



TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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The Texas Department of State Health Services (DSHS) has worked closely with the Texas Hospital Association and the Texas Organization for Rural and Community Hospitals to develop this information to address stakeholder questions regarding “observation patients” in hospitals in Texas. DSHS survey staff will be receiving this information as well, with the goals of educating staff and stakeholders and achieving consistent surveys across the state regarding this complex but important issue.

Observation Patients

Questions have arisen regarding “observation” patients in Texas hospitals. These questions relate to the categorization, evaluation, and documentation of patients as observation patients, and the observation of patients who present through the emergency department. Unlike the terms inpatient and outpatient, the current Texas hospital licensing law does not recognize the term observation patient as a specific type of patient.

Categorization

An inpatient currently is defined in the Texas hospital licensing rules as a patient who is admitted for an intended length of stay of 24 hours or longer. An outpatient currently is defined as an individual who presents for diagnostic or treatment services for an intended length of stay less than 24 hours.

Observation patients are categorized as outpatients. Under Medicare, a patient whose presenting symptoms have not been resolved but whose condition is not severe enough to warrant an inpatient admission can remain at the hospital as an “observation” patient. The period of observation will allow the physician the time necessary to complete further examination which would include further diagnosing testing and treatment for a period allowed by Medicare (48 hours). Before the expiration of that observation period, the physician can then decide whether to discharge the patient home or admit him/her to the hospital for inpatient treatment. The patient would be classified as an outpatient with a status of observation, if not admitted as an inpatient.

Evaluation and Documentation

The Department of State Health Services is proposing to expand the maximum length of time during which a person may be considered a hospital outpatient from the current 24 hours to 48 hours in those situations where the patient requires “continued observation.” This change in the

hospital licensing rules would provide more flexibility for practitioners and hospitals to evaluate and treat a patient's condition. The department allows an outpatient with observation status to be placed in any appropriate bed in the hospital.

The medical record must be clear as to each patient's status. Hospitals may be cited for state licensing deficiencies relating to medical record violations if a patient's status is not accurately documented and/or patients are observed longer than a 48-hour period. Many times, there is failure to document either the severity of illness (SI), or intensity of services (IS) for patients. The fact that providers fail to document the SI or IS for patients also means that the medical records may not support payment for inpatient services. Finally, the quality improvement organization for the Medicare program recommends that the physician's order for outpatient observation versus inpatient admission should clearly state the status that is being ordered, e.g., "Place in outpatient observation" or "Admit as inpatient."

Emergency Department Patients

Federal and state laws must be considered in analyzing the process for categorizing, evaluating and documenting patients as emergency department patients. The hospital licensing rules do not define "emergency department patient" or "emergency patient," and there is no such admission category under state rules. (Note: The term emergency patient is used once in these rules, in the context of required medical record components for emergency patients.) The federal Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals with emergency departments to provide a medical screening examination to any individual who comes to the emergency department and requests such an examination, and prohibits hospitals with emergency departments from refusing to examine or treat individuals with an emergency medical condition.

EMTALA also requires that all emergency department (ED) patients be entered into a central log and that appropriate disposition be annotated in the log. Appropriate dispositions include: admitted (as an inpatient) for treatment; discharged; transferred (unstable); stabilized and transferred; patient was refused treatment; or patient refused treatment. The patient remains an ED patient until an appropriate disposition is made.

An ED patient may be observed. EMTALA continues to apply unless: a physician or other qualified medical personnel determines and documents that the ED patient is stabilized (meaning that the individual's emergency medical condition has been resolved and the hospital no longer has an EMTALA obligation); a physician issues an order for the ED patient to be admitted as an inpatient; or a physician issues an order for the ED patient to be discharged from the ED and placed in observation as an outpatient. An ED patient who is appropriately stabilized under EMTALA may be discharged from the ED and followed up as an outpatient in observation status. EMTALA regulations no longer apply after the patient is discharged from the ED or admitted as an inpatient.

The fact that an ED patient continues to be observed elsewhere in the hospital does not make the patient a non-ED patient nor does it remove the hospital of the EMTALA requirements at 42 CFR 489.24 and the related requirements at 42 CFR 489.20 (l), (m), (q), and (r), unless the patient has been appropriately stabilized and discharged to outpatient status, or admitted as an inpatient.