

October 13, 2015

Andy Slavitt, Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-3260-P
P.O. Box 8010
Baltimore, MD 21244

Re: Medicare and Medicaid Programs; [Reform of Requirements for Long-Term Care Facilities](#), 80 Federal Register 42168 (July 16, 2015).

Dear Acting Administrator Slavitt:

On September 14, 2015, the American Nurses Association (ANA) provided some initial comments on the proposed rule referenced above. The comments focused on the discussion of staffing issues pertaining to 42 CFR 483.35, *Nursing Services*. The purpose of this follow-up letter is to support comments provided by our nursing colleagues at the American Association of Nurse Practitioners (AANP) and the American Association of Nurse Assessment Coordination (AANAC) during the extended comment period.

As the only full-service professional organization representing the interests of the nation's 3.4 million registered nurses (RNs), ANA is privileged to speak on behalf of its state and constituent member associations, organizational affiliates, and individual members. RNs serve in multiple direct care, care coordination, and administrative 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, and provide advice and emotional support to patients and their family members. ANA members also include the four advanced practice registered nurse (APRN) roles: nurse practitioners, clinical nurse specialists, certified nurse-midwives and certified registered nurse anesthetists.¹

Support for Recommendations from other Commenters

The AANP provides some important comments concerning the overall structure of this regulation. ANA shares similar concerns and requests that CMS note in particular the following issues:

- The rule includes language and discussion indicating an effort to align or blend certain Medicare and Medicaid rules. While some language emphasizes CMS deference to state authority, other language appears to remove the authority and flexibility that states currently have to allow nurse practitioners to function as licensed as independent practitioners in nursing facilities (NFs). This may force nurse practitioners to find an

¹The Consensus Model for APRN Regulation defines four APRN roles: certified nurse practitioner, clinical nurse specialist, certified nurse-midwife and certified registered nurse anesthetist. In addition to defining the four roles, the Consensus Model describes the APRN regulatory model, identifies the titles to be used, defines specialty, describes the emergence of new roles and population foci, and presents strategies for implementation.

“attending physician” to cover both NF and skilled nursing facility (SNF) patients in their practice. Such a requirement may result in increased costs, delayed care, and reduced access. We support AANP’s call to ensure that any alignment of these programs remove barriers to care rather than add additional barriers for nurse practitioners providing care in NFs.

- ANA agrees with AANP’s comment that it’s unclear whether the definition of physician includes nurse practitioners and their request for clarification of this point.
- ANA agrees with AANP’s request that CMS authorize nurse practitioners to order and document patient transfers into and out of SNFs and NFs. Such clarification would help facilitate prompt and safe care for patients.
- ANA agrees with AANP’s request for clarification concerning physician delegation of dietetic management and ordering of physical therapy, as well as the request to clarify that nurse practitioners are authorized to sign-off on pharmacy documents.

In addition, ANA shares some of the concerns set forth in AANAC’s letter to CMS:

- ANA shares the concerns expressed by AANAC regarding baseline care plans (42 CFR 483.21(a)), and the recommendation for clarification of the required timing of such plans. ANA also agrees with the recommendation to include definitions for the phrases “culturally-competent” and “trauma-informed.”
- ANA agrees with AANAC’s request for clarification of the discussion on basic life support (42 CFR 483.25(a)(3)), including the recommendations concerning state-specific Do-Not-Resuscitate and Physician Orders for Life-Sustaining Treatment.
- AANAC raises some important issues concerning behavioral health services (42 CFR 483.40). ANA shares these concerns and requests that CMS carefully consider AANAC’s comments and recommendations concerning this provision of the proposed rule.
- ANA supports the position taken by AANAC and other stakeholders concerning the discussion of arbitration in section 483.70, and urges CMS to prevent facilities from imposing pre-dispute arbitration.

We appreciate the opportunity to share our additional views regarding this proposed rule. If you have questions, please contact Jane Clare Joyner, Senior Policy Advisor, (301.628.5083 or janeclare.joyner@ana.org).

Sincerely,



Debbie D. Hatmaker, PhD, RN, FAAN
Executive Director

cc: Pamela Cipriano, PhD, RN, NEA-BC, FAAN, ANA President
Marla Weston, PhD, RN, FAAN, ANA Chief Executive Officer