

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-04-08

**DATE:** November 13, 2003

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Physician Delegation of Tasks in Skilled Nursing Facilities (SNFs) and Nursing Facilities (NFs)

The purpose of this memorandum is to clarify for State survey agencies and providers the regulatory differences concerning physician delegation of tasks in SNFs and NFs. The distinction in policies between these two settings (SNFs and NFs) is based in statute. Inaccurate interpretation of these regulations may affect compliance and may also affect payment to providers. The key to accurate interpretation is identifying what setting, SNF or NF, the physician services are being provided. Table 1, which summarizes these delegations, is provided at the end. This memorandum addresses the issue of the authority of physician extenders to: 1) perform physician visits and write orders; and 2) sign certifications and re-certifications in SNFs and NFs.

**This memorandum replaces Survey and Certification memorandum S&C-03-18 dated April 10, 2003, which discusses physician delegation of tasks in SNFs and NFs. Please disregard the April 10 version.**

**Physician Delegation of Tasks in Skilled Nursing Facilities.**

Under the requirements for long term care facilities, the regulations at 42 C.F.R. 483.40(e) state that, "A physician may not delegate a task when the regulations specify that the physician must perform it personally, or when the delegation is prohibited under State law or by the facility's own policies."

Physician and other Medically Necessary Visits in SNFs: The initial comprehensive visit in a SNF is the initial visit during which the physician completes a thorough assessment, develops a plan of care and writes or verifies admitting orders for the resident. Under the regulations at 42 C.F.R. 483.40(c)(1), the initial comprehensive visit must occur no later than 30 days after admission. Further, under 42 C.F.R. 483.40(c)(4) and (e), the physician may not delegate the initial comprehensive visit in a SNF. Non-physician practitioners may perform other medically necessary visits prior to and after the physician initial comprehensive visit.

Once the physician has completed the initial comprehensive visit in the SNF, the physician may then delegate alternate visits to a Physician Assistant (PA), Nurse Practitioner (NP), or Clinical Nurse Specialist (CNS) who is licensed as such by the State and performing within the scope of practice in that State, as required under 42 C.F.R. 483.40(c)(4).

Certifications/Re-certifications in SNFs: Under the SNF regulations at 42 C.F.R. 424.20, certifications and re-certifications are required to verify that a resident requires daily skilled nursing care or rehabilitation services. 42 C.F.R. 424.20(e)(2) (which reflects the requirements of the law at section 1814 (a)(2) of the Social Security Act) states that NPs and CNSs who are not employed by the facility and are working in collaboration with a physician, when permitted under the scope of practice for the State, may sign the required initial certification and re-certifications. By contrast, PAs (regardless of employment) and those NPs and CNSs who are employed by the facility do not have authority to sign initial certifications or the SNF required recertifications.

### **Performance of Physician Tasks in Nursing Facilities.**

Physician and Other Medically Necessary Visits in NFs: The initial comprehensive visit in a NF is the same as in a SNF. That is, the initial comprehensive visit is the initial visit during which the physician completes a thorough assessment, develops a plan of care and writes or verifies admitting orders for the resident, which must take place no later than 30 days after admission. The regulations at 42 C.F.R. 483.40(f) state that “At the option of the State, any required physician task in a NF (including tasks which the regulations specify must be performed personally by the physician) may also be satisfied when performed by a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician.” In other words, non-physician practitioners that have a direct relationship with a physician and who are not employed by the facility may perform the initial comprehensive visit, any other required physician visit and other medically necessary visits for a resident of a NF as the State allows. Non-physician practitioners may also perform other medically necessary visits prior to and after the physician initial comprehensive visit.

At the option of the State, NPs, PAs, and CNSs who are employees of the facility, while not permitted to perform visits required under the schedule prescribed at 42 C.F.R. 483.40(c)(1), are permitted to perform other medically necessary visits and write orders based on these visits. The physician must verify and sign any orders written by non-physician practitioners who are employed by the facility. For example, if a resident complains of a headache, the NP, CNS, or PA employed by the facility may assess the resident and write orders to address the condition. The physician must then verify and sign the orders. However, these medically necessary visits performed by NPs, CNSs, and PAs employed by the facility may not take the place of the physician required visits, nor may the visit count towards meeting the required physician visit schedule prescribed at 42 C.F.R. 483.40(c)(1).

### **Dually Certified Facilities.**

While the CFR does not address dually certified SNF/NFs directly, the CFR is clear about who can perform tasks in a SNF and in a NF. In a facility where beds are dually certified, the facility must determine how the resident stay is being paid. For residents in a Part A Medicare stay, the PA, NP, and CNS must follow the guidelines for services in a SNF.

For Medicaid stays, the PA, NP, and CNS must follow the provisions outlined for care in NFs. As such, in a dually certified nursing home, any required physician task for a Medicaid beneficiary in a NF certified bed, at the option of the State, may be performed by a NP, CNS, or PA who is not an employee of the facility but who is working in collaboration with a physician. In addition, in a dually certified nursing home and at the option of a physician, required physician visits for a Medicare beneficiary in a SNF certified bed may be alternated between personal visits by the physician and visits by a PA, CNS, or NP after the physician makes the initial first visit.

Table 1 below summarizes the requirements for non-physician practitioners to perform visits, sign orders, and sign certifications and recertifications, when this function is permitted under the scope of practice for the State.

**Table 1: Authority for Non-physician Practitioners to Perform Visits, Sign Orders and Sign Certifications/Recertifications When Permitted by the State\***

	<b>Initial Comprehensive Visit /Orders</b>	<b>Other Required Visits<sup>^</sup></b>	<b>Other Medically Necessary Visits &amp; Orders<sup>+</sup></b>	<b>Certification/ Recertification</b>
<b>SNFs</b>				
NP & CNS employed by the facility	May not perform/ May not sign	May perform	May perform and sign	May not sign
NP & CNS not a facility employee	May not perform/ May not sign	May perform	May perform and sign	May sign subject to State Requirements
PA regardless of employer	May not perform/ May not sign	May perform	May perform and sign	May not sign
<b>NFs</b>				
NP, CNS & PA employed by the facility	May not perform/ May not sign	May not perform	May perform and sign	May sign subject to State Requirements
NP, CNS & PA not a facility employee	May perform/ May sign	May perform	May perform and sign	May sign subject to State Requirements

\*This reflects clinical practice guidelines

<sup>^</sup>Other required visits are the required monthly visits that may be alternated between physician and non-physician practitioner after the initial comprehensive visit is completed

<sup>+</sup>Medically necessary visits may be performed prior to the initial comprehensive visit

**Effective Date:** This policy is in effect immediately.

**Training:** This policy should be shared with all appropriate survey and certification staff, their managers, and the state/regional office training coordinator.

/s/  
Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)