We believe that the behavioral therapy service described by HCPCS code G0446 requires similar physician work to CPT code 97803 (work RVU = 0.45) and should be valued similarly. As such, we are proposing a work RVU of 0.45 for HCPCS code G0446 for CY 2013. For physician time, we are proposing 15 minutes, which is the amount of time specified in the HCPCS code descriptor. For malpractice expense, we are proposing a malpractice expense crosswalk to CPT code 97803. The proposed direct PE inputs are reflected in the CY 2013 proposed direct PE input database, available on the CMS Website under the downloads for the CY 2013 PFS proposed rule at http://www.cms.gov/PhysicianFeeSched/. We request public comment on these CY 2013 proposed values for HCPCS code G0446, which are the same as the current (CY 2012) values for this service.

HCPCS G0447 (Face-to-face behavioral counseling for obesity, 15 minutes) was created for the reporting and payment of intensive behavioral therapy for obesity.

We believe that the behavioral counseling service described by HCPCS code G0447 requires similar physician work to CPT code 97803 (work RVU = 0.45) and should be valued similarly. As such, we are proposing a work RVU of 0.45 for HCPCS code G0447 for CY 2013. For physician time, we are proposing 15 minutes, which is the amount of time specified in the HCPCS code descriptor. For malpractice expense, we are proposing a malpractice expense crosswalk to CPT code 97803. The proposed direct PE inputs are reflected in the CY 2013 proposed direct PE input database, available on the CMS Website under the downloads for the CY 2013 PFS proposed rule at http://www.cms.gov/PhysicianFeeSched/. We request public comment on these CY 2013 proposed values for HCPCS code G0447, which are the same as the current (CY 2012) values for this service.

K. Certified Registered Nurse Anesthetists and Chronic Pain Management Services

The benefit category for services furnished by a certified registered nurse anesthetist (CRNA) was added to Medicare by section 9320 of the Omnibus Budget Reconciliation Act (OBRA) 1986. Since this benefit was implemented on January 1, 1989, CRNAs have been eligible to bill Medicare directly for the specified services. Section 1861(bb)(2) of the Act defines a CRNA as "a certified registered nurse anesthetist licensed by the State who meets such education, training, and other requirements relating to anesthesia services and related care as the Secretary may prescribe. In prescribing such requirements the Secretary may use the same requirements as those established by a national organization for the certification of nurse anesthetists."

Section 410.69(b) defines a CRNA as a registered nurse who: (1) is licensed as a registered professional nurse by the State in which the nurse practices; (2) meets any licensure requirements the State imposes with respect to nonphysician anesthetists; (3) has graduated from a nurse anesthesia educational program that meets the standards of the Council on Accreditation of Nurse Anesthesia Programs, or such other accreditation organization as may be designated by the Secretary; and (4) meets one of the following criteria: (i) has passed a certification examination of the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, or any other certification organization that may be designated by the Secretary; or (ii) is a graduate of a program described in paragraph (3) of this definition and within 24 months after that graduation meets the requirements of paragraph (4)(i) of this definition.

Section 1861(bb)(1) of the Act defines services of a CRNA as "anesthesia services and related care furnished by a certified registered nurse anesthetist (as defined in paragraph (2)) which the nurse anesthetist is legally authorized to perform as such by the State in which the services are furnished". CRNAs are paid at the same rate as physicians for furnishing such

services to Medicare beneficiaries. Payment for services furnished by CRNAs only differs from physicians in that payment to CRNAs is made only on an assignment-related basis (§414.60) and supervision requirements apply in certain circumstances.

At the time that the Medicare benefit for CRNA services was established, CRNA practice largely occurred in the surgical setting and services other than anesthesia (medical and surgical) were furnished in the immediate pre- and post-surgery timeframe. The scope of "anesthesia services and related care" as delineated in section 1861(bb)(1) of the Act reflected that practice standard. As CRNAs have moved into other practice settings, questions have arisen regarding what services are encompassed under the "related care" aspect of the benefit category. Specifically, some CRNAs now offer chronic pain management services that are separate and distinct from a surgical procedure. Changes in CRNA practice have prompted questions as to whether these services fall within the scope of section 1861(bb)(1) of the Act. Medicare Administrative Contractors (MACs) have reached different conclusions as to whether the statutory description of "anesthesia services and related care" encompasses the chronic pain management services delivered by CRNAs. As a result, we have been asked to address whether or not chronic pain management is included within the scope of the statutory benefit for CRNA services.

