

# **APRNs and the Medicare Conditions of Participation for Hospitals**

## **Putting the Institute of Medicine's Recommendations into Action**

On October 5, 2010, the Robert Wood Johnson Foundation and the Institute of Medicine (IOM) released a ground breaking report titled *“The Future of Nursing: Leading Change, Advancing Health.”* The IOM's report focused on the need to reduce barriers and improve access to services provided by advanced practice registered nurses, including certified nurse-midwives, certified registered nurse anesthetists, clinical nurse specialists, and nurse practitioners. A key recommendation from the IOM report calls for reform of the requirements for hospital participation in the Medicare program to ensure that advanced practice registered nurses are eligible for clinical privileges (including admitting privileges) and membership on medical staff within local community hospitals throughout the nation. Concerns exist that the processes used today are failing communities by denying them access to valuable services offered by APRNs.

### **BACKGROUND:**

The Center for Medicare and Medicaid Services (CMS) within the U.S. Department of Health and Human Services maintains regulations, known as the Conditions of Participation, guiding hospitals on establishing and implementing procedures for rendering membership on medical staffs and conveying clinical privileges to health professionals. These regulations and the underlying law require greater clarity and uniformity.

### **POSITION:**

The organizations listed below support reforms to the Medicare Hospital Conditions of Participation and the underlying Medicare statute to clarify the requirements for hospital participation in the Medicare program to ensure that APRNs are eligible for clinical privileges, admitting privileges, and membership on medical staff. We believe a reformed process will better ensure patients unfettered access to qualified certified nurse-midwives, certified registered nurse-anesthetists, clinical nurse specialists, and nurse practitioners.

Specifically, we support legislation that would reform the process for decisions on clinical privileges to ensure they are based on an objective evaluation of an applicant's credentials, free of anticompetitive intent or purpose. We believe it is important that the following factors are not used for consideration in the determination of qualifications for clinical privileges at a facility:

- Membership or lack of membership in a professional society or association.
- Lawful actions taken with the intent to solicit business, such as advertising or lowering fees.
- Participation in prepaid group health plans, salaried employment, or any other manner of furnishing items or services on other than a fee-for-service basis.
- Support for, training of, or participation in a private group practice with members of a particular class of health professional.
- Practices with respect to testifying in malpractice suits, disciplinary actions, or any other type of legal or administrative proceeding.
- Willingness to refer a certain number of patients or clients in need of the services of a facility or agency to a particular facility or agency.

Additionally, we support legislation that would ensure decisions for appointment to a medical staff take into account recommendations of the existing active members of the medical staff and include at least one member who is an advanced practice registered nurse.

We believe uniform procedures for consideration of applications for medical staffing and clinical privileging can benefit all health professionals and the patients they serve. To this end we support legislation that would require hospitals to establish and implement uniform standards and procedures for applications, and the consideration of applications, from a candidate for appointment to the hospital medical staff and for the granting of clinical privileges in the nation's hospitals. Not later than 60 days after the date of the receipt of a complete application from such a candidate, a hospital would be required to make a decision on the application and notify the candidate of such decision in writing.

In the case of a decision by a hospital to deny an application from a candidate for appointment to the medical staff or to deny clinical privileges, we support legislation that would require the decision to include a full statement of the rationale for such decision, including specific information relied upon by the hospital in the decision, and information with respect to rights to a hearing. Such hearing should allow a thorough review of the complete record of the decision of the hospital with respect to the candidate whose application is denied, including information relating to all preliminary decisions. Discovery, the taking of evidence, and testimony of witnesses would be permitted. Insofar as a hospital is represented by counsel at any such hearing, the candidate would also have the right to be represented by legal counsel.

The United States has the opportunity to transform its health care system, and APRNs can and should play a fundamental role in this transformation. However, the power to improve the current regulatory, business, and organizational conditions does not rest solely with nurses; government, businesses, health care organizations, professional associations, and the insurance

industry all must play a role. Working together, these diverse parties can help ensure that the health care system provides seamless, affordable, quality care that is accessible to all and leads to improved health outcomes.

For more information on this issue, please contact Patrick Cooney at 202-347-0034 or at [patrick@federalgrp.com](mailto:patrick@federalgrp.com).

**American Academy of Nurse Practitioners**  
**American Association of Colleges of Nursing**  
**American Association of Nurse Anesthetists**  
**American College of Nurse-Midwives**  
**American College of Nurse Practitioners**  
**American Nurses Association**  
**National Association of Clinical Nurse Specialists**  
**National League of Nursing**