Attn: Seema Verma, Administrator
Centers for Medicare and Medicaid Services (CMS)

Sent via email to: PatientsOverPaperwork@cms.hhs.gov

Dear Administrator Verma,

The undersigned organizations representing Advanced Practice Registered Nurses (APRNs)[1], PAs (physician assistants) and education are writing in response to CMS' request for feedback on Scope of Practice. Our organizations have applauded Section 5 of the President's Executive Order (EO) 13890 entitled *Protecting and Improving Medicare for our Nation's Seniors*. As our health care system continues to evolve, we must continue to modernize Medicare regulations to remove outdated barriers to practice that restrict seniors' access to high-quality, cost-effective health care. We strongly agree with the recent EO that regulations should be implemented to remove these outdated barriers, ensuring that APRNs and PAs are practicing at the top of their license. We appreciate the work that CMS has already completed to remove federal barriers to practice, such as recent changes to PA and APRN student documentation requirements, and respectfully request that CMS take swift action to further implement the intent of Section 5 of the EO in its annual rulemaking process.

One of the primary issues impacting the Medicare and Medicaid programs is a clinician shortage, particularly in primary care, that is being exacerbated by an aging population.[2] APRNs and PAs are currently providing a substantial portion of the high-quality, cost-effective care that our communities require, and will continue to do so to meet the needs of their communities. As of 2017, there were more than 260,000 PAs and APRNs billing for Medicare services. According to the Medicare Payment Advisory Commission (MedPAC) approximately half of all Medicare patients receive billable services from an APRN or PA.[3] As noted by MedPAC, the number of Medicare beneficiaries being treated by PAs and APRNs continues to grow, making it essential that CMS remove outdated barriers to care for APRNs, PAs and their patients.

Removing barriers to practice for APRNs and PAs is consistent with major HHS initiatives such as increasing access to care in rural areas, fighting the opioid epidemic and improving maternal health. For example, recent reports by the American Hospital Association show that hospitals are advancing the ability of APRNs and PAs to practice to the top of their license, with a particular impact in rural areas where they are essential to addressing provider shortages. However, they also note that state and federal restrictions on practice, such as physician supervision requirements, hinder the maximal utility of PAs and APRNs.[4],[5] The Medicaid and CHIP Payment and Access Commission (MACPAC) recently found that authorizing NPs and PAs to prescribe medication-assisted treatment led to a substantial increase in access to treatment for patients, particularly in rural and underserved areas.[6] This highlights the positive impact of removing barriers to practice for APRNs and PAs.

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[1] APRNs include certified nurse-midwives (CNMs), certified registered nurse anesthetists (CRNAs), clinical nurse specialists (CNSs) and nurse practitioners (NPs).
[2] Impact of State Scope of Practice Laws and Other Factors on the Practice and Supply of Primary Care Nurse Practitioners, Final Report, page 4: https://aspe.CMS.gov/system/files/pdf/167396/NP_SOP.pdf.
[3] MedPAC June 2019 Report to Congress, page 151: http://medpac.gov/docs/default-source/reports/jun19_ch5_medpac_reporttocongress_sec.pdf?sfvrsn=0.
[4] https://www.aha.org/system/files/media/file/2020/01/aha-trendwatch-hospital-and-health-system-workforce-strategic-planning2_0.pdf, pages 12-13.
[5] https://www.aha.org/system/files/2019-02/rural-report-2019.pdf, at page 6.
[6] https://www.macpac.gov/publication/analysis-of-buprenorphine-prescribing-patterns-among-advanced-practitioners-in-medicaid/

As CMS seeks feedback on the elimination of regulatory and sub regulatory requirements that prevent providers from practicing to the top of their license, we want to bring to your attention several specific regulatory barriers to the practice of APRNs and PAs that impair patient access to health care, impede patient choice, and raise health care costs. Our proposals below are consistent with the EO, the CMS 2018 Rural Health Strategy,[7] and the Trump Administration's report on "Reforming America's Healthcare System Through Choice and Competition."[8] In the report, the Administration recommended reforming scope of practice laws to "allow all healthcare providers to practice to the top of their license, utilizing their full skill set."[9] In making this recommendation, the report highlighted economic analysis which showed that authorizing PAs and APRNs to practice to the top of their license would lower health care costs and increase access to care, particularly in rural and underserved communities.[10] This report builds off years of analysis from health policy groups[11],[12] and government agencies such as the Federal Trade Commission[13] showing that restrictive scope of practice laws impede competition and increase health care costs.

