

New York State Academy of Family Physicians

16 Sage Estate • Albany, NY 12204
Email: fp@nysafp.org • www.nysafp.org

518-489-8945



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**Testimony before the
Joint Legislative Budget Hearing on
Health**

**January 23, 2024
9:30AM
Legislative Office Building
Albany NY**

Honorable Chairs and Members of the Senate and Assembly Health Committees, Senate Finance Committee and Assembly Ways & Means Committee, thank you for the opportunity to submit testimony related to our priorities for the SFY 2024-25 State Budget.

The New York State Academy of Family Physicians represents nearly 6,000 physicians, residents and students in family medicine, specializing in primary and preventative care for New Yorkers. Our mission is *“Guided by principles of inclusivity and community, the NYSAFP empowers family physicians, residents, and students to lead through advocacy, education, and mentorship to improve the lives of our members and our patients.”*

Outlined below are our SFY 2024-25 State budget priorities related to funding and policy proposals. We appreciate your consideration and ask for your support.

SUPPORT Primary Care & Workforce Investments

- **Primary Care Medical Home (PCMH)**

We are very pleased to see the SFY 2025 Executive Budget includes \$73.8 million for SFY 2025 and SFY 2026 for PCMH rate enhancements as part of the recently approved Medicaid 1115 waiver amendment by CMS. In particular, the State Health Department has indicated that it intends to direct Managed Care plans to align Medicaid Patient Centered Medical Home payments with PCMH payments available to Medicare providers under the Making Care Primary Model.

- **Primary Care Rate Increase**

As condition of approval for expenditure authority for the 1115 waiver amendment, NYS will be required to increase and sustain (should the Medicaid-to-Medicare provider rate ratio dip below 80 percent in these categories) Medicaid fee-for-service provider base payment rates and Medicaid managed care payment rates in primary care, behavioral health, and obstetrics care. We enthusiastically support this provision.

Increasing Medicaid reimbursement rates is an important mechanism for supporting primary care and safety net providers who care for individuals enrolled in Medicaid. Promoting patient access to primary care and preventative services has been proven to increase patient health and outcomes, while reducing costs. We commend these smart investments in primary care. The benefits of investing in primary care are well documented. Enacting these proposals will improve clinical outcomes, avoid preventable tests, hospitalizations and referrals, and stabilize primary care medical practices which have served the Medicaid population for too long without payment adequate to cover their costs.

Building on these proposals, we strongly support pending legislation ([S.1197B/A.8592](#)) to require health care plans and payors to spend a minimum of 12.5 percent of their overall healthcare spending on primary care services. We respectfully urge the enactment of this bill this session. We also support more rigorous regulation of health plan premiums to assure that plans serve public health goals including enhancing patient access to care and helping providers adopt new technology, incorporate new treatments and expand.

- **Doctors Across New York Funding (DANY)**

NYSAFP strongly supports the Executive Budget proposal to provide funding for the Doctors Across New York (DANY) program at a level of \$15,865,000. With this funding, the state would be able to continue to support approximately 150 physicians going into primary care specialties to relieve educational debt and to assist them with joining or establishing practices in underserved areas and working there at least three years.

This program helps to address the serious primary care physician shortages by recruiting and retaining primary care physicians to expand preventative healthcare access where it is needed the most. Please support the inclusion of this funding in the Final State Budget.

We also support legislation ([S.6882/ A7942](#)), to expand support under the Doctors Across New York (DANY) program for private practicing physicians. This legislation would help further address serious primary care physician shortages as well as assist private practices with sustainability and growth. We urge the passage of this bill this session.

- **Area Health Education Center (AHEC) Funding**

NYSAFP is very pleased to see that the Executive Budget includes continued state funding for the Area Health Education Center (AHEC) system. AHECs provide essential programming all across New York focused on addressing healthcare workforce shortages through pipeline and other initiatives and addressing health disparities and equity challenges in urban and rural areas. For over twenty years, AHEC had received state funding, which is critical to the minimum 1 to 1 match of federal HRSA funds that AHECs receives to do this much-needed work.

We greatly appreciate the Legislature's past leadership and support including a \$500,000 legislative add from the Senate in SFY 2024, which we hope can also be provided in SFY 2025. Our communities greatly need the healthcare workforce programs and services that AHECs provide.

OPPOSE: Proposal to Restructure Excess Medical Malpractice Program

While the SFY 2025 Executive Budget extends the Excess Medical Malpractice program through June 30, 2025, it proposes to restructure the program from one annual payment to two installment payments over two fiscal years. The Budget includes a reduced appropriation of \$39.3 million in SFY 2025 and \$19.6 million in SFY 2026.

