



**TESTIMONY OF
THE NURSE PRACTITIONER ASSOCIATION NEW YORK STATE
TO THE JOINT LEGISLATIVE BUDGET COMMITTEES ON
HIGHER EDUCATION & HEALTH
FEBRUARY 2021**

The Nurse Practitioner Association New York State (“NPA”) is the only statewide professional association of nurse practitioners (“NPs”) in New York, over 20,000 of who practice throughout New York State. The NPA and its members are committed to maintaining the highest professional standards for NPs and ensuring the greatest quality care for health care consumers. The NPA greatly appreciates the Legislature’s long-standing support of the NP profession, and particularly during this critical time of addressing the ongoing pandemic. As is described in detail below, the NPA submits this testimony to urge the Senate and Assembly to continue the good efforts that the Executive and the Legislature began in 2014 when the enacted budget included the Nurse Practitioner Modernization Act.

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 a rigorous educational program inclusive of clinical rotations approved by the State. NPs are highly skilled, prepared, and experienced individuals who exercise independent judgment, and collaborate with multiple specialists and healthcare practitioners every day. Although NPs focus 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.

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. We possess full prescribing authority and are the primary care provider of choice for many New Yorkers. NPs are autonomous, and, unlike other allied professions, NPs are not supervised by or dependent upon any other professional. NPs are independent healthcare practitioners who are legally accountable for the care they provide. Moreover, due to a change to the Education Law adopted as part of the budget process in 2014, NPs are not required to maintain any written collaborative agreement with a physician once the NP completes 3,600 hours of practice. Experienced NPs, practicing within her or his scope, must only continue to maintain “collaborative relationships” with physicians and/or hospitals.

Nurse Practitioner Modernization Act (“NPMA”)

Prior to 2015, all NPs needed to maintain a written practice agreement signed by a physician and written practice protocols in order to provide these healthcare services. However, pursuant to the NPMA: (1) a NP with 3,600 hours of practice is not required to have a written practice agreement (“WPA”), provided that the experienced NP maintains a collaborative relationship with one or more licensed physicians qualified to collaborate in specialty involved, or a hospital; (2) Junior NPs are required to maintain WPAs, but are permitted to have those agreements with physicians or an Article 28 facility in which a physician practicing in the same area as the NP is employed. If there is not further legislative action, these statutory changes will sunset in June 2021.

As a result of the 2014 budget action, the New York Center for Health Workforce Studies (“CHWS”) has conducted significant data analysis regarding NP practice and, at least partially based on that data, at the end of 2018, SED in consultation with the Department of Health (“DOH”), issued a formal report (“the Report”) regarding the NP practice. In the Report, SED concluded that there was no longer a need for NPs to file practice protocols with the State. DOH’s stated position was that the NPMA “was enacted to address a barrier to practice that served as an impediment to the expansion of needed primary care services throughout the State,” that the law was achieving its intended purpose, and “there [had been] no indication of adverse impact on quality of care or the number of practicing NPs.” Accordingly, DOH called for: (i) the “elimination of the regulatory requirement for the ‘Collaborative Relationships Attestation Form,’ which has been perceived by NPs to serve as a barrier to practice;” and (ii) making the NPMA permanent.

Since that report, as part of the effort to combat the COVID-19 pandemic, in March 2020, Governor Cuomo waived through executive order (“EO”), any statutes or regulations that would require NPs to have a written practice agreement or maintain a written practice agreement or collaborative relationship with a physician, for NPs “to provide medical services appropriate to their education, training and experience.” In the months following, what The NPA always knew became clear to others -- the statutory mandates regarding collaboration have no effect on NP-patient outcomes. Tragically, we are now nearly a year into the pandemic. NPs have been on the front line caring for patients and practicing under the directives contained in the EO. There continues to only be evidence of NPs providing the highest standards of care without incident. It is a testament to their competence and ability to work independently, yet collaboratively, within the health care delivery system. Collaboration is a hallmark of team-based care practiced by NPs, and a statutory mandate is unnecessary.

2021 Budget Proposal

The NPA commends the Governor for recognizing the important role that NPs play in the healthcare system. Not only has the March EO been regularly continued, but Part S of the Governor’s Health and Mental Hygiene Art. VII proposal includes language that would extend the 2014 budget action. We greatly appreciate this proposal, but respectfully offer that the more appropriate thing to do would be to adopt legislation introduced by Senator Rivera and Assemblyman Gottfried (S.3056/A.1535).

Consistent with the Governor’s continued executive order, S.3056/A.1535 eliminates the currently statutory mandated form of collaborative relationships for NPs with at least 3,600 hours of experience. However, the legislation would continue statutory requirements for a NP with less than 3,600 hours of practice to maintain a WPA. The statute would authorize a WPA to be between the junior NP and a licensed physician, a hospital, or a senior NP, who no longer would be subject to statutory collaboration. NPs would, as they do every day, continue to follow best evidence based practices, focusing on patient-centered collaborative care, to ensure the highest standard of health care delivery to their patients. Accordingly, this legislation respects the framework of the law that took effect in 2015 and differentiates the newly certified NP from the more experienced NP while modernizing the applicable statutory requirements. Consistent with the SED

recommendations, the legislative proposal eliminates the requirement that NPs file practice protocols with SED. And, *consistent with the DOH recommendations*, the legislative proposal would make the NPMA – and these improvements – permanent.

CONCLUSION

S.3056/A.1535 makes important amendments to the Education Law in order to continue and improve the Nurse Practitioner Modernization Act, while taking steps to ensure that patients throughout New York State can access quality care. While NPs have always been committed to their patients, the role of the NP as part of the healthcare team has only become clearer during the pandemic.

The NPA respectfully requests that the Senate and Assembly advocate for inclusion of this proposal in the final budget, to ensure that New York appropriately recognizes the leading healthcare practitioners who are inspired to support the next generation healthcare practitioners. The NPA looks forward to working with the legislature to ensure this statutory change is enacted to enable nurse practitioners to perform at the top of license, and to remove barriers to providing and promoting greater access to quality care. If the NPA can provide any specific information to the legislature as you prepare your responses to the Governor’s proposal, please contact me.

Respectfully Submitted,

A handwritten signature in black ink that reads "Stephen Ferrara". The signature is written in a cursive, flowing style.

Stephen Ferrara, DNP, RN, FNP, FAAN

Executive Director