



Written Only

The Nurse Practitioner Association New York State

12 Corporate Drive, Clifton Park, NY 12065 P 518.348.0719 F 518.348.0720 W www.TheNPA.org

**TESTIMONY OF
THE NURSE PRACTITIONER ASSOCIATION NEW YORK STATE
BEFORE THE JOINT FISCAL COMMITTEES OF
THE NEW YORK STATE LEGISLATURE,
HEARING ON HIGHER EDUCATION**

FEBRUARY 6, 2014

The Nurse Practitioner Association New York State (“NPA”) is the only statewide professional association of nurse practitioners (“NPs”) in New York, nearly 16,000 of who practice throughout New York State. The NPA and its members are committed to maintaining the highest professional standards for nurse practitioners, and ensuring the greatest quality care for health care consumers. This organization provides continuing education programs, assists in NP training, and advocates with respect to legislative and regulatory issues which affect nurse practitioners and the patients they serve. We submit this testimony to express our strong support of Part D of the Governor’s proposed Education Budget: the Nurse Practitioners Modernization Act. Although the association is seeking some minor revisions to this language, we respectfully request that the Senate and the Assembly adopt this proposal. As is described in detail in this testimony, the time has come to modernize New York’s Education Law with regards to NPs because:

- 1. NPs are highly trained professionals who have practiced in New York State for more than a quarter of a century without physician supervision.*
- 2. NPs regularly collaborate with all types of health care professionals, including physicians, and will continue to do so regardless of what is mandated by statute, in order to ensure that patients receive the best possible care.*
- 3. New York faces a primary care shortage that is only going to continue to grow as the Affordable Care Act is fully implemented in the State. Studies show that eliminating statutory mandates like the written collaborative agreement as a condition to practice will reduce barriers for patients trying to access quality health care.*
- 4. Ensuring that more NPs have the opportunity to practice in New York and provide quality care to patients will lead to a cost savings for the State’s health care system.*

Background

NPs have been practicing since 1965 and gained legal scope of practice in New York State in 1988. We are licensed, certified, and regulated by the State Education Department (“SED”). NPs possess a license as a registered professional nurse (“RN”) first, and then obtain additional certification as a nurse practitioner, which requires completion of an educational program approved by the State. Nurse practitioners are highly skilled, trained and experienced individuals who exercise independent judgment, and collaborate with multiple specialists and healthcare practitioners every day. NPs are authorized to diagnose illness and physical conditions and perform therapeutic and corrective measures, order tests, prescribe medications, and devices and immunizing agents, without supervision. NPs are autonomous and, unlike other allied professions, NPs are not supervised, but are required to enter into a written collaborative agreement with a physician. NPs are independent healthcare practitioners who are legally accountable for the care they provide.

We provide access to both urban and rural populations, and are often the only primary care providers to Medicaid recipients in those areas. We provide care to a high volume of patients in the State government programs (e.g.: Medicaid Managed Care and Child Health Plus). Although NPs focused on primary care health issues generally, every New York NP must be certified in one or more specific practice areas: Adult Health, Women's Health, Community Health, Family Health, Gerontology, Holistic Care, Neonatology, Obstetrics/Gynecology, Oncology, Pediatrics, Palliative Care, Perinatology, Psychiatry, School Health, Acute Care and College Health.

Education Requirements

NP education occurs at the masters or doctoral level and builds on students’ undergraduate preparation and experience as RNs. All NP curricula require courses in Pathophysiology, Pharmacology, and Health Assessment at the advanced level. Students must also complete coursework in patient management in their area of specialization. These clinical management courses are accompanied by clinical practica. Required practicum hours vary depending on the specialization, but none are less than 600 hours. These hours are in addition to the clinical hours required at the Baccalaureate level. Furthermore, additional coursework is required in Ethics and Public Policy, Research, and Evidence-Based Practice.

NP curricula are increasingly offered in doctoral programs. The American Association of Colleges of Nursing (AACN) has recommended that educational programs preparing all advanced practice nurses take place in doctoral curricula. Colleges and universities are preparing to have advanced practice programs offered at the doctoral level by 2015. All NP programs must be accredited by the US Department of Education. This accreditation occurs through either the Collegiate Commission on Nursing Education (CCNE) or the National League of Nursing Accreditation Commission (NLN-AC). Both programs require that NP curricula adhere to the Standards of Nurse Practitioner Education set forth by the National Organization of Nurse Practitioner Faculty (NONPF) and endorsed by the Health Resources Services Administration.

Collaboration

NPs' health care practices involve regular collaboration with varied types of health care professionals. This includes collaborating with physicians – both those who practice in similar areas and in specialties – other nurse practitioners, and health care providers in order to provide the best care for the patient. This type of consistent collaboration helps ensure that all of the patient's needs are met. The 1988 chapter establishing the NP scope of practice, however, provided that, as a condition for a NP to be able to practice, the NP must enter into a signed, written collaborative agreement with a medical doctor. It has become clear that this does not lead to increased collaboration or better patient care. Nor does this requirement mean that the physician has any involvement in the NP's daily practice. In fact, the related regulations merely require that the collaborating physician retrospectively review one patient chart four times during the year. Many collaborating physicians charge NPs for this service, and also may charge to simply enter into the written practice agreement. As a result, the legal requirement of having a written practice agreement can often become a commercial transaction, not a process that improves patient care.

