

# Palliative Care Policy Initiatives

**Presentation to the Greater NY Hospital Association and the  
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# Presentation Outline

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- End-of-life care data
- Patient/family information needs at end of life
- Palliative Care Information Act
- Palliative care provisions in 2011-12 State Budget
- MOLST

# End-of-Life Data

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- Majority of seriously or terminally ill patients lack advance directives. (Kass-Bartelmes, BL, et al., AHRQ, 2003)
- 86% of Americans believe that people with terminal illness would prefer to receive end-of-life care at home. (2002 Harris Survey on End-of-Life Care)
- Almost 1/3 of Americans die in a hospital, and 20% die in an intensive care unit. (Angus, DC, et al., *Critical Care Medicine*, 2004)
- NYS has highest rate in U.S. of inpatient days during the last 6 months of life – 15.5 days per deceased patient. (Dartmouth Atlas on Health Care).

# Are Patients Making Informed Decisions About End-of-Life Care?

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- Majority of patients with advanced illness have high information needs concerning prognosis and life expectancy. (Haggerty, et al, *J. Clin Oncol* 2005; Hancock, et al., *Palliative Medicine*, 2007)
- Studies document patients' misunderstandings about their prognosis and options. (Tattersall, et al., *Support Care Cancer*, 2002; Weeks, et al., *JAMA*, 1998; Braddock, et al., *JAMA*, 1999)

# Palliative Care Information Act

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- Attending health care practitioner must offer patients with a terminal condition information and counseling about palliative care and end-of-life options appropriate to the patient.
- Applies in all settings.
- Effective February 9, 2011

# Palliative Care Information Act: Goals

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- Ensure that patients are fully informed of the options available to them.
- Empower patients to make choices consistent with their goals and beliefs, and to optimize their quality of life.
- Not intended to limit the options available to terminally-ill patients.
- Not intended to discourage conversations about palliative care with patients whose life expectancy exceeds six months.

# Palliative Care Information Act: Definitions

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- **“Palliative Care:”** Health care treatment, including interdisciplinary end-of-life care, and consultation with patients and family members, to prevent or relieve pain and suffering and to enhance the patient’s quality of life, including hospice care.
- **“Terminal Illness or Condition:”** Reasonably expected to cause death within 6 months.
- **“Appropriate:”** Consistent with applicable legal, health and professional standards, the patient’s clinical and other circumstances; and the patient’s reasonably known wishes and beliefs.

# Palliative Care Information Act: Definitions (cont'd)

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- **“Attending health care practitioner:”** a physician or nurse practitioner who has primary responsibility for the care and treatment of the patient. Where more than one physician or nurse practitioner share that responsibility, each of them has responsibility [to offer information and counseling], unless they agree to assign that responsibility to one of them.



# Palliative Care Information Act

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- Information and counseling to be offered:
  - Range of options appropriate to the patient;
  - Prognosis;
  - Risks and benefits of various options; and
  - Patient's "legal rights to comprehensive pain and symptom management at the end of life."
- May be provided orally or in writing.
- If patient lacks capacity, information and counseling is to be provided to the health care decision-maker.

# Palliative Care Information Act

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- Which clinicians are covered?
  - Physicians and nurse practitioners with “primary responsibility.”
  - If physician assistant is treating the patient, the supervising physician is required to comply.

# Palliative Care Information Act: Options for Compliance

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- Offer to provide information and counseling:
  - **Patient declines:** No requirement to deliver information over patient's objections.
  - **Patient accepts:**
    - Provide information and counseling directly
    - Arrange for another physician, NP, or professionally-qualified individual to provide the information and counseling;
    - If unwilling to provide information and counseling, refer to another physician or NP.

# Palliative Care Information Act: “Refer” vs. “Arrange for”

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## ■ “Refer”

- If attending HCP is “unwilling,” must refer.
- May refer only to another physician or NP.

## ■ “Arrange for”

- Attending HCP is willing;
- May arrange for provision by “another professionally-qualified individual” –not necessarily a physician or NP; may be an individual who cannot practice independently or cannot issue orders.
- However, attending HCP must remain engaged, must communicate and issue orders.

# Palliative Care Information Act: Role of Hospitals and Nursing Homes

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- Provide patient care consistent with professional standards, including PCIA.
- Secure informed consent for health care services.
- Educate affiliated physicians and nurse practitioners about the law's requirements.
- Implement policies and processes that support compliance by staff.

# Consequences of Non-Compliance

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- Civil penalty of up to \$2,000; \$5,000 for repeat violations within 12 months that were a serious threat to health and safety of the individual or individuals involved.
- Term of imprisonment of up to 1 year and/or a fine of up to \$10,000 for willful violation of PHL.
- Willful or grossly negligent failure to comply with substantial provisions of state laws governing the practice of medicine, or repeated occasions of negligence, can trigger a medical misconduct action

# New Palliative Care Provisions in 2011-12 Budget

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- Arose out of Medicaid Re-Design Process
- Expands upon PCIA
  - Applies to hospitals, nursing homes, home care agencies, and enhanced and special needs assisted living residences.
  - Relates to patients with “advanced, life-limiting conditions and illnesses.”

# Budget Provision (cont'd.)

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- Requires providers to:
  - Establish policies and procedures to:
    - identify patients who might benefit from palliative care and pain management services;
    - provide access to information and counseling concerning palliative care and pain management appropriate to the patient;
  - Facilitate access to appropriate palliative care and pain management consultations and services.



# Medical Orders for Life-Sustaining Treatment (“MOLST”)

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- Streamlined Form
  - Eliminated Supplemental Forms
- Aligned with Family Health Care Decisions Act
- General instructions and checklists to assist providers in complying with legal requirements available at:

[http://www.nyhealth.gov/professionals/patients/patient\\_rights/molst/](http://www.nyhealth.gov/professionals/patients/patient_rights/molst/)

# Questions???

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- PCIA guidance is posted on our website:
- [http://www.health.state.ny.us/professionals/patients/patient\\_rights/palliative\\_care/](http://www.health.state.ny.us/professionals/patients/patient_rights/palliative_care/)