CHA Presentation on Emergency Mental Health Holds

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Colorado Hospital Association

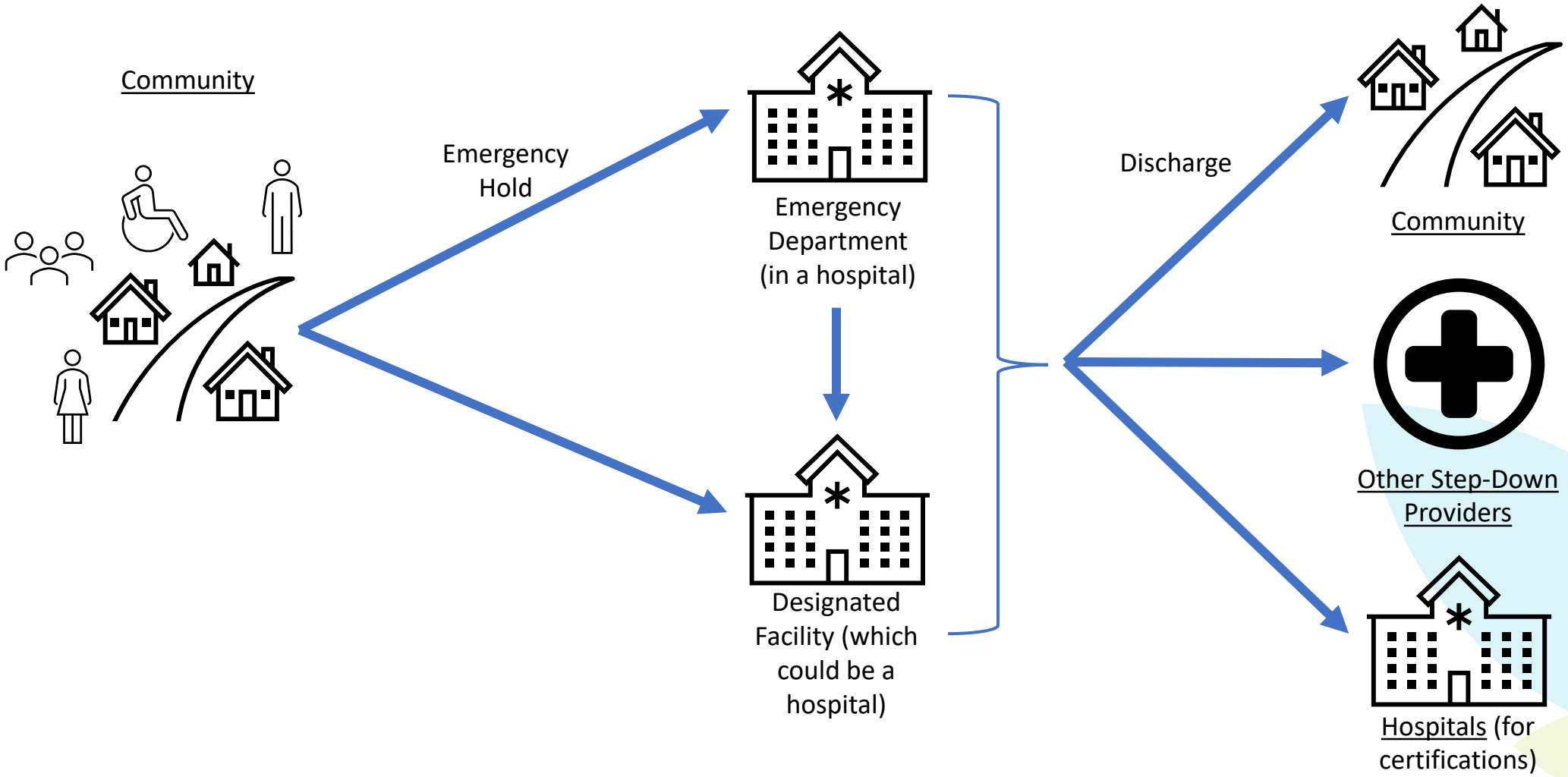
Presentation will cover:

- Hospital's role in Emergency Mental Health Holds
- Hospital regulations that impact Emergency Mental Health Holds (in addition to 27-65)
- Potential suggestions for the group to consider

Hospital Role in Emergency Mental Health Holds

- Some hospitals are designated facilities under 27-65 (e.g., facilities with psychiatric units, psychiatric hospitals and hospitals who also have psychiatric residential treatment facilities).
- All acute care hospitals have emergency departments (EDs) and Eds are required to accept patients with an emergency medical condition within a facility's capability.
- Beginning on May 1, 2018, intervening professionals were no longer able to place a person subject to a hold in a jail, lockup, or similar place

Hospital Role in Emergency Mental Health Holds



Hospital Role in Emergency Mental Health Holds

- In addition to facility designations and emergency departments, hospitals employ intervening professionals
- For emergency mental health holds, hospitals may:
  - Provide evaluation, care and treatment for someone placed on a hold (note: this is different than the requirement that all hospital EDs “screen and stabilize” patients).
  - Employ intervening professionals who can place and drop holds
  - Provide emergency medication and involuntary medication with court approval
  - Oversee the resolution of a hold through voluntary treatment, certification, or the discontinuance of an emergency mental health hold

Hospital Regulations and 27-65

Hospitals are a highly regulated industry and facility type.