Primary Care Shortage

The Affordable Care Act (“ACA”) will result in approximately one million consumers obtaining health insurance in New York State during the first three years of the Health Exchange, all at a time when there is a shortage of primary care providers. As the Center of Health Workforce

Studies, School of Public Health, University of Albany has noted, “[w]hile the demand for primary care physicians has increased in recent years, the in-State retention of primary care physicians in New York has declined.” According to the CHWS report on 2012 New York Residency Training Outcomes, “only 44% of newly trained physicians” plan to practice in New York, with more than 40% of physicians stating that they plan to enter a specialty (not provide primary care).¹ Additionally, a March 2013 report from the CHWS² confirms that “primary care physicians are not evenly distributed across the state, and are more likely to practice in urban areas compared to rural areas.” Notably, in our neighboring state of Massachusetts, where they have had a “health exchange” in place for approximately seven years, the shortage has continued to grow. According to a Massachusetts Medical Society study³ published in July 2013, “half or more of primary care practices [are] . . . closed to new patients.” Another study⁴ shows that the average wait time to see a family doctor in Boston is 66 days.

For more than 25 years, NPs have worked without any physician presence, yet our ability to practice in New York continues to be tied to a physician’s willingness to sign a written practice agreement. This is now creating significant barriers to practice. Between the increasing number of physicians unwilling to sign this type of agreement without significant compensation, and a growing primary care physician shortage, the outdated law has become an impediment to the expansion of needed primary care capacity in New York. Some NPs are experiencing difficulty in identifying a physician who is willing to sign such an agreement. This restricts access to primary healthcare for individuals and families in both urban and rural underserved areas of the state. It also adds excess costs to the system when NPs and/or health facilities are forced to compensate collaborating physicians for entering into a written practice agreement. Now, more than ever, is the time to ensure that patients have complete access to affordable healthcare.

NPs Practicing at the Top of Their License

As recently as 2012, the Robert Wood Johnson Foundation Institute of Medicine (“IOM”) issued

¹ <http://chws.albany.edu/archive/uploads/2013/03/nyexitsurveyreport2013.pdf>

² <http://chws.albany.edu/archive/uploads/2013/04/nytracking2013.pdf>

³ <http://www.massmed.org/News-and-Publications/MMS-News-Releases/MMS-Study-Shows-Patient-Wait-Times-for-Primary-Care-Still-Long/>.

⁴ <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/01/29/in-cities-the-average-doctor-wait-time-is-18-5-days/>.

a report consistent with the Governor's proposal. The report emphasized the importance of empowering "advanced practice registered nurses" (i.e., NPs) to be able to "fulfill their potential as primary care providers to the full extent of their education and training" and that "restrictions on scope of practice...undermine the nursing professions' ability to provide and improve both general and advanced care."⁵ Similarly, the Federal Trade Commission has repeatedly recommended that states eliminate similar collaborative agreement requirements for NPs. In fact, in recognition that NPs are health care professionals who work in a collaborative environment without a statutory mandate, 19 jurisdictions already allow nurse practitioners to practice without any written practice agreement requirement.⁶

ELFA Budget, Part D

The Governor's proposal recognizes the important role of NPs in New York. Part D of the Education Budget removes the statutory requirement for a signed written practice agreement and practice protocols, but respects the importance of collaboration. Under this proposal:

- Newly certified NPs (defined as having practiced less than 3600 hours) must initially have a written practice agreement ("WPA") that is signed by a physician, just like the current standard.
- The new law would, however, provide for flexibility during the first phase of an NP's career. If, while the newly certified NP has a WPA, the WPA is terminated because the collaborating physician moves, retires, is no longer qualified to practice medicine, dies, or for some other reason opts to no longer collaborate due to no fault on the part of the NP, and the NP is unable to enter into a new WPA with a physician, the NP may enter into a WPA with an experienced NP.
- Experienced nurse practitioners (having practiced for more than 3600 hours) would not be subject to the written practice agreement or practice protocol requirements. However, in the course of practice, experienced NPs would still have collaborative relationships with physicians or hospitals, and the NP would have some record keeping requirement with regards to these relationships.

⁵ <http://www.iom.edu/Reports/2010/The-future-of-nursing-leading-change-advancing-health.aspx>

⁶ AK; AZ; CO; DC; HI; ID; IO; ME; MD; MT; ND; NH; NM; OR; RI; UT; VT; WA; WY.

As noted above, the NPA looks forward to working with the Legislature to make some technical changes to the proposed language that affects the experienced NP, but strongly supports this proposal that will help reduce health care spending while promoting greater access to quality care. If the NPA can provide any specific information to the legislature as the Senate and Assembly are preparing their responses to the Governor's proposal, please contact me.

Respectfully Submitted,

Stephen Ferrara, DNP, RN, FNP-BC

Executive Director

ALB 1754269v3