

MEMORANDUM OF CONCERN

Medicaid Redesign Team Proposal #200

Short Title: Change in scope of practice for mid-level providers to promote efficiency and lower Medicaid costs

Description: Expand the scope of practice for RNs, LPNs, and home health aides to improve access to services and decrease associated costs in delivering services

- *Reforms the state's supervision and orientation regulations for home health aides and personal care workers, Permits nurses/patients (under their scope of practice/practice exemption) to orient/direct HHAs and PC workers to provide "nursing care" as is currently allowed in the Consumer Directed Personal Assistant Program*
- *Allow nurse practitioners to sign medical evaluations for ACF/AL*
- *Eliminate restrictions on nursing practice in ACFs*
- *LPNs to complete assessments in LTC settings*
- *Extension of medication aides into nursing homes*
- *Expand the scope of practice of home health aides to include the administration of pre-poured medications to both self-directing and non self-directing individuals*

To ensure that New Yorkers are receiving the best quality care, it is essential that appropriate members of the healthcare workforce are providing the right care in the right place. The New York State Nurses Association (NYSNA) has significant concerns with portions of the Medicaid Redesign Team's proposal that seeks to expand the roles of healthcare personnel beyond that for which they have been educated and trained.

Licensed Practical Nurses

Medicaid Redesign Team Proposal #200 is inconsistent with current Education Law; Licensed Practical Nurses (LPNs) do not receive the education that is required to assess patients. Section 6902 of Article 139 of Education law differentiates between the legal definitions of RNs and LPNs. Nursing diagnosis is not included in the scope of practice of LPNs; they may not interpret or act independently on clinical data; they may not triage; create, initiate or alter nursing care plans. Licensed practical nurses function in a dependent role under the direction of the registered nurse, in which they may

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administer certain medications, provide nursing treatments and gather patient information that can be used by the registered nurse to make specific patient care decisions. Registered nurses and licensed practical nurses are not interchangeable and the inappropriate utilization of LPNs may expose facilities to litigation and the LPN to a charge of acting outside of her or his scope of practice (<http://www.op.nysed.gov/prof/nurse/nurse-scope-lpn-rn.htm>).

Medication Administration

Administering medication is not simply the act of identifying the correct drugs and the correct patients. When administering medications, particularly to non self-directing patients, licensed professionals observe for side effects and whether or not the medications are providing the intended therapeutic response. Unlicensed assistive personnel are unable to function in this capacity. Licensed professionals are able to determine whether a patient's condition makes the administration of a medication contraindicated. Home health aides and medication aides do not possess the necessary qualifications to administer medications to non-self-directing or medically fragile patients, whether they are in the home or nursing home. As Maryanne Barra (2011) explains in her paper in the *Journal of Nursing Law*, "[A]lthough the MAT [medication assistant technician] is in direct contact with the patient, he or she lacks the clinical and educational background that the nurse possesses from years of education and practice to determine and report changes in the patients' status" (p. 2). Of particular concern in the nursing home setting, where more of the patients are likely to be medically fragile and non self-directing, is the absence of on-site, twenty-four hour registered professional nurses and/or prescribers (e.g. nurse practitioners) to assess and/or adjust medication regimens as needed, based on the patient's response or condition.

In a study published in the *Journal of the American Medical Directors Association*, Hughes, et al. (2006) state that "[O]ur data indicate that the use of medication technicians to administer medications may not be an advisable strategy in the present climate of concern regarding the quality of nursing home care" (p. 302). Their data reveals that the facilities that employed medication technicians had more deficiency citations for activities related to medication errors and pharmaceutical services, which include medication administration. The study authors conclude that "[T]he use of medication technicians may not be the solution to an increasingly important problem [poor quality medication management in nursing homes]... the quality of nursing home care may ultimately depend on how much it and the residents are valued by society" (p. 303).

Home Health

The purpose of the Consumer Directed Personal Assistance Program is to provide the chronically ill or physically disabled, self-directed population that receives services under the medical assistance program, more options for obtaining such services. It is critically important that the patient, or their family member, be self-directing and capable of instructing and directing a personal assistant. NYSNA has historically supported self-directing patients in their efforts to receive appropriate care in their homes. It is essential though, that the patients or the family members who are participating in consumer-directed models of care be self-directing. It is equally important that a registered nurse

determines that the patient or family member is appropriate for a consumer-directed model of care and that they be involved in an ongoing and regular basis, in evaluating the quality of care provided. Care in the home should include registered nurses in a significant way in the initial assessment, care management, provision of complex care and in the ongoing quality assessments of all individuals receiving services.

NYSNA encourages you to look beneath the superficial layer of short-term workforce savings to see the long-term sacrifices in patient care and well-being when members of the healthcare team are functioning in spheres for which they are not educationally prepared. The Code of Ethics for Nurses (ANA, 2010) requires the RN to promote, advocate for, and strive to protect the health, safety and rights of the patient. NYSNA supports legislation and regulatory changes that remove barriers to practice and allow registered nurses and advanced practice registered nurses such as nurse practitioners, to practice to the full extent of their education and scope. NYSNA cannot support proposals that seek to allow licensed practical nurses to function in areas for which they are not educated and that are outside of their professional scope of practice. Nor can NYSNA support proposals that lack adequate patient care safeguards and supervision, yet would allow unlicensed assistive personnel (who have neither the education nor the professional licensure) to administer medications in nursing homes or that would expand the services provided to non self-directing patients in the home setting by unlicensed assistive personnel. These proposals are short-sighted and the ultimate outcome is a poorer quality of patient care leading to unnecessary hospital admissions, re-admissions and adverse events, resulting in increased patient morbidity, mortality, and cost of care.

References

American Nurses Association. (2010). *Code of ethics for nurses with interpretive statements*. Washington, DC: American Nurses Association.

Barra, M. (2011). Nurse delegation of medication pass in assisted living facilities: Not all medication assistant technicians are equal. *Journal of Nursing Law*, 14(1), 3-10..

Hughes, C.M., Wright, R.M., & Lapane, K.L. (2006). Use of medication technicians in US nursing homes: Part of the problem or part of the solution? *Journal of the American Medical Directors Association*, 7: 294-304.

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