



The health law solution.

# CLIENT ADVISORY

July 1, 2015

## New Virginia Requirements for Providing Notice for Outpatient or Observation Status and Discharge Planning

Virginia hospitals will want to take note of two new pieces of legislation that go into effect today, July 1, 2015. The new legislation includes specific requirements to notify patients if they are placed in observation or any other outpatient status and for hospital discharge planning similar to current Medicare requirements.

### **Patient Notice for Observation or Outpatient Status:**

#### **What the Bill Does:**

Senate Bill 750 requires hospitals to provide oral and written notice within 24 hours to any patient placed under observation or in any other outpatient status if the patient receives onsite services from the hospital that include a hospital bed and meals in an area of the hospital other than the emergency department. The bill will be codified as Virginia Code § 32.1-137.04.

#### **Steps Hospitals Should Take:**

Senate Bill 750 states that the written notice to be provided must be written in clear, understandable language, and printed in at least 14-point type. The written notice must include a statement that the patient is admitted under observation or any other outpatient status, a statement that such status may affect the patient's Medicare, Medicaid, or private insurance coverage for the services rendered at the hospital or care at a skilled nursing facility or home or community-based care upon the patient's discharge, and a statement that the patient should contact the appropriate representatives for more information. The bill does not place any responsibilities on the hospital if the patient has been discharged or has left the hospital prior to the expiration of the 24-hour period required to provide notice.

### **New Requirements for Discharge Planning:**

#### **What the Bill Does:**

House Bill 1413 supplements Virginia Code § 32.1-137.02 by providing concrete requirements for discharge planning. Under this legislation, every hospital is required to provide the opportunity for each patient admitted as an inpatient, or his legal guardian, to designate an individual who will care for or assist the patient following discharge from the hospital. If the patient, or his legal guardian, designates an individual, House Bill 1413 requires the hospital to notify the designated individual of the patient's discharge, as well as inform the designated individual of the patient's discharge plan. The bill will be codified as Virginia Code § 32.1-137.03.

#### **Steps Hospitals Should Take:**

House Bill 1413 is consistent with the existing requirements under the CMS Conditions of Participation, which require hospitals to formulate a discharge plan for all patients who are likely to suffer adverse health consequences upon discharge. House Bill 1413 specifies that hospitals must record the name of the individual designated by the patient or his guardian, or the patient's refusal to name a designated individual, in the patient's medical record. The hospital is also required to include the patient's discharge plan in the medical record. Under this legislation,

the discharge plan must include the contact information of the designated individual, a description of the follow-up care required, and contact information for any entity that is necessary for the implementation of the discharge plan. The bill also specifies that hospitals or their employees or contactors will not be liable for any civil damages for any injuries resulting from the designated individual's provision of or failure to provide care pursuant to the patient's discharge plan.

If you have questions or need assistance in developing policies, procedures, or notices required under these new pieces of legislation, please contact Mary Malone, Michelle Calloway, or Clay Landa at (866) 967-9604, or by email at [mmalone@hdjn.com](mailto:mmalone@hdjn.com), [mcalloway@hdjn.com](mailto:mcalloway@hdjn.com), or [clanda@hdjn.com](mailto:clanda@hdjn.com). Additional information about Hancock, Daniel, Johnson & Nagle, P.C. is available on the firm's website at [www.hdjn.com](http://www.hdjn.com).

*The information contained in this advisory is for general educational purposes only. It is presented with the understanding that neither the author nor Hancock, Daniel, Johnson & Nagle, PC, is offering any legal or other professional services. Since the law in many areas is complex and can change rapidly, this information may not apply to a given factual situation and can become outdated. Individuals desiring legal advice should consult legal counsel for up-to-date and fact-specific advice. Under no circumstances will the author or Hancock, Daniel, Johnson & Nagle, PC be liable for any direct, indirect, or consequential damages resulting from the use of this material.*

Visit us on the web at [www.hdjn.com](http://www.hdjn.com) or call 866.967.9604

Richmond, VA

Fairfax, VA

Virginia Beach, VA

Harrisonburg, VA

Columbia, SC

Franklin, TN

Johnson City, TN

Lewisburg, WV

