October 5, 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: Comments on the FY 2021 Physician Fee Schedule Proposed Rule (CMS-1734-P)
(Submitted electronically via www.regulations.gov)

Dear Administrator Verma:

The American Academy of Nursing (Academy) is pleased to offer the following comments in response to the August 17, 2020 proposed rule on the FY 2021 Physician Fee Schedule Proposed Rule (CMS-1734-P). The Academy appreciates the Centers for Medicare and Medicaid Services’ (CMS) efforts to ensure Medicare beneficiaries have access to high quality health care. Our comments will focus on the telehealth, scope of practice, and comprehensive screenings for older adult provisions within the proposed rule.

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 2,700 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.

**Telehealth**

As CMS notes in the proposed rule, telehealth has been a vital method for improving patient access to health care during the coronavirus (COVID-19) pandemic. The waivers issued by the agency during the pandemic have been beneficial to clinicians and patients across the country. Given the increased use of telehealth services during the pandemic, the use of these services in patient care must be refined and expanded to meet changing demand. The Academy encourages CMS to continue to evaluate ways to expand telehealth access to Medicare and Medicaid beneficiaries. We support the agency’s decision to make many of these changes permanent and/or last through the end of the pandemic. Examples include home visits for established (permanent) and new patients (temporary), behavioral health, and care planning services.

The Academy applauds efforts undertaken to ensure patients can safely receive care beyond the traditional clinical setting especially during the pandemic. While the pandemic has shown the value of telehealth, it may be more difficult to access telehealth in rural and other underserved areas that lack the technology infrastructure that will only exacerbate rural health disparities. We are pleased the agency recognizes the continued value of reimbursing for the use of devices with audio and video for this care. However, we caution the agency to continue to consider a health equity concern as many
patients and providers may not have access to devices with video chat, internet service, or broadband speed. The Academy is on record recommending the expanded use of telehealth as well as ensuring the needed infrastructure investments are made to create a system where everyone, regardless of location or background, continues to receive high quality care. We recommend CMS create codes that allow for audio only telehealth services.

In the proposed rule, CMS clarifies that chronic care management services or remote physiologic monitoring fall outside the scope of telehealth services. The Academy would argue that these services should be listed on the Medicare telehealth services list. These services are interconnected and separating these services from the telehealth services list could be challenging for health care facilities and providers in terms of tracking, monitoring of patients, and billing. We recommend the agency include care management services and remote physiologic monitoring in the Medicare telehealth services list in the proposed rule.

Scope of Practice
The Academy is appreciative of the agency’s calls to reduce regulatory burdens for nurses, advanced practice registered nurses (APRNs), and other practitioners as significant federal policy barriers to nursing practice continue to exist. We are on record as being supportive of Section 5 of the President’s Executive Order (EO) #13890 on Protecting and Improving Medicare for Our Nation’s Seniors. We thank the agency for implementing Section 5 of the Executive Order by modifying supervisions and other requirements of the Medicare program that limit nurses from practicing to the full extent of their education and training. This has been especially important during the pandemic.

Currently, diagnostic tests and psychological and neuropsychological tests are covered when performed or ordered by APRNs, but the Medicare program does not cover these diagnostic tests when they are supervised by APRNs. The Academy supports the permanent removal of this restriction and coverage of diagnostic tests supervised by APRNs in this proposed rule, consistent with state law. This restriction has been waived pursuant to the COVID pandemic and as the agency has noted in the proposed rule it has better enabled practices to expand their diagnostic testing capabilities. As communities, schools, and businesses reopen, it will be important to ensure we have the capacity to rapidly and accurately test everyone with an emphasis on our most vulnerable populations until herd immunity is reached or a vaccine is developed. Specifically, we must have the necessary testing supplies, increased testing volume, additional testing sites, and expand our testing criteria. This change in the proposed rule is important to health care delivery during and after the pandemic and is consistent with the goals of Section 5 of Executive Order 13890.

Comprehensive Screenings for Older Adults: Section 2002 of the SUPPORT Act
The Academy supported the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (Pub. L. 115-271). As you know, the country is still dealing with the opioid crisis even before the pandemic hit the country. We applaud the agency for permanently including Section 2002 of the SUPPORT Act provisions related to screening for potential substance use disorders and a review of current opioid prescriptions to the initial preventive physical examination and the annual wellness visit in the Medicare Program. As people continue to struggle with addiction during the pandemic, we recommend the agency consider coverage of this care through telehealth services in addition to in-person visits.
Thank you again for the opportunity to provide our comments and recommendations. 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