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Martha L. Orr, MN, RN
Executive Director



Constituent of The American
Nurses Association

NEW YORK STATE NURSES ASSOCIATION
2113 Western Avenue, Guilderland, N.Y. 12084, (518) 456-5371

TO: NYSNA Organizational Units
Presidents and Executive Directors, Constituent
District Nurses Associations

FROM: Frances T. Feldsine, Director
Nursing Practice and Services Program

DATE: February 20, 1985

RE: Department of Health Regulations Addressing the
Registered Professional Nurse Qualified to Provide
Primary Health Services

As you know, NYSNA has been actively involved with the Department of Health regarding nurses performing History and Physicals and the Department of Health citations.

Therefore, over the past year NYSNA has been working with the DOH to revise the NYS Health Code to more appropriately reflect nursing practice.

Attached is the *final draft* that is going to the NYS Hospital Planning and Review Council meeting for information on February 28. At its next meeting in April, formal action should be taken.

If you have any comments regarding the draft I would appreciate being contacted at the NYSNA office.

Also attached, for your information, is a list of the members of the Hospital Planning and Review Council.

FTF/sc
Attachment
cc: NYSNA Board of Directors - FYI



STATE OF NEW YORK DEPARTMENT OF HEALTH

MEMORANDUM

TO: Toni Duncan - Bureau of Management Services

FROM: Raymond Sweeney, Director, Office of Health Systems Management

DATE: February 1, 1985

SUBJECT: Expedited Processing of Regulations Addressing the Registered Professional Nurse Qualified to Provide Primary Health Services

Expedited processing of these regulations is essential in order to meet the Commissioner's commitment to the New York State Nurses Association and other interested parties that the regulations will be on the February agenda of the State Hospital Review and Planning Council for information. These regulations have been under development for over a year. While drafting them, the Bureau of Standards Development worked with staff of affected bureaus in both the Office of Health Systems Management and the Office of Public Health.

There was a long history of legislative activity which preceded the Department's decision to begin the development of these regulations. During that period there was substantial public discussion of the complex issues involved. While continuing the process of internal discussion and refinement of the proposed regulations, it is intended to obtain a broader range of comments and reactions through the public comment process. It is anticipated that significant comments will be obtained which will facilitate the further refinement of the regulations. Any remaining internal concerns will be addressed at the same time that concerns of the public are resolved.

Additionally, it is felt that publication at this time will assist the Department in making a determination regarding the feasibility of successfully resolving conflicting public policy questions through the promulgation of this regulation.

cc: Thomas Hartman
Warren Taylor

REGULATORY IMPACT STATEMENT
FOR THE PROPOSED STANDARDS
ADDRESSING REGISTERED PROFESSIONAL NURSES
QUALIFIED TO PROVIDE PRIMARY HEALTH
CARE SERVICES

Statutory Authority

Section 2803 (2) of the Public Health Law provides that the State Hospital Review and Planning Council shall adopt and may amend rules and regulations comprising minimum standards and procedures governing the operation of health care facilities subject to the approval of the Commissioner.

Legislative Objective

The proposed amendment is in accordance with the legislative mandate that health services be provided efficiently and at a reasonable cost.

Needs

Health care facilities in New York State have not been permitted to fully utilize the services of the registered professional nurse qualified to provide primary health care services.

There are approximately 2,000 registered professional nurses who have completed supplemental clinical programs approved by the New York State Education Department. The supplemental clinical programs prepare the registered professional nurse for the provision of certain primary health care services in ambulatory care centers, hospitals and residential health care facilities.

In the 1970's the State Education Department addressed the preparation and qualification of registered professional nurses for provision of primary health care services through the adoption of regulations. Specific criteria have been promulgated for regulation of supplemental and graduate nursing education programs preparing nurses for the provision of these services. Despite this, confusion has persisted about the delivery of these services by nurses who have become qualified through this educational process.

Benefits

The proposed amendment would benefit both health care facilities and the qualified registered professional nurse. Health care facilities would be given the option of using the services of this professional group. Also, the existing confusion about the registered professional nurse qualified to provide primary health care services would be resolved as the regulations describe who is qualified and what services are considered to be primary health care services. The regulations assure that there is a mechanism for approval of these services through the development of policies and procedures approved by both the medical staff and nursing department.

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Addendum to the Proposal
Regulation Transmittal

B. Notice

1. Proposed Action - Parts 400 and 405

Amendments to Part 400, All Facilities-General Requirements, Subchapter A of Chapter V and Part 405, Hospitals - Minimum Standards, Subchapter A of Chapter V.

