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# DEMONSTRATED NEED FOR SKILLED CARE FOR MEDICARE PATIENTS: SKILLED NURSING SERVICES

ETHICS & COMPLIANCE DEPARTMENT

**SCOPE:**

Applies to all Evolution Health colleagues. For purposes of this policy, all references to “colleague” or “colleagues” include temporary, part-time and full-time employees, independent contractors, clinicians, officers and directors.

**PURPOSE:**

To provide guidance to all of Evolution Health (the “Company”) colleagues on assessing whether a patient needs skilled nursing services.

**POLICY:**

It is the policy of the Company that each patient whose services are covered by the Medicare program will be assessed to verify that a skilled need exists as part of the Initial Patient Assessment/Comprehensive Patient Assessment. While a patient may also qualify for home health services through the need for skilled therapy services, this policy addresses the need for skilled nursing services.


**PROCEDURE:**

*General Principles*

In order to qualify for home health services payable by the Medicare Program a patient must need one of the following types of services:

- Skilled nursing care;
- Physical therapy;
- Speech-language pathology; or
- A continuing need for occupational therapy.

This policy addresses assessment for skilled nursing care. The Company’s Demonstrated Need for Skilled Care for Medicare Patients: Skilled Therapy Services, Policy No. 407, provides procedures for assessing Medicare patient eligibility for therapy services.

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### *Documentation Requirements*


On admission and during each recertification period, the clinician must document the need for skilled nursing care.

- The clinical record of the patient must contain progress and clinical notes, and reflect the need for the skilled medical care provided. Important communications among all members of the home care team regarding the development, course, and outcomes of the skilled observations, assessments, treatment, and training performed should also be included in the clinical record.
- The clinical notes must document, as appropriate, the following:
  1. The history and physical exam pertinent to the day's visit (including the response or changes in behavior to previously administered skilled services) and the skilled services applied on the current visit;
  2. The patient/caregiver's response to the skilled services provided;
  3. The plan for the next visit based on the rationale of prior results;
  4. A detailed rationale that explains the need for the skilled service in light of the patient's overall medical condition and experiences;
  5. The complexity of the service to be performed;
  6. Any other pertinent characteristics of the beneficiary or home; and
  7. Objective measurements of physical outcomes of treatment should and/or a clear description of the changed behaviors due to education programs .

### *Skilled Nursing Care*

To be covered as a skilled nursing service, the service must: require the skill of a registered nurse or a licensed practical or vocational nurse under the supervision of a registered nurse; be reasonable and necessary to the treatment of the patient's illness; and be intermittent.

- Must Require the Skill of an RN or an LPN or LVN Under the Supervision of an RN
  1. In determining whether the service requires the skills of a nurse, the Company will consider the inherent complexity of the service, the condition of the patient and the accepted standards of medical and nursing practice.
    - **Complexity.** Some services may be classified as skilled nursing services based on complexity alone. For example, intravenous therapy, intramuscular injections or insertion of a catheter qualify as skilled services.

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- **Condition of the Patient.** In some circumstances, the condition of the patient may cause a service that would ordinarily be considered unskilled to be a skilled nursing service where the patient's condition is such that the service can be safely and effectively performed only by a nurse.

**Example.** The presence of a plaster cast generally does not indicate the need for skilled nursing care. However, the patient with a preexisting circulatory condition may need skilled care to observe for complications, monitor medication administration for pain and teach proper skin care to preserve skin integrity and prevent skin breakdown.


2. A service is not considered reasonable and necessary merely because it is performed by or under the direct supervision of a nurse. If a service can be safely and effectively performed (or self-administered) by a non-medical person, without the direct supervision of a nurse, the service cannot be regarded as a skilled nursing service although a nurse actually provides the service. In addition, the unavailability of a competent person to provide non-skilled services, notwithstanding the important of the service to the patient, does not make it a skilled service when a nurse provides the service.

**Example.** Giving a bath does not ordinarily require the skills of a nurse; thus a bath would not be covered as a skilled nursing service unless the patient's condition is such that the bath could be given safely and effectively only by a nurse.

3. A service which, by its nature, requires the skills of a nurse to be provided safely and effectively continues to be a skilled service even if it is taught to the patient, the patient's family, or other caregivers. Where the patient needs the skilled nursing care and there is no one trained, able and willing to provide it, the services of a nurse would be reasonable and necessary to the treatment of the illness or injury.

**Example.** A patient is discharged from the hospital with an open draining wound that requires irrigation, packing and a dressing twice each day. The nurse has taught the family how to perform the dressing changes. The nurse continues to see the patient for the wound care that is needed during the time that the family is not available to provide the dressing changes. The wound care continues to be skilled nursing care, even though the family provides the care part of the time.

- Must Be Reasonable and Necessary to the Diagnosis and Treatment of the Patient's Illness or Injury.

