

## ACROinsights – The Role of Nonphysician Practitioners in Radiation Oncology

The goal of this series of articles is to ensure that radiation oncologists are aware of and provided with the knowledge to practice in a compliant manner. This installment will review the guidelines and regulations regarding the role nonphysician practitioners can provide in radiation oncology.

### Nonphysician Practitioners in Radiation Oncology

The scope of work provided by nonphysician practitioners (NPPs) has evolved and changed significantly over time. When the Medicare program was signed into law in 1965, it was predominantly nurses who provided assistance to physicians. Now it is not uncommon to see NPPs, such as Nurse Practitioners (NPs) and Physician Assistants (PAs), providing more of that assistance, and where allowed, providing the services 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 which they practice, regardless if the training was provided in another state. Medicare also requires NPPs to have active, valid Medicare and/or Medicaid provider number, even if their services are provided incident-to the supervising physician or under the name of the NPP.

In the oncology setting the role of the NPPs can be varied and dependent on factors such as the hospital-granted privileges, whether or not the training received by the NPP covers specific items related to chemotherapy and radiation treatment delivery, and their state scope of practice.

The American Medical Association (AMA) outlines requirements within the May 2015 CPT® Assistant publication of the documentation needed to identify the relationship of the NPP to the physician(s) they are working under. The AMA indicates when there are no state laws governing the collaboration of the NPP with physicians under whose supervision and medical direction they are working, there must be a written agreement between the NPP and the physician(s) of the NPP provided services. The written agreement is needed to define the collaboration with the state scope of practice of the NPP and the relationship of the NPP to the physician(s) to work through and deal with issues outside the state scope of practice of the NPP. Any services which are not defined by the written agreement cannot be billed to Medicare. It is worth noting, 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.

When an NPP is employed in an oncology center, if the previously mentioned guidelines allow for them to provide services, services are either billed when provided incident-to under the physician's NPI or independent of the physician under the National Provider Identifier (NPI) of the NPP.

Incident-to is specific to Medicare, and **MedLearn Matters<sup>1</sup> (MLN) SE0441**, "Incident to" Services, defines how what incident-to means to them. "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." If the services are not provided incident-to, the services are billed under the NPI of the NPP and Medicare reimburses those services at 85 percent of the physician fee schedule rate.

For services to qualify as incident-to, there are specific criteria which must be met. According to the Centers for Medicare and Medicaid Services (CMS), 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

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<sup>1</sup> MedLearn Matters articles explain Medicare policy in a format designed to be easy to understand. They are created specifically for clinicians, billing staff, and CMS subject matter experts. Access articles and sign up for updates on CMS website at <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles>.

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treatment.” The physician must also provide direct supervision of the services provided incident-to and the medical record must reflect the requirements were met.

MLN SE0441, more specifically states these services must also be all the following:

- 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 you [physician].

Incident-to only applies to those services which qualify to be provided by the staff member 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 independent contractor. Any professional services provided by the NPP in the hospital must be billed under the NPI and name of the NPP. Incident-to does not apply in the hospital or skilled nursing facility settings.

Once it is established that an NPP is appropriate to the radiation oncology practice, the question becomes, what services can be provided by the NPP? Once the course or plan of care is established by the radiation oncologist, the NPP can see the patient in follow-up (ex. established outpatient visit codes 99212-99215) if there are no changes in the patient plan of care. If during the visit it is identified there is a new problem, the physician must be involved in the visit. Nonphysician practitioners cannot see patients for new problems; this must be performed by the physician. Billing for this service will either be under the NPI and name of the physician, if performed incident-to, or under the NPI of the NPP if accepted and recognized by the payer at a reduced reimbursement rate.

Many of the services provided in radiation oncology are not just consultative but do require supervision of staff and clinical skills the NPP may not be qualified to provide the supervision and/or work. For example, patients under the course of 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 support there must be an exam of the patient.

For other services such as simulation, dosimetry planning, treatment delivery, and imaging, the NPP would need to be trained and have a state scope of practice appropriate to supervise clinical staff and personally perform any of the professional services. Many NPPs lack the necessary training to be able to step in and take over a procedure equivalent to the radiation oncologist, therefore their scope of practice in the radiation oncology center may be limited.

It is important each oncology practice which already employs NPPs or is considering employment of an NPP, review the published scope of practice information for the state where the practice resides. States typically publish this information for NPPs, and it is important to ensure understanding and compliance of services which can be performed or supervised to avoid sanctions, license revocation, or suspension.

During the Public Health Emergency (PHE) response to COVID-19, some of the waivers by CMS have expanded 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 state scope of practice, hospital granted privileges, and training, the NPP can provide services to oncology patients during the PHE.

As of the writing of this article it is uncertain how long the expanded waivers will be in place. It is also uncertain what changes may be extended or in place as we continue to move towards CY 2021. Many believe there will be

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changes to healthcare incorporated during the PHE which will follow us into the future. These changes could also impact the role and services provided by nonphysician practitioners in the oncology setting.

### **The Take Home Message**

It is critical for hospitals, physicians, and freestanding center staff to understand the criteria in place regarding employment and use of NPPs in the radiation oncology facility. NPPs are an investment in staffing that may fall short of the anticipated outcomes if there is no clear understanding of the regulatory guidelines. If done appropriately, NPPs may provide assistance to radiation oncologists as the need of patients continue to increase.