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California Department of Public Health



EDMUND G. BROWN, JR.
Governor

September 11, 2012

AFL 12-30

TO: General Acute Care Hospitals
Primary Care Clinics

SUBJECT: Nurse Staffing in Outpatient Supplemental Service and Licensed
Primary Care Clinics

AUTHORITY: Health and Safety Code (HSC), Section 1200
Title 22 of the California Code of Regulations (CCR), Sections
70529(c)-(d), 75027 (d), and 75028
Title 42 of the Code of Federal Regulations (CFR), Sections 482.23(b),
and 482.54(b)(2)

This All Facilities Letter (AFL) serves to clarify nurse staffing requirements in outpatient clinics operated as a supplemental service by General Acute Care Hospitals (GACHs), and in licensed Primary Care Clinics.

Clinics operated as GACH outpatient supplemental services

Title 22 CCR Section 70529(c) requires that a registered nurse (RN) be responsible for the nursing service in the GACH outpatient service.

Title 22 CCR Section 70529(d) requires that there be sufficient nursing and other personnel to provide the scope of services offered.

In addition, CFR Section 482.23(b) states in part, “There must be supervisory and staff personnel for each [hospital] department or nursing unit to ensure, when needed, the immediate availability of a registered nurse for bedside care of any patient.” The Centers for Medicare and Medicaid Services (CMS) further clarified that the specific intent of this regulation is to ensure that an RN is physically present at all outpatient facilities which provide nursing services.

Primary Care Clinics

A Primary Care Clinic licensed pursuant to HSC Section 1200 and not operated as an outpatient supplemental service under a GACH license is subject to similar requirements. Title 22 CCR Section 75027(d) requires that a physician, physician's

assistant, or a registered nurse be present whenever medical services are provided. Title 22 CCR Section 75028 requires a licensed nurse to be present whenever nursing services are provided. This regulation also requires all medical clinics to have a licensed RN responsible for the nursing services, unless the clinic can demonstrate to the department that a RN cannot be recruited and has obtained prior approval from the department to designate a Licensed Vocational Nurse (LVN) to be responsible for nursing services. (The designation of the LVN must provide for consultation with a RN.)

Exception

In either setting, the only time an RN would not be required in an outpatient clinic is if the outpatient clinic does not provide any nursing services. In such a case, both state and federal regulations remain clear that the appropriate professional and nonprofessional personnel must be available to provide the level of care and services being offered (CFR Section 482.54(b)(2)).

Facilities are responsible for following all applicable laws. CDPH's failure to expressly notify facilities of requirements does not relieve facilities of their responsibility for following all laws and regulations. Facilities should refer to the full text of all applicable sections of the Health and Safety Code, Code of Federal Regulations and Title 22 of the California Code of Regulations.

If you have any questions regarding this AFL, please contact your respective District Office.

Sincerely,

Original signed by Debby Rogers

Debby Rogers, RN, MS, FAEN
Deputy Director
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