



8515 GEORGIA AVENUE, SUITE 400
SILVER SPRING, MARYLAND 20910-3492
301 628-5000 • FAX 301 628-5001
www.NursingWorld.org

KAREN A. DALEY, PhD, MPH, RN, FAAN
PRESIDENT

MARLA J. WESTON, PhD, RN
CHIEF EXECUTIVE OFFICER

July 21, 2010

Donald Berwick, MD
Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
Attention: CMS-3227-P
P.O. Box 8010
Baltimore, MD 21244-1850

Submitted electronically to <http://www.regulations.gov>

Re: **Medicare and Medicaid Programs: Proposed Changes Affecting Hospital and Critical Access Hospital (CAH) Conditions of Participation (CoPs): Credentialing and Privileging of Telemedicine Physicians and Practitioners.** CMS-3227-P; RIN 0938-AQ05; 75 Fed. Reg. 29479 (May 26, 2010).

Dear Administrator Berwick:

The American Nurses Association (ANA) and the Oregon Nurses Association (ONA) welcome the opportunity to offer comments on this proposed rule.

The ANA is the only full-service professional organization representing the interests of the nation's 3.1 million registered nurses, the single largest group of health care professionals in the United States. The Oregon Nurses Association is a constituent member association of the ANA. ANA and ONA represent RNs in all roles and practice settings. Our members include advanced practice registered nurses (APRNs) such as nurse practitioners, clinical nurse specialists, certified nurse midwives, and certified registered nurse anesthetists. ANA has been actively involved in telehealth issues through our affiliation with the Alliance for Nursing Informatics, a collaboration of organizations representing 5,000 nurses involved in the specialty of nursing informatics; and through our publications, "Competencies for Telehealth Technologies in Nursing,"¹ and "Developing Telehealth Protocols: A Blueprint for Success."²

¹ American Nurses Association, 1999, American Nurses Publishing, Silver Spring, MD.

² American Nurses Association, 2001, American Nurses Publishing, Silver Spring, MD.

As technology becomes more commonly used in the delivery of health care services, it is likely that a significant portion of care will be delivered under the circumstances where patient and provider are in different states. Actually, that practice has occurred for many years, albeit using what now are considered simple technologies such as the telephone, even before the advent of email, videoconferencing, webinars, etc.

The American and Oregon Nurses Associations are concerned about the implications which this proposed rule on telehealth credentialing may have upon the broader issue of health profession licensure. Specifically, we find troubling the proposed amendments to Section 482.22(a)(3)(iii) of the Conditions of Participation for Hospitals regulations, which provide that the “individual distant-site physician or practitioner holds a license issued or recognized by the State in which the hospital, whose patients are receiving the telemedicine services is located.” The proposed amendments to Section 485.616(c)(2)(iii), for Conditions of Participation for Critical Access Hospitals, contain a similar requirement that the “individual or practitioner holds a license issued or recognized by the State in which the CAH is located.”

It is difficult to understand the rationale for such a rule given that the use of out-of-state providers will augment the capacity that exists in rural areas. In fact, the adoption of this proposed rule will actually serve as a deterrent to the use of the most skilled or appropriate provider if that provider does not hold a license in the state where the patient is located. As the country attempts to improve the capacity of our health care workforce and reduce costs, this proposal is inconsistent with those goals. It negates the intended benefits of telemedicine or telehealth services -- which are to enhance the availability of health care resources to patients in underserved areas.

Under this proposal, although not specifically related to the general practice of medicine or nursing, an advanced practice registered nurse making a phone call to a patient in Oregon would be required to be licensed in Oregon. That is not practical, nor does it seem to provide any benefit to the patient, as long as the patient knows the identity of the APRN and his or her contact information. We are equally concerned that this policy may be echoed in similar requirements for registered nurses, who are constantly called upon to advise patients in other states through their roles as hospital and outpatient staff nurses, case managers and care coordinators, and particularly nurses in call centers. Further, if this rule is adopted and is used as the basis for other decisions on licensing or reimbursement, it will be in conflict with services such as Poison Control Centers which provide services for a number of states from one location. Providers are not currently required to have a license in each state from which a patient may make contact.

The ANA and ONA recommend that the language be modified to require that the “individual distant-site physician or practitioner holds an unencumbered license issued or recognized by the state in which he or she is located.” Current procedures, processes, and lines of communication already exist among licensing boards in different states, which can assist and verify the credentials and legal status of any provider.

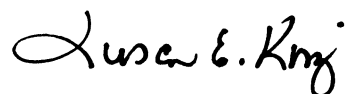
Therefore, medical staff approval committees can utilize those procedures as part of their process to grant privileges.

We appreciate the opportunity to comment on this important rule. If we can be of further assistance, or if you have any questions or comments, please feel free to contact Eileen Carlson, RN, JD, Associate Director, ANA Government Affairs, at Eileen.carlson@ana.org or 301-628-5093.

Sincerely,

A handwritten signature in black ink that reads "Marla J. Weston". The script is fluid and cursive, with the first name "Marla" being more prominent than the last name "Weston".

Marla J. Weston, PhD, RN
Chief Executive Officer
American Nurses Association

A handwritten signature in black ink that reads "Susan E. King". The script is fluid and cursive, with the first name "Susan" being more prominent than the last name "King".

Susan King, MS, RN
Executive Director
Oregon Nurses Association