NYSAFP is very concerned about the Executive Budget proposal to require the 15,000 physicians currently enrolled in the Excess Medical Malpractice Insurance program to bear 50% of the cost of these policies.

This proposal would thrust over \$40 million of new costs on the backs of practicing physicians. This new cost imposition would hit these practices at a time when many are already facing high taxes and liability costs, staffing challenges and a serious shortage of physicians, especially in primary care in our State.

This program was created in the mid-1980's due to a medical liability crisis. Absent comprehensive liability reforms like other states have enacted, access to excess coverage is critical to protect a physician's personal assets when liability exposure exceeds the limits of available coverage.

We thank you for your past support for the Excess program including helping to reject this proposal in prior years when it was brought up in Budget negotiations. We urge you to reject this proposal again in the Final State Budget.

OPPOSE Proposals to Weaken Healthcare Team Standards

- **Extend Nurse Practitioner (NP) Practice without Collaboration**

The SFY 2025 Executive Budget extends for two years the exemption for NPs with over 3,600 hours to practice independently without a collaborative agreement with a physician. While changes to scope of practice during the COVID-19 pandemic may have been necessary to manage the public health emergency, NYSAFP believes that it is critical to reinstate physician collaboration with nurse practitioners to ensure patient safety and access to high quality healthcare services.

Through collaboration between physicians, nurse practitioners, and other professionals of the healthcare team, patients receive high quality healthcare services. This model has been successful and extending this exemption continues to put healthcare teams and patients at risk, as physicians and nurse practitioners have different skillsets.

Extending this exemption would also sacrifice quality of care for our patients, as the training and experience of nurse practitioners is not equal to that of physicians. Nurse practitioners have less training in the form of didactic and clinical education in obtaining degrees. A 2021 study published by the [Journal of Nursing Regulation](#) found that of nearly 4,000 family nurse practitioners surveyed, 60 percent trained fully or mostly online and one-third had not interpreted results from diagnostic tests in more than 10 cases. In addition, nurse practitioners may not participate in any formal specialty or subspecialty training, and therefore do not have a specialty board certification in such specialty. Our member physicians are specialty trained and board certified in family medicine.

Further, there is a substantial amount of research showing that NPs overprescribe and overutilize diagnostic imaging and other services, leading to increased health care costs. A 2020 [study](#) found that, in states that allow independent prescribing, NPs were 20 times more likely to overprescribe opioids than those in prescription-restricted states. Additionally, multiple studies have shown that NPs order more diagnostic imaging than physicians, which increases health care costs and threatens patient safety by exposing patients to unnecessary radiation. For example, a study in the *Journal of the American College of Radiology*, which analyzed skeletal x-ray utilization for Medicare beneficiaries from 2003 to 2015, found ordering increased substantially – more than 400% by non-physicians, primarily nurse practitioners and physician assistants during this time frame. A separate study published in *JAMA Internal Medicine* found NPs ordered more diagnostic imaging than primary care physicians following an outpatient visit. The study controlled for imaging claims that occurred after a referral to a specialist. They found greater

coordination in health care teams may produce better outcomes than merely expanding nurse practitioner scope of practice alone.

When the NP Act was originally introduced, sponsors said it would address workforce distribution, access to care and cost issues. No mechanisms were included in the legislation to actually measure the impact of independent practice in achieving any of these avowed goals. Before making decisions about extending the statute, there should be a concerted effort to measure the effectiveness of independent practice of NP's in achieving specific public health goals including an increase in the number of NP's practicing in rural and medically underserved areas, reduction in costs, increased access to care and other policy objectives which may be identified.

For these reasons, the New York State Academy of Family Physicians strongly urges your opposition to this proposal and that it be rejected in the State Budget.

- **Remove Physician Supervision Requirement for Physician Assistants (PA)**

The SFY 2025 Executive Budget would authorize a physician assistant to practice without the supervision of a physician independently in primary care or hospital settings. This would apply to:

- PAs who have practiced for more than eight thousand hours
- Where the PA is practicing in primary care (any non-surgical setting in the fields of general pediatrics, general adult medicine, general internal medicine, obstetrics and gynecology, family medicine, or other related areas as determined by the DOH Commissioner – or – is employed by an Article 28 health system or hospital and they determine the PA meets qualifications of the medical staff bylaws and the health system or hospital gives the PA privileges.

While physician assistants are an integral part of the healthcare team, the current care and training model for PAs is with physician supervision. We believe this proposal would fragment patient care and compromise patient quality, safety and outcomes.

Currently, PAs are not trained to practice independently and have significantly less training in the form of didactic and clinical education than physicians when obtaining their degrees. In a recent Medical Society survey, 75% of the physician respondents indicated that advanced care practitioners working independently during the pandemic under the Governor's Executive Orders (waiving physician supervision requirements) had committed an error while treating a patient; 90% indicated that the error could have been prevented had there been physician oversight. The experience of PAs is not equal to that of physicians and quality for our patients would be sacrificed if PAs practiced without physician supervision.

