

November 2, 2022

The Honorable Richie Neal  
Chairman  
Committee on Ways and Means  
1102 Longworth House Office Building  
United States House of Representatives  
Washington, DC 20515

The Honorable Kevin Brady  
Ranking Member  
Committee on Ways and Means  
1139 Longworth House Office Building  
United States House of Representatives  
Washington, DC 20515

The Honorable Frank Pallone  
Chairman  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
United States House of Representatives  
Washington, DC 20515

The Honorable Cathy McMorris Rodgers  
Ranking Member  
Committee on Energy and Commerce  
2322 Rayburn House Office Building  
United States House of Representatives  
Washington, DC 20515

Dear Chairmen Neal and Pallone and Ranking Members Brady and McMorris Rodgers:

The undersigned medical professional organizations write to you in strong opposition to H.R. 8812, the “Improving Care and Access to Nurses Act,” or the “I CAN Act.” This legislation would endanger the quality of care that Medicare and Medicaid patients receive by expanding the scope of practice for non-physician practitioners (NPPs), including nurse practitioners (NPs), certified nurse midwives (CNMs), certified registered nurse anesthetists (CRNAs), clinical nurse specialists (CNS), and physician assistants (PAs).

In general, we are deeply concerned that this broad, sweeping bill endangers the care of Medicare and Medicaid patients by expanding the types of services NPPs can perform and removing physician involvement in patient care. This legislation would allow NPPs to perform tasks and services outside their education and training and could result in increased utilization of services, increased costs, and lower quality of care for our patients. Additionally, this bill will remove supervision requirements for CRNAs, a change that could have devastating quality outcomes for patients. Furthermore, the lack of clarity surrounding the impact and intent of section 401, Revising the Local Coverage Determination Process Under the Medicare Program, is troubling and could lead to unintended consequences. For example, this section could be interpreted as mandating that the Secretary of the Department of Health and Human Services prevent Medicare Administrative Contractors (MACs) from imposing any limitation on the types of NPPs who can provide specific items or services associated with a local coverage determination (LCD). This section also could be interpreted as preventing MACs from placing restrictions on NPPs who practice at the top of their license within an LCD, irrespective of state scope of practice laws. Regardless of the proper interpretation, the assessment of civil monetary penalties up to \$10,000 for each violation of section 401 will undermine efforts by HHS and MACs, working in concert with medical experts, to develop LCDs that provide the highest quality of care for patients.

Our organizations remain steadfast in our commitment to patients who have said repeatedly that they want and expect physicians to lead their health care team and participate in their health care determinations. In a recent survey of U.S. voters, 95 percent said it is important for a physician to be involved in their diagnosis and treatment decisions.<sup>1</sup> Yet the I CAN Act effectively removes physicians

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<sup>1</sup> <https://www.ama-assn.org/system/files/scope-of-practice-protect-access-physician-led-care.pdf>.

from important medical treatment decisions regarding a patient's care. Furthermore, despite claims to the contrary, expanding the scope of practice for NPPs does not increase patient access in rural or underserved areas. In reviewing the actual practice locations of primary care physicians compared to NPPs, it is clear that physicians and non-physicians tend to practice in the same areas of the state.<sup>2</sup> This is true even in those states where, for example, NPs can practice without physician involvement. These findings are confirmed by multiple studies, including state workforce studies.<sup>3</sup> The data is clear—scope expansions have not necessarily led to increased access to care in rural and underserved areas.

While all health care professionals play a critical role in providing care to patients and NPPs are important members of the care team, their skill sets are not interchangeable with those of fully educated and trained physicians. This is fundamentally evident based on the difference in education and training between the distinct professions.

- Physicians complete four years of medical school plus three to seven years of residency, including 10,000-16,000 hours of clinical training.<sup>4</sup>
- NPs, however, complete only two to three years of graduate level education, have no residency requirement, and complete only 500-720 hours of clinical training.<sup>5</sup>
- PAs complete two to two and half years of graduate level education with only 2,000 hours of clinical care and no residency requirement.
- CRNAs complete two to three years of graduate level education, have no residency requirement, and complete only 2,500 hours of clinical training.
- CNMs must have an RN license and have completed a master's program, which typically lasts two to three years. There is no residency requirement and no specific hours of clinical experience required for graduation, rather the accrediting body provides suggested guidelines for programs.
- CNS complete a master's degree but there is no residency requirement and only 500 clinical hours of training are required.<sup>6</sup>

Patients expect the most qualified person—physician experts with unmatched training, education, and experience—to be diagnosing and treating injured or sick individuals and making often complex clinical determinations. The reality is that NPPs do not have the education and training to make these determinations and we should not be offering a lower standard of care or clinical expertise for our nation's Medicare and Medicaid patients.