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To be considered reasonable and necessary to the patient’s illness or injury, the services must be consistent with the nature and severity of the illness or injury, the patient’s particular medical needs and accepted standards of medical and nursing practice. A patient’s overall medical condition is a valid factor in deciding that a service the patient needs is either skilled or not skilled. The determination of whether a patient needs skilled nursing care should be based solely upon the patient’s unique condition and individual needs without regard to whether the injury or illness is acute, chronic, terminal, or expected to extend over a long period of time. In addition, skilled care may, depending on the condition of the patient, continue to be necessary for patients whose condition is stable.

**Example.** A physician has ordered skilled nursing care for a patient with a hairline hip fracture. In the absence of an underlying medical condition or illness, nursing visits would not be reasonable and necessary for treatment of the patient’s hip fracture.

**Example.** A physician has ordered skilled nursing visits for insulin injections and teaching self-administration of the medication regimen for a patient with diabetes. The skilled nursing visits for the injections and teaching of self-administration and management of the treatment of the regimen would be reasonable and necessary.

**Example.** Following a stroke, a patient has an in-dwelling foley catheter because of urinary incontinence and is expected to require the catheter for a long and indefinite period. Periodic visits to change the catheter as needed, treat symptoms of catheter malfunction and teach proper patient care would be reasonable and necessary.


- Skilled Nursing Services Must Be Intermittent.

Medicare covers skilled nursing services by a home health agency that are “intermittent.” Generally, nursing services are considered intermittent where skilled nursing care is furnished on fewer than 7 days each week, or less than 8 hours each day for periods of 21 days or less. To meet the requirement for “intermittent” the patient must have a medically predictable recurring need for skilled nursing services. This requirement is generally met if the patient requires a skilled nursing service at least once every 60 days.

### *Common Skilled Nursing Services*

While not exhaustive, below are common skilled nursing services and the circumstances under which they would be reasonable and necessary and thus covered by the Medicare Program.

- Observation and Assessment of a Patient’s Condition When Only the Specialized Skills of a Medical Professional Can Determine the Patient’s Status. Observation and assessment of the patient’s condition by a nurse are reasonable and necessary

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skilled services when the likelihood of change in a patient’s condition requires skilled nursing personnel to identify and evaluate the patient’s need for possible modification of treatment or initiation of additional medical procedures until the patient’s clinical condition and/or treatment regimen has stabilized. Where a patient was admitted to home health care for skilled observation because there was a reasonable potential of a complication or further acute episode, but did not develop a further acute episode or complication, the skilled observation services are still covered for three weeks or so long as there remains a potential for such a complication or further acute episode.

**Example.** A patient with atherosclerotic heart disease and congestive heart failure requires observation by skilled nursing personnel for signs of decompensation or adverse effects from newly prescribed medications. Skilled observation is needed to determine whether the new drug regimen should be modified or whether other therapeutic measures should be considered until the patient’s clinical condition and/or treatment regimen has stabilized. The clinical notes for each home health visit should reflect the deliberations and their outcome.

**Example.** A patient was hospitalized following a heart attack, and following treatment but before mobilization, is discharged home. Because it is not known whether increasing exertion will exacerbate the heart disease, skilled observation is reasonable and necessary as mobilization is initiated in the patient’s home. The patient’s need for skilled observations must be documented at each home health visit until the patient’s clinical condition and/or treatment regimen has stabilized.

- Management and Evaluation of a Patient Care Plan. Skilled nursing care visits for management and evaluation of the patient’s care plan are reasonable and necessary where underlying conditions or complications require that only a registered nurse can ensure that essential unskilled care is achieving its purpose.

**Example.** A patient with a history of diabetes and chest pain is recovering from an open reduction of the neck of the femur. He requires careful skin care, appropriate oral medications, a diabetic diet, a therapeutic exercise program to preserve muscle tone and body conditions and observation to notice the signs of deterioration in his condition or complications resulting from his restricted, but increasing, mobility. Although a properly instructed person could perform any of the required services, the person would not have the capability to understand the relationship among the services and their effect on each other. The management of this plan of care requires skilled nursing personnel until nursing visits are not needed to observe and assess the effects of the non-skilled services being provided to treat the illness or injury until the patient recovers. Where nursing visits are not needed to observe and assess the effects of the non-skilled services being provided to treat the illness or injury, skilled nursing care would not be considered reasonable and necessary, and the management and evaluation of the care plan would not be considered a skilled service.

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**Example.** A physician orders one skilled nursing visit every two weeks and three home health aide visits each week for bathing and washing hair for a patient whose recovery from a stroke left him with residual weakness on the left side. The cardiovascular condition is stable and the patient has reached the maximum restoration potential. There are no underlying conditions that would necessitate the skilled supervision of a licensed nurse in assisting with bathing or hair washing, so skilled nursing care would not be considered reasonable and necessary, and the management and evaluation of the care plan would not be considered a skilled service.

