

May 8, 2020

The Honorable Alex Azar, Secretary
Department of Health and Human Services
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue, SW
Washington, DC 20201

Re: COVID-19 National Emergency Declarations and Blanket Section 1335 Waivers

Dear Secretary Azar:

It was a pleasure to speak with you while waiting for the meeting at the Oval Office this past Wednesday, to honor all nurses during this time. As the President of the American Nurses Association (ANA), I am writing on behalf of the nation's 4 million+ Registered Nurses (RNs), including Advanced Practice Registered Nurses (APRNs), with two requests:

- (1) Make permanent, through your authority as the Secretary of the Department of Health and Human Services (HHS), full practice authority changes for APRNs that were issued during the COVID-19 public health emergency; and
- (2) Make clear that the changes put into place for the Medicare, Medicaid, and Children's Health Insurance Program (CHIP) programs, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, and Skilled Nursing Facilities (SNFs) through emergency waiver authority will remain in place throughout the duration of the COVID-19 public health emergency.

Full Practice Authority Changes for APRNs

In the short time that we spoke, I believe that we agreed on the ever-increasing value that APRNs play in all communities. APRNs across the country are trusted clinicians and ensure that millions of Americans have access to primary care services and critical care services needed during this national emergency. APRNs are ready and willing to continue to lead care teams, now and in the future, to ensure clinicians are available to provide the quality care that is expected in every community. APRNs must have the support of payers and their employers to work to the full extent of their training and education.

We also encourage you to review instances in which burdensome supervision requirements can be removed permanently. As we are concerned about the capacity of all providers, the need for a physician to provide unnecessary and often time-consuming supervision of APRNs continues to be a costly use of valuable time without showing a difference in patient outcomes. As human resources shift in times of surge and clinician burnout, we must reduce the burden on these trusted clinicians and ensure that they are able to practice at the top of their license.

Emergency Waivers Clarity

On January 31, you declared a public health emergency under Section 319 of the Public Health Service Act in response to COVID-19. On March 13, the President declared a National Emergency under Sections 201 and 301 of the National Emergencies Act and consistent with Section 1135 of the Social Security Act (SSA), retroactively beginning on March 1. This national emergency declaration allowed HHS to issue blanket waivers under Section 1135 and Section 1812(f) of the SSA to modify or waive certain requirements of the Medicare, Medicaid, and CHIP programs, the HIPAA Privacy Rule, and requirements pertaining to SNFs.

According to the Centers for Medicare & Medicaid Services (CMS), Section 1135 waivers typically end no later than the termination of the emergency period, or 60 days from the date the waiver or modification is first published unless the Secretary of HHS extends the waiver by notice for additional periods of up to 60 days, up to the end of the emergency period; **this first 60 day period will end on May 12**. These modifications and waivers have been crucial in allowing RNs and APRNs to care for COVID-19 patients on the front lines while also maintaining routine clinical operations to the greatest extent possible. There remains significant uncertainty around the COVID-19 pandemic in the U.S. and its implications for health care delivery; therefore, emergency measures remain appropriate. **ANA urges you to make an explicit declaration that extends these waivers for another 60 days to ensure that there is no confusion among providers as to their duration.**

ANA looks forward to further engaging with the administration as the COVID-19 public health emergency continues to evolve. For further discussion, please contact Brooke Trainum, Assistant Director, Policy and Regulatory Advocacy, at (301) 628-5027 or brooke.trainum@ana.org.

Sincerely,



Ernest Grant, PhD, RN, FAAN
President

cc: Seema Verma, Administrator, Centers for Medicare & Medicaid Services
Debbie Hatmaker, PhD, RN, FAAN, Acting Chief Executive Officer