May 28, 2024

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue SW
Washington, DC 20201

Submitted electronically to www.regulations.gov

Re: Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program and Value-Based Purchasing Program for Federal Fiscal Year 2025

Dear Secretary Becerra:

The American Nurses Association (ANA) is pleased to comment on the Centers for Medicare & Medicaid Services (CMS) Fiscal Year 2025 Prospective Payment System proposed rule for skilled nursing facilities (SNFs). Our comments focus on proposals to add quality measures to SNF reporting and performance programs and continue to urge the agency to work closely with nurses to address health equity in our health care delivery system, as detailed in this comment letter urging CMS to:

1. **Finalize proposed provisions for the Quality Reporting Program (QRP) and Value-Based Purchasing (VBP) programs to address gaps in quality across SNFs and health inequities experienced by Medicare beneficiaries.**
2. **Construct and execute a plan to leverage data on SNF quality data to inform implementation of final minimum staffing standards for long-term care.**
3. **Explore regulatory and administrative options to increase transparency of SNF providers' expenditures on nursing care, including care provided by advanced practice registered nurses (APRNs).**

ANA appreciates thoughtful consideration of the following comments as the agency prepares the final rule.

1. **CMS must finalize proposed provisions for the QRP and VBP programs to address gaps in quality across SNFs and health inequities experienced by Medicare beneficiaries.**

ANA firmly supports the continued integration of health equity initiatives throughout CMS programs, tailored to improve quality and equitable outcomes for SNF patients. Delivering equitable care and driving more equitable health outcomes have long been ethical imperatives for the nursing profession. Nurses embrace diversity and engage in equity-focused care, while working to remove unconscious biases to effectively promote meaningful patient outcomes. Ultimately, nurses are key in designing, directing, and delivering care that appropriately meets the needs of patients, improves access to needed care, promotes positive outcomes, and reduces disparities. Nurses, in addition to providing quality care to patients, often serve as advocates for their patients and are best positioned to identify factors that could result in inequitable health outcomes. When supported in their work, nurses are equipped to

utilize this information to fashion appropriate interventions to alleviate the impact of health-related social needs.

ANA appreciates the agency's focus on equity through the SNF payment rulemaking as it examines the possible inclusion of measures on social determinants of health (SDOH). CMS suggests additional collection of measures on vaccination, pain management, depression, and patient experience and solicits feedback in a request for information. ANA encourages CMS to pursue development of these identified measures as part of larger equity efforts within the program. We believe collecting data on these measures will encourage improvements and could potentially inform future efforts to address inequities in SNF care.

We know nurses are the likely staff to collect and document these measures for individual patients. As nurses coordinate care and coach their patients, they are best positioned to identify the most common socioeconomic and sociodemographic barriers their patients face. Nurses are key partners in CMS' effort to ensure that quality measures truly capture the needs of all patients and provide the highest quality care for the best value.

Nurses are on the front lines of the health care system, and they spend more time with patients than other health care professionals. In addition, while ANA supports seeking approaches to quantify disparities faced by patients, we urge the agency to balance any reporting requirements so as not to create an undue administrative burden on clinicians—especially nurses. Quantifying health care disparities and barriers faced by patients is extremely nuanced due to the sensitive nature of this issue. Nurses in SNFs understand these nuances as they interact with and advocate for patients and their families. Moreover, nurses are leaders in implementing processes that further quality patient care and highlight existing gaps in care delivery, leading to measurable improvements.

ANA continues to call on CMS to seek out and incorporate nurses' clinical expertise and compassion as they work to advance health equity, as recommended in the Institute of Medicine's Future of Nursing 2020-2030 report, Charting a Path to Achieve Health Equity.[1] Some of the recommendations in the report call on government agencies and other stakeholders to take action that allow nurses to comprehensively address social determinants of health across care settings, allow nurses to practice to the top of their license, support the mental well-being of nurses and ensure a robust and diverse workforce ready for future challenges, and implement payment strategies that support addressing patients' social needs and health equity challenges. The report also specifically calls on CMS, with other federal agencies, to convene nurses and other key stakeholders to work together to identify research areas and other evidence-based approaches that examine the impact of nursing services on patients' health and nurses' well-being. CMS should look to this work as the agency continues its focus on advancing health equity through policies and programs.

An overly burdensome reporting approach may undermine the critical relationship between the nurse and patient by interfering in the nurse's ability to truly ascertain the patient's needs and challenges. Patients might be hesitant to fully disclose their individual situations if they feel disconnected from the nurse tasked with collecting data. Any reporting requirements must preserve the ability of the nurse to

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[1] National Academy of Medicine; National Academies of Sciences, Engineering, and Medicine. The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity. https://nap.nationalacademies.org/catalog/25982/the-future-of-nursing-2020-2030-charting-a-path-to. Accessed May 2024.

use a patient- and family-centered approach that allows for natural interactions to better reveal a patient's circumstances. As such, we urge CMS to work closely with nurses to ensure that collecting sociodemographic data is balanced with the provision of whole person care as the agency determines which measures and processes will be utilized to address health care disparities and advance health equity.

