

**From:** [Frank Harrington](#)  
**To:** [Burmeister, Christopher, DOH](#)  
**Subject:** [EXT] AANP Comments Related to Amended Rule 7.28.2 NMAC, "Requirements for Home Health Agencies."  
**Date:** Wednesday, September 16, 2020 8:41:22 AM  
**Attachments:** [New Mexico HH Comment.pdf](#)

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Dear Mr. Burmeister,

Please find the attached comments from the American Association of Nurse Practitioners in relation to the proposal to amend rule 7.28.2 NMAC "Requirements for Home Health Agencies." We appreciate that the New Mexico Department of Health has made it a priority to implement section 3708 of the CARES Act which will increase access to home health care for patients throughout New Mexico. If there is any other information that we could provide that would be of assistance, please do not hesitate to reach out.

Have a great day,

Frank

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September 16, 2020

Christopher Burmeister Division Director, Health Improvement  
New Mexico Department of Health  
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Dear Mr. Burmeister,

The American Association of Nurse Practitioners (AANP), with a membership of over 110,000 nurse practitioners (NPs), represents the interests of the more than 290,000 NPs in the United States. This includes the over 1,700 NPs practicing in South Dakota, 581 of whom are AANP members. AANP welcomes the opportunity to provide comment on the replacement of rule 7.28.2 NMAC, “Requirements for Home Health Agencies.” These changes will align New Mexico’s regulations with section 3708 of the CARES Act which authorizes NPs and other clinicians to order Medicaid home health services and medical equipment, supplies and appliances.

NPs are advanced practice registered nurses who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes: assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs practice in nearly every health care setting including clinics, hospitals, Veterans Health Administration and Indian Health Services facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), skilled nursing facilities (SNFs) and nursing facilities (NFs), schools, colleges, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health. NPs hold prescriptive authority in all 50 states and the District of Columbia.

AANP appreciates that the New Mexico Department of Health has made it a priority to update their home health and medical equipment, supplies and appliance regulations in order to implement section 3708 of the CARES Act. This new authority streamlines the home health care process and reduces the risk of costly complications resulting from delays in care. Delays are especially problematic for home health care patients who suffer from more chronic conditions and limitations on activities of daily living than the non-home health care beneficiary population.<sup>1</sup> Many of these patients are high risk for severe complications due to COVID-19 and it is imperative that they are able to receive health care at home without having to potentially expose themselves to the virus.

Below are a few technical suggestions to the proposed regulations to ensure that they align with the federal home health regulations and the authority granted under the CARES Act. Our recommended changes are in *red bold italic* text.

#### **Section 7.28.2.7- Definitions**

M. Definitions beginning with “M”: T. “Medically directed services” means in-home services that are provided in accordance with a patient/client’s plan or level of care which is reviewed and approved by a physician, *physician assistant, nurse practitioner or clinical nurse specialist* at least annually.

<sup>1</sup> [http://ahhqi.org/images/uploads/AHHQI\\_2018\\_Chartbook\\_09.21.2018.pdf](http://ahhqi.org/images/uploads/AHHQI_2018_Chartbook_09.21.2018.pdf)

**Section 7.28.2.34- Patient/Client Records**

A. Content of patient/client record:

- (1) Medically directed patient/client record must include:
  - (a) past and current medical findings in accordance with accepted professional standard;
  - (b) plan of care;
  - (c) identifying information;
  - (d) name of physician, *physician assistant, nurse practitioner or clinical nurse specialist*;
  - (e) medications, diet, treatment/services, and activity orders;
  - (f) signed and dated notes on the day service(s) provided;
  - (g) copies of summary reports sent to the physician, *physician assistant, nurse practitioner or clinical nurse specialist*;
  - (h) evidence of patient/client being informed of rights;
  - (i) evidence of coordination of care provided by all personnel providing patient/client services;

We thank you for the opportunity to comment on these proposed changes to the New Mexico Department of Health regulations and again express our appreciation for making increased access to home health care services a priority. These proposed regulations will increase the ability of NPs and other clinicians to deliver high-quality, cost-effective health care and will improve access to these services for New Mexicans. Should you have comments or questions, please direct them to Frank Harrington, Director of Reimbursement and Regulatory Affairs, [fharrington@aanp.org](mailto:fharrington@aanp.org), (571) 777-8454.

Sincerely,



Tay Kopanos, DNP, NP  
VP of State Government Affairs