2. Statutory Authority

Section 2803(2) of the Public Health Law

3. Brief Subject of Proposed Regulations

To date, registered professional nurses have been prepared through approved educational programs to deliver primary health care services but have been unable to obtain official recognition and approval for performance of these functions. Registered professional nurses qualified to provide primary health care services are able to complete patient histories and physical examinations, select laboratory tests, and choose regimens of treatment in accordance with policies and procedures approved by medical staff and nursing service department.

The proposed amendment would allow facilities to employ the qualified registered professional nurse, if they so choose.

Objective evaluations have documented that registered professional nurses place great emphasis on health prevention and promotion through the provision of counseling in these matters. Additionally, numerous research studies have clearly substantiated the outstanding quality and thoroughness of those histories and physical examinations completed by the registered professional nurse with experience and demonstrated competence.

If the proposed amendment is adopted, it will provide options for health care facilities, give formal recognition to the qualified registered professional nurse and help to eliminate the confusion about the role of the registered professional nurse qualified to provide primary health care services.

Costs

There should be no additional costs to state, or local governments or to private regulated parties. In fact, a cost savings could be realized by health care providers.

The cost-effectiveness of the qualified registered professional nurse has been well demonstrated. The registered professional nurse can evaluate patients effectively while saving physician time for more complex cases.

Since this is optional for the facility, there should be minimal if any costs to the Department for implementation and continued administration of the rules.

Paperwork

No additional paperwork would be necessary.

Duplication

There is no duplication of federal or state requirements.

Alternatives

At this time, there are no significant alternatives proposed.

Contact Person

Donald Macdonald
Bureau of Management Services
Mayor Erastus Corning II Tower - Room 1009
Governor Nelson A. Rockefeller Empire State Plaza
Albany NY 12237

2/1/85

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REGULATORY FLEXIBILITY ANALYSIS
FOR
THE PROPOSED STANDARDS ADDRESSING
THE REGISTERED PROFESSIONAL NURSE
QUALIFIED TO PROVIDE
PRIMARY HEALTH CARE SERVICES
PART 400

Effect on Small Businesses

The proposed regulations should have a positive effect on small businesses as the qualified registered professional nurse would be able to provide certain primary health care services to include history taking and performance of physical examinations, selecting laboratory tests and choosing regimens of treatment.

In rural areas where medical services may be less available than in urban areas, small businesses could benefit from the services of the qualified registered professional nurse.

Compliance Requirements

The facilities which choose to implement this provision will be required to approve the qualified registered professional nurse and ensure that the individual is competent and can safely practice. A mechanism for this approval and continued review of the individual will have to be incorporated into existing facility mechanisms for the oversight of professional staff.

Professional Services

It is not expected that small businesses will require additional professional services in order to comply with the proposed rule.

Compliance Costs

Compliance costs are not anticipated.

Minimizing Adverse Impact

The proposed amendments should enhance the delivery of health care services, particularly in the small clinics found in rural areas. There should be no adverse impact on small businesses.

2/1/85

Pursuant to the authority vested in the State Hospital Review and Planning Council by Section 2803 of the Public Health Law, Subchapter A, of Chapter V of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, is hereby amended to be effective upon filing with the Secretary of State, as hereinafter indicated:

CHAPTER V
MEDICAL FACILITIES

SUBCHAPTER A
MEDICAL FACILITIES-MINIMUM STANDARDS

ARTICLE 1

PART 400
ALL FACILITIES-GENERAL REQUIREMENTS

(Statutory Authority: Public Health Law §2803)

Part 400 of Article 1 of Subchapter A of Chapter V of Title 10 is hereby AMENDED by adding a new section 400.10 to read as follows:

Section 400.10 The provision of primary health care services by the qualified registered professional nurse.

- (a) Notwithstanding other provisions of this Chapter, a licensed and currently registered professional nurse may provide primary health care services as approved by the governing authority, if the registered professional nurse:
- (1) has successfully completed a supplemental clinical program or master's degree program approved by the State Education Department or a program determined to be equivalent by the Department; or
 - (2) is eligible for certification or has received certification in a Division on Practice of the American Nurses Association or other certifying body determined to be equivalent by the Department; and
 - (3) is qualified by experience and demonstrated competency as determined by the governing authority.

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(b) The governing authority shall ensure that all primary health care services performed by the qualified registered professional nurse are provided in accordance with written policies and procedures approved by the nursing department and medical director or where applicable the medical staff and other health professionals as appropriate.

(c) For purposes of this section, primary health care services shall mean the following activities to the extent approved by the governing authority:

- (1) taking histories and performing physical examinations;
- (2) selecting laboratory tests; and
- (3) choosing regimens of treatment.

(d) Nothing in this section shall alter a physician's responsibility for the medical care of his/her patient.

