ANA
AMERICAN NURSES ASSOCIATION

June 25, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1694-P
P.O. Box 8011
Baltimore, MD 21244-1850

Submitted electronically at: https://www.regulations.gov/

Dear Administrator Verma: The Alliance for Nursing Informatics (ANI) advances nursing informatics leadership, practice, education, policy and research through a unified voice of nursing informatics organizations. In collaboration with the American Nurses Association (ANA), together we have reviewed the Request for Information issued by CMS asking for input on Promoting Interoperability and Electronic Healthcare Information Exchange through Possible Revisions to the CMS Patient Health and Safety Requirements for Hospitals and Other Medicare- and Medicaid-Participating Providers and Suppliers. In that spirit, ANI and ANA offer our comments as nursing stakeholders.

ANI and ANA fully endorse the objective to promote interoperability and electronic health information exchange by addressing the obstacles that persist across the continuum of care. The proposed revisions address high impact areas related to patient safety and quality, while also addressing a key priority and focus of the quadruple aim: clinician and administrative burden. Specifically we recommend:

1. **Engaging Nurses as Key Stakeholders to Promote Successful Interoperability**
2. **Ensuring Parity of Resources and Incentives as a Critical Path to Promote Interoperability**
3. **Decreasing Provider Burden and Minimizing Workflow Disruptions**
4. **Aligning Policies for Fully Interoperable Health IT and EHR Systems**
5. **Establishing a Patient-Centered Approach to Ensure Patients' Rights to Information**

Details follow below along with comments on the implementation timeline.

Recommendation 1: Engage Nurses as Key Stakeholders to Promote Successful Interoperability

Long recognized as the most honest and ethical profession and most trusted health professionals[1], nurses play a significant role in patient advocacy and advancing a robust ecosystem of health information exchange and interoperability.

One of the major ways nurses engage patients and families in their care is through patient education. This role is particularly important at times of transitions in care and especially when patients are transitioned from professional care in a hospital to their own self-management. Therefore, we are particularly concerned about the proposal to remove the eCQM: Home Management Plan of Care Document Given to Patient/Caregiver. Rather than remove this, we suggest that this eCQM be strengthened to include education that is written at appropriate reading levels and formats so they are consumable by all patients. In addition, patient-centered education is an excellent category to consider for the proposed scoring method.

An important mission of interoperability and a vision for patient-centered care includes providing resources and tools that facilitate licensed clinicians to deliver care that is aligned with patients' preferences and empowers patients to be active partners in their health. **Professional nursing organizations, such as ANI and ANA, are well positioned to support collaboration with others to achieve the mission of interoperability aligned with a vision for patient-centered care.** ANI and ANA offer our professional nursing support and informatics expertise to achieve:

1) Secure exchange of electronic health information with, and use of electronic health information from, other health information technology and patient wearable devices, without special effort on the part of the user;

2) Complete access, exchange, and use of all electronically accessible health information for authorized use under applicable State or Federal law; and

3) No information blocking as defined in section 3022(a).

Recommendation 2: Ensure Parity of Resources and Incentives as a Critical Path to Promote Interoperability

Ensuring parity of available resources and infrastructure, including incentives, across all settings and providers in which patients receive care is paramount to the mission of interoperability and vision for patient-centered care. Rigorously designed studies have demonstrated that health information exchanges (HIE) can improve safety and reduce the cost of care - this knowledge infers that an imperative of HIE should include the equitable distribution of resources in order

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[1] Gallop Poll, December, 2017, "Nurses Keep Healthy Lead as Most Honest, Ethical Profession", retrieved from: http://news.gallup.com/poll/224639/nurses-keep-healthy-lead-honest-ethical-profession.aspx

to mitigate health disparities and not contribute to a digital divide.[2,3] According to an ONC Data Brief No. 39, "Electronic Health Record Adoption and Interoperability among U.S. Skilled Nursing Facilities in 2016"[4], drivers of EHR adoption for Skilled Nursing Facilities (SNFs) are missing due to the lack of Meaningful Use incentive payments allotted to SNFs.[5] The Improving Medicare Post-Acute Care Transformation Act of 2014 and efforts like the State Medicaid Directors Letter #16-003 are additional levers to facilitate interoperability among SNFs.[6] These findings highlight the importance of factors like health information organization (HIO) participation to advancing interoperability across settings. Further research is necessary to identify and address barriers to coordination and continuity of care for patients across the care continuum.

