

**Clinical Observations and Notes**  
**July 24, 2002**

**Patient Rights and Advanced Directives**

Hopefully by now, all have received and read, at least on our web site, the Clinical Alert that was sent out in mid-July, that presented a case wherein both a nursing home and hospital failed to follow a patient's advanced directives.

We have found that many facilities do not understand Maryland law as it relates to Advanced Directives and Power of Attorney for health care matters, or they do not apply what they know in a systematic manner. This should be a matter of concern to all health care facilities. We encourage each hospital and nursing home to review its policies and procedures relating to advanced directives and determine if changes are necessary to comply with State law.

Please note: A second nursing home has been fined for failure to follow a resident's advanced directives since the Clinical Alert was distributed.

This is an area to which our surveyors have been advised to pay particular attention.

**Long Term Care Medical Director Training**

Section 10.07.02.11B of COMAR specifies "the medical director shall begin the educational process in physician management or administration within the first year from the date of employment as a medical director." All physicians who were Medical Directors when the regulations were approved must, by August of 2002, show that they have at least begun the required training.

Medical directors showed considerable interest in attending the educational sessions offered this year in Baltimore, Annapolis and Frederick by the American Medical Directors Association (AMDA). These sessions were arranged to assist medical directors in fulfilling the requirements of COMAR 10.07.02.11, without them having to leave the state. Approximately 75 physicians attended the Baltimore meeting (Part A), 85 physicians attended the Annapolis weekend (Part B), and 75 physicians attended the final session (Part C) in Frederick on July 13-14, 2002.

Physicians who have already been certified by AMDA (Certified Medical Directors) are considered to have met the regulatory intent. There are currently no alternatives to either obtaining the AMDA CMD or to taking the three AMDA modules.

**Long Term Care Medical Director Work Patterns**

Since the nursing home Medical Director regulations became effective in August 2001, the Department has asked more than 125 medical directors a series of questions about their work.

The following trends are worthy of mention:

- Only 71% of medical directors attend at least 2/3 of QA committee meetings.
- Only 73% of medical directors routinely report to a monthly QA committee.
- Only 41% of medical directors have a formal plan to provide medical oversight.
- Only 35% of nursing homes evaluate a medical director's performance.

Up to now, the Office of Health Care Quality's technical assistance team has consulted with facilities to determine compliance with the Medical Director regulations. Effective on or about September 15, the federal surveyors will be determining compliance with the Medical Director regulations during the facility's annual survey.

### **Use of Nurse Practitioners in Long Term Care Facilities**

The use of nurse practitioners in Maryland's nursing homes has increased. The Department supports this trend, as there is evidence that the use of nurse practitioners in nursing homes can improve care for residents.

Do regulations prohibit a nurse practitioner from performing a history and physical examination of a newly admitted (or readmitted) nursing home resident? The simple answer is no, there is no such prohibition found in either state or federal regulations. However, the fact that a nurse practitioner performs a history and physical examination in no way absolves the physician from his obligation to visit the resident per the regulations. As a point of clarification, the fact that a nurse practitioner's visit precedes one by the attending physician does not mean that the nurse practitioner has performed the initial evaluation of the resident. That initial evaluation must be performed by a physician who may use various means to assess the resident, including the findings of the nurse practitioner's history and physical exam. It is the needs of the resident which drive the timing of, frequency of, and nature of all health care practitioner's visits. Additionally, facilities may require, through their medical policies, more stringent visit and evaluation practices than those found in state and federal regulation.

Joseph Berman, MD  
Medical Director  
[jberman@dhmh.state.md.us](mailto:jberman@dhmh.state.md.us)

William Vaughan, RN  
Chief Nurse  
[wvaughan@dhmh.state.md.us](mailto:wvaughan@dhmh.state.md.us)