



Established in 1969

American Nephrology Nurses' Association

December 23, 2011

Marilyn B. Tavenner
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9070-P
P.O. Box 8012
Baltimore, MD 21244-1850

Re: CMS 9070-P: Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction Proposed Rule

Dear Administrator Tavenner:

On behalf of the American Nephrology Nurses' Association (ANNA) I am pleased to have the opportunity to provide the Center for Medicare and Medicaid Services (CMS) with comments regarding the Proposed Rule on Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (CMS 9070-P). Specifically, ANNA is interested in the proposed changes to 42 CFR part 494, which provides Conditions for Coverage (CfC) for Medicare End Stage Renal Disease (ESRD) facilities.

ANNA is a professional nursing organization of more than 10,000 registered nurses practicing in nephrology. ANNA members are intimately involved in the supervision and delivery of care to adults and children with kidney disease. Our members work in a variety of settings, including dialysis facilities, transplant centers, Chronic Kidney Disease (CKD) clinics, acute care, ambulatory clinics, and long-term care. ANNA's mission is to advance the nephrology nursing practice and positively influence outcomes for patients with kidney disease through advocacy, scholarship, and excellence.

ANNA applauds CMS for recognizing the need to reduce the burden of implementation of Federal Life Safety Code (LSC) requirements for ESRD facilities. The standard process for assuring patient safety in the event of a fire is immediate evacuation, rather than sheltering in place, and ANNA supports the changes outlined in the proposed rule and appreciates CMS's efforts to promote efficiency without compromising patient safety.

On August 7, 2008, ANNA joined with Kidney Care Partners (KCP) in a letter to CMS expressing our concern that "compliance with the LSC will present a tremendous burden and require significant expenditures by providers." ANNA agrees with CMS that the February 9, 2009 CfC, which included regulations on LSC that meant to "standardize CMS regulations across provider types," were duplicative and many of the provisions were already in place in state and local level.

ANNA also supports CMS's assertion that the range of differing cost projections in complying with the LSC makes it difficult to estimate the associated costs in implementing these regulations. ANNA agrees with the following statement by CMS in the proposed rule:

These amounts represent a significant financial burden on facilities, with little or no improvements in patient safety from fire for a majority of them. Expenditures of this magnitude would likely divert resources away from areas which do affect dialysis patient safety.

ANNA shares the concern expressed by CMS regarding the impact on dialysis patients who would need to be relocated during renovations of the facilities to comply with the CfC standards. ANNA believes that the relocation process would have greatly limited patient access to dialysis treatment, particularly in rural areas, underserved urban locations, and smaller dialysis facilities. ANNA is also concerned that some providers might elect to close facilities in lieu of relocating or renovating the facility.

ANNA looks forward to continuing to work with CMS to identify and reduce regulations that present a burden to the ability of nephrology nurses and other providers in the delivery of the highest quality care for Medicare dialysis patients.

Sincerely,

A handwritten signature in black ink, appearing to read "Rowena Elliott".

Rowena Elliott, PhD, RN, CNN, BC, CNE
President