- Teaching and Training Activities. Teaching and training that require skilled nursing personnel to teach a patient, the patient's family or caregivers how to manage the treatment regimen would constitute skilled nursing services. The test of whether a nursing service is skilled relates to the skill required to teach and not the nature of what is being taught. Therefore, where skilled nursing services are necessary to teach an unskilled service, the teaching may be covered. Skilled nursing visits for teaching and training are reasonable and necessary where the teaching or training is appropriate to the patient's functional loss, illness or injury.

**Example.** A physician has ordered skilled nursing care for teaching a diabetic who has recently become insulin dependent. The physician has ordered teaching of self-injection and management of insulin, signs and symptoms of insulin shock, and actions to take in emergencies. The education is reasonable and necessary to the treatment of the illness or injury, and the teaching services and the patient/caregiver responses must be documented.

**Example.** A physician ordered skilled nursing visits to teach self-administration of insulin for a patient that has been self-injecting insulin for the past 10 years and there is no change in the patient's physical or mental status that would require re-teaching. The skilled nursing visits would not be reasonable and necessary since the patient has a longstanding history of being able to perform the service.


- Administration of Medications.
  1. **Injections.** Intravenous, intramuscular or subcutaneous injections and infusions and hypodermoclysis or intravenous feedings require the skill of a nurse to be performed (or taught) safely and effectively. For these services to be covered, the medication being administered must be accepted as safe and effective treatment of the patient's illness or injury and there must be a medical reason that the medication cannot be taken orally.
  2. **Oral Medications.** The administration of oral medications by a nurse is not reasonable and necessary skilled nursing service except in the specific situations in which the complexity of the patient's condition, the nature of the drugs prescribed and the number of drugs prescribed require the skills of a licensed nurse to detect and evaluate side effects or reactions. The medical

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record must document the specific circumstances that cause administration of an oral medication to require skilled observation and assessment.

**3. Eye Drops and Topical Ointments.** The administration of eyes drops and topical ointments does not require the skills of a nurse.

- Tube Feedings. Nasogastric tube and percutaneous tube feedings (including gastrostomy and jejunostomy tubes) and replacement, adjustment, stabilization and suctioning of the tubes are skilled nursing services, and if the feedings are required to treat the patient's illness or injury, the feedings and replacement or adjustment of the tubes would be covered as skilled nursing services.
- Nasopharyngeal and Tracheostomy Aspiration. Nasopharyngeal and tracheostomy aspiration are skilled nursing services and, if required to treat the patient's illness or injury, would be covered as skilled nursing services.
- Catheters. Insertion and sterile irrigation and replacement of catheters, care of a suprapubic catheter, and in selected patients, urethral catheters, are considered to be skilled nursing services. Where the catheter is necessitated by a permanent or temporary loss of bladder control, skilled nursing services that are provided at a frequency appropriate to the type of catheter would be considered reasonable and necessary.
- Wound Care. For skilled nursing services to be reasonable and necessary to treat a wound, the size, depth, nature of drainage (color, odor, consistency and quantity) and condition and appearance of the skin surrounding the wound must be documented.
- Ostomy Care. Ostomy care during the post-operative period and in the presence of associated complications where the need for skilled nursing care is clearly documented is a skilled nursing service. Teaching ostomy care remains a skilled nursing service regardless of the presence of complications. The teaching services and the patient/caregiver responses must be documented.
- Heat Treatments. Heat treatment that has been specifically ordered by a physician as part of active treatment of an illness or injury and require observation by a licensed nurse to adequately evaluate the patient's progress is a skilled nursing service.
- Medical Gases. Initial phases of a regimen involving the administration of medical gases that are necessary to the treatment of the patient's illness or injury would require skilled nursing care for skilled observation and evaluation of the patient's reaction to the gases and to teach the patient and family when and how to properly manage the administration of the gases.

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- Rehabilitation Nursing. Rehabilitation nursing procedures, including the related teaching and adaptive aspects of nursing that are part of active treatment (*e.g.*, the institution and supervision of bowel and bladder training programs) are skilled nursing services.
- Venipuncture. Venipuncture for the purposes of obtaining a blood sample cannot be the sole reason for Medicare home health eligibility. However, if the beneficiary qualifies for home health eligibility based on a skilled need other than solely venipuncture (*e.g.*, eligibility based on the skilled nursing service of wound care and meets all other Medicare home health criteria), medically reasonable and necessary venipuncture coverage may continue during the 60-day episode under a home health plan of care.

## **POLICY REVIEW**

The Ethics & Compliance Department will review and update this Policy and all HIPAA policies when necessary in the normal course of its review of the Ethics & Compliance Program.