clinic rates are not addressed in these proposed regulations. While the hospital providers have a single APG rate for all outpatient clinic services, stand-alone mental health and substance use providers do not. This needs to be addressed with the integration of services.

How will billing be completed given the different available services for each sector? For example, if an integrated license is governed by OASAS, will OMH authorized services be permitted? For instance, OMH allows collateral services without restriction as long as total numbers fall within the threshold. OASAS allows only 5 collateral visits per episode of care, which we believe is inadequate, especially for child and adolescent services.

Also, the CASAC was eliminated from the qualified health professional list in outpatient mental health clinics so many clinics eliminated those positions. The CASAC credential should be restored to the mental health clinics or at least be part of the joint license for billing purposes. The CASAC is uniquely qualified and trained to deal with addictions.

The NYS Council believes that in time consideration should be given as to how to move toward one billing process for all types of services to streamline this system as well for providers.

Specific Comments and Concerns

§ 404.3 Applicability

(b) As noted above, this integrated licensure regulation should not preclude a single-license, stand-alone provider from expanding to offer additional services. The proposed regulations only seem to apply to those outpatient providers that have two or more agency licenses. We recommend that this integration be available to all providers.

§ 404.4 Definitions

(j) Primary care services – this definition should be expanded to capture all other recognized primary care professionals including physician assistants, dentists, podiatrists, ophthalmologists, etc.

§ 404.8 Policies and Procedures

We recommend that this section include information about the use of electronic medical records and sharing information.
(e) “Ensuring prompt follow-up action on patients with abnormal test results or physical findings” – we recommend that abnormal test be expanded to say abnormal medical or behavioral health test results.

§ 404.9 Integrated Care Services

This entire section duplicates existing regulations for each type of provider. We recommend that this section be reviewed in conjunction with current regulations to identify areas that could be consolidated and thus eliminated from current regulations.

(a)(2)(ii) “Integrated care services programs delivering primary care services must have sufficient staff and appropriate equipment to deliver primary care services.” – we recommend this be defined further as to what is sufficient and appropriate.

(a)(2)(iii) “Integrated services providers delivering primary care services shall conduct periodic reviews of its integration of primary care services with behavioral health services as part of its overall quality assurance program.” – what will the periodic reviews of primary care services with behavioral health services entail?

(a)(2)(v) “Primary care services provided within the specialty of OB/GYN are limited to routine gynecologic care and family planning provided pursuant to 10 NYCRR 753.” - This is unnecessarily restrictive. If the primary care service has the appropriate provider and medical liability insurance coverage there should be no barriers. This may be considered discrimination against women who are pregnant.

(c)(3)(ii)(b) “… Group counseling must contain no more than 15 patients in each group counseling session.” – why is a specific number included in this area but not in the primary care or mental health sections?

§ 404.10 Environment

We believe that this entire section is very prescriptive and reads as if a provider is establishing a full D&T center versus just integrating services. We recommend that this section be reviewed based on current requirements for mental health and substance use clinics to identify areas that could be consolidated. As currently written, this may be extremely expensive for providers to comply with.

§ 404.11 Quality Assurance, Utilization Review and Incident Reporting

We recommend that this entire section be reviewed and consolidated into one set of regulations that all provider types adhere to. As currently written they are overly burdensome when you combine the separate agency regulations into one and do little to foster true integration of services.

§ 404.14 Application and Approval

(a)(1) We again here in this section recommend that a provider not be required to hold two or more licenses to become an integrated provider.
Conclusion

New York State is undergoing a major reform of its health care system including both physical health and behavioral health services. We are witnessing the evolution of Performing Provider Systems that will focus on integrated care and the continued expansion of Patient Centered Medical Homes, Health Homes, and Accountable Care Organizations. A central focus of all of these models is the integration of care. We applaud the agencies for taking this first step toward more collaboration and integration of care.

Thank you again for the opportunity to provide comments on the Integrated Services Outpatient regulation. If you have any questions, please feel free to contact me at (518) 461-8200 or nyscouncil@albany.twcbc.com.

Sincerely,

Lauri Cole
Executive Director