

Champa, Heidi

3176

14-583-12

From: Dellasega, Cheryl <cdellasega@pennstatehealth.psu.edu>
Sent: Wednesday, August 30, 2017 12:41 PM
To: PW, OPCRegs
Cc: Greany-Hudson, Geraldine
Subject: Behavioral Health Regulation #14-538 (IRRC #3176).
Attachments: Michelle Rosenberger Department of Human Services.docx

Ms. Rosenberger:

I am attaching a letter authored by Dr. Greany-Hudson who thoughtfully addresses the same concerns I have about Behavioral Health Regulation #14-538 (IRRC #3176). I have added a few comments of my own and would be happy to dialogue further about this important issue.

I appreciate the opportunity to provide input on this important issue. I have a family member with serious mental illness and have found that nurse practitioners in various parts of Pennsylvania have consistently provided excellent mental health care.

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Michelle Rosenberger Department of Human Services

Office of Mental Health and Substance Abuse Programs

Bureau of Policy, Planning and Program Development

Commonwealth Towers, 11th Floor

303 Walnut Street, P.O. Box 2675 Harrisburg, PA 17105-2675

Dear Ms. Rosenberger:

I am asking that you submit my comments regarding the proposed Behavioral Health Regulation #14-538 (IRRC #3176). I am a psychiatric nurse practitioner who provides behavioral health services to individuals. The proposed regulation changes will create serious barriers for individuals seeking behavioral health services. In addition, the proposed regulations include an inaccurate interpretation and application of the Social Security Act (42 U.S.C.A. § 1396d(a)(9)) and 42 CFR 440.90 (relating to clinic services. that services furnished at the clinic be provided by or are under the direction of a physician.

5200.31. Treatment planning.

"This proposed amendment maintains compliance with definitions in section 1905(a) (9) of the Social Security Act (42 U.S.C.A. § 1396d (a) (9)) and 42 CFR 440.90 (relating to clinic services) that services furnished at the clinic be provided by or are under the direction of a physician. To meet this requirement, a physician shall see the individual, prescribe the type of care provided and periodically review the need for continued care.

"The definition of "advanced practice professional" is proposed to be added in recognition of CRNPs with a mental health certification or PAs with either a mental health certification or at least 1 year of experience working in a behavioral health setting working under the supervision of a physician. This proposed definition will allow these licensed professionals to provide services within their scope of practice in psychiatric outpatient clinics, thereby expanding clinical resources."

The actual regulation specifically cites services furnished under the direction of a physician. Nurse practitioners do not practice or provide services under the direction of a physician. However, a physician assistant does practice and provide services under the direction of a physician. Nurse practitioners collaborate with physicians, practice under their own license, and practice according to the Pennsylvania Nurse Practice Act, Chapter 21, under the Board of Nursing.

Social Security Act (42 U.S.C.A. §1396d(a)(9))

Clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician, including such services furnished outside the clinic by clinic personnel to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address;

42 CFR 440.90

440.90 Clinic services.

Clinic services means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients. The term includes the following services furnished to outpatients:

- (a) Services furnished at the clinic by or under the direction of a physician or dentist.
- (b) Services furnished outside the clinic, by clinic personnel under the direction of a physician, to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.

Nurse practitioners practice with a prescriptive authority collaborative agreement, Chapter 21, § 21.285. The collaborative agreement details the requirements for a nurse practitioner to "prescribe and dispense drugs and other medical therapeutic or corrective measures, as set forth in § 21.283." Collaboration is not equivalent to supervision. A nurse practitioner uses independent clinical judgment and evidence based guidelines to make a clinical decisions. A physician does not direct a nurse practitioner's decision making or direct the services provided. Physicians do not direct nursing practice. The Pennsylvania State Board of Nursing, under Chapter 21, regulates the practice of professional nursing.

According to the Department of Health and Human Services, Centers for Medicare & Medicaid Services (2015), a nurse practitioner is a registered professional nurse authorized by the State in which the services are furnished to practice as a NP in accordance with State law." A nurse practitioner with a "Master's degree in nursing or a Doctor of Nursing Practice Doctoral degree is legally authorized and qualified to furnish the services in the State where they are performed; Services are the type considered physicians' services if furnished by a MD or a DO; Services are performed in collaboration with a physician. A nurse practitioner may personally perform diagnostic psychological and neuropsychological tests in collaboration with a physician as required under the NP benefit and to the extent permitted under State law."

Services by a physician assistant "are performed under the general supervision of a MD or a DO" and may "personally perform diagnostic psychological and neuropsychological tests under the general supervision of a physician as required under the PA benefit and to the extent permitted under State law."

"Physicians and other researchers at the National Academy of Medicine thoroughly investigated NP care for the landmark 2010 report "The Future of Nursing." The National Academy of Medicine determined that NPs provide safe, high-quality care." The state of Pennsylvania is moving towards full practice authority for nurse practitioners where there is no requirement for a prescriptive authority collaborative agreement. The Senate passed SB Bill 25 in April 2017 with a 39-to-10 vote to grant full practice

authority for nurse practitioners and endorsed reform like SB25 and HB100 that grants full practice authority to NPs" (Pennsylvania Coalition of Nurse Practitioners, 2017).

Please consider adjusting the requirement for physician supervision for nurse practitioners. There is no Federal or state requirement that a nurse practitioner must practice or provide services under a physician. This requirement establishes unnecessary barriers to care. The goal is to use mental health providers to maximum effect that their education and state regulations allow. Thank you for considering my comments. I hope that the Department of Human Services revises the proposed regulations in order to support patient centered care.

Particularly in a state such as Pennsylvania with a large rural population, it is essential that nurse practitioners practice to the fullest extent of their training. Below, I have included an excerpt from a research article examining the pressing need for practitioners in the rural mental health work force. My colleagues in other rural states with full authority are in positions that allow them to independently address the multiple complex needs of acutely and chronically seriously mentally ill individuals.

Thank you for your attention to this letter.

Very respectfully,

Cheryl Dellasega, CRNP, PhD, MFA

"Some APPNs [the generic title for psychiatric nurse practitioners] go further to obtain specialty education in the management of diabetes and other chronic illnesses that are common among people with serious mental illness. Moreover, APPNs have specialized education in various types of psychotherapy, psychopharmacology, and complementary treatments. In 36 states, these nurses are authorized to prescribe psychotropic medication."

Hanrahan, N. & Hartley, D. (2008). Employment of Advanced-Practice Psychiatric Nurses to Stem Rural Mental Health Workforce Shortages. Psychiatric Services;59(1): 109-111.