To determine whether chronic pain management is included in the statutory benefit for CRNA services, we reviewed our current regulations and subregulatory guidance. We found that the existing guidance does not specifically address chronic pain management. In the Internet Only Manual (Pub 100-04, Ch 12, Sec 140.4.3), we discuss the medical or surgical services that fall under the "related care" language stating, "These may include the insertion of Swan Ganz catheters, central venous pressure lines, pain management, emergency intubation, and the pre-anesthetic examination and evaluation of a patient who does not undergo surgery." Some have

interpreted the reference to "pain management" in this language as authorizing direct payment to CRNAs for chronic pain management services, while others have taken the view that the services highlighted in the manual language are services furnished in the perioperative setting and refer only to acute pain management associated with the surgical procedure.

Since existing guidance was not determinative, we assessed the issue of CRNA practice of chronic pain management more broadly. We found that chronic pain management is an emerging field. The Institute of Medicine (IOM) issued a report entitled "Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education and Research" on June 29, 2011, discussing the importance of pain management and focusing on the many challenges in delivering effective chronic pain management. The available interventions to treat chronic pain have been expanding. In addition to the use of medications and a variety of diagnostic tests, techniques include neural blocks, neuromodulatory techniques, and implanted pain management devices. The healthcare community continues to examine the appropriateness and effectiveness of these many and varied treatment techniques and modalities. As part of this evolution, Medicare established a physician specialty code for interventional pain management in 2003.

The healthcare community continues to debate whether CRNAs are qualified to provide chronic pain management. Some have stated that interventional pain management for beneficiaries with chronic pain is the practice of medicine, that CRNAs do not receive the sufficient education on chronic pain management, and that CRNAs do not have the skills required to furnish chronic pain management services. Others have stated that both acute and chronic pain management and treatment are within the CRNA professional scope and are comparable services, and that CRNAs receive the clinical training and experience necessary to furnish both acute and chronic pain management services. Recently, several State legislatures

have debated the scope of CRNA practice, including those in the States of California, Colorado, Missouri, South Carolina, Nevada, and Virginia.

In the context of Medicare, some have pointed to Medicare policies allowing other advanced practice nurses such as nurse practitioners or clinical nurse specialists to furnish and bill for physicians' services as support for recognizing a broader interpretation of the scope of CRNA practice. We would note that the statutory benefit category definition for CRNAs substantively differs from that for other advanced practice nurses. Section 1861(s)(2)(K) of the Act authorizes certain nonphysician practitioners (NPPs) to bill Medicare directly for services they are legally authorized to perform under State law, and "which would be physicians' services if furnished by a physician." With certain conditions (such as physician supervision or collaboration), the statute allows these NPPs to bill Medicare for physicians' services that fall within their State scope of practice.

Since State governments regulate the licensure and practice of specific types of health care professionals, we have looked to the State scope of practice laws to determine if chronic pain management was within the scope of practice for CRNAs. State scope of practice laws vary with regard to the range of services that CRNAs may perform, and some include chronic pain management. As discussed earlier, several States are debating whether to include chronic pain management services within the CRNA scope of practice.

After assessing the information available to us, we have concluded that chronic pain management is an evolving field, and we recognize that certain States have determined that the scope of practice for a CRNA should include chronic pain management in order to meet health care needs of their residents and ensure their health and safety. Therefore, we propose to revise our regulations at §410.69(b) to define the statutory description of CRNA services. Specifically, we propose to add the following language: "Anesthesia and related care includes medical and

surgical services that are related to anesthesia and that a CRNA is legally authorized to perform by the State in which the services are furnished." This proposed definition would set a Medicare standard for the services that can be furnished and billed by CRNAs while allowing appropriate flexibility to meet the unique needs of each State. The proposal also dovetails with the language in section 1861(bb)(1) of the Act requiring the State's legal authorization to perform CRNA services as a key component of the CRNA benefit category. Finally, the proposed definition is also consistent with our policy to recognize State scope of practice as one parameter defining the services that can be furnished and billed by other NPPs.

Simply because the State allows a certain type of health care professional to furnish certain services does not mean that all members of that profession are adequately trained to provide the service. In the case of chronic pain management, the IOM report specifically noted that many practitioners lack the skills needed to help patients with the day-to-day self-management that is required to properly serve individuals with chronic pain. As with all practitioners who furnish services to Medicare beneficiaries, CRNAs practicing in States that allow them to furnish chronic pain management services are responsible for obtaining the necessary training for any and all services furnished to Medicare beneficiaries.

L. Ordering of Portable X-Ray Services

Portable x-ray suppliers provide diagnostic imaging services at a patient's location. These services are most often furnished in residences, including private homes and group living facilities (for example, nursing homes) rather than in a traditional clinical setting (for example, a doctor's office or hospital). The supplier transports mobile diagnostic imaging equipment to the patient's location, sets up the equipment, and administers the test onsite. The supplier may interpret the results itself or it may provide the results to an outside physician for interpretation.