March 22, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Administrator Brooks-LaSure:

On behalf of the undersigned organizations, we are writing to express our concerns regarding the Centers for Medicare and Medicaid Services' (CMS) policies on split/shared evaluation and management (E/M) visits. In the calendar year 2022 final rule, CMS finalized that for 2022, the substantive portion of a split/shared E/M visit can be determined based on one of two methods: more than 50% of the total time spent, or one of the three key components (history, exam, or medical decision-making [MDM]). Critical care services in 2022, however, can only be determined by time. Beginning in 2023, however, the substantive portion of both the E/M and critical care visit will be defined *only* as more than 50% of the total time spent. According to CMS, documentation in the medical record for a split/shared visit should identify the two individuals who performed the visit, and the individual providing the substantive portion must sign and date the medical record. While this policy has immense implications for physician and advanced practitioner reimbursement plans, our foremost concern lies with the detrimental impact on the care delivery model and the patient experience. **Therefore, the undersigned organizations strongly urge CMS to discontinue its split/shared visits policy and not move forward with the transition set to take effect in 2023.**

The concept of collaborative practice is based on the premise that excellent patient care relies on the expertise of several care practitioners. Where time, energy, and patience coalesce to provide care, physicians, advanced practitioners, and other providers experience reduced levels of burden, thereby making care more effective. As a result, many health care facilities have adopted the physician-advanced practitioner care delivery model because patients benefit from shared care. Given ever-pervasive shortages and burden, one individual practitioner cannot spend the entire required time with the patient. Doing so would be burdensome, especially in a time when COVID-19 continues to complicate workflows. **The undersigned organizations believe that CMS' policies regarding split/shared visits are contrary to the core premise of this care delivery model: effective co-management and clinical alignment.** To protect this model and the benefits offered, we strongly urge CMS to reverse its policy and instead introduce policies that recognize the importance of this care delivery model.

CMS' documentation requirements for these visits also present a host of issues to the physician-advanced practitioner care delivery model. To comply with the Agency's requirements, some facilities have provided attestation statements for clarity to indicate who performed the substantive portion, or key component, of the visit. Adopting and implementing these attestations is an onerous task, but the most problematic is that physicians and other practitioners have little idea of what an adequate attestation may be for 2023. Even if attestation examples were provided in the upcoming Medicare Physician Fee Schedule rulemaking cycle, practices would be left with minimal time to educate physicians and other practitioners, and even the slightest mistake in reporting could result in a hefty

penalty or deduction to reimbursement. This is a high price to pay when practices are still recovering from the financial tolls of the COVID-19 pandemic. **Furthermore, the Agency's policy pits physicians and advanced practitioners against one another, which is incompatible with the intent of the care delivery model.** CMS' policy on split/shared visits will lead to one of two scenarios: either the physician is not being recognized for their role in patient care, or the advanced practitioner is not able to practice to the top of their license. Both of these scenarios are sub-optimal and reduce the benefit provided to the patient by way of collaborative care.

Regarding patient care, **the undersigned organizations additionally emphasize that the negative impact on the patient experience cannot be understated.** The potential downstream consequences are enormous and the implications of CMS' policy in the outpatient setting are vast. While there are outpatient facilities that allow for advanced practitioners to practice largely independently and with the support of the physician, the Agency's policy fails to account for models where the advanced practitioners facilitate care and the physicians attest. Due to CMS' split/shared visits policy, there is the potential that practices will move to a complete model of independent practice for advanced practitioners, which will also negatively impact both the physician and advanced practitioner because it will force one to assume the burden that was previously shared. As stated, this sharing allows each individual to practice to the top of their license. In outpatient settings, where wait times are substantial and workflows remain impacted by the ongoing COVID-19 pandemic, the Agency's policy only serves to worsen these issues. While we would hope that CMS' policy does not negatively affect patient care – and we do not contend that it intends to do so – the fact remains that finances can incent behavior and the manner of care delivery that maximizes profit may be pursued to the detriment of other goals.

Due to the negative impacts to the care delivery model and patient care, the undersigned organizations continue to recommend that CMS not move forward with its policy regarding split/shared visits. **As a tertiary impact, we would be remiss to not mention the effect that this policy will have on administrative burden – a leading cause of burnout – to physicians and other practitioners and is contrary to CMS' own "patients over paperwork" policy.** The documentation requirements for attestations remain unclear and this presents several challenges. Some facilities require the attending physician to sign the advanced practitioners' charts regardless of their participation in the visit. In this instance, how will coders know which should be billed as split/shared visits or simply as advanced practitioner visits? With the discrepancies across facilities, the split/shared visits policy lends itself to many incongruencies and this will detrimentally impact the physician-advanced practitioner workflows, as well as appropriate and adequate compensation.

Moreover, **given the difference in reporting requirements from 2022 to those in 2023, the undersigned organizations have not yet had an opportunity to educate their members on the transition and how it impacts them.** For this reason, we are greatly concerned that CMS' policy will add significant administrative burden to an already burdensome task and will only further complicate documentation for these visits. For those physicians that have deeply integrated advanced practitioners into their care teams, this change will be especially burdensome and problematic. As discussed, these care models offer patients excellent care and allow both the physician and advanced practitioner to practice at the top of their license. It is the undersigned organizations' belief that any policy that complicates or undermines that model should be highly discouraged.

In light of these concerns, we reemphasize our recommendation that CMS rescind its split/shared visits policy. **As CMS is preparing for its upcoming rulemaking cycle, the undersigned organizations remain committed to providing this necessary perspective to the Agency, considering viable alternatives, and supporting policies that both recognize the role of the physician-advanced practitioner model and better support patient-oriented care.**

Thank you for your time and consideration regarding this subject. We hope that you take into consideration our requests and recommendations. Please contact Brian Outland, Ph.D., Director of Regulatory Affairs at the American College of Physicians, by phone at (202) 261-4544 or email at boutland@acponline.org if you have questions or would like additional information.

Sincerely,

American Academy of Neurology

American Academy of Physical Medicine & Rehabilitation

American Association of Clinical Endocrinology

American College of Allergy, Asthma and Immunology

American College of Cardiology

American College of Chest Physicians

American College of Gastroenterology

American College of Physicians

American College of Rheumatology

American Gastroenterological Association

American Psychiatric Association

American Society for Gastrointestinal Endoscopy

American Society for Transplantation and Cellular Therapy

American Society of Hematology

Digestive Health Physicians Association

Infectious Diseases Society of America

Renal Physicians Association

Society of Hospital Medicine

The Gerontological Society of America