



May 17, 2021

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services

Dear Secretary Becerra,

The American Academy of PAs (AAPA), on behalf of the approximately 150,000 PAs (physician assistants) throughout the United States, appreciates the opportunity to provide comments on the Department of Health and Human Services' (HHS) revisions to regulations regarding certain family planning services. First, we commend the agency for its goal of working to ensure affordable, equitable access to family planning services. AAPA is pleased with language in the proposed rule that will authorize PAs and nurse practitioners to expand the family planning services they deliver to patients, and we believe this proposed policy change can be a blueprint for the agency in modernizing and modifying similarly restrictive health policies and regulations. AAPA further supports provisions in the proposed rule that seek to protect patients from improper disclosure of personal health information and ensure access to timely and equitable patient-centered family planning services.

Removal of Physician-Centric Language to Bolster Patient Access

In HHS' proposed rule, the department is proposing to revise §59.5(b)(1) to replace physician-centric language. Specifically, the revision would indicate that a consultation for medical services related to family planning can be provided by a "healthcare provider" as opposed to the current language that specifies "physician consultation." Explanatory language in the proposed rule specifically notes that this change is being proposed to acknowledge that such consultations may also be provided by PAs. AAPA supports this revision and requests that the modified language be finalized. PAs are well qualified to provide this service and removing the outdated physician-centric language eliminates an unnecessary access barrier for patients.

We also note the restrictive language appearing in 42CFR 59.5(b)(6) which states “provide that family planning medical services will be performed under the direction of a physician with special training or experience in family planning.” AAPA strongly encourages HHS to amend this language and specifically authorize PAs to direct family planning medical services which are clearly within a PA’s scope of practice, education and competence.

AAPA believes it is important to recognize that the physician-centric language HHS is proposing to change in this rule is not the only of its kind. Obsolete physician-centric regulatory language runs counter to the fact that PAs are clinically prepared, educated and competent to deliver the full range of needed clinical care. Independent research on the quality of care provided by PAs, as well as the growing number of authorizations from HHS and its agencies for PAs to provide services that were previously reserved for physicians, lend greater support for the need to address such restrictive language where it still exists.

One example of restrictive language is the unnecessary requirements for physicians to provide certain services in skilled nursing facilities (SNFs). During the public health emergency, CMS authorized the delegation of “physician-only” visits in SNFs to PAs, if there is no conflict with state law or facility policy. This regulatory flexibility has worked exceedingly well and has been essential in ensuring uninterrupted care to nursing home residents. AAPA sees no clinical justification for re-instituting these outdated practice restrictions when experience has demonstrated the high-quality care PAs deliver in SNFs.

The Medicare program authorizes PAs to perform services that are otherwise provided by physicians. Patient access to care is improved, especially in rural and underserved communities, when PAs are authorized to deliver care to the full extent of their state law scope of practice and training. Consequently, HHS should eliminate and/or work with Congress to change “physician-only” requirements for all Medicare services that are within a PA’s legal scope of practice and for which PAs are educated and clinically competent to perform.

Provisions to Protect Patient Confidentiality and Support Patient-Centered Access to Care

AAPA supports HHS efforts to protect patient confidentiality. As health care professionals, PAs know that a patient receiving care requires a high level of trust with their care professional. This trust includes an understanding that any information or concerns they vocalize, or treatment received, not be disclosed without their consent. AAPA agrees with HHS’ efforts that all health professionals exercise appropriate safeguards to protect patient confidentiality with sufficient deidentification of patient information whenever possible. In instances when confidential information is either required to be, or inadvertently, disclosed to individuals or entities other than the patient, the patient should be immediately informed with an adequate explanation.

AAPA further supports HHS efforts to ensure patients receiving family planning services have access to care they deem most appropriate to their healthcare needs and desires. Medical treatment decisions are reached by the patient in consultation with their health professionals, with patients as the ultimate authority on which

care options they wish to pursue. Consequently, if a patient is unable to access a “broad range of acceptable and effective medically approved family planning methods and services” at the Title X site they visit, AAPA supports the requirement that a patient be provided with a referral to a site which provides desired treatment options in a manner that reduces access constraints for the patient seeking those services.

Thank you for the opportunity to provide feedback on the Family Planning Services proposed rule. AAPA welcomes further discussion with CMS regarding these issues. For any questions you may have please do not hesitate to contact Michael Powe, AAPA Vice President of Reimbursement & Professional Advocacy, at michael@aapa.org.

Sincerely,

A handwritten signature in black ink that reads "Beth Smolko". The signature is written in a cursive, flowing style.

Beth R. Smolko, DMSc, MMS, PA-C
President and Chair of the Board