



April 30, 2014

Donald Clark
Secretary
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue, NW
Washington, DC 20580

Healthcare Workshop: Project No. P131207

Dear Secretary Clark:

On behalf of the American Academy of Physician Assistants (AAPA), which represents the more than 95,000 certified physician assistants (PAs) throughout the country, we appreciate the opportunity to submit comments on key themes discussed at the Federal Trade Commission's (FTC's) Public Workshop titled, "Examining Health Care Competition." AAPA applauds the FTC's leadership and vision in focusing on a wide range of important issues which impact innovation and competition in the delivery of healthcare services. We believe it is critical that the FTC, and other state and federal regulatory agencies, continue to monitor and support regulations and policies that enhance competition in the healthcare marketplace and improve public access to the highest quality medical care. Sustaining appropriate levels of competition within the healthcare system helps to assure the availability of timely, accessible and cost-effective care for both individuals and communities.

The PA Profession

The PA profession was created nearly fifty years ago in response to a shortage of primary care physicians. Today, PAs provide high quality, cost effective medical care in virtually all healthcare settings and in every medical and surgical specialty. PAs are one of three healthcare professionals providing primary medical care in the U.S.

By design, PAs practice in teams with physicians, extending the reach of medicine and the promise of improved health to the most remote and in-need communities in our nation. Within the context of that team-based care model, PAs deliver medical services with a high degree of autonomy in making medical decisions and developing treatment plans for patients.

The PA profession's team-based approach reflects the changing realities of healthcare delivery and fits well into the patient-centered medical home model of care, as well as other integrated models of care management. PAs often have their own patient panels, and are authorized to prescribe in all 50 states.

PAs are uniquely flexible in adapting and responding to the evolving needs of the U.S. healthcare system by virtue of comprehensive educational programs that prepare PAs for a career in general medicine and a team-based approach to providing patient-centered medical care.

Healthcare Competition – Regulation of Healthcare Professionals

Few will question that our healthcare system is in the midst of unprecedented change. The increased number of insured individuals brought about through provisions in the Affordable Care Act - health insurance marketplaces and the expansion of Medicaid in certain states - has led to a tremendous influx in individuals seeking medical care. Providing access for those newly insured individuals will require that all health professionals and every aspect of the healthcare system be utilized as efficiently as possible. As part of its commitment to expanding access to care, the PA profession supports the goals of the triple aim which seeks to improve the health of the population, enhance the experience and outcomes of the patient, and reduce the per capita cost of care for the benefit of communities.

The workshop concentrated on a number of significant health system delivery issues such as the role of innovation and advancements in technology in healthcare, the impact of regulations on emerging technology and concepts such as telemedicine and retail clinics, and whether price transparency has the capability of benefiting consumers by reducing out of pocket spending. Our comments are directed toward an equally important facet of the workshop that focused on the professional regulation of healthcare providers.

As new healthcare delivery models evolve it is important that state and federal laws and regulations be created or modernized in a manner that allows health systems to gain full benefit from all team members and maximize the potential of team practice.

Unfortunately, numerous practice barriers remain in place causing delays in patients receiving medically necessary treatments and failing to take full advantage of the education and contributions of PAs. Those barriers can take the form of antiquated state laws that are out of step with today's team practice models, restrictive federal scope of practice guidelines, poor or non-existent reimbursement for services clearly within PA scope of practice, and health insurance regulations that exclude or fail to include PAs as primary care providers or as eligible professionals authorized to participate in health insurance networks.

Specific examples of some of those practice barriers that limit our ability to realize the full-potential of the current workforce include:

- A federal law requiring the co-signature of a physician on hospital admission orders when the PA is permitted by state law, the hospital and the physician to order the admission.
- Chart co-signature requirements in certain states that attempt to place a "one size fits all" model of PA-physician interaction. AAPA firmly believes that those types of practice decisions are best made at the practice level by physicians in consultation with PAs who understand the patient's needs and how to most efficient deliver care.
- A federal statute prevents PAs from authorizing patient access to Medicare's home health and hospice benefit despite the fact that the PA had been the patient's primary healthcare provider for many years.
- Numerous private insurance plans that don't enroll, credential, or allow PAs to be primary care providers even though PAs are the main provider of primary care for that community or patient population.
- Policies by certain behavioral and mental health companies that don't cover services provided by PAs despite the fact that PAs are trained to deliver quality care to this important patient population.
- Medicare statutory restrictions that limit the ability of PAs to receive direct payment from the program or fully own a practice despite the fact that nearly every other health professional who provides professional services may do so. For example, medical practices solely owned by PAs in Alaska may not be reimbursed for covered services provided to Medicare beneficiaries – even though state law allows PAs to own corporations, and the state desperately needs additional Medicare providers.

