

# compliance

## The Role of Nonphysician Practitioners in Oncology

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**T**he scope of work provided by nonphysician practitioners (NPPs) has evolved and changed significantly. When the Medicare program was signed into law in 1965, nurses predominantly assisted physicians. Now, it is common to see NPPs, such as nurse practitioners and physician assistants, provide more of that care and, where allowed, on their own.

NPPs are professionals licensed by a state for respective health programs related to their training. Medicare requires any services provided by NPPs to be medically necessary and within the scope of practice in the state in which the NPPs practice, regardless of whether they received training in another state. Medicare also requires an NPP to have an active and valid Medicare and/or Medicaid provider number, whether their services are under their name or provided incident to a supervising physician.

In the oncology setting, the role of NPPs can vary, which depends on factors such as a hospital's granted privileges, whether the NPP's training covers specific education related to chemotherapy and radiation treatment delivery, and the NPP's state scope of practice.

In May 2015 the *CPT® Assistant*—from the American Medical Association (AMA)—outlined the requirements needed to identify the relationship between NPPs and the physician(s) they work under. When there are no state laws governing the collaboration between an NPP and the physician(s) under whose supervision and medical direction he or she is working, the AMA indicates that there must be a written agreement between

the NPP and any collaborating physicians. The written agreement defines the collaboration within the NPP's state scope of practice and his or her relationship to the physician(s) to work through any potential issues outside of the NPP's state scope of practice. Any services that are not defined by the written agreement cannot be billed to Medicare. It is worth noting that in some states an NPP cannot provide any medical services until the written collaboration agreement is appropriately filed with the state in which the NPP and physician(s) are working.

### Billing for Services

When NPPs are employed by a cancer program/practice and if the previously mentioned guidelines allow for them to provide services, services are either billed when provided incident to and under the physician's National Provider Identifier (NPI) or independent of the physician and under the NPP's NPI.

Incident to is specific to Medicare, and MedLearn Matters (MLN) SE0441 offers this definition for the term: "Incident to' services are defined as those services that are furnished incident to physician professional services in the physician's office (whether located in a separate office suite or within an institution) or in a patient's home."<sup>1</sup> If the services are not provided incident to, the services are billed under the NPP's NPI, and Medicare reimburses those services at 85 percent of the Physician Fee Schedule rate.

For services to qualify as incident to, specific criteria must be met. According to the Centers for Medicare & Medicaid

Services, any services must be part of the patient's normal course of treatment in which the physician "personally performed an initial service and remains actively involved in the course of treatment."<sup>1</sup> The physician must also provide direct supervision of the services provided incident to and the medical record must reflect that the requirements were met.

MLN SE0441, more specifically, states that these services must also be:<sup>1</sup>

- An integral part of the patient's treatment course
- Commonly rendered without charge (included in the physician's bills)
- Of a type commonly furnished in a physician's office or clinic (not in an institutional setting); and
- An expense to the physician.

Incident to only applies to services that qualify to be provided by an NPP under the direct supervision and a direct financial expense to the physician. For example, the employee (NPP) working incident to the physician is employed by the physician, a leased employee, or an independent contractor. Incident to does not apply to the hospital or skilled nursing facility settings. Any professional services provided by an NPP in the hospital must be billed under the NPP's NPI.

If an oncology practice decides to employ an NPP, the question then becomes what services can be provided by that NPP? After the course or plan of care is established by the medical or radiation oncologist, an NPP can see the patient in follow-up, if there are

no changes in the patient's plan of care. For these follow-up visits, NPPs should bill to the established outpatient visit codes **99212-99215**. If during the visit a new problem is identified, the physician must then be involved in the visit. In other words, NPPs cannot see patients for new problems, and these services must be performed by the physician. An NPP-provided service should be billed under the physician's name and NPI, if performed incident to, or under the NPP's NPI (if accepted and recognized by the payer) at a reduced reimbursement rate.

### Radiation Oncology Considerations

There are some additional considerations for NPP services provided to radiation oncology patients. Because many of the services provided in radiation oncology are not just consultative and require supervision of staff and clinical skills, NPPs may not be qualified to provide specific supervision and/or work. For example, patients receiving radiation therapy can be evaluated to treat side effects; however, when the patient is seen once every five fractions for treatment management, this visit (code **77427**) must be provided by the radiation oncologist. The guidelines within the AMA CPT® manual and the American Society for Radiation Oncology *Safety is No Accident* comprehensive reference guide support this practice.<sup>2,3</sup> The American Society for Radiation Oncology

further clarifies that every aspect of care for radiation oncology needs to be managed by a board-certified radiation oncologist.

“Each aspect within the process of care requires knowledge and training in cancer biology, certain benign disease processes, radiobiology, medical physics, and radiation safety that can only be demonstrated by board certification in radiation oncology to synthesize and integrate the necessary knowledge base to safely render complete care. In addition to knowledge and technical skills, clinical staff must function as a cohesive team by communicating and interacting effectively with colleagues and patients.”<sup>3</sup>

### Going Forward

It is important that oncology programs and practices—whether they already employ NPPs or are looking to hire an NPP—review the published scope of practice information for their state. This review is necessary to understand (and comply with) NPP services that can be performed or supervised to avoid sanctions, license revocation, or suspension.

During the public health emergency (PHE) response to COVID-19, the Centers for Medicare & Medicaid Services has issued some waivers to expand access to care. For example, NPPs can provide telehealth visits. Billing for telehealth services was expanded to include those who are eligible to bill Medicare for their professional services. If the work of seeing the patient and the services

provided are within the NPP's state scope of practice, hospital granted privileges, and training, then they can provide services to oncology patients during the PHE.

However, it is uncertain how long these expanded waivers will remain in place. In addition, it is uncertain what changes may be extended or in place as we continue to move toward CY 2021. Many believe that healthcare changes made during the PHE will follow us into the near future. It is best practice to stay informed because these changes may impact the role and services provided by NPPs in the oncology setting. 

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### References

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