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March 5, 2014

Marilyn B. Tavenner, BSN, MHA
Centers for Medicare and Medicaid Service
Department of Health and Human Services
Attention: CMS-3178-P
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS – 3178-P: Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Providers Suppliers: Proposed Rule 78 Fed. Reg. 79082 (December 27, 2013)

Dear Administrator Tavenner,

On behalf of the American Nephrology Nurses' Association (ANNA), I am writing in response to Emergency Preparedness Requirements for Medicare and Medicaid Providers and Suppliers. We appreciate the opportunity to provide comments on this important issue.

ANNA promotes excellence in and appreciation of nephrology nursing so we can make a positive difference for people with kidney disease. Established as a nonprofit organization in 1969, ANNA has a membership of approximately 10,000 registered nurses in almost 100 local chapters across the United States. We are the only professional association that represents nurses who work in all areas of nephrology, including hemodialysis, chronic kidney disease, peritoneal dialysis, acute care, and transplantation. Most of our members work in freestanding dialysis units, hospital outpatient units, and hospital inpatient dialysis units.

ANNA develops and updates standards of clinical practice, educates practitioners, stimulates and supports research, disseminates knowledge and new ideas, promotes interdisciplinary communication and cooperation, and monitors and addresses issues encompassing the breadth of practice of nephrology nursing.

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We applaud the efforts by the Centers for Medicare and Medicaid Services (CMS) to ensure providers and suppliers are adequately prepared to meet the needs of patients, residents, clients, and participants during disasters and emergency situations.

Our response reflects the four elements outlined in the proposed rule: risk assessment and planning, policies and procedures, communication plan, and training and testing.

Risk assessment and Emergency Planning

ANNA embraces the ''all-hazards'' approach to Emergency Preparedness. With the implementation of the April 15, 2008 final rule (73 FR 20370) entitled, ''Conditions for Coverage for End-Stage Renal Disease Facilities; Final Rule'' (CfC), ANNA's educational offerings began to focus on the capacities and capabilities of all dialysis facilities as well as their preparedness for both natural and man-made emergencies or disasters.

In the aftermath of Hurricane Katrina, the nephrology community, with the assistance of CMS, came together and formed the Kidney Community Emergency Response Coalition (KCER). KCER is the leading authority on emergency preparedness and response among the kidney community and provides organization and guidance that seamlessly unites emergency management stakeholders and the End Stage Renal Disease (ESRD) community nationwide. ANNA is an active participant in the KCER coalition. This systematic approach has decreased the number of patients sent to hospitals for routine treatments during an emergency event. In collaboration with KCER and the ESRD Networks, the nephrology community is kept aware of facility closings and the need for additional supplies or specialized nephrology nursing staff in the case of an emergency.

We agree that basic subsistence needs for staff and patients, as proposed for hospitals, should not be included for ESRD facilities.

Policies and Procedures

We are in agreement that facilities should develop and implement policies and procedures based on their emergency plan and risk assessment. We do not perceive an increased burden to the facility to review and update policies and procedures annually. The minimum requirements outlined in the proposed rule reflect appropriate policies and procedures for emergency preparedness. We propose that the requirement to implement a tracking system to locate staff and patients in the dialysis facility's care, include routine calls with KCER, both during and after an emergency. Due to anticipated power outages, electronic medical records may not be available and the processes for using "hard copy" materials should be addressed. Most dialysis facilities are encouraged to develop relationships with "sister" facilities that are at least 50 miles away. However, this relationship will not always ensure the sister facility will be operational.

The role of the dialysis facility under a waiver declared by the Secretary, in accordance with section 1135 of the Act, in the provision of care and treatment at an alternate care site identified by emergency management officials, is not routinely a part of the policies and procedures and most likely will need to be developed by the facilities. Historically, we have found that the process to obtain emergency medical system assistance during a disaster becomes overloaded and results in an inability to respond within the timeframes indicated in the policies and procedures.

Emergency staffing strategies, including the process for the integration of State or Federally designated health care professionals to address surge needs during an emergency, continues to be an issue. Registered nurses have consistently demonstrated their reliability as responders. Their compassionate nature typically compels them to respond to those in need, even when it puts their own safety or well-being at risk. Unfortunately, in past disasters, nephrology nurses have not been able to assist due to state licensure issues. After Hurricane Sandy, ANNA was unable to deploy nephrology nurses in a timely fashion to those states in need due to the inability to quickly receive approval from the State Boards of Nursing for temporary licensure. ANNA will continue to support the adoption of the Nurse Licensure Compact (NLC) by every state so as to decrease barriers to the provision of nursing care and to help ensure the availability of licensed nurses during a disaster or other time of great need.

Communication Plan

ANNA is in agreement to require a facility to develop and maintain an emergency preparedness communication plan that complies with both federal and state law. ANNA educational offerings have addressed the need for nephrology nurses to train staff in the implementation of emergency drills using the Incident Command System.

We agree that dialysis facilities should not provide information regarding occupancy, as the facilities serve outpatients and do not routinely accommodate overnight stays.

Training and Testing

ANNA is in agreement that the dialysis facility should develop and maintain an emergency preparedness training, testing and patient orientation program. The proposed rule is more stringent than the original CfC and will require additional time for the development of such a comprehensive program. We agree that staff must demonstrate knowledge of emergency procedures and facilities should provide this training on an annual basis. It is important that patient care staff maintain current CPR certification, which is already an expectation in ESRD facilities. We are concerned that there may be specific state regulations regarding the qualifications of nursing staff providing emergency care and these regulations should be identified as part of the training program.

Dialysis facilities have been conducting drills and exercises to test the emergency plan. The participation in community mock disaster drills has been difficult in rural areas. We are pleased that, in the proposed rule, CMS has recognized this issue and has allowed for the facility to conduct an individual, facility-based mock disaster drill at least annually. We are in agreement that if the facility were to actually a natural or man-made emergency that requires activation of the emergency plan they would be exempt from the mock drill for that year. Lessons learned from an actual event should be incorporated into policies and procedures as part of the quality improvement process.

The proposed training materials that focus on patient emergency preparedness will require additional time for development. These materials must be developed based on health literacy and patient education guidelines. The comprehensive training program proposed will require additional education coordinator time. ANNA must caution CMS that not all facilities have identified education coordinators and this proposed rule will result in a burden for smaller facilities. The development of education programs include development of goals and objectives based on risk assessment, literature review, determination of teaching strategies, health literacy assessments, presentation and/or publication, and evaluations. Additional time and cost should be allocated to this calculation.
Also, ANNA urges CMS to provide a minimum of 12 months for implementation of the final rule.

ANNA greatly appreciates having the opportunity to share our comments on the Emergency Preparedness Requirements for Medicare and Medicaid Providers and Suppliers. As the leading professional association representing nephrology nurses, we look forward to continuing to work with your agency on this important issue. Please feel free to contact me directly if you have any questions or would like to discuss these issues in greater detail.

Sincerely,

Norma Gomez, MBA, MSN, RN, CNN
ANNA President