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HEALTH CARE LAW ALERT

WRITTEN PRACTICE AGREEMENTS NO LONGER REQUIRED FOR NURSE PRACTITIONERS

New York State no longer requires experienced nurse practitioners to practice pursuant to a written practice agreement with a physician.

The Nurse Practitioners Modernization Act (the Act) and revisions to New York State Department of Education (NYSED) licensing regulations took effect as of January 1, 2015. Nurse practitioners who have more than 3,600 hours of experience may now opt to maintain “collaborative relationships” with one or more licensed physicians qualified to collaborate in the specialty involved. Alternatively, experienced nurse practitioners may maintain a collaborative relationship with a facility licensed under Article 28 of the Public Health Law that provides services through licensed physicians who are qualified to collaborate in the specialty involved and have privileges at the facility.

Prior to January 1, 2015, New York law required all nurse practitioners to execute a formal, written practice agreement with a collaborating physician and practice in accordance with written practice protocols appropriate for the nurse practitioner’s specialty area. The written practice agreement had to include explicit provisions for the resolution of any disagreement with the collaborating physician regarding a matter of diagnosis or treatment. Nurse practitioners had to keep a copy of the written practice agreement at their practice location and produce it upon request of the NYSED. The law also required the collaborating physician to review the nurse practitioner’s patient records at least every three months. Nurse practitioners who have fewer than 3,600 hours of experience and those who simply choose to continue practicing pursuant to a written agreement must continue to meet these requirements.

Experienced nurse practitioners who opt to forego the written practice agreement are now required under the Act to communicate with a qualified physician as needed to provide comprehensive patient care or to make referrals. The communication requirement replaces the written practice protocols, which are not required in the absence of a written agreement. In the event of a disagreement between the nurse practitioner and his/her collaborating

physician regarding a matter of diagnosis or treatment, the new law provides that the collaborating physician's clinical opinion prevails. Quarterly chart reviews are not required.

A nurse practitioner who chooses to practice without a written practice agreement must complete a Collaborative Relationships Attestation Form, maintain it at his/her practice location(s) and provide it to the NYSED upon request. He/she must also maintain separate documentation of his/her collaborative relationship(s) and produce it upon the NYSED's request.

Any of the following would be acceptable evidence of a collaborative relationship: (a) an agreement with a hospital or physician practice pursuant to which the nurse practitioner may transfer or refer patients for care; (b) written communications or records of consultations and communications for referral; (c) documentation of employment relationships with a physician practice or a hospital, hospice program, licensed home care services agency or licensed mental health care facility with a physician medical director; or (d) documentation of a contractual relationship with a physician, physician practice, or a hospital, pursuant to which the nurse practitioner provides professional services.

The Nurse Practitioners Modernization Act is scheduled to expire in 2021.

If you have any questions or would like more information on the issues discussed in this communication, please contact any of the following Hancock Estabrook attorneys:

Laurel E. Baum	315.565.4504	lbaum@hancocklaw.com
Jennifer R. Bolster	315.565.4506	jbolster@hancocklaw.com
Raymond R. D'Agostino	315.565.4518	rdagostino@hancocklaw.com
Catherine A. Diviney	315.565.4520	cdiviney@hancocklaw.com
Meghan S. Gaffey	315.565.4523	mgaffey@hancocklaw.com
Marguerite A. Massett	315.565.4537	mmassett@hancocklaw.com
Mary M. Miner	315.565.4542	mminer@hancocklaw.com

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