2/1/85

Pursuant to the authority vested in the State Hospital Review and Planning Council by Section 2803 of the Public Health Law, Subchapter A of Chapter V of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended to be effective upon filing with the Secretary of State, as hereinafter indicated:

CHAPTER V
MEDICAL FACILITIES

SUBCHAPTER A
MEDICAL FACILITIES—MINIMUM STANDARDS

ARTICLE 2
HOSPITALS

PART 405
HOSPITALS—MINIMUM STANDARDS

(Statutory Authority: Public Health Law §2803)

Existing subdivision (h) of section 405.22 of Part 405 of Article 2 of Subchapter A of Chapter V of Title 10 is hereby AMENDED to read as follows:

Within 24 hours before or after admission, every patient shall have a complete history and physical examination performed by a physician. The admission history and physical examination, if recorded by an intern or junior resident, or registered professional nurse qualified to provide primary health care services, shall be reviewed and countersigned by the attending physician or by a third, fourth or fifth year senior resident with a New York State license.

2/1/85

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Cathryne A. Welch, Ed.D., RN
Executive Director



Constituent of The American
Nurses Association

NEW YORK STATE NURSES ASSOCIATION
2113 Western Avenue, Guilderland, N.Y. 12084, (518) 458-5371

March 28, 1984

TO: Functional Unit of Primary Care Practitioners
Council on Legislation
Directors, Nursing Service
Deans, Chairmen, Baccalaureate and Higher Degree
Nursing Education Programs
District Presidents and Executive Directors
District Legislation Committee Chairmen

FROM: Cathryne A. Welch, Executive Director

RE: Update on Challenges to Nursing in Primary Care

This memorandum is designed to provide you with an overview of current activities and information relative to removing impediments to provision of primary health care services by registered professional nurses.

Seminar

On Thursday, March 22, 1984, approximately 75 nurses attended an NYSNA sponsored seminar, "Removing Obstacles to Independent Nursing Practice." Speakers included: Suzanne Solari-Price, R.N., Susan Hilton, Administrator, and Frank Susman, Attorney, three of the four principals in the recent Missouri Supreme Court decision affirming primary care as a legitimate nursing activity; and Jean Sweeney-Dunn, R.N., and Audrey Etz, R.N., primary care practitioners in New York State. The speakers shared valuable information, advice and encouragement. The importance of avoiding fragmentation and preserving nursing unity as a public stance and as a legal entity was repeatedly emphasized.

Solari-Price declared that a threat to the legitimacy of their practice as family planning practitioners in fact posed a threat to the legitimacy of the practice of many other nursing clinicians and to the profession as a whole. Susman stated that critical to their success in the courts was the general nature of the Missouri Nursing Practice Act and lack of reference in the Act to any specific nursing subgroup.

The seminar received significant press attention and was featured prominently in Albany area newspapers and television coverage. Attendees urged widespread dissemination of information about the Missouri case.



Audio tapes of the three speakers from Missouri may be purchased from NYSNA. A portion of the proceeds from the sale will go to the legal defense fund for the Missouri case.

Individuals wishing to make other contributions to that fund, should send them to:

Nurse Practitioners Defense Fund
c/o Missouri Community Health Corporation
211 Oscar Drive, Suite E
Jefferson City, MO 65101

Functional Unit of Primary Care Practitioners

The officers of the Association's Functional Unit of Primary Care Practitioners are actively involved in the Association's deliberations and planning related to their professional role.

Ingrid Pearson, Chairman, joined with Frances Feldsine, Director of Nursing Practice and Services, in representing the Association at ANA's "Strategy Workshop for Nurse Practitioner Issues" on March 10-12 in Kansas City. On that occasion, New York was given a considerable amount of attention. Some harsh criticism was leveled at NYSNA for not supporting legislation the Association deemed restrictive and has consistently opposed. Simultaneously, serious problems within states where definitive "nurse practitioner" legislation has been enacted were reported. States which have such amendments are seeking means of removing them. Group discussion summary concluded with the view that New York's stance of maintaining a broad single definition of professional nursing is by far the best course of action.

Judy Lynch, Vice Chairman, and Patricia Larabee, Member-at-Large, joined Ingrid Pearson in attending the March 22 seminar, an event sponsored by the Functional Unit and chaired by Ingrid Pearson. The officers urge members to contact them through the Association's Guilderland office with any suggestions, comments or recommendations they may have.

Health Department Citations

During the past year and one-half, representatives of the New York State Department of Health have cited various health care services (hospitals, ambulatory care sites, public health departments) for use of "nurse practitioners" to obtain histories and conduct physical examinations when New York State Codes do not spell out such activity. These citations are occurring only recently though nurses have been providing the services (including as employees of the Health Department itself) for 10-15 years. While these citations refer to "nurse practitioners" their thrust is to require that physicians assume responsibility for their practice - they do not restrict professional nurse provision of primary health care services.

