March 29, 2019

Heidi Steinecker, Deputy Director
California Department of Public Health
Center for Health Care Quality
Attn: Regulations Unit, MS 3201
P.O. Box 99737
Sacramento, CA 95899-3201

Subject: AFL 19-08; AFL 19-09; AFL 19-10; AFL 19-11; AFL 19-12, AFL 19-12, AFL 19-14: Request for Stakeholder Input in Amending GACH Respiratory Care Service, Occupational Therapy Service, Physical Therapy Service, Podiatric Service, Rehabilitation Center, Social Service, and Speech Pathology and/or Audiology Service Regulations

Dear Ms. Steinecker:

On behalf of our more than 400 member hospitals and health systems, the California Hospital Association (CHA) respectfully offers the following comments on revising the Title 22 respiratory care, occupational therapy, physical therapy, podiatric services, rehabilitation center, social services and speech pathology and/or audiology services regulations. CHA provided detailed recommendations for each section of Title 22 in 2011; in addition, in 2018, CHA provided comments to several Title 22 sections for which the California Department of Public Health (CDPH) solicited comments including cardiovascular surgery, cardiac catheterization laboratory, anesthesia services, surgical services, hospital administration, employee personnel records and requirements, supplemental service approval and special permit, medical records, medical service, hospital records and reporting, and change of ownership. CHA commends the CDPH Center for Healthcare Quality for beginning the significant and complex process of revising the sections of Title 22. To assist in that effort, CHA offers the following general recommendations that we believe must be considered to achieve a successful outcome.

As CDPH is aware, the majority of Title 22 regulations are outdated and no longer relevant to current hospital delivery of care. Consequently, Title 22 precludes CDPH’s ability to provide effective regulatory oversight. Equally problematic, the current regulations are among the many obstacles California hospitals face in providing high-quality health care under tight financial restrictions, while utilizing the most current technological advancements. CHA applauds CDPH for undertaking the monumental task of rewriting Title 22, and underscores the need to ensure a proper foundation and infrastructure are created to support this endeavor.

It is important that updated regulations:

1) Are consistent with existing laws and regulations, as well as national standards;
2) Can be readily implemented at the facility and unit levels;
3) Allow for innovation in a constantly changing environment, to ensure their requirements remain relevant for decades; and
4) Are organized in a manner that facilitates clear understanding of the requirements and compliance.

We also encourage CDPH to review existing program flexibility to identify current practice standards.

CHA recommends that CDPH:

Require Hospitals to Adopt and Follow National Standards
CHA strongly urges CDPH to consider aligning Title 22 requirements with the Centers for Medicare & Medicaid Services’ (CMS) Conditions of Participation (CoPs). CHA believes that, to keep pace with existing standards of care, hospitals should be required to choose relevant national standards to use as a foundation for policies and procedures. Facilities would base this decision on their patient population and the services provided by each clinical service line. This will ensure that, as practice changes, Title 22 requirements remain relevant and hospitals continue to be held to the current community standard. CHA believes CDPH should not codify the existing CoPs in Title 22 because those regulations would become outdated when CMS next updates the CoPs. CDPH should be mindful to ensure alignment with CoPs. In addition, conformity with the CMS CoPs and the adoption of national standards in hospitals’ policies and procedures will eliminate inconsistencies, inefficiencies and confusion. This principle applies to the requirements related to respiratory care service, occupational therapy service, physical therapy service, podiatric service, rehabilitation center, social service, and speech pathology and/or audiology service regulations.

Eliminate Title 24 Building Standards from Title 22
CHA wishes to emphasize that Title 22 should be rewritten to allow California hospitals to provide care and design buildings that meet the needs of modern health care delivery. The Office of Statewide Health Planning and Development has jurisdiction over hospital building standards, including square footage, electrical and ventilation, and other non-operational standards. CHA strongly encourages CDPH to remove those requirements from Title 22, unless CDPH has identified an operational concern. This principle applies to several questions including alterations to existing buildings or new construction, patient rooms, emergency lighting and power systems, electrically sensitive areas, water supply and plumbing. This includes Title 22 sections related to physical space for respiratory care service, occupational therapy service, physical therapy service, podiatric service, rehabilitation center, social service, and speech pathology and/or audiology service.

Construction of Title 22 Revisions
There exists in the current regulations a core set of required administrative and written policies that pertains to all the supplemental services. CHA recommends that regulations pertaining to administrative policies and procedure requirements, staff orientation, sufficiently trained staff and adequate space to meet the needs of the patients serviced, etc. should be consistent across the service areas. CHA suggests Title 22 be drafted to include all of these common requirements in one section, rather than having the same requirements under each section (respiratory care services, social services, etc.). Drafting a standard set of general requirements relevant to all services, and including nuanced requirements in each particular service section will eliminate redundancy, improve consistency, and focus attention to key provisions that are unique to a particular service.
Rehabilitation Centers have specific federal requirements and Title 22 should reference the federal definitions/standards to ensure clarity and consistency. Patient selection and screening procedures, documentation standards, utilization review and other program requirements shall be consistent with established national standards (e.g., CMS conditions of participation). In the integrated health care environment of today, providers often refer patients to other providers that have specific areas of expertise. There is no statutory requirement for Rehabilitation Centers to provide outpatient services, therefore CHA strongly suggests that this requirement be eliminated. Instead, hospitals designated as Rehabilitation Centers may provide outpatient rehabilitative services, or refer patients to other facilities for this outpatient service.

**Definitions of the Service Lines and Practice Act Standards**

Several areas under consideration with these pre-regulatory comments have state practice act standards, which define the practice and include supervision standards (respiratory care service, occupational therapy service, physical therapy service, podiatric service, social service, and speech pathology and/or audiology service). The definition section of each respective regulation should reference the practice act of each specialty, which will ensure consistency with other state agencies.

CHA’s recommendations are not an exhaustive list, but an initial submission during this pre-notice period. Moving forward, CHA is ready to assist CDPH in updating the Title 22 regulations to provide a structure for hospitals that supports the safe provision of patient care.

Thank you for the opportunity to comment as the department begins its work on these important regulations. We look forward to working with you. If you have any questions, please do not hesitate to contact me at drogers@calhospital.org or (916) 552-7575.

Sincerely,

Debby Rogers, RN, MS, FAEN
Vice President, Clinical Performance and Transformation