As highlighted in previous comments from ANI and ANA on Meaningful Use, we encourage expanding the definitions of eligible providers to encompass all healthcare professionals in an integrated healthcare community that includes: registered nurses, advance practice registered nurses (APRNs), and other licensed clinicians. In addition, the definition of care delivery should be expanded to include concepts of "patient-centered care" and "interdisciplinary teams". ANI and ANA support the renaming of the *Medicare and Medicaid EHR Incentive Programs* to the *Medicare and Medicaid Promoting Interoperability Programs* as this change emphasizes the overarching goal of the program to focus on interoperability. However, ANI and ANA have deep concerns about the uneven treatment of APRNs who are enrolled as part B providers and/or Medicaid providers. **ANI and ANA strongly recommend that policies ensure parity in how eligible providers are defined and identified and encourage inclusive language for all types of providers that provide patient care.** We note that within the Meaningful Use Incentive Program independent nurse practitioners were not eligible under Medicare..

ANA comments to the Medicare and Medicaid Programs; Electronic Health Record Incentive Program – Stage 3, referenced that the Health Information Technology for Economic and

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[2] https://www.clinical-innovation.com/topics/interoperability/hie-improves-safety-reduces-cost

[3] Menachemi, N., Rahurkar, S., Harle, CA., Vest, JR. The benefits of health information exchange: an updated systematic review. JAMIA, 28 April 2018, https://doi.org/10.1093/jamia/ocy035

[4] The Office of the National Coordinator for Health Information Technology (ONC) Data Brief 39, *Electronic Health Record Adoption and Interoperability among U.S. Skilled Nursing Facilities in 2016,* September 2017. Retrieved at https://www.healthit.gov/sites/default/files/electronic-health-record-adoption-and-interoperability-among-u.s.-skilled-nursing-facilities-in-2016.pdf.

[5] Cross, D. A., & Adler-Milstein, J. (2017). Investing in Post-Acute Care Transitions: Electronic Information Exchange Between Hospitals and Long-Term Care Homes. Journal of the American Medical Directors Association, 18(1), 30-34; Long-Term and Post-Acute Care (LTPAC) Providers and Health Information Exchange (HIE). Office of the National Coordinator. August 2016. Retrieved at https://www.healthit.gov/sites/default/files/ltpac_providers_and_hie_082516_final_2.pdf

[6] IMPROVING MEDICARE POST-ACUTE CARE TRANSFORMATION ACT OF 2014 - IMPACT Act of 2014 - Public Law 113-185 - 113th Congress (2013-2014) Retrieved at https://www.congress.gov/bill/113th-congress/house-bill/4994/text; IMPACT Act: Connecting Post-Acute Care across the Care Continuum. Centers for Medicare & Medicaid. Retrieved at https://www.cms.gov/Outreach-and-Education/Outreach/NPC/National-Provider-Calls-and-EventsItems/2016-02-04-IMPACT-Act.html; SMD #16-003. Availability of HITECH Administrative Matching Funds to Help Professionals and Hospitals Eligible for Medicare EHR Incentive Payments Connect to Other Medicaid Providers https://www.medicaid.gov/federalpolicy-guidance/downloads/smd16003.pdf

Clinical Health (HITECH) Act created provider incentives to encourage the adoption and implementation of Medicare EHRs and Medicaid EHRs. Unfortunately, APRNs were not eligible under Medicare. Only physicians were eligible despite the Medicare Improvement for Patients and Provider Act (MIPPA) inclusion of APRNs in 2008. Further, only Nurse Practitioners (NPs) and Certified Nurse Midwives (CNMs) were designated as eligible under Medicaid.

