



January 17, 2020

Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Blvd.  
Baltimore, MD 21244

**Re: Feedback on Scope of Practice**

Dear Administrator Verma,

The American College of Physicians (ACP) appreciates the opportunity to provide input and recommendations on Medicare scope of practice regulations. ACP is the largest medical specialty organization in the United States with members in more than 145 countries worldwide. ACP membership includes 159,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Section 5 of Executive Order #13890, Protecting and Improving Medicare for Our Nation's Seniors, directs the Secretary of Health and Human Services to:

- “(propose) a regulation that would eliminate burdensome regulatory billing requirements, conditions of participation, supervision requirements, benefit definitions, and all other licensure requirements of the Medicare program that are more stringent than applicable Federal or State laws require and that limit professionals from practicing at the top of their profession”; and
- “(conduct) a comprehensive review of regulatory policies that create disparities in reimbursement between physicians and non-physician practitioners and proposing a regulation that would, to the extent allowed by law, ensure that items and services provided by clinicians, including physicians, physician assistants, and nurse practitioners, are appropriately reimbursed in accordance with the work performed rather than the clinician’s occupation.”

ACP appreciates CMS’ continued interest in eliminating the substantial administrative burdens that physician practices face every day. In August 2019, ACP provided detailed recommendations on how CMS can address such burdens (1). ACP strongly supports multi-payer Alternative Payment Models and efforts to facilitate alignment across payers by

standardizing billing and documentation requirements and performance metrics across programs and models. CMS should also work to alleviate administrative burdens related to prior authorizations, which detract from the amount of time physicians have to devote to patient care.

### The Need for Dynamic Clinical Care Teams in Medicare

Team-based care is associated with better patient outcomes and may be linked to improved clinician well-being (2). Health care teams comprised of primary care physicians and other health care professionals may help meet patient demand resulting from primary care workforce shortages (3). ACP strongly supports the concept of dynamic clinical care teams, where the unique skills of each clinician, including physicians, nurse practitioners, and physician assistants, are used to provide the best care for the patient as the patient's needs dictate, while the team as a whole must work together to ensure that all aspects of a patient's care are coordinated for the benefit of the patient (4). Within the clinical care team context, the College adamantly believes in the importance of patients having access to a personal physician who is trained in the care of the “whole person” and has leadership responsibilities for the team, consistent with the Joint Principles of the Patient-Centered Medical Home (5). However, well-functioning teams will assign responsibilities to advance practice registered nurses, other registered nurses, physician assistants, clinical pharmacists, and other health care professionals for specific dimensions of care commensurate with their training and skills to most effectively serve the needs of the patient. In a dynamic health care team, the health care professional who can most effectively serve the patient’s needs at that time—whether a physician or other health care professional—assumes clinical responsibility for the patient.

### Collaborative practice agreements and other requirements for non-physician health care professionals

ACP is concerned that the EO directs the Secretary to propose a regulation that could undermine the patient-physician relationship and team-based, coordinated care. **Specifically, we oppose any changes that would permit non-physician health care professionals to practice independent of a physician-led health care team or circumvent state laws on supervision and collaborative practice agreements.** To foster real teamwork, these requirements should be respectful of the professionalism, experience, and skills of each clinician and be directed solely to ensuring ongoing, team-based communication and exchange of information, consultation, and appropriate referrals between and among the clinical disciplines involved in a patient's care. They should not restrict clinicians from providing a level of care that is commensurate with, but does not extend beyond, their training and competencies.

Proponents of loosening regulations that encourage team-based care often argue that non-physician health care professionals are more likely to work in medically-underserved areas, but that may not be case (6). ACP recommends that in areas where it may not be feasible for a patient to have immediate, in-person access to a physician, the patient should have access to a “virtual clinical care team” that may consist of a team of physicians and other health care professionals who are not physically co-located. Telemedicine and other tools would enable clinical care team members to provide clinical consultation and decision support. Allowing Medicare-participating clinicians to practice independently and outside of the team would

waste the opportunity to ensure all beneficiaries, including those living in medically-underserved areas, are able to benefit from coordinated, team-based care.

