



The Massachusetts Chapter

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Comments of the Massachusetts Chapter
American Academy of Pediatrics
Before the Board of Registration in Nursing
Re: Proposed 244 CMR 10.00 (now 244 CMR 4.00)
Advanced Practice Registered Nurses
August 14, 2013

This testimony is submitted on behalf of the Massachusetts Chapter, American Academy of Pediatrics (MCAAP) which represents approximately 1,800 pediatricians across the Commonwealth. The members of the MCAAP are physicians dedicated to improving the quality of life for children by providing quality health care and advocating for them and their families. The MCAAP is committed to the attainment of optimal physical, mental and social health for all infants, children, adolescents, and young adults.

We want to ensure that children receive the highest quality and safest care possible; therefore, we want to express our strong concerns about the proposed regulations governing advanced practice registered nurses (APRNs).

Pediatricians value nurse practitioners (NPs) and the services they provide, but we strongly believe that optimal quality care for our patients is served best by nurse practitioners and physicians working as a team to provide a patient centered medical home for our patients.

The proposed regulations remove the collaborative team approach that has been the hallmark of the NP scope of practice from the very beginning; i.e., NPs practice in accordance with written guidelines developed in collaboration with, and mutually acceptable to, the nurse and a physician in the nurse's area of practice. The proposed regulations delete those provisions and require physician oversight only for prescribing medications.

We are concerned that the proposed regulations ignore significant statutory provisions requiring physician oversight for the ordering of tests and therapeutics in addition to prescribing medications. Deleting requirements of physician supervision and mutually developed guidelines for ordering tests and therapeutics is contrary to MGL Chapter 112, Sections 80B and 80E.

While the proposed regulations 244 CMR 10.00 do reflect the statutory provisions regarding prescribing medications, they do not address with any specificity the components of law governing the ordering of tests and therapeutics. Within the regulation's definition of "Guidelines," which relate to prescribing medication, is the sentence: "When appropriate, guidelines shall also address procedures for the ordering of tests and therapeutics." The statutory requirement of physician supervision is not dependent on whether a nurse has prescribing authority. It is required irrespective of prescriptive authority if the NP orders tests or therapeutics. The omission of the statutory provisions from the body of the regulations is inconsistent with statutory requirements.

The MCAAP believes that the regulations must be made clear and be consistent with statute. Therefore, we urge the Board to clearly state in the NP scope of practice section that “a nurse practitioner engaged in the ordering of tests and therapeutics and prescribing of medications will do so in accordance with written guidelines mutually developed and agreed upon by the nurse practitioner and the physician supervising such activities and practice.”

We would also note that the statute requires that regulations relating to the ordering of tests and therapeutics and prescribing medications must be promulgated jointly by the Nursing Board and the Board of Registration in Medicine pursuant to MGL Chapter 112, sections 80 B, 80E and 80H. In our opinion, that means formal input and regulatory action by the Medicine Board is required before these regulations can be promulgated.

Medical Marijuana

We note that the Massachusetts Medical Society raised serious concerns and opposition to the provisions of the regulations allowing NPs to certify patients for medical marijuana use [244 CMR 10.06 (3)(d) or 4.06 (3)(d)]. The MCAAP shares those concerns and urges the Board to delete this provision. We have had strong concerns about the medical marijuana law and its applicability to children and have expressed those concerns to DPH regarding implementation of the medical marijuana law. Expanding nurse practitioner scope of practice to allow them to certify patients is in clear conflict with Chapter 369 of the Acts of 2012. The statute is clear and direct in conferring responsibility and authority for certifying patients solely to licensed physicians. The statute (Chapter 369) became law after the so-called signatory statute was enacted. If one follows the logic of the proposed regulations and its advocates within the nursing community, it raises the question of whether any law or rule that is enacted which references the term “physician” actually means physician, or does it mean nurse practitioner as well. Must drafters of legislation and regulations now be cognizant that the word “physician” may not actually mean a licensed physician?

As applicable to medical marijuana, DPH regulations in the definition of Qualifying Patient states that it includes ... “a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness” (105 CMR 725.004). Do the proposed Board regulations mean that NPs can certify a pediatric patient for medical marijuana? This would not only be contrary to DPH regulations and the clear language of Chapter 369, but is also clinically deficient and contrary to good public policy. The MCAAP would urge the Board to delete the provision allowing NPs the ability to certify patients for medical marijuana.

Respectfully submitted,



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President

cc Board of Registration in Medicine