Our healthcare environment is changing rapidly. For example, nurse practitioners now have full practice authority in 23 states and prescriptive authority in all 50 states.[7] ANI and ANA strongly recommend clear inclusivity in language and data attribution to all types of nurses and other care providers in inter-professional teams. **ANI and ANA recommend that the development of Conditions for Participation (CoP), Conditions for Coverage (CfC) or Requirements for Participation (RfP) include all providers that are integral to the assessment, diagnosis, treatment and management of patients across the care trajectory.** We reference ANA's previously stated comments on the critical role of registered nurses in identifying and documenting patient-centered problems in electronic health records, and emphasizing that "the promise of data analytics to improve patient care and outcomes will not be fully achieved without the inclusion of this data." We also point to ANI's comments made previously on the Trusted Exchange Framework and Common Agreement (TEFCA) and on the CMS IMPACT Act quality measures. In ANA comments to the *Medicare and Medicaid Programs; Electronic Health Record Incentive Program – Modifications to Meaningful Use in 2015 Through 2017*, we again expressed concerns about the inequitable treatment of APRNs and identified that although NPs, in particular, have been found to be more likely than physicians to accept dual eligible patients, many of the Medicare provisions of the Affordable Care Act (ACA) omit mention of APRNs or only include one or two of the APRN roles rather than all four. **In order to achieve the overarching goal of interoperability, it is unclear why CMS would provide EHR incentives for some but not all of the clinicians who provide and coordinate care.** Therefore, ANA and ANI request that if CMS adds additional codes or settings for place of service, all APRN providers should be eligible for EHR incentive payment, not only under Medicaid, but also under Medicare.

Recommendation 3: Decrease Provider Burden and Minimize Workflow Disruptions

We urge CMS to ensure more comprehensive interoperability while minimizing additional user workload and workflow disruption. Despite the multiple positive effects of electronic health data and electronic health records, there are also substantial unintended consequences, which have increased workload and limited interventions and policy changes related to interoperability. Further, additional workload and changes to workflow can adversely impact patient safety. **It is critical that any additional CoPs, CfCs or RfPs do not further increase the burden of electronic health records and health information exchange use beyond what exists**

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[7] https://www.aanp.org/legislation-regulation/state-legislation/state-practice-environment

today. Our concern regarding workflow disruptions is consistent with the recommendations put forth by nationally recognized nurse leaders[8] and the American College of Physicians in their recommendations to mitigate the negative impact of administrative burden on physicians, their patients and the healthcare system as a whole.

Recommendation 4. Align Policies for Fully Interoperable Health IT and EHR Systems

We recommend that CMS and ONC ensure alignment between the TEFCA policies and the standards referenced in the Interoperability Standards Advisory (ISA) recognizing that TEFCA and the ISA should be mutually reinforcing documents. ANI and ANA have continued to provide annual feedback to recommend standards for nursing assessment, intervention and evaluation through the ISA feedback process.

We highlight the dependency between, and need to align, quality measures and standardization of patient assessment data elements for Post-Acute Care (PAC) settings for care coordination and interoperability. A fundamental component of interoperable health IT rests upon the development, implementation, and maintenance of standardized patient assessment data elements across settings to facilitate care coordination, interoperability, and improve patient outcomes. With few exceptions, the data elements used in the instruments (MDS, IRF-PAI, LCDS, and OASIS), are not currently standardized nor interoperable. Although the concepts are similar, the individual items vary, which will place increased documentation burden on providers, while potentially compromising feasibility, usability, and use across settings. When setting A, who uses one instrument (e.g., MDS) communicates with setting B, who uses a different instrument (e.g., LCDS), setting B (receiver) will experience the burden to interpret and harmonize the different data elements. In addition to the variety of aforementioned measures/instruments (i.e. MDS, IRF-PAI, LCDS, and OASIS), numerous relevant clinical standards (e.g. SNOMED--CT, LOINC, RxNORM) are mandated for interoperability and exchange of medication-related information. Further, the HL7 CCD-A document standards are intended to facilitate transfer of information about medications and other essential clinical information. The use of existing clinical and interoperability standards should be included when considering the potential development of these and future measures in order to reduce documentation burden, enable analytics to assess impact on patient outcomes, and automate data collection for quality measure and public reporting.

Specifically, ANI and ANA recommend and support existing efforts to guide data item standardization around the following clinical domains which feed several measurements: cognition and mental status; medication reconciliation; care preferences; pain (medical condition); and impairments in hearing, vision, and continence. Standardized assessment items will contribute to data comparability across post-acute care (PAC) providers, data exchange and interoperability, care coordination, payment analysis, and longitudinal outcome analysis. **ANI**

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[8] Cassano C. The right balance - Technology and patient care. Online Journal of Nursing Informatics. 2014;18; Staggers N, Elias BL, Hunt JR, Makar E, Alexander GL. Nursing-Centric Technology and Usability A Call to Action. Comput Inform Nurs. 2015;33(8):325-332. doi:10.1097/CIN.0000000000000180

fully supports use of existing clinical standards and specifically ANA's recognized interface terminologies and reference terminologies to ensure information continuity across settings, including patient-facing communication.

