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MARY E. O'DOWD, M.P.H.
Commissioner

January 30, 2012

TO: All Hospital CEOs

FROM: Mary E. O'Dowd, M.P.H.
Commissioner

RE: Compliance with P.L. 2006, c. 103

The purpose of this memo is to remind facilities of P.L. 2006, c. 103, an Act concerning marriage and civil unions, which became effective February 19, 2007. Essentially, the Act requires that all persons in a civil union shall receive the same benefits and protections and be subject to the same responsibilities as spouses in a marriage. The Department previously issued guidance on July 2, 2004, concerning compliance with the Domestic Partnership Act, P.L. 2003, c. 246.

Whenever any law, rule, regulation, judicial or administrative proceeding or otherwise, reference is made to "marriage," "husband," "wife," "spouse," "family," "immediate family," "dependent," "next of kin," "widow," "widower," "widowed" or another word which in a specific context denotes a marital or spousal relationship, the same shall include a civil union pursuant to the Act.

The Act contains a provision pertaining to emergency and nonemergency medical care and treatment, hospital visitation and notification, and any rights guaranteed to a hospital patient pursuant to P.L. 1989, c.170 (c.26:2H-12.7 et seq.) or a nursing home resident pursuant to P.L. 1976, c. 120 (C.30:13-1 et seq.). All licensed health care facilities are required to have policies in place implementing appropriate policies to protect patient rights and treat partners in a civil union as spouses in a marriage.

In a previous rule making, the Department revised N.J.A.C. 8:43E-10.7, the regulation related to disclosure of information for patients and residents in health care facilities, to ensure that partners in a civil union or a domestic partnership are treated in the same manner as spouses.

In addition, the Department of Health and Senior Services (Department) recently updated N.J.A.C. 8:43G, the Licensing Standards for Hospitals. Subchapter 4 delineates the Licensing Standards for Patient Rights. I wish to draw your attention to the regulations which state that the patient shall have the following rights:

8:43G-4.1(a) 3. To retain and exercise to the fullest extent possible all the constitutional, civil and legal rights to which the patient is entitled by law;

8:43G-4.1 (a) 23. To be advised in writing of the hospital rules and regulations that apply to the conduct of patients and visitors.

- i. The partner in a civil union of a patient, and/or the domestic partner of a patient, shall have the same visitation privileges as if the visitor were the patient's spouse.
- ii. A facility shall not require a patient or the patient's civil union partner or domestic partner to produce proof of that partnership status as a condition of affording visitation privileges, unless the facility in similar situations requires married patients or their spouses to produce proof of marital status.
- iii. Visitation privileges shall not be denied or abridged on the basis of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identify or expression or source of lawful income.
- iv. Visitation may be restricted in medically appropriate circumstances or based on the clinical decision of a health care professional charged with the patient's care;

DHSS anticipates your full compliance with this important licensing standard and appreciates your effort to improve patient care. Please be advised that the Department will investigate all complaints related to the Hospital Licensing Standards to the fullest extent of our authority.


