



December 2, 2024

Jeffrey A. Kraut, Chair of Public Health and Health Planning Council

Thomas Holt, Chair of Committee on Codes, Regulations and Legislation

**RE: Public Comment in Response to the Department of Health proposed rulemaking regarding General Hospital Emergency Services Behavioral Health to amend section 405.19 of Title 10 NYCRR- December 2024**

New York American College of Emergency Physicians (New York ACEP) represents over 3,000 dedicated emergency physicians committed to speaking out for quality health care, including and especially emergency health services. New York ACEP is committed to providing care to all patients of New York State that enter through the Emergency Department, including vulnerable patient populations. We are writing to you regarding the Department of Health proposed rulemaking concerning General Hospital Emergency Services Behavioral Health to amend section 405.19 of Title 10 NYCRR. New York ACEP opposes the repropoed amendment and respectfully submits our concerns regarding several of the unfunded mandates included in this proposal.

Regarding suicide screening and assessment, New York ACEP recommends that General Emergency Departments (GEDs), including those with inpatient psychiatric units, should not be held to the same standard as Comprehensive Psychiatric Emergency Programs (CPEPs). The availability of resources differs between these two settings, as well as across regions of New York State. As the Department of Health identifies, Emergency Departments (EDs) are challenged with overcrowding and violence, and though valuable, screening should be targeted to appropriate clinical setting that have the bandwidth and resources to successfully accomplish the goals. Mandating such screenings in GEDs will further compromise a strained system further limiting the ability to retain a safe environment for all acutely ill patients. This repropoed document only reclassifies GEDs with inpatient psychiatric services under a new name “9.39 Emergency Departments.”

The presence of an inpatient psychiatric unit does not necessarily mean that facility’s ED has additional resources dedicated to the ED for the psychiatric patient. The resources available for the inpatient unit are most commonly based on needs of the inpatient unit alone, and not the EDs

needs. It is not uncommon for EDs with psychiatric inpatient units to have the same, similar, or even less resources as general EDs located in facilities without psychiatric units.

It is the position of New York ACEP that Emergency Medicine should partner with the Department of Health to identify appropriate screening tools, implementation of such tools, as well as the EDs where the suggested screening tools would bring benefit without overwhelming local resources. New York ACEP agrees that positive screens should be followed up with an additional assessment and requests the consideration of options such as telehealth to be considered as appropriate follow-up care.

With regards to substance use, New York ACEP agrees that adolescent substance use is of concern within our communities, however screening should be targeted to the appropriate clinical setting. New York ACEP is concerned with a mandate to require an assessment by a licensed professional who is experienced in working with individuals using substances, as this is not clearly defined and funding of such resource should not fall on the Emergency Departments. New York ACEP agrees that positive screens should be followed up with an additional assessment and encourages the Department of Health to offer free medical resources in this area for follow-up for patients identified through this screening.

New York ACEP recommends that regulations regarding I-STOP/PMP, SHIN-NY and PSYKES should not be augmented around this requirement and supports the current legislation. Clinicians should only need to access alternate data sources as they deem medically necessary. Accessing multiple databases as a requirement is burdensome and offers little benefit when applied widely to a population.

New York ACEP recommends that screening patients for violence in GEDs should be targeted to the appropriate clinical settings such that the process does not further tax already burdened Emergency Departments. A statement of all patients should be screened for weapons holds little benefit when applied widely to a population.

New York ACEP is concerned with the level of detail requested in this proposal and the expectation that the required human resources to scan all available exchanges and sources of information in an emergency medicine setting are an expense to the hospital. As stated in this proposal, an additional \$500 thousand to \$2.5 million would be expected to meet these Human Resource needs. This expense cannot be realistically incurred without additional funding from the State, as EDs are already strained for resources as the State's safety net. Physicians should only need to evaluate the relevant resources for the clinical situation. New York ACEP agrees that positive screens should be followed up with an additional assessment.

New York ACEP appreciates that warm hand-offs and coordinated discharge planning is in the interest of patients but has concerns with the details in this proposed amendment as it is impractical for Emergency Departments including 9.39 EDs to obtain this level of discharge planning. New York ACEP recommends the Department of Health provide resources to the Emergency Departments prior to implementation of these regulations if coordination of care is mandated. Care in EDs occurs 24/7 and resources outside the ED for coordinating care and allowing discharge under these recommendations are not available on this schedule. Without additional resources, meeting these discharge requirements will result in an increased length of stay for patients, further burdening overcrowded ED's and negatively impacting the care of others with acute illness. New York ACEP willingly offers to partner with the Department of Health in creating reasonable and practical guidance in this area that does not create additional unfunded mandates and further burden New York's healthcare safety net.

In reference to specific mandates within this proposal, New York ACEP feels that there are no resources identified for Emergency Departments to successfully meet these needs:

- Provide numerous screenings to all patients who present to EDs, irrespective of the indication for the visit, clinical scenario and patient factors.
- Requiring Emergency Departments to screen all individuals for violence who present with dementia, delirium, acute change in mental status, transfer from carceral settings, police transport, history of violence, or if they exhibit agitation, aggression, threatening behaviors, and violent ideation in the Emergency Department.
- Access and review all identified sources for all patients, especially when not relevant to the clinical situation.
- Ensure follow up appointment for psychiatric aftercare with an identified provider scheduled and confirmed to take place within 7 days following discharge.
- Ensure follow up appointment for psychiatric aftercare with an identified provider scheduled and confirmed to take place prior to discharge for patients receiving care during non-business hours, specifically overnight and on the weekends.
- Requiring EDs with inpatient psychiatric units to meet the requirements for discharge that a CPEP would have.
- Completion of discharge summaries to be forwarded to outpatient teams as discharge summaries are not part of emergency medicine documentation and workflow but rather an inpatient document.

New York ACEP agrees that these problems require a solution, but they cannot be solved in the Emergency Departments, as Emergency Departments are the recipients of these community issues.

New York ACEP is aligned with the Department of Health in our desires to provide excellent care, however we believe that the Standard of Care for patients receiving emergency care should be defined by Board-Certified Emergency Physicians. The re-proposed guidance offers minimal substantial change and fails to address the concerns in already overburdened, crowded emergency departments in New York State.

New York ACEP would welcome the opportunity to meet with you and members of your staff to discuss the impact of this issue. Thank you for your consideration.

A handwritten signature in cursive script, reading "Jeffrey S. Rabrich".

Jeffrey S. Rabrich, DO MBA FACEP FAEMS  
President  
New York ACEP Board of Directors