### Payment disparities between physicians and non-physician health care professionals

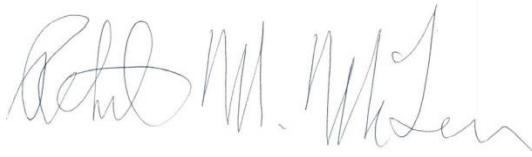
ACP is concerned that the EO directs the Secretary to review and potentially propose changes to Medicare reimbursement policies that would “ensure that items and services provided by clinicians, including physicians, physician assistants, and nurse practitioners, are appropriately reimbursed in accordance with the work performed rather than the clinician’s occupation.” In many practices, non-physician clinicians are vital members of the clinical care team with skills that are complimentary, but not equivalent to, physicians. Non-physician health care professionals generally do not have the same level and duration of training or direct patient care experience as physicians.

For example, at least three of an internal medicine physician’s seven or more years of medical school and postgraduate training are dedicated to learning how to prevent, diagnose, and treat diseases that affect adults (7). Internists receive in-depth training in the diagnosis and treatment of conditions that affect all organ systems. Internists are trained to solve puzzling diagnostic problems and manage patients in both acute and chronic situations where several illnesses may occur and interact at the same time. They are also trained in the essentials of primary care internal medicine, which incorporates an understanding of disease prevention, wellness, substance abuse, and mental health. Internists are often accordingly and appropriately expected to provide high-level clinical leadership within the clinical care team for care of adolescent, adult, and elderly patients with more complex or unusual illnesses and diagnostic challenges, highly coordinated with all team members who contribute to the patient’s care. Current Medicare payment policy appropriately recognizes that physicians, because they have more extensive training and associated skills, are paid more than clinicians with less extensive training and associated skills. Because of this higher level of training and expertise, internal medicine physicians are often responsible for treating more complex patients than non-physicians, and their billing patterns may reflect their patient’s higher severity of illness.

Additionally, under “incident to” billing, Medicare pays the full reimbursement amount to a nurse practitioner or physician assistant if it is billed under the supervising physician’s national provider identifier (NPI), but 15% less if billed under the non-physician clinician’s NPI. **ACP supports incident to billing because it helps to facilitate and encourage care coordination across a team of clinical professionals, a critical component as Medicare moves toward value-based payment and delivery models** (8). Maintaining incident to billing ensures that practices have the resources to collaborate and function at their greatest capacity to deliver high-quality, team-based care. If incident to billing were eliminated, team-based primary care practices would be disproportionately affected and patient access could be reduced.

Thank you for considering our comments.

Sincerely,



Robert M. McLean, MD, MACP  
President  
American College of Physicians

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[https://www.acponline.org/acp\\_policy/letters/acp letter to cms re administrative burdens august 2019.pdf](https://www.acponline.org/acp_policy/letters/acp_letter_to_cms_re_administrative_burdens_august_2019.pdf)

2 <https://nam.edu/implementing-optimal-team-based-care-to-reduce-clinician-burnout/>

3 <https://www.healthaffairs.org/doi/pdf/10.1377/hlthaff.2012.1086>

4 <https://annals.org/aim/fullarticle/1737233/principles-supporting-dynamic-clinical-care-teams-american-college-physicians-position>

5 [https://www.aafp.org/dam/AAFP/documents/practice\\_management/pcmh/initiatives/PCMHJoint.pdf](https://www.aafp.org/dam/AAFP/documents/practice_management/pcmh/initiatives/PCMHJoint.pdf)

6 <https://www.ama-assn.org/system/files/corp/media-browser/premium/arc/ama-issue-brief-independent-nursing-practice.pdf>

7 <https://www.acponline.org/about-acp/about-internal-medicine>

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[https://www.acponline.org/acp\\_policy/letters/acp comments to medpac recommendation to end incident to billing 2019.pdf](https://www.acponline.org/acp_policy/letters/acp_comments_to_medpac_recommendation_to_end_incident_to_billing_2019.pdf)