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August 28, 2015

Andy Slavitt, Acting Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
CMS–1633–P
P.O. Box 8013
Baltimore, MD 21244–1850

Submitted electronically to www.regulations.gov

Re: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Short Inpatient Hospital Stays; Transition for Certain Medicare-Dependent, Small Rural Hospitals under the Hospital Inpatient Prospective Payment System; Proposed Rule, 80 Federal Register 39200 (July 8, 2015)

Dear Acting Administrator Slavitt:

On behalf of the American Nurses Association (ANA), we are pleased to comment on the proposed rule referenced above, published in the Federal Register on July 8, 2015. 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]

ANA participated in a comment letter from a group of twelve nursing and patient advocacy organizations urging the Centers for Medicare and Medicaid Services (CMS) to use its authority to eliminate remaining time-based criterion for hospital admissions exceeding the Two-Midnight threshold. As discussed in that letter, we believe these changes are necessary to ensure the appropriate evaluation of each beneficiary by a qualified provider. The comments that follow are in addition to the comments previously provided on the Two-Midnight rule.

ANA Encourages the Use of Broader Provider Language that Includes APRNs

ANA urges CMS to avoid the use of physician-centric language (except in provisions that relate only to physicians) and to consistently use broader provider language when describing provisions

[1]The 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.

of the rule that are pertinent to non-physician providers. Some portions of this proposed rule acknowledge the broader range of providers who treat patients, but this approach is not consistently used.

For example, in discussing changes to the Two-Midnight rule (on page 39206), the proposed rule states that "inpatient admission is generally appropriate for Medicare Part A payment if the *physician (or other qualified practitioner)* admits the patient . . ." and continues, "*the physician (or other practitioner)* may take into account . . . ." Later in the rule, when discussing the background of the Two-Midnight rule, the proposed rule states, "a hospital inpatient admission is considered reasonable and necessary if a *physician or other qualified practitioner (collectively "physician")* orders such an admission . . . ." This approach (*i.e.,* use the word physician as referring collectively to all qualified practitioners) is then followed in much of the preamble and in text of the rule itself (appearing on page 39372).

ANA recognizes that sometimes language adopted by Congress dictates the regulatory terminology used by CMS. Often, however, use of the term "physician" is not required by law. CMS' discretionary use of the term "physician" to describe all types of Medicare enrolled professionals reflects a certain bias and sends the wrong signal about the value of the important work of other health care providers. Unless prohibited by statute, we ask CMS to change this practice and clearly identify when non-physicians are authorized to provide a service by consistently using language such as "physician or other qualified practitioner" in regulatory text.

We appreciate the opportunity to share our views on this matter. If you have questions, please contact Jane Clare Joyner, Senior Policy Fellow (janeclare.joyner@ana.org; 301.628.5083).

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