

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 17-01-29-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney x3436 / Amanda Forsythe x6459

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 16-08-24-A, Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses
3. This action is an adoption an amendment of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.200, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? Yes
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of hearing). No

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.200 with the proposed text starting at 8.200.1 through the end of 8.200.2.E. This is an emergency rule and effective February 10, 2017.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses
Rule Number: MSB 17-01-29-A
Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney x3436 / Amanda Forsythe x6459

STATEMENT OF BASIS AND PURPOSE

- 1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This rule revision changes the supervision requirements for Registered Nurses providing physician services. Under the revised rule, Colorado Medicaid will reimburse for services provided by Registered Nurses under general supervision, so long as the services fall within their scope of practice as set forth by the Colorado Department of Regulatory Agencies. In contrast to direct supervision, which requires that the supervisory physician provider be onsite, general supervision requires that the physician provider be available via telephone or email for the duration of the service(s) being provided by the registered nurse. The Department seeks to align its reimbursement policy with standard practice for registered nurses in the state.

- 2. An emergency rule-making is imperatively necessary

to comply with state or federal law or federal regulation and/or
 for the preservation of public health, safety and welfare.

Explain:

If this rule revision is not effective by March 1, 2017, Local Public Health Agencies will stop seeing Medicaid patients for services provided by RNs under general supervision. The Department of Health Care Policy and Financing worked with the Department of Public Health and Environment (CDPHE) to obtain a temporary one-year certification to allow billing and reimbursement for RN services under general supervision. Due to the absence of any objection to the proposed rule at the public rule review meeting in November or initial MSB meeting in December, the Department, CDPHE and the Local Public Health Agencies believed that a temporary certification would no longer be necessary after March 1, 2017. A failure to adopt an emergency rule would be a hardship to Medicaid clients whom depend on Local Public Health Agencies to provide necessary medical services.

- 3. Federal authority for the Rule, if any:

42 CFR 440.230(2)(b)

Initial Review
Proposed Effective Date

03/10/17

Final Adoption
Emergency Adoption

03/10/2017

DOCUMENT #01

DO NOT PUBLISH THIS PAGE

Each service must be sufficient in amount, duration, and scope to reasonably achieve its purpose. This change helps achieve the purpose of ensuring sufficient access to physician services for Colorado Medicaid clients.

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2016);

The Department is required to provide services and payment that may include provisions that encourage the highest quality of medical benefits and the provision thereof at the least expense possible. 25.5-4-401(2), C.R.S. (2016). This rule falls within that authority. The scope of practice for Registered Nurses in Colorado does not require physician oversight during the course of independent nursing practice. Individual facilities or physician practices may have policies requiring some level of physician oversight. The Department is able to require a certain level of physician oversight as a condition of reimbursement for covered physician services.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 17-01-29-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney
x3436 / Amanda Forsythe x6459

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The persons affected are Colorado Medicaid clients, as all clients may receive care from Registered Nurses.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

It is impossible to determine the increase in services that will occur under this rule.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There is likely no increase in costs. The services are currently being rendered by higher level providers and will now be available from Registered Nurses.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The probable costs are relatively small for either inaction or action. The rule change is being pursued to update Medicaid reimbursement policies with that of other payers in the state.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There is no alternative way to provide services to Medicaid clients by RNs under General Supervision at this time.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

DO NOT PUBLISH THIS PAGE

The alternatives considered were to retain the existing requirements, which were not seen as good policy at the Department.

8.200 PHYSICIAN SERVICES

8.200.1 ~~_____~~ ~~Definitions~~ Definitions

~~An~~ Advanced Practice Nurse means a provider that meets the requirements to practice advanced practice nursing as defined in Article 38 of Title 12 of the Colorado Revised Statutes. In Colorado an Advanced Practice Nurse may have prescriptive authority.

~~A Licensed Psychologist is a provider that meets the requirements to practice psychology as defined in Part 3 of Article 43 of Title 12 of the Colorado Revised Statutes.~~

Certified Family Planning Clinic means a family planning clinic certified by the Colorado Department of Public Health and Environment, accredited by a national family planning organization and staffed by medical professionals licensed to practice in the State of Colorado, including but not limited to, doctors of medicine, doctors of osteopathy, physicians' assistants, and advanced practice nurses.

