



11 Beacon Street, Suite 710
Boston, MA 02108
Phone: 617-723-6100
Fax: 617-723-6111
www.cobth.org

April 25, 2014

Comments on the Registered Provider Organization Data Submission Manual and 958 CMR 6.00

The Conference of Boston Teaching Hospitals and its members appreciate the opportunity to provide comments on the Health Policy Commission's (HPC or the Commission) proposed Data Submission Manual (DSM). These comments on the DSM, like those we submitted in February on the HPC's proposed regulation 958 CMR 6.00 – "Registration of Provider Organizations," are offered in a spirit of cooperation and commitment toward achieving our shared goal of containing health care cost growth, while also avoiding unnecessary administrative costs and duplication.

Our comments on the proposed regulations focused on three major areas:

- (1) Limiting information required for registration to that which is required in statute
- (2) Exploring and exhausting all options for obtaining the requested information from other state agencies, and
- (3) Considering other private entities as a more direct and better source of information.

While we appreciate the time and effort invested by the HPC staff in the construction of the DSM and its attempts to clarify the reporting requirements by convening several stakeholder meetings, modifying some of the requirements to reflect stakeholder input, and sequencing the registration process in two phases, there continue to be significant concerns on the part of COBTH member hospitals as reflected in the following comments and recommendations.

1. We recommend the Commission provide greater specification and clarification of the DSM definitions of various affiliations as well as physician practice site taxonomy. The purpose, to prevent reporting of affiliations beyond legislative scope and intent and to reduce undue burden on RPOs. To achieve specificity and provide clarification, the Commission should first allow RPOs to specify their various affiliations and then engage with RPOs in a dialog to assess what aspects or relationships should be captured consistent with the legislative intent.

There is concern among COBTH members that although the statute includes broad definitions for the various affiliations that the HPC is intended to capture, the vague language used to describe each type of affiliations does not provide the Registering Provider Organization (RPO) sufficient guidance as to the extent and scope of clinical, contractual, and corporate affiliates as well as the physician practice site



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taxonomy that RPOs are required to report. As currently written in the DSM, the definitions capture relationships that could prove overly burdensome, and extend well beyond legislative intent. There is particular concern about the broad definition of “clinical affiliation,” which as written is likely to capture sporadic and intermittent coverage or call coverage relationships that have little bearing on clinical services. We also recommend that research-related affiliations and activities be expressly excluded from consideration as clinical or contractual affiliates. While we realize the HPC is still in the process of setting a threshold for the types of clinical affiliations an RPO should report, we strongly recommend that during this first phase of registration the Commission allow RPOs to submit a list of their various affiliations and then engages with the RPOs in a dialog to determine what aspects or relationships must be captured.

2. We urge the Commission to clarify what entity or entities will be the ultimate registrant for the hospital and system. We further recommend the HPC engage in dialogs with the RPOs as to what entity/entities within a system are required to report, as well as what elements must be reported. This is critical given the unique character and complexity of the various organizations.

Realizing the number of responsibilities and directives the HPC is tasked to accomplish, we recognize the importance of providing accurate and reliable data to the Commission. However, the definitions and examples used to illustrate the various affiliations sought by the HPC do not enable our members to accurately capture the unique character and complexity of their respective organizations. Where the definitions provide a broad sense of what clinical, contractual and corporate affiliations must be captured, they are vague as to which entity or entities for a hospital or system will be ultimately responsible for reporting. In order for RPOs to provide reliable data to the Commission, the complexities of the various data elements need further clarification through dialog with the individual RPO. Complexities exist within the individual RPO which make it difficult for the RPO to obtain all the information the HPC requires. For example, with respect to practice site taxonomy, the definition also captures private practice entities associated with the RPO. In this scenario the RPO cannot obtain all the information the HPC requires since it is a separate legal entity.

3. We recommend for the HPC to extend the timeframe for the first registration period to provide: greater opportunity for dialog between the RPO and the HPC, and group sessions between the HPC and the various RPOs. This would provide an opportunity to achieve greater clarity on reporting requirements, thereby reducing unnecessary administrative burdens on both RPOs and the HPC and provide for greater reliability of the data submitted.

As with the collection of all payer claims information for the database, APCD, it was only through an extended first registration period and increased communication between CHIA and payers that necessary clarification and understanding assured reliable information. We appreciate that the HPC, in recognition



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of an RPO's complexity has focused part one of the two part registration on a high level overview and opportunity for dialog between the HPC and the RPO. However, the time allocated for the registration process is inadequate to fully and accurately gather the information sought. We therefore urge the HPC to extend the timeframe for this first registration period.

