

March 31, 2023

Chiquita Brooks-LaSure, MPP  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Blvd.  
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

On behalf of the undersigned organizations representing Advanced Practice Registered Nurses (APRNs) and advanced practice nursing education, we are writing to request that the Centers for Medicare & Medicaid Services (CMS) make permanent the regulatory waivers that have enabled APRNs to practice to the full extent of their education and clinical training and ask that you provide any evidence for not extending our specific waivers. Our organizations have provided evidence that the historic policies affect access, cost, and do improve quality, and maintaining these waivers is in line with CMS's six strategic pillars. Furthermore, we strongly believe that these waivers help strengthen the healthcare workforce to further improve health equity, thus addressing overall healthcare disparities. We are unclear as to how ending these waivers aligns with any of the six strategic pillars and respectfully request that CMS provide the evidence for ending our specific waivers.

The APRN Workgroup is comprised of organizations representing Advanced Nursing Education, Certified Nurse-Midwives (CNMs), Clinical Nurse Specialists (CNSs), Certified Registered Nurse Anesthetists (CRNAs), and Nurse Practitioners (NPs). As of 2020, over 233,000 APRNs were treating Medicare patients, making it essential that CMS remove barriers to care and not implement policies that impose additional barriers to care for APRNs and the patients they serve. America's growing numbers of highly educated APRNs advance healthcare access, quality improvement and cost-effective healthcare delivery across all settings, regions and populations, particularly among the rural and medically underserved.

While we appreciate that CMS has issued waivers that authorize APRNs to practice to the full extent of their state scope of practice during the Public Health Emergency (PHE), we were disappointed to learn that CMS is choosing to not extend many of these waivers permanently. We ask CMS for the evidence used in making this determination to help us understand how this evidence was used in line with CMS' six strategic pillars. In absence of providing us with this information, we strongly urge CMS to permanently implement the following policies:

- **Physician Services. 42 CFR §482.12(c)(1)–(2) and §482.12(c)(4):** Waiving requirements that Medicare patients admitted to a hospital be under the care of a physician, allowing other practitioners to practice to the top of their licensure, while authorizing hospitals to optimize their workforce strategies. For example, a recent report outlined that Certified Registered Nurse Anesthetists (CRNA's) in states that experienced a major impact due to executive

orders (including the removal of both state and federal requirements), were significantly more likely to experience expanded clinical practice.

- **SNF Physician Visit and Delegation Waivers 42 CFR 483.30(c)(3) and 42 CFR 483.30(e)(4):** Authorizing NPs to perform all mandatory visits in a SNF has enabled practices and SNFs to maximize their workforce. These waivers improve continuity of care and infection control by reducing unnecessary contacts between patients and multiple providers. In May of 2022 this waiver was discontinued, yet research has shown the value of NPs providing care in long-term care facilities,<sup>1</sup> making it critically important to ensure that SNF patients continue to receive prompt access to the high-quality care provided by NPs.
- **Responsibilities of Physicians in Critical Access Hospitals (CAHs). 42 CFR § 485.631(b)(2):** Making the physician physical presence waiver permanent allows certain APRNs in CAHs to practice to the full extent of their education and clinical training and enables the entire health care team to practice to its fullest capacity in provider shortage areas.
- **Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Physician Supervision of NPs 42 CFR 491.8(b)(1):** Waiving the physician supervision of NPs in RHCs and FQHCs requirement has provided much needed workforce flexibility in rural and underserved communities where provider shortages are being exacerbated by COVID-19. This waiver is also consistent with the statutory definition of RHCs and FQHCs which includes non-physician directed clinics, and states that when an RHC or FQHC is not directed by a physician, it must have arrangements for physician involvement in accordance with State and local law.<sup>2</sup> We appreciate that CMS has extended this flexibility until the end of the year in which the PHE ends and is exploring options to make this flexibility permanent<sup>3</sup>, and strongly encourage the agency to do so.
- **Anesthesia Services. 42 CFR §482.52(a)(5), §485.639(c) (2), and §416.42 (b)(2):** Allowing certified registered nurse anesthetists (CRNA), in accordance with a state emergency preparedness or pandemic plan, to practice to the full extent of their license by permanently extending the CMS waiver removing physician supervision as a Condition of Participation.

Waiving these requirements permanently will strengthen the healthcare workforce to ensure timely delivery of quality services which will improve health equity and increase access to care. Throughout the PHE, many facilities and settings have enabled all providers to work to the top of their education and scope of practice. We have seen healthcare become more efficient through the temporary removal of barriers to care during this health emergency authorizing APRNs to provide needed care on the frontlines of the pandemic. APRNs have been practicing at the top of their license treating COVID-19 patients, working under stressful conditions in all settings across America and demonstrating their ability to handle complex and difficult cases. Removing APRN barriers to provide services beyond the PHE will help increase patient access to care.

Removing these barriers is especially important as there is currently a provider shortage, which has been exacerbated by the pandemic. Reinstating these restrictions will cause further negative impacts on health equity and access to care. As rural and underserved areas increasingly rely on APRNs, removing barriers to our practice will help countless Americans as well as financially distressed rural healthcare facilities. In addition to being an important part of the response to the

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<sup>1</sup> National Academies of Sciences Engineering, and Medicine. *The National Imperative to Improve Nursing Home Quality*, at page 236. Retrieved from: <https://nap.nationalacademies.org/catalog/26526/the-national-imperative-to-improve-nursing-home-quality-honoring-our>.

<sup>2</sup> 42 U.S.C. 1395x(aa).

<sup>3</sup> <https://www.cms.gov/files/document/covid-19-emergency-declaration-waivers.pdf>, pages 12-13.

COVID-19 PHE, removing barriers to APRN practice aligns with recommendations from the New England Journal of Medicine.<sup>4</sup> This also aligns with the National Academy of Medicine’s recommendation, “[a]dvanced practice registered nurses should be able to practice to the full extent of their education and training.”<sup>5</sup>

We appreciate your consideration of our requests and would be happy to discuss this matter further with you. You can reach out to Romy Gelb-Zimmer, American Association of Nurse Anesthesiology Senior Associate Director of Federal Regulatory and Payment Policy at [rgelb-zimmer@aana.com](mailto:rgelb-zimmer@aana.com) or (202) 484-8400. Thank you for your consideration and we look forward to hearing from you.

Sincerely,

American Academy of Nursing, AAN  
American Association of Colleges of Nursing, AACN  
American Association of Nurse Anesthesiology, AANA  
American Association of Nurse Practitioners, AANP  
American College of Nurse-Midwives, ACNM  
American Nurses Association, ANA  
Gerontological Advanced Practice Nurses Association, GAPNA  
National Association of Clinical Nurse Specialists, NACNS  
National Association of Pediatric Nurse Practitioners, NAPNAP  
National League for Nursing, NLN  
National Organization of Nurse Practitioner Faculties, NONPF  
National Organization of Nurse Practitioners in Women's Health, NPWH

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<sup>4</sup> Frogner, Fraher, Spetz, Pittman, Moore, Beck, Armstrong and Buerhaus. (2020) Modernizing scope-of-Practice regulations – Time to Prioritize Patients. New England Journal of Medicine.382;7.p 591-593.

<sup>5</sup> <https://www.nap.edu/resource/25982/FON%20One%20Paggers%20Lifting%20Barriers.pdf>.