

December 7, 2020

Eric D. Hargan  
Deputy Secretary of U.S. Department of Health & Human Services (HHS)  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue, SW  
Washington, DC 20201

Dear Deputy Secretary Hargan,

On behalf of the American Association of Nurse Practitioners and the undersigned organizations representing nurse practitioners (NPs) of all specialties, we are writing in response to the *Request for Information (RFI) on Regulatory Relief to Support Economic Recovery*. In this RFI, HHS requested feedback on which regulatory changes enacted during the COVID-19 Public Health Emergency (PHE) should be made permanent. We commend HHS for waiving regulatory barriers that inhibited access to care, particularly barriers which prevented NPs from practicing to the top of their license as well as barriers that limited patient access to telehealth. Our members are practicing on the front lines of the COVID-19 pandemic, and the waivers mentioned below have been essential to treating patients suffering from COVID-19 as well as patients with other health care needs. We commend HHS for taking these actions and request the regulatory actions referenced below be made permanent.

As you are aware, nurse practitioners are advanced practice registered nurses who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment, including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs hold prescriptive authority in all 50 states and the District of Columbia. NPs practice in nearly every health care setting, including skilled nursing facilities (SNFs) and nursing facilities, hospitals, Veterans Affairs and Indian Health Care facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), nursing homes, schools, colleges and universities, retail clinics, public health departments, nurse managed clinics, homeless clinics and home health. NPs deliver high-quality care to patients in rural and underserved areas. In fact, data shows that not only do NPs serve in rural and underserved areas but, most importantly, they remain in these areas. NPs complete more than one billion patient visits annually, and approximately one-third of all Medicare patients receive care from a nurse practitioner.

As of 2018, there were more than 145,000 NPs billing for Medicare services, making NPs the largest and fastest growing Medicare designated provider specialty. Based on Medicare's claims data, approximately one out of every three Medicare patients receives billable services from an NP. Over 82% of NPs are accepting new Medicare patients and 80.2% are accepting new Medicaid patients. NPs have a particularly large impact on primary care, as approximately 73% of all NP graduates deliver primary care, and NPs comprise approximately one quarter of our primary care workforce, with that percentage growing annually.

First, we would like to highlight the impact that some of these flexibilities have had for our members, their patients and communities. Members have reported that authorizing NPs to perform the initial assessment and all other mandatory assessments in skilled nursing facilities provided flexibility to meet the needs of SNF patients while also meeting the other demands that COVID-19 has placed on their

communities. Additionally, increased coverage of telehealth and remote technologies, particularly coverage and increased reimbursement for audio-only services, has been an essential lifeline for meeting the needs of their patients. Many of our members have patients who lack access to audio-video technology, and they would have had to make the difficult choice between delaying care or risking exposure to COVID-19 if this authorization had not been made. The Department's proactive approach to covering telephone-only visits has helped these patients.

COVID-19 has also had a significant negative economic impact on nurse practitioners and other health care providers. We continuously hear from our members regarding layoffs, furloughs and hours being cut as a result of COVID-19. According to the December 2020 Bureau of Labor Statistics jobs report, health care employment has decreased by greater than 500,000 jobs since February.<sup>1</sup> As U.S. Surgeon General Adams has stated, healthy communities lead to economic prosperity<sup>2</sup>, and the loss of NPs and other clinicians will have profound impacts on the health and economic well-being of their patients and communities.

Below are our recommendations regarding waivers to be made permanent and other waivers that can be implemented by HHS to support economic recovery:

- **Actions 198/200 — Authorizing NPs to perform all mandatory visits in SNFs.**

As noted above, authorizing NPs to perform all mandatory visits in SNFs has enabled practices and SNFs to maximize their workforce. This waiver improves continuity of care and infection control by reducing unnecessary contacts between patients and multiple providers. Additionally, this is consistent with the permanent policy for Medicaid nursing facilities. Patients and health care providers in SNFs have been the hardest hit by COVID-19 and making this waiver permanent will provide them the necessary flexibility to provide the care that patients require for the duration of the PHE and beyond.

- **Action 194 — Authorizing NPs in rural health clinics (RHCs) and federally-qualified health centers (FQHCs) to practice to the top of their license.**

Waiving the requirement for physician supervision of NPs in RHCs and FQHCs has provided much needed workforce flexibility in rural and underserved communities where provider shortages are being exacerbated by COVID-19.

- **Action 192 — Authorizing NPs in critical access hospitals (CAHs) to practice to the top of their license.**

We support making the waiver of the CAH physician physical presence requirement permanent. This will enable NPs in CAHs to practice to the full extent of their education and clinical training. This will enable the entire workforce to work to its fullest capacity in provider shortage areas.

- **Action 191 — Authorizing Medicare hospital patients to be under the care of an NP.**

Waiving the requirement that every hospital patient be placed under the care of a physician enables NPs in hospitals to practice to the top of their license and authorizes hospitals to optimize their workforce strategies.

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<sup>1</sup> <https://www.bls.gov/news.release/empsit.nr0.htm>.

<sup>2</sup> <https://www.hhs.gov/sites/default/files/community-health-and-economic-prosperity-infographic.pdf>.

- **Telehealth waivers, including the coverage of audio-only services.**

As mentioned previously, increased flexibility to provide telehealth to patients has been an essential component of providing care during COVID-19 and will continue to be integral to clinicians after the PHE. Specific telehealth provisions that we support making permanent are removing the geographic limitations, removing originating site restrictions so that patients can receive telehealth in their homes and increased coverage and reimbursement for audio-only telehealth services. These flexibilities have enabled NPs and other clinicians to reach patients who otherwise may have been unable to receive medically necessary health care, particularly in rural and underserved communities. We also support the expansion of telehealth to previously uncovered services and visits when the clinician determines that it is clinically appropriate.

Collectively, our organizations are honored to represent NPs who have been delivering high-quality care to millions of Americans in all health care settings during this pandemic and who will continue to do so after the pandemic has ended. We appreciate the actions taken by HHS to relieve burdens on clinicians during the Public Health Emergency and respectfully request that the above-mentioned waivers be made permanent to continue to improve our nation's health care delivery. Should you have comments or questions, please contact MaryAnne Sapio, V.P. Federal Government Affairs, [msapio@aanp.org](mailto:msapio@aanp.org), 703-740-2529.

Sincerely,

American Association of Nurse Practitioners

**SIGN LETTER**