

June 02, 2023

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

Submitted electronically to www.regulations.gov

Re: Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program and Value-Based Purchasing Program for Federal Fiscal Year 2024 [CMS–1779–P]

Dear Secretary Becerra:

The American Nurses Association (ANA) is pleased to comment on the Centers for Medicare & Medicaid Services (CMS) Fiscal Year 2023 Prospective Payment System proposed rule for skilled nursing facilities (SNFs). Our comments address proposals to add quality measures to SNF reporting and performance programs and continue to urge the agency to work closely with nurses to address health equity in our health care delivery system. As the agency considers which provisions to finalize, through this comment letter we urge CMS to:

- 1. Delay adoption of the Nurse Staff Turnover Measure until the agency implements larger action to address nurse staffing challenges in long term care.**
- 2. Adopt the Long-Stay Hospitalization measure for SNF Value-Based Payment (VBP) program.**
- 3. Continue to work closely with nurses on reporting measures and subsequent work to address health equity.**

ANA is the premier organization representing the interests of the nation's over 4.4 million registered nurses (RNs), through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. ANA members also include the four APRN roles: nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care coordination, and administration leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions including essential self-care and provide advice and emotional support to patients and their family members.

- 1. ANA urges delay in further consideration of a Nurse Staff Turnover Measure until other actions to address long-term care nurse staffing challenges are finalized.**

ANA applauds the Biden Administration for its focus on adequate nurse staffing in long-term care facilities.¹ The COVID-19 pandemic exacerbated longstanding challenges with adequately staffing long-term care facilities, nursing homes, and SNFs—prompting a need for action now. ANA also applauds CMS’ work to address nurse staffing as part of this larger strategy, as we understand the agency is in the process of separate rulemaking to implement nurse staffing minimum standards in long-term care facilities.² ANA supports enforceable safe staffing standards, including required ratios and we stand ready to engage with the agency when the rule is released to find real solutions to the staffing challenges that impact nurses and the patients they serve.

In the meantime, CMS is proposing to adopt a Nurse Staff Turnover Measure in the SNF VBP program beginning in 2026. While ANA supports consideration of this measure given the correlation between staff turnover and patient outcomes, and the possibility of it driving solutions to meaningfully address staff turnover, we are concerned about finalizing this measure before other efforts to address staffing are implemented. As we understand, the agency is not only working on rulemaking to address staffing in long-term care but is in the process of conducting a study to assess staffing challenges. These are all very important actions and ANA is pleased to see CMS take such strong steps to address this critical issue.

However, without understanding what approach the agency will take to address nursing home staffing, we are unable to ascertain whether this measure would truly complement the larger staffing strategy. We would not want to see facilities be unfairly penalized for a measure that may be outside of their control given a lack of resources or other support to address the underlying cause of turnover. **As such, ANA encourages CMS to hold off on adopting the Nurse Staff Turnover Measure in the SNF VBP until the larger strategy to address long term care staffing is finalized.**

2. CMS Must Adopt the Long-Stay Hospitalization Measure for the SNF VBP program.

ANA strongly supports inclusion and active promotion of the Long-Stay Hospitalization Measure for SNF Value-Based Payment. Moreover, as we outline below, this measure is important to address avoidable hospitalizations and we encourage the agency to implement the measure earlier than 2027, which is the implementation date currently proposed.

CMS itself notes that unplanned hospitalizations can have troubling and unnecessary consequences for long-stay patients and families. In addition, Medicare typically incurs the cost of the inpatient episode and related interventions. As noted in the proposal, research shows that many hospitalizations are avoidable.

Fortunately, evidence abounds to guide SNF providers on how to minimize these risks and costs, and potentially be rewarded financially for doing so beyond the immediate benefit to patient safety and outcomes. Assessment and early intervention prevent unnecessary hospitalizations for long-stay residents. For instance, by adopting the Missouri Quality Initiative (MOQI) model as a best practice,

¹ The White House. Fact Sheet: Protecting Seniors by Improving Safety and Quality of Care in the Nation’s Nursing Homes. February 28, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes/>.