Direct Supervision means the supervising provider shall be on-site during the rendering of services and immediately available to give assistance and direction throughout the performance of the service.

General Supervision means the supervising provider ~~may need~~ not be on-site during the rendering of services, but ~~is needs to be~~ immediately available via telephonic or other electronic means to give assistance and direction throughout the performance of the service.

Licensed Psychologist means a provider that meets the requirements to practice psychology as defined in Part 3 of Article 43 of Title 12 of the Colorado Revised Statutes.

Medical Necessity is defined in 10 C.C.R. 2505-10, Section 8.076.1.8.

8.200.2 ~~_____~~ ~~Providers~~ Providers

8.200.2.A. A doctor of medicine or a doctor of osteopathy may order and provide all medical care goods and services within the scope of their license ~~to provide such goods and services~~ that are covered benefits of the Colorado Medical Assistance Program.

1. A provider of covered dental care surgery ~~can may~~ be ~~either~~ enrolled as either a dentist or oral surgeon, but not as both. A dentist may order and provide covered dental care.

8.200.2.B. Physician services that may be provided by non-physician providers without a physician order ~~by non-physician providers~~.

1. Advanced Practice Nurses may provide and order covered goods and services in accordance with the scope of practice as described in the Colorado Department of Regulatory Agencies rules Colorado Revised Statutes without a physician order.
2. Licensed Psychologists may provide and order covered mental health goods and services in accordance with the scope of practice as described in the Colorado Department of Regulatory Agencies rules Colorado Revised Statutes without a physician order.
 - a. Services ordered by a Licensed Psychologist but rendered by a non-licensed mental health provider shall be signed and dated by the Licensed Psychologist contemporaneously with the rendering of the service by a non-licensed mental health provider.

3. Optometrists may provide covered optometric goods and services within their scope of practice as described by the ~~Colorado Revised Statutes~~ [Colorado Department of Regulatory Agencies rules](#) without a physician order.
4. Podiatrists may provide covered foot care services within their scope of practice as described by the [Colorado Department of Regulatory Agencies rules](#) ~~Colorado Revised Statutes~~ without a physician order.
5. Licensed dental hygienists may provide unsupervised covered dental hygiene services in accordance with the scope of practice for dental hygienists as described in the [Colorado Department of Regulatory Agencies rules](#) ~~Colorado Revised Statutes~~ without a physician order.
 - a. ~~Unsupervised dental hygiene services are limited to those clients and procedures as defined by the Department of Health Care Policy and Financing.~~

8.200.2.C. Physician services that may be provided by a non-physician provider when ordered by a provider acting under [the](#) authority described in Sections 8.200.2.A. and 8.200.2.B.

1. Registered occupational therapists, licensed physical therapists, licensed audiologists, certified speech-language pathologists, and licensed physician assistants may provide services ordered by a physician.
 - a. Services ~~shall~~**must** be rendered and supervised in accordance with the scope of practice for the non-physician provider described in the [Colorado Department of Regulatory Agencies rules](#).

~~Colorado Revised Statutes.~~

8.200.2.D. Physician services that may be provided [by a non-physician provider](#) when supervised by an enrolled provider.

1. With the exception of the non-physician providers described in Sections 8.200.2.A. through 8.200.2.C. and 8.200.2.D.1.a., a non-physician provider may provide covered goods and services only under the Direct Supervision of an enrolled provider who has the authority to supervise those services, according to the [Colorado Department of Regulatory Agencies rules](#) ~~Colorado Revised Statutes~~. If [Colorado Department of Regulatory Agencies rules](#) ~~the Colorado Revised Statutes~~ do not designate who has the authority to supervise, the non-physician provider shall provide services under the Direct Supervision of an enrolled physician.
 - a. Registered Nurses (RNs) ~~employed by Local Public Health Agencies (LPHAs) may provide~~ are authorized to provide delegated medical services within their scope of practice as described in the [State of Colorado Department of Regulatory Agencies rules](#) ~~vaccination administration services~~ under General Supervision.

8.200.2.E. Licensure and required certification for all physician services providers shall be in accordance with their specific specialty practice act and with current state licensure statutes and regulations.