Recommendation 5: Establish a Patient-Centered Approach to Ensure Patients' Rights

ANI and ANA emphasize the importance of patient-centered care and engaging the patient and family at all encounters across the care trajectory. These settings include: short-term general hospitals, skilled nursing facilities, intermediate care, home under care of an organized home health service organization or hospice, hospice in an institutional facility, swing bed, inpatient rehabilitation facilities (IRF), long-term care hospitals (LTCH), Medicaid nursing facilities, inpatient psychiatric facilities, or critical access hospitals. In fact, studies evaluating HIEs in the community setting were more likely to find benefits from interoperability efforts than studies that evaluated health system HIEs or vendor-mediated exchanges[9], highlighting the importance of interoperability efforts across the entire care trajectory. ANI and ANA recognize that **CoPs, CfCs or RfPs** can place a disproportionate burden on practices in these settings, particularly smaller practice sizes. This can contribute to inequalities across healthcare delivery services and serve as a systemic barrier to interoperability. Therefore, ANI and ANA recommend that CMS avoid unfunded restrictions and ensure inclusion of all relevant providers in any incentive programs.

Sharing medically necessary information beyond certified EHR technology: ANI and ANA endorses information exchange and use outside of certified EHR technology. A variety of data and data sources (e.g. consumer data, social services data) will be required to understand social and behavioral determinants of health across populations. Information exchange efforts beyond certified EHR technology are needed to effectively manage Population Health. Important data from Home Health Care, Long Term Care and Behavioral Health have largely been excluded because these sectors were kept outside of the Meaningful Use EHR Certification Program. As a result, most Post-Acute and Behavioral Health providers use siloed, disparate niche systems, limiting their interoperability readiness. These community-based healthcare providers are critical data sources for Population Health Management, increasing the need for their inclusion as a focus of measurement.

Ensuring patient's right and reducing information blocking: ANI and ANA recommend that patient consent is emphasized as a patient's right in order to increase transparency and understanding of the use and reuse of one's health data. Patient consent and efforts to increase transparency should include ensuring that patients understand how their health data are used for population health improvement efforts and other efforts that are beyond their individual patient care.

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[9] Menachemi, N., Rahurkar, S., Harle, CA., Vest, JR. The benefits of health information exchange: an updated systematic review. JAMIA, 28 April 2018, https://doi.org/10.1093/jamia/ocy035

Comment related to implementation timeframe for compliance with new or revised CMS CoPs/CfCs/RfPs

To facilitate feasibility of implementation within the proposed timeframe, nurse informaticists and HIT support teams will require continued education related to the new requirements. Regional resources may be required, similar to the Regional Extension Centers of the past, to support settings with underdeveloped HIT adoption, including limited HIT education resources. ANI and ANA expect that intentional industry commitment will be needed to prioritize and devote the necessary resources.

Comment related to other operational or legal considerations or barriers for consideration

ANI and ANA express concerns about differences in supporting participants across state lines, which have differing "applicable laws" for use and disclosure of electronic health information and for which different kinds of consent are required for different kinds of conditions.

In closing, ANI, in collaboration with ANA, commends the CMS mission to promote interoperability and electronic health information exchange, reduce burden and promote patient-centered outcomes. In order to achieve this mission and vision, ANI and ANA strongly encourage parity in definitions of eligible providers and settings for interoperability efforts, policies, and incentives. The lack of parity in provider and settings in past policies increases the necessity of providing sufficient resources and support to promote equitable opportunities within our health system. This support will go far towards advancing interoperability for all patients regardless of care provider and setting. We thank you for the opportunity to provide comments. Please do not hesitate to reach out to us for further clarification or discussion.

Sincerely,

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The Alliance for Nursing Informatics (ANI), cosponsored by AMIA & HIMSS, advances nursing informatics leadership, practice, education, policy and research through a unified voice of nursing informatics organizations. We transform health and healthcare through nursing informatics and innovation. ANI is a collaboration of organizations that represents more than 8,000 nurse informaticists and brings together 25 distinct nursing informatics groups globally. ANI crosses academia, practice, industry, and nursing specialty boundaries and works in collaboration with the more than 4 million nurses in practice today.