The Executive Order supports seniors' access to care and choice of provider by removing barriers to practice; we appreciate the focus that CMS has placed on implementing this provision of the Executive Order. Accordingly, the following barriers to care should be removed in order to increase access to care for Medicare patients and authorize PAs and APRNs to practice to the full extent of their education and clinical training:

- Authorize APRNs and PAs to certify and recertify patient eligibility for home health care and document the face-to- face assessment[14];
- Authorize PAs and APRNs to certify patient need for therapeutic shoes for treatment of diabetes[15];
- Authorize APRNs and PAs to order and supervise cardiac and pulmonary rehabilitation[16];
- Update Medicare facility Conditions of Participation to authorize PAs and APRNs to practice to the full extent of their education and clinical training in all settings. This includes removing unnecessary physician supervision requirements[17];
- Authorize PAs and APRNs to certify that patients are terminally ill and in need of hospice care[18];
- Authorize APRNs and PAs to refer their patients for medical nutrition therapy[19]; and

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[7] https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Rural-Strategy-2018.pdf, at page 4.
[8] https://www.hhs.gov/sites/default/files/Reforming-Americas-Healthcare-System-Through-Choice-and-Competition.pdf
[9] *Ibid,* at page 36.
[10] *Ibid,* at page 35.
[11] https://www.aei.org/wp-content/uploads/2018/09/Nurse-practitioners.pdf.
[12] https://www.brookings.edu/wp-content/uploads/2018/06/AM_Web_20190122.pdf.
[13] https://www.aanp.org/advocacy/advocacy-resource/ftc-advocacy.
[14] Code of Federal Regulations, Title 42 Parts 409, 410, 424, 440 and 484.
[15] Medicare Benefit Policy Manual Chapter 15, Section 140.
[16] 42 CFR § 410.47, 42 CFR § 410.49.
[17] 42 C.F.R.§ 482.52 -- Condition of participation: Anesthesia services; 42 C.F.R. § 416.42(b)(2) -- Conditions of Coverage: Surgical Services; 42 C.F.R. § 485.639 -- Conditions of Participation: Surgical Services. 42 C.F.R. § 482.12(c)(1)(i), (c)(2),(c)(3), (c)(4)--Condition of participation: Governing body; 42 C.F.R. § 482.22(b)(3), (c)(5)(i)--Condition of participation: Medical staff; 42 C.F.R. § 482.1(a)(5) Basis and Scope. 42 C.F.R. § 482.22(b)(3), (c)(5)(i) Condition of participation: Medical Staff; 42 C.F.R. §485.631; Skilled Nursing Facility admission/mandatory visits- 42 C.F.R. § 483.20, 42 C.F.R. § 483.30.; Inpatient Rehabilitation Facilities- 42 C.F.R. § 412.29, 42 C.F.R. § 412.622.
[18] 42 CFR § 418.22.
[19] 42 CFR § 410.132.

- Consistent with Section 5(c) of the Executive Order, end reimbursement disparities and ensure that APRNs and PAs are appropriately reimbursed across all HHS programs for the work performed rather than their occupation.

Thank you for your consideration of these comments and commitment to removing barriers to practice. We look forward to continued work with CMS to reduce burdens on APRNs, PAs and their patients that restrict access to care and prevent PAs and APRNs from practicing to the top of their education and clinical training. We would welcome an opportunity to engage in further discussions regarding the role of APRNs and PAs in the Medicare and Medicaid Programs. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs for the American Association of Nurse Practitioners, msapio@aanp.org, or Michael Powe, V.P. of Reimbursement and Professional Advocacy for the American Academy of PAs, michael@aapa.org.

Sincerely,

American Association of Colleges of Nursing
American Association of Nurse Anesthetists
American Association of Nurse Practitioners
American Association of PAs
American College of Nurse-Midwives
American Nurses Association
American Organization for Nursing Leadership
National Association of Pediatric Nurse Practitioners
National League for Nursing