Moreover, NPPs overutilize services and unnecessarily increase costs by overprescribing, ordering more x-rays than are needed, and over engaging specialists. NPPs' overutilization can be seen through multiple examples, including the strong evidence that increasing the scope of practice of NPs and PAs has resulted in overuse of diagnostic imaging and other services. For example, in states that allow independent prescribing, NPs and PAs were 20 times more likely to overprescribe opioids than those in prescription-

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<sup>2</sup> <https://www.ama-assn.org/system/files/scope-of-practice-access-to-care-for-patients.pdf>.

<sup>3</sup> The Graduate Nurse Education Demonstration Project: Final Evaluation Report, Centers for Medicare and Medicaid Services. August 2019. <https://innovation.cms.gov/files/reports/gne-final-eval-rpt.pdf>; Oregon Center for Nursing (2020). Primary Care Workforce Crisis Looming in Oregon: Nurse Practitioners Vital to Filling the Gap, But Not Enough to Go Around. Portland, OR, Oregon Center for Nursing, pg. 16.

<sup>4</sup> <https://www.ama-assn.org/system/files/scope-of-practice-physician-training.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> <https://www.gmercyu.edu/academics/learn/become-a-clinical-nurse-specialist>.

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restricted states.<sup>7</sup> Additionally, multiple studies have shown that NPs order more diagnostic imaging than physicians, which increases health care costs and threatens patient safety by exposing patients to unnecessary radiation. For example, ordering x-rays increased substantially—more than 400 percent—by non-physicians, primarily NPs and PAs, between 2003 and 2015.<sup>8</sup> In addition, a recent study from the Hattiesburg Clinic in Mississippi found that allowing NPs and PAs to function with independent patient panels under physician supervision in the primary care setting resulted in higher costs, higher utilization of services, and lower quality of care compared to panels of patients with a primary care physician.<sup>9</sup> Additionally, a Mayo Clinic study compared the quality of physician referrals for patients with complex medical problems against referrals from NPs and PAs for patients with the same problems. Physician referrals were better articulated, better documented, better evaluated, better managed, and were more likely to be evaluated as medically necessary than NP or PA referrals, which were more likely to be evaluated as having little clinical value.<sup>10</sup> This sampling of studies clearly shows that NPs and PAs tend to prescribe more opioids than physicians, order more diagnostic imaging than physicians, overprescribe antibiotics, and are less able to understand and diagnose complex medical problems<sup>11</sup>—all which increase health care costs, threaten patient safety, and lead to poorer health care outcomes.

Finally, it is important to ensure that CRNAs are properly overseen. Anesthesia care is the practice of medicine. It is a highly time-dependent critical care-like service that demands the immediate availability of a physician’s medical decision-making skills, especially for the Medicare patient population. The Medicare anesthesia supervision rule is an important standard that was created for the health and safety of Medicare beneficiaries and must be preserved for their well-being. The current rule represents a well-established and functional compromise approach to physician clinical supervision. The unique structure of the rule sets a minimum physician supervision standard, while giving flexibility to states to utilize higher levels of clinical oversight or to “opt-out” of the rule. There is no literature to support the safety of eliminating physician clinical oversight of anesthesia. To the contrary, independent literature points to the risk to patients of anesthesia without appropriate physician clinical oversight.

Therefore, due to the increased education and training of physicians, the ability of physicians to more accurately treat and diagnose patients, the lack of additional access provided by expanding scope of practice laws, and the negative consequences of removing physicians from the care team, the undersigned organizations strongly urge the Committees to oppose the I CAN Act.

Sincerely,

American Medical Association

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<sup>7</sup> MJ Lozada, MA Raji, JS Goodwin, YF Kuo, “Opioid Prescribing by Primary Care Providers: A Cross-Sectional Analysis of Nurse Practitioner, Physician Assistant, and Physician Prescribing Patterns.” *Journal General Internal Medicine*. 2020; 35(9):2584-2592.

