

February 19, 2019

Aaron T. Siegel
Alternate OSD Federal Register Liaison Officer
Department of Defense (DOD)
Office of the Chief Management Officer
Directorate for Oversight and Compliance
Regulator and Advisory Committee Division
4800 Mark Center Drive, Mailbox #24
Alexandria, VA 22350-1700

RE: TRICARE; Addition of Physical Therapy Assistants and Occupational Therapy Assistants as TRICARE-Authorized Providers (83 FR 65323, December 20, 2018; RIN 0720-AB72).

Dear Mr. Siegel:

The American Association of Nurse Practitioners (AANP), representing more than 270,000 nurse practitioners (NPs) in the United States, appreciates the opportunity to provide comment in response to the TRICARE proposed rule to add occupational therapy assistants and physical therapy assistants as authorized providers.

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 practice in nearly every health care setting including clinics, 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, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health. NPs hold prescriptive authority in all 50 states and the District of Columbia. It is important to note that 87.1% of NPs are certified in primary care, the majority of whom see Medicare and Medicaid patients. NPs complete more than one billion patient visits annually.

In this proposed rule, the DOD is updating their TRICARE regulations to add physical therapy assistants and occupational therapy assistants as TRICARE-authorized providers consistent with section 721 of the National Defense Authorization Act for 2018. As a component of these changes, the DOD is updating the definition of a “referral” in 32 CFR § 199.2 to remove the limitation that only physicians can make referrals.

While we agree that removing this limitation is important and will provide better access to TRICARE patients, we have concerns that the proposed regulatory language is still misleading and unnecessarily limiting. The proposed regulatory text reads in part, “Generally, when a referral is required to qualify health care as a covered benefit, only a TRICARE-authorized physician may make such a referral unless this regulation specifically allows another category of TRICARE-authorized provider to make a referral

as allowed within the scope of the provider’s license.”¹ We believe that this language could cause confusion and inadvertently lead to the belief that a physician is required to refer for most items, when other TRICARE-authorized providers, such as NPs are authorized to do so. We would encourage this section to be amended to read, “Generally, when a referral is required to qualify health care as a covered benefit, a TRICARE-authorized provider may make such a referral as allowed within the scope of the provider’s license.” This language is more reflective of that fact that NPs and other TRICARE-authorized providers are authorized to refer for most services within the TRICARE program.

We also encourage the DOD to revisit the remaining regulations that require physician referrals.² Services such as CT-scans and mental health counselors are currently written as requiring a physician referral but referring for these services is well within the scope of practice for nurse practitioners. In fact, NPs refer for these services in the Medicare and Medicaid programs, the Indian Health Service, and the commercial marketplace. Most notably for the purposes of TRICARE, NPs refer for these services within the Veteran’s Administration where NPs have full practice authority. Removing these limitations will increase access to prompt high-quality care for our nation’s service members and their families and align the TRICARE benefit with other federal programs.

We thank you for the opportunity to comment on this proposed rule. We look forward to an ongoing dialogue on ways to improve access to care for our nation’s service members. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, msapio@aanp.org, 703-740-2529.

Sincerely,

David Hebert
Chief Executive Officer

¹ 83 FR 65323, 65326.

² 32 CFR § 199.4(c)(14); 32 CFR § 199.6(c)(3)(iv)(C).