2. **Construct and execute a plan to leverage data on SNF quality to inform implementation of final minimum staffing standards for long-term care.**

ANA strongly supports CMS' National Quality Strategy to advance health equity and increase the quality of health care delivery.[2] The shift to truly person-centered, safe, quality care along the entire life cycle is an important and necessary step forward. ANA specifically applauds the Universal Foundation to streamline quality measures to produce better data and free resources to solve core health inequity issues. The Universal Foundation's building block approach allows flexibility for different populations and care settings to see their specific equity and access gaps while reducing documentation burden. This balance between gathering the necessary data to improve care delivery and relieving documentation burden is critical for nurses as they are the ones implementing person-centered quality measures.

ANA supports use of the quality measures discussed in the proposed rule for SNFs, acknowledging these measures are in different phases of development and deployment. We firmly believe that nursing services are core to attaining improved and consistently high scores on quality assessments in SNFs. ANA has applauded CMS' release of the May 2024 final rule establishing minimum staffing standards for personnel in long-term care facilities, including requirements for around-the-clock registered nurses (RNs). The staffing provisions in the final rule, while welcome, are not slated to be implemented until 2026 at the earliest.

CMS and SNF providers have an unprecedented opportunity to utilize existing measures and accelerate use of newer quality measures to make progress now on improved staffing and quality in SNFs. This will help facilities and the agency identify informed approaches to best prepare for the new minimum standards. For example, the Nurse Turnover measure can help providers understand their individual staffing challenges in relation to other providers in the system. If excessive nurse turnover is not present, workforce development can be focused on other personnel critical to SNF care teams. With robust analysis of quality data and other data, CMS can construct baseline information on quality ahead of the staffing final rule's implementation. This information also should be publicly available so that all stakeholders have an opportunity to assess the impact of the staffing rule following its implementation.

We urge CMS to continue to use quality data and research resources to spotlight SNFs that provide measurable, high quality, equitable care to Medicare beneficiaries. We further believe CMS has a current opportunity to begin integrating future measure deployment with the implementation of staffing standards. Toward that end, we urge CMS to work with stakeholders on a plan to leverage SNF quality data to improve care immediately, while informing patient-centered implementation of minimum staffing standards in SNFs.

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[2] Centers for Medicare and Medicaid Services. National Quality Strategy. 2022. https://www.cms.gov/medicare/quality/meaningful-measures-initiative/cms-quality-strategy Accessed May 2024.

3. **Explore regulatory and administrative options to increase transparency of SNF providers' expenditures on nursing care, including care provided by advanced practice registered nurses (APRNs).**

ANA urges CMS to consider ways to collect and publicly report information about the economic value of nurses in SNF care. We believe SNF providers should account transparently for their annual costs of nursing services. Specifically, providers should be required to report direct and indirect costs associated with delivery of high-quality nursing services, including APRN care. Moreover, this information should also be transparent and publicly available. The services of a nurse are key to high-quality, equitable health outcomes and patient experiences. Yet, the value of nursing services is not accounted for in SNF cost reporting. Nursing costs are unseen, and are typically considered as overhead, labor, or part of room and board. Yet nursing expenditures reflect staffing decisions that relate directly to quality metrics, patient satisfaction, and outcomes. ANA believes that CMS must be able to review and analyze nursing costs, at the SNF level and in aggregate, in order to address the nursing crisis and incentivize the care delivery that will drive improvements in care. Transparency of nursing costs to providers will enable CMS to exercise appropriate oversight as well as promulgate payment policies that address nurse value and quality care.

ANA is the premier organization representing the interests of the nation's over 5 million RNs, through its state and constituent member associations, organizational affiliates, and individual members. ANA advances the nursing profession by fostering high standards of nursing practice, promoting a safe and ethical work environment, bolstering the health and wellness of nurses, and advocating on health care issues that affect nurses and the public. ANA members also include the four APRN roles: nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs), and certified registered nurse anesthetists (CRNAs). RNs serve in multiple direct care, care coordination, and administration 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 including essential self-care, and provide advice and emotional support to patients and their family members.

ANA appreciates the opportunity to submit these comments and looks forward to continued engagement with HHS. Please contact Tim Nanof, Vice President, Policy and Government Affairs, at (301) 628-5166 or Tim.Nanof@ana.org, with any questions.

Sincerely,

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cc: Jennifer Mensik Kennedy, PhD, MBA, RN, NEA-BC, FAAN, ANA President
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