NYSNA is actively seeking resolution of the problem through:

1. Ongoing dialogue between chief executive officers.
2. Ongoing discussions with Health Department representatives about corrective revisions of the Codes.
3. Communication and consultation with Directors of Nursing Service and practitioners to assist with handling individual problems.

It is vital that the nursing community stand together in support of the legitimacy of nurses as primary care practitioners. Anyone with a problem or question about this situation, should contact NYSNA as soon as possible. Contact by phone or in writing:

Frances Feldsine
Director, Nursing Practice and Services Program
New York State Nurses Association
2113 Western Avenue
Guilderland, NY 12084
(518) 456-5371

Legislation

A relatively small segment of the nursing community has persistently urged NYSNA to support legislation to identify primary care practitioners in the Nurse Practice Act. These attempts continue into the current legislative session. Concurrently the NYSNA Board of Directors has supported several legislative proposals (e.g., the "Governor's Proposal") designed to answer critics while maintaining the integrity of the Act. No legislative proposal on this issue has won widespread support.

The Association's Board of Directors is committed to active communication with all nurses who are concerned with this problem. On the basis of all available evidence the Board believes resolving problems that may arise through other than legislative means (e.g., code revisions, court decisions) is the wisest course of action at this time. The Association will be vigilant in exploring every possible means to insure public access to nursing.

The Association's own legislative program is designed to affirm nursing as an autonomous, valued health care service. This legislation will liberate rather than restrict nursing practice. It is imperative that nurses pour out massive support, particularly for our Third Party Reimbursement Bill (S.2247, A.2940) which is moving well this year. Please let your Assemblyman, Senator and Governor Cuomo know immediately that you want NYSNA's legislative program enacted.

We will keep you informed by way of LEG-LINE (518-456-5440) and mail communication of critical legislative developments.

CAW/lm
Enc.

Cathryne A. Welch, Ed.D., RN
Executive Director



Constituent of The American
Nurses Association

NEW YORK STATE NURSES ASSOCIATION

2113 Western Avenue, Guilderland, N.Y. 12084, (518) 456-5371

March 7, 1984

TO: Directors of Nursing Services in Hospitals in New York State

FROM: Cathryne A. Welch, Executive Director
Frances Feldsine, Director, Nursing Practice and Services Program

RE: NYS Department of Health Citations

In recent months NYSNA has learned that the NYS Department of Health has issued citations against health care agencies which assert that registered professional nurses are not authorized to perform physical examinations and take health histories. Because NYSNA is committed to public access to nursing care services and to the right and obligation of nurses to practice their profession, the Association has attempted to evaluate these citations, intervene in behalf of patients and nurses involved and develop methods to prevent recurrence of such citations.

On the basis of our investigation it appears citations issued have:

1. involved both inpatient and outpatient settings;
2. in certain instances, resulted from PSRO reviews carried out by physicians for Medicaid patients;
3. in certain instances, resulted from Health Department officials' review of physician conformity with provisions of the State Hospital Code.

Irrespective of the setting or the stimulus, the thrust of these citations is to require physicians to assume accountability for their medical practice.

Regrettably, references within these citations to nurses, nurse practitioners and the Nurse Practice Act have created confusion and sometimes prompted inappropriate agency restrictions on nursing practice.

As you fully understand, collection of health histories and performance of physical examinations have long been accepted components of both nursing practice and medical practice. The laws and/or regulations on which the above citations are based simply require that physicians assume responsibility for their own practice -- they do not restrict registered professional nurses performance of these acts in the context of nursing practice.

The Association is engaged in ongoing dialogue with the Health Department aimed at clarification of language utilized in citations of this nature; review and revision of codes, rules and regulations to facilitate alternative delivery



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models; identification of additional means to increase public access to nursing and other health care services. We are encouraged by the Department's commitment to the public and its receptivity to cooperative efforts with the Association and the nursing profession.

The Association is committed to expeditious resolution of this matter. In the event your agency should receive a citation of this nature, we urge that you contact us immediately. For your information, we enclose a draft or suggested response to such citations.

If you have any questions or wish to offer suggestions, please contact Frances Feldsine at the above telephone number or address.

CAW/FF/lm
Enc.

cc: NYSNA Board of Directors
NYSNA Council on Nursing Practice
Executive Committee, NYSNA Functional Unit of Primary Care Practitioners
Presidents and Executive Directors, NYSNA Constituent District Nurses
Associations