Narrow Networks & Network Adequacy

Some insurers are advocating that there are simply too many healthcare professionals in their provider networks and are actively engaging in activities to reduce the number of physicians, PAs, and other providers who are eligible to participate in those networks. The process of limiting the number of health professionals who can deliver care to patients in a particular health plan or insurance product is known as creating a narrow network. If patients choose to receive care from a health professional who is not included in the network, the patient will likely face higher deductibles and co-pays or a complete lack of insurance coverage for that visit. Policies that limit or discourage patients from seeking timely access to needed care run the risk of exacerbating the patient's medical condition and may ultimately lead to higher treatment costs for individual patients and the healthcare system.

Some payers suggest that limiting the number of health professionals with whom they contract will both reduce costs and allow for increased communication with those professionals surrounding issues such as the utilization of appropriate quality measures and efficient treatment guidelines. Holding health professionals accountable for delivering high quality care and meeting objective and fair metrics is appropriate. However, in some cases it appears likely that a motive behind narrow networks is to exclude health professionals who, in the short term, cost the payer more due to prescribing patterns, referrals or treatment models irrespective as to whether those practice decisions produce better outcomes for patients.

The ACA (Public Health Service Act 2706(a)) requires that "a group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law." This language supports broad provider inclusion.

Additional language in that same provision specifies that this section "shall not require that a group health plan or health insurance issuer contract with any health care provider willing to abide by the terms and conditions for participation established by the plan or issuer. Nothing in this section shall be construed as preventing a group health plan, a health insurance issuer, or the Secretary from establishing varying reimbursement rates based on quality or performance measures." The intent of this additional language maintains that healthcare professionals, such as PAs, can't be excluded from participation as a group or a class, but leaves open the possibility that a health plan may have the ability to exclude individual health professionals even if they are willing to abide by the payers coverage rules and fee schedule. Allowing third party payers to pick and choose who will be in their networks will limit patient access to care and diminish competition in the marketplace.

Network adequacy within Qualified Health Plans (QHPs) that make up the health insurance Marketplaces and the comprehensive inclusion of PAs remains a significant ACA implementation concern. The intent of the network adequacy language is to assure patient access to care, especially in underserved communities. Ongoing scrutiny of the manner in which this provision is implemented by QHPs and enforced by regulators is essential to creating true access and giving consumers a choice as to who will provide their care both inside and outside of the new Marketplaces.

Need for Greater Transparency for Care Provided by PAs

PAs play an essential role as part of healthcare teams in virtually all medical specialties and healthcare systems. However, the contribution of PAs is not always captured in current reporting and billing systems. AAPA strongly encourages the continued development of patient-centered comparative effectiveness research and data collection which requires that healthcare reporting and billing systems identify medical and surgical services provided by PAs. We believe that requiring data systems to track care provided by PAs is crucial to ascertain the clinical and economic performance of PAs for issues related to cost-

effectiveness, quality, and outcomes research; and to determine the volume of patient care services delivered for workforce projections.

Conclusion

Over the years the FTC has been engaged in a number of pivotal healthcare-related issues ranging from consumer access to generic drugs to state "any willing provider" laws that grant healthcare professions inclusion into health plans and insurance networks. The FTC's long-held principle is that competition in healthcare is a priority because vigorous market-based competition promotes improved quality and lower costs. We encourage the agency to maintain an active interest in the process and goal of increasing competition in the healthcare marketplace to protect patient access to affordable, quality medical services. As hospitals and health systems consolidate to form both vertically and horizontally integrated network delivery systems the opportunity for unfair market influence and abuse increases.

The PA profession believes each member of the healthcare team should practice to the full extent of their education, experience and expertise to provide the highest quality care for patients at the appropriate time and in the setting that meets the patients' needs, while also being mindful of the efficient utilization of healthcare resources.

We look forward to maintaining an ongoing dialogue on these and other issues surrounding methodologies and approaches to enhance the effectiveness of the US healthcare system. If we can provide additional information on our comments or any other aspect of healthcare delivery, quality and innovation please do not hesitate to contact Michael Powe, AAPA's vice president for Reimbursement and Professional Advocacy at michael@aapa.org.

Sincerely,

A handwritten signature in blue ink that reads "Lawrence Herman PA-C MPA". The signature is written in a cursive style and is positioned above a light blue rectangular background.

Lawrence Herman, PA-C, MPA
President