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August 2, 2012

Guthrie S. Birkhead, M.D., M.P.H.
Deputy Commissioner
Office of Public Health
New York State Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

RE: Comments on proposed “Standards for Health-Related Legal Services Programs that Serve Income Eligible Individuals and Families Pursuant to Public Health Law § 22” and “Health-Related Legal Services Program Attestation Form”

Dear Dr. Birkhead:

Thank you for inviting MFY Legal Services, Inc. (MFY) to provide comments on the proposed Standards for Health-Related Legal Services Programs that Serve Income Eligible Individuals and Families Pursuant to Public Health Law § 22 and the proposed Health-Related Legal Services Program Attestation Form.

MFY has long recognized the importance of partnering with mental health and health care providers to overcome legal barriers to health, especially for those patients living with disabilities. For almost 30 years, MFY’s Mental Health Law Project, funded by the New York City Department of Health and Mental Hygiene, has been the largest civil law practice for mental health consumers in the United States. Our attorneys and paralegal provide counsel and representation to more than 1,400 mental health consumers each year. To best serve our clients, we partner with psychiatrists, psychologists, nurse practitioners, social workers, and other health and mental health professionals to support those attending outpatient and day programs, to expedite patient discharge from inpatient settings, to maximize community integration, and to promote housing and income stability for vulnerable New Yorkers.

While providing direct client services, we simultaneously work to end the root causes of inequities through impact litigation, law reform, and policy advocacy in coalition with community partners.

MFY applauds New York State and the Department of Health for establishing the first health-related legal services law and regulations in the country. Legal services programs and health and mental health facilities in

New York were early adopters of the medical-legal partnership model embodied by the Health-Related Legal Services legislation. It is therefore fitting that New York State and the Department of Health should pioneer efforts to codify recognition of that model.

In general, we support the spirit of the proposed standards as written. Our comments and suggestions relate to details of the proposed standards and for the most part we make minor suggestions to improve the clarity of the proposed standards.

However, we feel strongly that the proposed standards should be expanded in one important way: to explicitly include organizations and facilities which provide mental health services or services to people with developmental disabilities.

In particular, in the section “**Standards for Health-Related Legal Services Programs,**” we emphatically encourage the Department of Health to expand the language to be more inclusive.

Paragraph 1: “Not-for-profit entities”

To ensure that Health-Related Legal Services Programs are able to adequately serve patients with mental health impairments or developmental disabilities, the not-for-profit entities described of this section should be explicitly expanded to include mental health and developmental disabilities service providers licensed or certified under Articles 7, 13, 16, 31, and 75 of the Mental Hygiene Law and hospice providers licensed under Article 20 of the Public Health Law.

Paragraph 3: “Health care providers”

Similarly, we strongly encourage the Department to expand the list of participating health care providers. We suggest that the paragraph be edited to read:

All health care providers participating in the program must possess a valid operating certificate from the New York State Department of Health or the New York State Department of Mental Hygiene for the operation of a hospital, residential care facility, diagnostic and treatment center, hospice, community health center, community mental health services, or other licensed facility providing health-related or mental health-related services. *(Proposed additions to the paragraph are underlined.)*

Expanding the language in this section of the proposed guidelines to include mental health providers will ensure that New Yorkers living with mental illness or developmental disabilities have the same opportunity to be served by designated Health-Related Legal Services Programs as other vulnerable patient populations.

Below, please find our comments and suggestions on other aspects of the proposed guidelines. These comments and suggestions are organized chronologically by section.

Background

- For inclusiveness, we recommend editing the second sentence in the “Background” section. We suggest changing the sentence to read:

The purpose of the programs is to promote collaborations between health care service providers and legal aid, legal services, pro bono, and law school clinical programs to resolve practical needs that impact patient and community health. *(Proposed additions to the paragraph are underlined.)*

- To be more inclusive, we recommend expanding the scope of the third and fourth paragraphs in the “Background” section beyond the focus on HIV/AIDS and cancer. Although providing legal services to patients living with HIV/AIDS and cancer is certainly important, health-related legal services programs serve a broad spectrum of patient populations – from vulnerable patient groups who may or may not be experiencing disabling conditions (such as children or the elderly) to patient populations affected by any chronic health condition (such as a psychiatric disability, asthma, sickle cell anemia, or diabetes), not just HIV/AIDS or cancer.

Designation from New York State Department of Health

- For clarity, we suggest editing the second sentence in the “Designation from New York State Department of Health” section. We suggest changing the sentence to read:

The New York State Department of Health may designate, for a maximum period of two years, Health-Related Legal Services Programs that demonstrate in writing that they meet the DOH standards. Such designation is not required for the operation of a Health-Related Legal Services Program.

- We suggest that DOH describe appeal procedures and other due process rights available to Health-Related Services Programs whose designation is revoked by DOH.

Standards for Health-Related Legal Services Programs

- We recommend that the Department clarify who may write the two letters of support described in paragraph 2, “Experience.” We recommend that the letters of support may be submitted by a broad range of organizations, including community-based organizations, law schools, bar associations, and health and mental health service providers.
- In paragraph 5, “Legal services,” we suggest that the Department add a paragraph acknowledging that effective Health-Related Legal Services Programs also engage in systemic advocacy on behalf of patients and communities. After the list of legal matters in paragraph 5, we recommend adding a paragraph similar to the following:

In addition to providing direct legal services to patients, Health-Related Legal Services Programs may also foster systems improvements and engage in policy

advocacy to advance change on an institutional, community, or governmental level.

- We recommend that paragraph 6, “Executed Agreement between Parties” be edited for clarity. In particular, we recommend that the fifth bulleted item be rewritten to read as follows:

Contain an agreement that any legal services delivered by the legal services programs to eligible patients will be provided at no charge to patients.

We also recommend that the tenth bulleted item be rewritten to specify how participating organizations notify the NYS DOH that the program has been terminated.

Finally, to ensure uniformity and to set standards for both the health care and legal services providers, we recommend that the Department develop a model Agreement which may be adopted by legal services providers and health care facilities to meet the requirements described in paragraph 6.

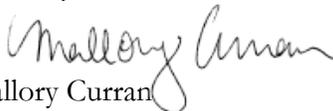
Health-Related Legal Services Program Attestation Form

We recommend that the Health-Related Legal Services Program Attestation Form be amended to include parallel information for the legal services provider and health care facility. As currently drafted, the form requires only the contact information for the legal services provider, but should also require the contact information for (not simply a signature from) the health care facility.

Conclusion

Thank you for providing us the opportunity to submit these comments on the proposed standards. Health-related legal services programs, also known as medical-legal partnerships, are of vital importance to many of MFY’s clients and to low-income New Yorkers in general. Again, we applaud New York State for its pioneering efforts in advancing legal services to vulnerable patients and thank the Department of Health for the invitation to comment on the proposed guidelines.

Sincerely,


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