

December 23, 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

RE: Regulatory Relief to Support Economic Recovery; Request for Information HHS-OS-2020-0016-0001

Dear Deputy Secretary Hargan,

On behalf of the American Association of Nurse Practitioners 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, NPs 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.

They currently provide a substantial portion of the high-quality¹, cost-effective² care that our communities require and will continue to do so to meet the needs of those communities. 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.³ Over 82% of NPs are accepting new Medicare patients and over 80% are accepting new Medicaid patients.⁴ NPs have a particularly large impact on primary care as

¹ <https://www.aanp.org/images/documents/publications/qualityofpractice.pdf>.

² <https://www.aanp.org/images/documents/publications/costeffectiveness.pdf>.

³ <https://www.cms.gov/files/document/2018-mdcr-providers-6.pdf>.

⁴ 2017 AANP National Nurse Practitioner Sample Survey.

approximately 73% of all NP graduates deliver primary care⁵. They comprise approximately one quarter of the primary care workforce, with that percentage growing annually.⁶

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. We also appreciate HHS permanently covering diagnostic tests supervised by nurse practitioners for Medicare beneficiaries in the 2021 Medicare Physician Fee Schedule final rule.

COVID-19 has also had a negative economic impact on nurse practitioners and other health care providers. We continuously hear from our members regarding layoffs, furloughs and hours being cut due to 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.⁷ As U.S. Surgeon General Adams has stated, healthy communities lead to economic prosperity⁸, and the loss of NPs and other clinicians will have profound impacts on the health and economic well-being of their patients and communities. The waivers listed below will continue to provide NPs with the flexibility to deliver the best possible care to their patients and lessen the negative long-lasting effects of COVID-19.

Below are our recommendations regarding the waivers that can be made permanent by HHS to support economic recovery and feedback that we received from an AANP survey on CMS waivers⁹:

- **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 among patients and multiple providers. This is consistent with the permanent policy for Medicaid nursing facilities. Patients and health care providers in SNFs have been hardest hit by COVID-19. Making this waiver permanent will provide them with the necessary flexibility to provide the care that patients require for the duration of the PHE and beyond.

⁵ <https://www.aanp.org/about/all-about-nps/np-fact-sheet>.

⁶ [Rural and Nonrural Primary Care Physician Practices Increasingly Rely On Nurse Practitioners](#), Hilary Barnes, Michael R. Richards, Matthew D. McHugh, and Grant Martsolf, *Health Affairs* 2018 37:6, 908-914.

⁷ <https://www.bls.gov/news.release/empsit.nr0.htm>.

⁸ <https://www.hhs.gov/sites/default/files/community-health-and-economic-prosperity-infographic.pdf>.

⁹ AANP COVID-19 CMS Provider Waiver Survey.

- **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. Our members reported that this has helped the entire health care workforce because they are able to increase the focus on patient care instead of unnecessary paperwork and more expeditiously provide necessary treatments to their patients.

- **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. NPs who stated that this waiver was implemented in their facilities have reported positive impacts including: reduced regulatory burden for the clinical workforce, allowing more time to be spent on direct patient care, improved continuity of care, and more timely initiation of necessary treatments. Making this waiver permanent would improve the ability of CAHs to appropriately utilize their entire health care workforce to meet the needs of their patients following the PHE.

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

Waiving the requirement that every admitted 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. Similar to the CAH waiver, NPs who stated that this waiver was implemented in their facilities reported that this waiver has streamlined the health care delivery process and improved continuity of care. Facilities also increased the utilization of NPs in leadership positions and participation in administrative planning for emergency policies. While some of the changes that were reported were allowed prior to the PHE, the removal of this barrier was noted to have positive ancillary impacts on many additional hospital policies and bylaws.

- **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. While we recognize that some of these changes, such as the originating site restriction, would require Congressional action, we wanted to note the importance of these provisions and to encourage CMS to use existing authorities, such as flexibility offered within CMMI models, to continue to provide these services to Medicare beneficiaries.



AANP is 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, 703-740-2529.

Sincerely,

David Hebert
Chief Executive Officer