To do so we recommend the HPC devote year one of the registration to part one and have part two begin in year two of the first biennial process. Further, we believe that during year one the HPC should convene a series of group sessions for the various RPOs (i.e. hospitals, provider organizations) to help clarify the reporting requirements expected of each type of RPO. This would increase the likelihood of the submission of reliable and accurate information during part two of the process. In the alternative, we recommend the HPC grant RPOs the same amount of time to prepare information for submissions as the HPC grants itself to review part one and part two data. In this way all parties to the registration process are afforded the time necessary to complete the required work.

It is a serious concern of our member institutions that without an extended timeframe during this first registration period, and assuming that the HPC uses the full 150 days to review the information provided in part one, that RPOs would be left with only thirty days to submit part two information. Since the part two submission will be the bulk of detailed and specified data, we do not feel thirty days will be at all sufficient time to comply.

4. We recommend for the HPC to adhere to the statutory guidelines and legislative intent of data collection requests for Provider Organization registration.

Our member hospitals support the data collection effort of the HPC and the work it has undertaken to effectuate the legislature's goal of health care marketplace transparency for the purpose of protecting consumer access to care and creating greater accountability by providers. We agree that providing greater information to health care consumers is an important step in lowering health care cost growth. However, we feel that the breadth and depth of reporting requested by the HPC goes beyond statutory requirements and legislative intent. For certain data elements, namely RPO-30 "Funds Flow," and RPO-60/61/62 "Books of Business," the information requested is proprietary in nature and requesting such information could have serious unintended consequences given the public nature of the database. We urge these reporting elements be removed from the HPC's data request, or otherwise be protected from public disclosure. We further urge the HPC that as this data is being collected without privacy protections, the HPC exercise caution and discretion when interpreting statutory requirements.

5. We recommend for the HPC to reduce the administrative burden on RPOs and allow RPOs to provide an attestation for HPC data requests in cases where the requested information has already been provided to another state agency. Data previously submitted to other state



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agencies should be the first source of the requested data for the HPC. This is consistent with provisions of the legislation.

Much of the information requested by the HPC, for example data requested in RPO-75/76/77, is already submitted to other state agencies such as: the Center for Health Information Analysis (CHIA), the Department of Public Health (DPH), the Division of Insurance (DOI), the Department of Mental Health (DMH), the Board of Registration of Medicine (BORIM), and the Attorney General (AG). In order to reduce the administrative burden on RPOs and our member hospitals we ask that the HPC seek that information from those other state agencies. While we agree that registration of provider organizations is an important step in gaining a greater understanding of the health care marketplace, rather than requiring submission of duplicative material allow the RPO to attest to which state agency they have already submitted the information, the date the data was submitted, and provide a brief description of the data previously submitted. In this manner both administrative duplication and the burden on RPOs will be reduced.

6. We recommend for the HPC to provide an FTE range which the RPO can then approximate as most representative of their organization.

Collection and provision of an RPO's precise number of Full Time Employees (FTE) to the Commission likewise represented a significant administrative burden for our member hospitals. For many of our members, this information is not captured unless the physician is an employee of the institution. As many of the individual physicians who practice at our member institutions hold several clinical affiliations and practice in multiple locations, there is a risk of duplicative reporting and inaccurate and unreliable numbers. While an RPO could provide a list of physicians who practice at their organization, it would be difficult in some cases to pinpoint an exact FTE number. This is further complicated by certain practice site taxonomies like private practices not providing FTE information to their affiliated RPO. Instead we recommend the HPC allow FTEs to be reported within a provided range. In this way the RPO can more reliably provide an accurate idea of their FTE.

7. We recommend for the Commission to implement both an appeal process for RPOs in the event of a determination of noncompliance, as well as an extension request process for RPOs in the event the timeframe for data submission is not sufficient.

As noted in our February comments on section 6.06 of the regulations "Noncompliance," where the penalty for a determination of noncompliance is so severe it is necessary to have an appeal process for an RPO to continue to contract in the event of a finding of noncompliance. This is especially important as many aspect of the registration process still require further clarification, it is critical to have a way for provider organizations to ensure they are given every opportunity to comply with the statute. Further,



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provision of an extension process for RPOs can help reduce the administrative burden on an RPO resulting from the given timeframe.

Thank you for your consideration of our comments and recommendations. We appreciate the work of the HPC as a partner in achieving our shared goal of reducing health care cost growth. We look forward to continuing to work with the Commission and the HPC staff in implementing the provisions of Chapter 224.

Sincerely

A handwritten signature in black ink that reads "John Erwin". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John Erwin, Executive Director
Conference of Boston Teaching Hospitals