American Society of Anesthesiologists

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December 12, 2011

Marilyn B. Tavenner
Acting Administrator and Chief Operating Officer
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-3244-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: **CMS-3244-P**, Medicare and Medicaid Programs; Reform of Hospital and Critical Access Hospital Conditions of Participation Proposed Rule, October 24, 2011.

Dear Ms. Tavenner:

On behalf of the over 48,000 members of the American Society of Anesthesiologists (ASA), we would like to thank CMS for the opportunity to comment on the Reform of Hospital and Critical Access Hospital Conditions of Participation Proposed Rule (**CMS-3244-P**) issued on October 24, 2011.

**Physician Supervision Standard**

**ASA applauds CMS for maintaining the current federal physician supervision standard for anesthesia services.** We believe, as CMS states, that the purposes of the conditions of participation are "to protect patient health and safety and to ensure that quality care is furnished to all patients in Medicare-participating hospitals." **Some have suggested removing Medicare's anesthesia supervision standard, but substituting nurses for doctors would significantly decrease patient safety and quality of care.** Further, such a substitution provides the Medicare program and American taxpayers with no additional cost savings since Medicare pays the same for anesthesia services whether they are furnished by nurse anesthetists or highly-trained anesthesiologists. We must never lose sight of the fact that giving and receiving anesthesia is a dangerous, life-threatening procedure that should only be safely undertaken under the direct administration and/or supervision of a physician who has extensive educational training and experience.

**Standing Orders**

ASA supports proposed changes that would allow hospitals to use standing orders with respect to post-surgical patients. We believe this provision will help ensure patients receive timely and appropriate care, including necessary pain relief, while removing cumbersome and time-consuming obstacles for physicians.

**Medical Staff**

ASA has significant and very strong concerns, however, with the CMS proposal that would allow physicians and non-physician providers to obtain hospital privileges without becoming a member of the medical staff. The hospital medical staff is the most qualified body to determine the qualifications required of, and ultimately review and approve or deny privileges for providers to safely treat patients in its respective hospital. **ASA is concerned that this proposal, if finalized, will be used to circumvent medical staff oversight, and thus, compromise patient safety and quality of care.** Further, we believe CMS has neither specified the rationale for such a proposal nor the precise problem it is attempting to address.

It is important to recognize that an increasing number of States require a physician to hold hospital privileges in order to perform the same or similar procedure(s) in the office setting. If this proposal effectively relaxes the criteria by which physicians obtain hospital privileges, it removes an important safeguard, and patients obtaining office-based procedures could experience a lower quality of care. Furthermore removal of this safeguard would create chaos for the many states that currently use it. **We urge CMS to withdraw the medical staff proposal in the final rule.**

**Administration of Drugs and Biologics**

We also have serious concerns about the proposal to expand the types of practitioners who are able to administer drugs and biologics, particularly as it relates to anesthesia and pain management. According to the Centers for Disease Control and Prevention (CDC), nearly 15,000 people die each year in the United States as a result of overdoses involving opioids.[1] The CDC also points out that almost all prescription drugs involved in overdoses originally came from prescriptions, and not from pharmacy theft.[2] We believe that expanding the number of non-physician providers able to administer drugs and biologics, such as opioids, would only exacerbate the problem. Particularly for the safe administration of opioids, non-physician providers may not have sufficient education or training in the proper prescribing of opioids, including patient selection and risk assessment. **We urge CMS to withdraw this proposal in the final rule.**

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[1] Centers for Disease Control and Prevention. *CDC Vital Signs*. November 2011. http://www.cdc.gov/vitalsigns/

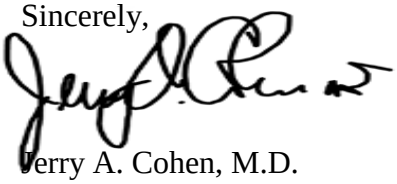
[2] Centers for Disease Control and Prevention. *Policy Impact: Prescription Painkiller Overdoses*. http://www.cdc.gov/homeandrecreationalsafety/rxbrief/ (last visited Nov. 18, 2011).

**Administration of Blood Transfusions and Intravenous Medications**

ASA is concerned about the proposed elimination of the requirement that non-physicians have special training in administering blood transfusions and intravenous medications. As CMS stated, this training is standard practice; however, we have concerns that absent a federal requirement this training may become less commonplace especially as hospitals and practices seek to reduce costs as the health care system transitions to reduced payments in future years. **We urge CMS to revisit this proposal to ensure that non-physician providers have the adequate training needed to successfully administer blood transfusions and intravenous medications.**

Again, thank you for the opportunity to comment on this proposed rule and for maintaining the high levels of patient safety and quality through the physician supervision standard. If you have any questions with respect to our comments please feel free to contact Jason Byrd, J.D., ASA's Director of Practice Management, Quality and Regulatory Affairs at 202-289-2222 or j.byrd@asawash.org.

Sincerely,



Jerry A. Cohen, M.D.
President
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