We are also concerned that this legislation could result in increased health care costs because PAs overprescribe and over utilize diagnostic imaging and other services. For example, a study in the Journal of the American College of Radiology, which analyzed skeletal x-ray utilization for Medicare beneficiaries from 2003 to 2015, found ordering increased substantially – more than

400% by non-physicians, primarily nurse practitioners and physician assistants during this time frame.

The January 2022 edition of the Journal of the Mississippi State Medical Organization, included an article by Batson et al. entitled "Mississippi Frontline – Targeting Value-based Care with Physician-led Care Teams". This was a retrospective study looking at almost 10 years of data from that Hattiesburg Clinic looking at over 300 physicians and 150 advanced practice nurse and physician assistant providers. *The study found that allowing advance practice providers to function with independent panels failed to meet goals in the primary care setting of providing patients with an equivalent value-based experience for quality of care, keeping costs stable and meeting patients' expectations and satisfaction with healthcare delivery.*

The Executive Budget proposes to make a very significant change to the care model in New York without proof that independent practice would not undermine quality or increase costs. An objective study is necessary to compare performance of PAs practicing without supervision with performance of PAs working under the supervision of physicians and would ensure that patient quality of care is not compromised. Finally, an assertion has been made that this policy change will lead to more PAs practicing in rural and underserved areas. However, we have not seen any objective evidence to suggest this.

For these reasons, the New York State Academy of Family Physicians strongly urges your opposition to this proposal and that it be rejected in the State Budget.

SUPPORT: Extension of Telehealth Parity

The SFY 2025 Executive Budget would amend Chapter 57 of the Laws of 2022, extending payment parity by state regulated insurance for services whether provided in a traditional in-person setting or provided via telehealth modalities, through April 1, 2025.

The use of telemedicine has made care more accessible in a manner built around patients. It is widely used in primary care and behavioral healthcare, and we support rate parity to enable this to continue. There are certainly instances where in-person care is needed, which is why we believe it is critical for patients to have broad access to family physicians and other primary care providers who utilize all modalities for providing patient-centered care.

We urge this extension be included in the final State Budget.

OPPOSE: Elimination of Prescriber Prevails

The SFY 2025 includes a proposal to eliminate “prescriber prevails” in the State Medicaid program. This is a proposal we have seen in prior years which the Legislature has rejected, recognizing the need to ensure that patients are able to access the medications required to treat or manage their health conditions. Ultimately physician know their patients best and are in the position to determine when a medication is necessary and should be covered, not insurance plans.

We are opposed to this proposal and urge that it be rejected in the final State Budget.

SUPPORT: Funding to Expand Access to Reproductive Care

We support the \$25 million appropriation included in the SFY 2024 Executive Budget to continue funding to expand reproductive access and capacity in New York State. Such funding is more critical than ever with the overturning of Roe v. Wade and highly restrictive abortion laws being enacted in other states and ongoing court challenges.

In 2023, New York enacted a landmark law to shield New York clinician use of medication abortion services via telehealth, including for patients located outside New York State. This has been critical to help those in prohibitive states however funding is needed to support New York clinicians in these efforts since out of state insurers do not cover these services. Further, there continues to be a very significant need for expanded abortion training opportunities including in primary care offices and clinics. Our members currently report that many residents need to seek care out of the country in places like Mexico for these training opportunities since there is an insufficient number of available opportunities in New York State.

We are respectfully seeking an *additional \$2 million for this Fund*, earmarked for supporting telemedicine abortion care provided to those outside New York and for expanded abortion training opportunities in primary care offices, outpatient clinics and federally qualified health centers.

SUPPORT: Tobacco Control & Prevention

We support the \$33,144,000 appropriation included in the SFY 2025 Executive budget for tobacco control and prevention efforts including support for the state’s Quitline, local coalition, public relations and other activities to reach those who are hard to reach to encourage cessation and offer the needed resources to do so. The final SFY 2024 budget included \$40,644,000 and we would encourage continued investment in this critical program in the final State Budget.

SUPPORT with RECOMMENDATIONS: Vaccination by Medical Assistants

The SFY 2025 Executive Budget includes a proposal to allow physicians, nurse practitioners, and physician assistants to assign and supervise medical assistants in outpatient settings with the task of drawing and administering immunizations to patients.

We support this proposal for medical assistant vaccination under the supervision of a physician and provided the medical assistant receives training to give immunizations.

Thank you for your consideration of our comments regarding the SFY 2024-25 State Budget on behalf of our family physician members and their patients across the State.