January 17, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8010
Baltimore, MD 21244

RE: Request for Feedback on Scope of Practice
(Submitted electronically via www.patientsoverpaperwork@cms.hhs.gov)

Dear Administrator Verma:

The American Academy of Nursing (Academy) is pleased to offer the following comments in response to the December 26, 2019, request for additional input and recommendations regarding the elimination of specific Medicare regulations that require more stringent supervision than existing state scope of practice laws, or that limit nurses and other health professionals from practicing to the full extent of their education and training. The Academy appreciates the Centers for Medicare and Medicaid Services’ (CMS) efforts to ensure that registered nurses (RNs) and advanced practice registered nurses1 (APRNs) are fully recognized and reflected in the practice and payment policies of federal health programs, consistent with the laws of the states in which they are licensed.

The Academy serves the public and the nursing profession by advancing health policy and practice through the generation, synthesis, and dissemination of nursing knowledge. It’s more than 2,800 fellows are nursing’s most accomplished leaders in education, management, practice, research, and policy. They have been recognized for their extraordinary contributions to the promotion of the public’s health through evidence and innovation.

The Academy commends and is appreciative of the agency’s calls to reduce regulatory burdens for nurses and other practitioners as significant federal policy barriers to nursing practice continue to exist. We support Section 5 of the President’s Executive Order (EO) #13890 on Protecting and Improving Medicare for Our Nation’s Seniors and offer the following recommendations to address some of the barriers facing the nursing profession. These recommendations include:

- Removing credentialing and privileging barriers to practice and care,
- Removing costly and unnecessary physician supervision requirements, and
- Improving access to care in rural and underserved areas and improve community-based health care.

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1 Advanced practice registered nurses (APRNs) include certified nurse-midwives (CNMs), certified registered nurse anesthetists (CRNAs), clinical nurse specialists (CNSs) and nurse practitioners (NPs).
The Academy believes that beneficiaries should have full access to all RN and APRN roles to improve the availability of cost-effective, patient-centered care, consistent with the 2010 Institute of Medicine (now the National Academy of Medicine [NAM]) report, The Future of Nursing: Leading Change, Advancing Health, which called for the elimination of regulatory barriers that prevent APRNs from practicing to their full scope. Further, it outlines several paths by which patient access to care may be expanded, quality preserved or improved, and costs controlled through greater use of APRNs. The NAM report specifically recommends that, “advanced practice registered nurses should be able to practice to the full extent of their education and training.” The Academy firmly supports this recommendation and has cited the Future of Nursing report in numerous previous comments. While important steps toward that goal have been taken at both federal and state levels, barriers to full practice authority still remain.

Remove Credentialing and Privileging Barriers to Practice and Care

The Academy urges the agency to examine credentialing and privileging requirements, such as 42 C.F.R. § 482.22 – Condition of participation: Medical staff, and 42 C.F.R. § 482.1(a)(5) – Basis and Scope, which hinder the ability of APRNs to deliver services otherwise permitted under state law. We believe that hospital medical staff should be representative of all types of health professionals who require clinical privileges to practice, including APRNs as authorized by state law. Equitable representation of health professionals on hospital staffs will benefit patients, including Medicare beneficiaries, as well as local communities. We further believe that each professional on a medical staff should have access to full clinical, admitting and voting privileges, and be able to serve on hospital committees addressing care provided in the facility.

In place of the current burdensome and restrictive regulatory credentialing and privileging policies, we urge the agency to consider:

- Requiring that hospital staffs include APRNs,
- Eliminating lists of providers who may have membership or participate in leadership on the medical staff, instead making those roles available to the health care professionals most qualified and appropriate to fill them, and
- Requiring uniform procedures for the consideration of applications for credentials including prompt (60-day) determinations.

Remove Costly and Unnecessary Physician Supervision Requirements

APRNs must hold their own license in each state; therefore, their practice is regulated and does not require additional supervision. Ample evidence points to the value and additional access to care provided by APRNs. Unnecessary physician supervision of nurse practitioners (NPs) adds to the cost of patient care through payment to the supervising physician for the supervisory relationship or through the requirement of physician time. Moreover, in relation to NP practice, recent evidence estimates that the removal of states’ scope of practice regulations in restricted-

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practice states will result in an average Medicare cost saving of $2.19 billion, per state.\(^4\) This evidence further suggests that removal of states’ scope of practice regulations in reduced-practice states will result in an average Medicare cost savings of $1.07 billion, per state.\(^5\) These findings indicate that the aggregate annual savings on Medicare costs nationally would be $44.5 billion if the scope of practice restrictions were completely removed.\(^6\)

Medicare has long recognized the autonomous practice of APRNs to perform face-to-face assessments of a patient’s needs. In addition to the general recommendation that CMS eliminate unnecessary requirements for physician supervision of APRNs, there are a few areas in which physician supervision is particularly burdensome. Specifically, CMS should consider removing unnecessary physician supervision for home health certifications, recertifications and documentation of face-to-face assessments,\(^7\) certifying that patients need therapeutic shoes for the treatment of their diabetes,\(^8\) certifying that patients are terminally ill and in need of hospice care,\(^9\) ordering cardiac and pulmonary rehabilitation,\(^10\) referring patients for medical nutrition therapy\(^11\) and certifying home infusion therapy plans of care. Removing unnecessary supervision requirements in these areas will increase access to high-quality, affordable health care, particularly in medically underserved communities.

**Improve Access to Care in Rural and Underserved Areas and Improve Community-Based Health Care**

Granting APRNs the ability to practice to the full extent for their education and training would allow APRNs to meet the critical need for primary care in rural and underserved areas. Lifting practice restrictions will increase the numbers of primary care providers who live and provide full-service primary care in rural and underserved areas. Moreover, an estimated 45 million Americans are living with one or more chronic conditions that limit physical function and quality of life and are likely to progress in severity over the course of one’s lifetime.\(^12\) NAM has called for the expansion of community-based health care models to effectively provide health care to Americans with chronic health conditions.\(^13\) Lifting practice restrictions for APRNs will rapidly expand the capacity of an existing health care workforce to meet the ambulatory care needs of rural and medically underserved populations in a manner consistent with the objectives of NAM to expand community-based health care.

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\(^7\) 42 C.F.R Part 424, 42 C.F.R Part 440, 42 C.F.R Part 484.

\(^8\) Medicare Benefit Policy Manual Chapter 15, Section 140.

\(^9\) 42 C.F.R. § 418.22.

\(^10\) Pulmonary rehabilitation- 42 C.F.R. § 410.47, Cardiac Rehabilitation- 42 C.F.R. § 410.49.

\(^11\) 42 C.F.R. § 410.132.


In summary, the Academy appreciates the agency’s efforts to address the significant burdens and barriers in current regulations that impede access to quality care. We believe that nurses and APRNs can make important contributions when barriers to care are reduced to creating a more patient-centered, cost-effective system. We are eager to work with you and your staff to identify and implement policies that will reduce unnecessary regulatory burdens and improve the care provided and managed by nurses. Thank you again for the opportunity to provide our comments and recommendations, and I hope you will consider us a resource in any efforts to address these issues or policies. Please contact the Academy’s Senior Director of Policy, Christine Murphy, at cmurphy@aannet.org if you have any questions or need additional information.

Sincerely,

Eileen Sullivan-Marx, PhD, RN, FAAN
President