Federal Regulations	State Regulations
341 hospital related requirements across*:	Unknown # of hospital requirements across:
• Center for Medicare and Medicaid Services	• Department of Human Services
• Office of the Inspector General	• Department of Regulatory Agencies
• Office for Civil Rights	• Department of Public Health and Environment
• Office of the National Coordinator for Health Information Technology	• Department of Health Care Policy and Financing
*See the American Hospital Association's 2017 Regulatory Overload Report.	• Department of Labor and Employment

Regulations are appropriate. It is important to keep in mind that changes in one area of regulations may cause unintended consequences in another area.

Hospital Regulations and 27-65

There are several regulatory requirements more directly related to this work on emergency mental health holds, specifically regarding these topics:

- Patient rights and facility responsibility to patients
- Discharge planning and post-acute care
- Patient assessments and assessing danger
- Facility responsibility to employees

Hospital Regulations and 27-65

Patient Rights: In addition to patient rights outlined in CRS 27-65 and CRS 27-81, hospitals also follow patient rights requirements in:

42 CFR § 482.13 - Medicare Condition of Participation	6 CCR 1011-1, Chapter 2 – General Licensure Standards for Hospitals and Health Facilities
Medicare's Conditions of Participation include requirements related to:	CDPHE's Facility Licensure Standards include language related to:
• Providing a notice of rights • Establishing a patients grievance process • Advanced directives and representatives • Privacy and safety and confidentiality • Inclusion in care plan and informed consent • Restraint or seclusion • Death reporting • Visitation	• All the requirements listed to the left, as well as: • Teaching programs and clinical trials • Provider name and credentials • Estimated charges and billing procedures • Patient right to be free of abuse and neglect • Care addresses needs of patient • Disclose referral to financial affiliates • Request in-network provider

Hospital Regulations and 27-65

Discharge Planning and Post-Acute Care: In addition to Medicare's Conditions of Participation discharge planning requirements, in 2019 the Centers for Medicare and Medicaid Services (CMS) published updated requirements, including:

- Identify patients in need of discharge planning early in their hospitalization.
- Provide a discharge planning evaluation for those identified patients, or at the request of the patient, representative, or physician.
- Complete the evaluation early to ensure appropriate arrangements are in place before discharge to avoid unnecessary delays
- Include in the evaluation the patient's need for appropriate post-hospital services, and the availability of such services.
- Include the evaluation in the patient's medical record.
- Arrange for the development and initial implementation of a discharge plan.
- Develop the plan under the supervision of a registered nurse, social worker, or other qualified personnel.

Hospital Regulations and 27-65

Patient assessments and assessing danger:

- In addition to assessments done by intervening professionals regarding if someone is an imminent danger to self or others, or gravely disabled, mental health providers also make assessments regarding whether they have a “duty to warn” in situations when individuals with mental health issues may be at risk of seriously harming themselves or others. (CRS 13-21-117).

Hospital Regulations and 27-65

Facility responsibility to employees:

- Occupational Safety and Health Administration (OSHA) – Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers
- The Joint Commission – Accreditation Standards and Workplace Violence
- All hospitals have policies and programs in place related to workplace violence prevention.

Potential Suggestions

With these other regulatory requirements in mind, CHA is offering potential suggestions in the following area:

- Patient Rights
- Discharge Planning
- Hospital and Healthcare Workforce – Recruitment and Training

Potential Suggestions

- **Patient Rights**:
  - When considering expanding patient rights, there could/should be consideration for the setting, i.e., in situations where a patient is being stabilized, consider not expanding patient rights beyond what is currently allowed.
  - Increasing access to an independent patient rights navigator (including navigator who could assist in navigating current rights and complaint processes)

Potential Suggestions

- **Discharge Planning**:
  - When hospitals evaluate appropriate arrangements post discharge, and the availability of such services, if certain arrangements or services are unavailable – or not readily available – could the state take a greater role in finding service location and placement?
  - Like a patient rights navigator, could there be a post-acute care navigator that could assist hospitals in placement if services are unavailable?

Potential Suggestions

- **Hospital and Healthcare Workforce – Recruitment and Training**:
  - Outside of statute, what efforts could be utilized to strengthen and increase efforts regarding behavioral health workforce shortages and workforce trainings? Efforts could include:
    - Investigating workforce shortages, turnover, and potential solutions (e.g., increased funding for worker recruitment)
    - Anti-stigma trainings at hospitals and with other health care providers and creating a forum to share best practices
  - Investigate further funding and training to continue and improve M0.5 holds