Department of Veterans Affairs

Memorandum

Date: February 8, 2021

From: VHA Chief of Staff (10B)

Subj: Process to Establish Standards of Practice in Accordance with 38 CFR 17.419

To: 10A DUSH (10A)
AUSH-CC (13)
AUSH-QPS (17)
ADUSH-RM (10ORE)
AUSH-O (15)
AUSH-CS (11)
AUSH-S (19)
AUSH-PCS (12)
AUSH-DEAN (14)

1. In accordance with 38 CFR 17.419, this memorandum sets forth the process that must be used to develop occupation-specific national standards of practice. Occupation-specific national standards of practice will allow Department of Veterans Affairs (VA) to utilize widely accepted best practices across the VA system irrespective of State requirements or restrictions. For example, 47 States permit nurses to follow a clinical protocol. By creating a national standard of practice for nurses, VA would have the opportunity to permit all VA nurses to follow a clinical protocol irrespective of the three States that prohibit that practice. This process is intentionally written to allow flexibility to broadly use best practices unique to specific professions while ensuring that the development of the national standards of practice will be deliberative, collaborative, and structured.

2. Each Assistant Under Secretary for Health (AUSH) must ensure that appropriate Veterans Health Administration (VHA) staff collaborate and work expeditiously on this process to create the national standards of practice. Within 2 months of publication after issuance of this memorandum, each AUSH must ensure that a development schedule is submitted to and approved by the Deputy Under Secretary for Health. ***NOTE:*** *A list of health care specialties that likely require a standard of practice to be developed in accordance with the process set forth in this memorandum can be found in Appendix A of this memorandum.*

3. Each AUSH must ensure that national standards of practice are developed using the following process:

a. The Office of Regulations, Appeals, and Policy (10BRAP) assigns to the responsible program office (RPO) a point of contact to assist with development.

b. RPO identifies best practices that are not recognized by every licensing, certification, or registration board but would enhance the practice and efficiency of the profession throughout the agency.

c. The RPO may consult on the proposed standard, as appropriate, with the appropriate internal or external stakeholders, including but not limited to the following:

i. Field representation, including but not limited to: an individual in practice, a service chief, a Chief of Staff, an Associate Director for Patient Care Services, a Veterans Integrated Service Network (VISN) lead, and a VISN Chief Medical Officer. ***NOTE:*** *Field representation must be included in the development and subsequent proposed modifications to the standards of practice.*

ii. VHA Office of Workforce Management and Consulting (WMC), who may need to consult with VA Office of Human Resources (OHR).

iii. VHA Discovery, Education, and Affiliate Networks (DEAN), academic affiliates, university training programs, etc.

iv. State licensing board officials or professional practice groups.

v. Office of Congressional and Legislative Affairs (OCLA).

vi. Offices responsible for patient safety, facility accreditation, and credentialing/privileging.

vii. Office of General Counsel (OGC).

viii. Where proposed standards involve medication administration, prescribing, or selection, Pharmacy Benefits Management Services (12PBM).

ix. National Center for Ethics in Health Care.

d. AUSH approves a proposed national standard of practice. The proposal must specifically address:

i. If the occupation specific national standard of practice allows for an additional clinical duty to be added to existing privileges, scopes of practice, or functional statements, what is plan for determining competency prior to adding the additional duty?

ii. If the proposed national standard of practice is not permitted in all States, how many States permit the proposed practice, how many States do not permit the proposed practice, and how many States have some restrictions or limitations on the proposed practice? Are there any identifiable trends (that is, are more States starting to permit the practice or restrict it?). Would VHA be a “trailblazer” or would VHA be adopting majority standard?

iii. Any anticipated controversy or sensitivity at the local, State, or Federal level, including internal controversy within VA. If there is anticipated controversy, include a draft communication plan to address same.

iv. Whether the proposed national standard of practice matches any standard used by the Department of Defense (DoD).

v. Whether the proposed national standard of practice is substantially different from Medicare recognition requirements or coverage of treatment by the affected profession.

vi. Whether and when the proposed national standard of practice can be adopted in the new Electronic Health Record and associated risks.

e. AUSH presents the proposed national standard of practice to VHA Governance Board for comment, and makes any appropriate revisions based on feedback.

f. AUSH presents the proposal of the national standard of practice to the Under Secretary for Health for approval.

g. If VHA's proposed national standard of practice is different from one or more State requirement (for example, license, registration, or certification) standard:

i. 10BRAP notifies Office of Management and Budget (OMB) of intended national standard of practice and communication plan.

ii. VHA engages OCLA to discuss whether to give prior notice to Congress.

iii. RPO, in collaboration with 10BRAP, must engage State boards and the public. ***NOTE:*** *Suggested possibilities include: holding one or more public hearings; announcing in the Federal Register; and allowing for submission of written public comment.*

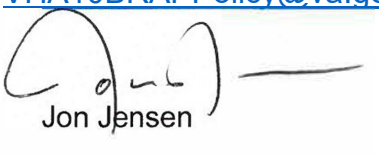
iv. RPO must engage representation from potentially affected employees, to include actively appointed providers in the respective occupation and other collaborating treatment team members from other occupations. ***NOTE:*** *Suggested possibilities include: holding one or more internal town halls or seeking written comment.*

v. Where appropriate, RPO meets with specific internal and external stakeholders.

h. RPO sends proposed national standard of practice as a draft VHA directive to 10BRAP to go through VHA national policy review and concurrence process. ***NOTE:*** *The Under Secretary for Health retains signature authority over the directive.*

i. The VHA directive is published.

4. Should you have any questions concerning this memorandum, including requests for support on completing any of the process requirements, please contact VHA10BRAPPolicy@va.gov.



APPENDIX A to MEMORANDUM: Process to Establish Standards of Practice in Accordance with 38 CFR 17.419

Health care specialties that likely require a standard of practice to be developed in accordance with the process set for in this memorandum include but are not limited to health care professionals in the specialties listed below.

a. Acupuncturist.

b. Addiction Therapist.

c. Certified Registered Nurse Anesthetist.

d. Audiology.

e. Speech Pathology.

f. Blind Rehabilitation Specialist.

g. Certified or Registered Respiratory Therapist.

h. Chiropractor.

i. Clinical Nurse Specialist.

j. Dentist.

k. Dental Assistant.

l. Dental Hygienist.

m. Dental Technologist.

n. Dietitian.

o. Diagnostic Radiology Technician.

p. Genetic Counselor.

q. Licensed Professional Mental Health Counselor.

r. Marriage and Family Therapist.

s. Medical Technologist.

t. Cytologist.

u. Registered Nurse.

v. Licensed Practical/Vocational Nurse.

w. Occupational Therapist.

x. Optometrist.

y. Health Technician (Ophthalmology).

z. Histopathology Technologist.

aa. Kinesiotherapist.

bb. Massage Therapist.

cc. Medical Instrument Technician (Perfusion).

dd. Nuclear Medicine Technician.

ee. Orthotic and Prosthetic Services.

ff. Peer Specialist.

gg. Pharmacist.

hh. Pharmacy Technician.

ii. Physical Medicine and Rehabilitation Specialist.

jj. Physical Therapist.

kk. Physical Therapy Assistant.

ll. Physician Assistant.

mm. Physician.

nn. Podiatrist.

oo. Psychologist.

pp. Radiologist Assistant.

qq. Recreation/Creative Arts Therapist.

rr. Rehabilitation Counselor.

ss. Social Worker.

tt. Therapeutic Medical Physician.

uu. Therapeutic Radiology Technician.

vv. Vocational Rehabilitation Counselor.