<sup>8</sup> D.J. Mizrahi, et.al. “National Trends in the Utilization of Skeletal Radiography,” *Journal of the American College of Radiology* 2018; 1408-1414.

<sup>9</sup> <https://ejournal.msmaonline.com/publication/?m=63060&i=735364&view=contentsBrowser>.

<sup>10</sup> Lohr RH, West CP, Beliveau M, et al. Comparison of the Quality of Patient Referrals from Physicians, Physician Assistants, and Nurse Practitioners. *Mayo Clinic Proceedings*. 2013;88:1266-1271.

<sup>11</sup> Sanchez GV, Hersh AL, Shapiro DJ, et al. Brief Report: Outpatient Antibiotic Prescribing Among United States Nurse Practitioners and Physician Assistants. *Open Forum Infectious Diseases*. 2016:1-4. Schmidt ML, Spencer MD, Davidson LE. Patient, Provider, and Practice Characteristics Associated with Inappropriate Antimicrobial Prescribing in Ambulatory Practices. *Infection Control & Hospital Epidemiology*. 2018:1-9.

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Academy of Consultation-Liaison Psychiatry  
American Academy of Allergy, Asthma & Immunology  
American Academy of Dermatology Association  
American Academy of Emergency Medicine  
American Academy of Family Physicians  
American Academy of Ophthalmology  
American Academy of Otolaryngic Allergy  
American Academy of Otolaryngology-Head and Neck Surgery  
American Academy of Physical Medicine and Rehabilitation.  
American Academy of Sleep Medicine  
American Association for Hand Surgery  
American Association of Clinical Urologists  
American Association of Neurological Surgeon  
American College of Allergy, Asthma and Immunology  
American College of Emergency Physicians  
American College of Medical Genetics and Genomics  
American College of Occupational and Environmental Medicine  
American College of Osteopathic Internists  
American College of Physicians  
American College of Radiology  
American College of Surgeons  
American Medical Women's Association  
American Orthopaedic Foot & Ankle Society  
American Osteopathic Association  
American Psychiatric Association  
American Society for Clinical Pathology  
American Society for Dermatologic Surgery Association  
American Society for Laser Medicine and Surgery  
American Society for Radiation Oncology  
American Society of Cataract and Refractive Surgery  
American Society of Echocardiography  
American Society of Neuroradiology  
American Society of Retina Specialists  
American Vein & Lymphatic Society  
College of American Pathologists  
Congress of Neurological Surgeons  
Heart Rhythm Society  
National Association of Spine Specialists  
Outpatient Endovascular & Interventional Society  
Society for Pediatric Dermatology  
Society of Interventional Radiology

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Medical Association of the State of Alabama  
Alaska State Medical Association  
Arizona Medical Association  
Arkansas Medical Society  
California Medical Association  
Colorado Medical Society  
Connecticut State Medical Society  
Medical Society of Delaware  
Medical Society of the District of Columbia  
Florida Medical Association Inc  
Medical Association of Georgia  
Hawaii Medical Association  
Idaho Medical Association  
Illinois State Medical Society  
Indiana State Medical Association  
Kansas Medical Society  
Kentucky Medical Association  
Louisiana State Medical Society  
Maine Medical Association  
MedChi, The Maryland State Medical Society  
Massachusetts Medical Society  
Michigan State Medical Society  
Mississippi State Medical Association  
Missouri State Medical Association  
Montana Medical Association  
Nebraska Medical Association  
Nevada State Medical Association  
New Hampshire Medical Society  
Medical Society of New Jersey  
New Mexico Medical Society  
Medical Society of the State of New York  
North Dakota Medical Association  
Ohio State Medical Association  
Oklahoma State Medical Association  
Pennsylvania Medical Society  
South Carolina Medical Association  
South Dakota State Medical Association  
Tennessee Medical Association  
Texas Medical Association  
Utah Medical Association  
Medical Society of Virginia

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Washington State Medical Association  
West Virginia State Medical Association  
Wisconsin Medical Society  
Wyoming Medical Society

Cc: The Honorable Lucille Roybal-Allard  
The Honorable David Joyce