

MEDICAL SOCIETY
of the
STATE OF NEW YORK

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Division of Governmental Affairs
MEMORANDUM IN OPPOSITION

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A.4846 (GOTTFRIED)

**AN ACT to amend the education law, in
relation to establishing the nurse practitioners
modernization act; and providing for the repeal of
such provisions upon the expiration thereof**

This measure would amend the nurse practice act in the Education Law to eliminate in certain instances the requirement for a written practice agreement and practice protocols between a nurse practitioner and a physician. Amendments to this bill would allow certain nurse practitioners to have a collaborative relationship but no written practice agreement with a physician or physicians or a hospital. Written practice guidelines would provide criteria to be used regarding consultation, including methods and frequency of how consultation shall be provided, collaborative management and referral, including emergency referral plans to address the health status and risks of patients. But the bill would remove current requirements for regular medical record review by the collaborating physician. Moreover, the bill eliminates the current requirement that a physician's judgment should prevail in the event there is a disagreement between the nurse practitioner and collaborating physician. The creation of additional silos of care delivery flies in the face of a health care delivery system which is moving toward greater integration and care coordination for the benefit of the patients. Continuation of the current legal requirements for a written practice agreement and collaborative relationship with a physician will promote high quality, cost effective, integrated care coordination which will serve the best interests of the patients of New York State. **Consequently, the Medical Society of the State of New York strongly opposes this bill.**

Currently, New York State requires a mandatory collaborative relationship between a nurse practitioner and a physician. In New York State Education Law, there are two different types of scope of practice for health care providers. Either the scope of practice is defined very loosely and requires either supervision or a collaborative relationship with a physician, as is the scope of practice for a nurse practitioner or a physician assistant, or the scope is very strictly defined and delineated and requires no particular relationship with a physician, such as a chiropractor or a podiatrist. This is done to protect the patients who are treated by these practitioners and to ensure that the provider does not exceed what she or he is educated and trained to do safely.

Nurse practitioners have been trying for many years to expand their scope of practice to allow them to perform the same functions as a physician, even though their graduate-level education consists of two to four years with no residency and a total of 500-720 hours of total patient care hours required through training. This compares with 4 years of medical school, 3-7 years of residency, and 12,000-16,000 hours of total patient care required through training for the physicians to which they claim to be equivalent.

Nurse practitioners, as well as many other non-physician health care providers are an important part of the health care team, but there is much that they do not know and many instances in which a physician can avert a problem by providing guidance through this collaborative relationship.

Data indicate that, because nurse practitioners do not have the same training as a physician, they are more costly to use as they order more tests and refer to more specialists since they do not know all of the answers. Contrary to what they say, nurse practitioners do not go into underserved areas of the state, but tend to congregate in the same metropolitan areas as do physicians.

During the Medicaid Redesign Team Workforce Flexibility and Scope of Practice Work Group meetings last year, a letter was submitted to the work group members and signed by the Presidents of MSSNY and most of the Specialty Medical Societies in New York State. It indicated that “The impact that a scope of practice expansion would have on the quality of patient care is extremely significant and complex. The very real possibility also exists that such expansions will add substantially to system costs, and, perhaps more importantly, imperil patient safety”. The Medicaid Redesign Team, as one of their adopted recommendations, created a Scope of Practice Review Committee within the State Education Department in order to study expansions of scopes of practice and make recommendations to the Legislature on them. This Committee has not yet been established. Therefore, this bill is premature and should await review by the Scope of Practice Review Committee before being advanced for a vote by the Legislature.

As noted earlier, amendments to this bill would allow nurse practitioners to have a collaborative relationship with a hospital. With whom would the NP collaborate at a hospital? A hospital administrator? Any physician with privileges at the hospital? A number of physicians at the hospital? These are vitally important questions which the legislation does not answer. These provisions only serve to further marginalize the private practice of medicine and serves to further enhance a hospital dominated health care delivery system.

Continuation of the current legal requirements for a written practice agreement and collaborative relationship with a physician will promote high quality, cost effective, integrated care coordination which will serve the best interests of the patients of New York State.

The Medical Society of the State of New York strongly opposes any measure that would eliminate the written practice protocols and/or written practice agreement between a physician and a nurse practitioner, and urges that this bill be defeated.

Respectfully submitted,

4/17/13 – Oppose
BKE

ELIZABETH DEARS, ESQ.