² Centers for Medicare & Medicaid Services. Centers for Medicare & Medicaid Services Staffing Study to Inform Minimum Staffing Requirements for Nursing Homes. August 22, 2022. <https://www.cms.gov/blog/centers-medicare-medicaid-services-staffing-study-inform-minimum-staffing-requirements-nursing-homes>.

facilities can significantly decrease avoidable hospitalizations. The MOQI model deploys qualified health professionals such as RNs and APRNs whose role is to identify changes of condition in nursing home residents. MOQI nurses have geriatric training, and they use evidence-based tools and approaches. Working in the facility setting, they assess, communicate, and document long-stay residents' need for care that averts preventable harm and reduce the need for hospital transfers.

Given the strength of the MOQI evidence, ANA believes that it is appropriate to measure and reward low long-stay hospital rates through the SNF value-based payment program. We also recommend that adoption of the measure be accompanied by technical assistance offerings so that SNF providers are educated about proven models and the fidelity required to achieve success.

In addition, HHS must also play its part by ensuring that financial incentives are robust enough to drive broad participation and uptake of evidence-based interventions such as MOQI. Similarly, we urge partnerships within HHS to identify ways for Medicaid as well as Medicare to promote nurse staffing and engagement models that contribute to success with use of the measure. **For these reasons, we urge CMS to finalize adoption of the long-stay hospitalization measure in the SNF VBP program.**

3. CMS Must Work with Nurses on Reporting Measures and Subsequent Work to Address Health Equity.

ANA remains focused on the prominent issue of advancing health equity in our nation's health care delivery system and is pleased to see that CMS is considering which measures to include in SNF quality reporting to advance health equity in post-acute settings. Approaching patient care with cultural humility has long been an ethical imperative for the nursing profession. Nurses embrace diversity and engage in culturally competent care, while working to manage unconscious biases to effectively promote meaningful patient outcomes. Ultimately, nurses are key in designing and directing care that appropriately meets the needs of patients, improves access to needed care, promotes positive outcomes, and reduces disparities.

Nurses, in addition to providing quality care to patients, often serve as advocates for their patients, at the bedside and beyond, and are best positioned to identify factors that could result in inequitable health outcomes. Nurses also typically reflect the people and communities they serve—allowing them to recognize the challenges faced by their patients and ensure that their patients receive culturally competent, equitable health care services. Nurses are leaders in implementing processes that further quality patient care and highlight existing gaps in care delivery, leading to measurable improvements. The National Academy of Medicine's expert Committee on the Future of Nursing 2020-2030 released a report, which serves as a detailed blueprint for engaging nurses "in the complex work of aligning public health, health care, social services, and public policies to eliminate health disparities and achieve health equity."³

As CMS continues to consider which measures to collect in the SNF quality reporting program (QRP) to quantify disparities faced by patients, we urge the agency to balance any reporting requirements so as not to create an undue administrative burden on clinicians—especially nurses. Quantifying health care disparities and barriers faced by patients is extremely nuanced due to the sensitive nature of this issue. Nurses at the bedside understand these nuances as they interact with and advocate for patients and

³ National Academy of Medicine. The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity. <https://nam.edu/publications/the-future-of-nursing-2020-2030/>.

their families. An overly burdensome reporting approach may impact the critical relationship between the nurse and patient by interfering in the ability of the nurse to truly ascertain the needs and challenges faced by their patients. Patients might be hesitant to fully disclose their individual situations if they feel disconnected from the nurse tasked with collecting data.

Any reporting requirements must preserve the ability of the nurse to use a patient- and family-centered approach that allows for natural interactions to better reveal a patient's circumstances. **As such, we urge CMS to work closely with nurses to ensure that collecting socio-demographic data is balanced with the provision of whole person care as the agency determines which measures and processes will be utilized to address health care disparities and advance health equity.**

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with HHS. Please contact Tim Nanof, Vice President, Policy and Government Affairs, at (301) 628-5166 or Tim.Nanof@ana.org, with any questions.

Sincerely,



Debbie Hatmaker, PhD, RN, FAAN
Chief Nursing Officer / EVP

cc: Jennifer Mensik Kennedy, PhD, RN, NEA-BC, FAAN, ANA President
Loressa Cole, DNP, MBA, RN, NEA-BC, FAAN, ANA Chief Executive Officer