MEDICAL SOCIETY
of the
STATE OF NEW YORK

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MEMORANDUM IN OPPOSITION

IN SENATE RULES COMMITTEE — **S.8936 (RIVERA)**

IN ASSEMBLY HIGHER EDUCATION COMMITTEE — **A.10990 (GOTTFRIED)**

AN ACT to amend the education law, in relation to the practice protocol for nurse practitioners; and to amend part D of chapter 56 of the laws of 2014, amending the education law relating to enacting the "nurse practitioners modernization act," in relation to the effectiveness thereof

This legislation would amend the education law to essentially eliminate most remaining requirements for nurse practitioners to deliver patient care in collaboration with a physician practicing in the same specialty. Nurse practitioners are a critical component of our healthcare system to ensure patients receive the care they need, whether they deliver care in a physician office, hospital, or in their own practice. But maintaining ongoing team-based care in collaboration with a physician in the same specialty is essential for ensuring patient receive the highest quality care. Therefore, **the Medical Society of the State of New York opposes this legislation and urges that it be defeated.**

Eliminating existing statutory collaboration requirements would undermine, not improve, quality patient care. In a recent MSSNY 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. There were countless comments and provided by physicians participating in this survey that praised the care provided by these advance care practitioners, while at the same time expressing significant concerns and presenting examples about their limited knowledge in recognizing potentially complex patient cases, often noting that NPs "don't know what they don't know".

This legislation goes far beyond extending the modified independent practice provisions for NPs. Instead, it would eliminate long-standing collaboration requirements between a NP and physician. It would (1) eliminate any requirement for an NP who has practiced more than 3,600 hours to maintain a documented collaborative relationship with a physician in the same specialty practiced by the NP; (2) permit NPs with less than 3,600 hours of practice to train under a NP instead of a physician; and (3) repeal existing patient protection laws that require NPs to complete and maintain a form created by the State Education Department (SED) and attested to by the NP that: a) describes their collaborative relationship with the physician; and b) acknowledges that if there is a dispute between an NP and the collaborating physician about a patient's care with no successful resolution that the recommendation of the physician shall prevail.

While this legislation purports to implement recommendations from the State Education Department and NYS Health Department, it actually goes much further. The state agency recommendations were to eliminate the submission of documents to the State, not to eliminate maintaining proof of collaborative relationships altogether. Yet that is what this legislation would do.

While NPs are essential members of the health care team, with only a few years of education, no residency requirement and only 500-720 hours of clinical training, they are not adequately trained to practice without any physician collaboration. By sharp contrast, physicians complete 4 years of medical school plus 3-7 years of residency, including 10,000-16,000 hours of clinical training. But it is more than just the vast difference in hours of education and training – it is also the difference in rigor and standardization between medical school/residency and nurse practitioner programs. During medical school, students receive a comprehensive education in the classroom and in laboratories, where they study the biological, chemical, pharmacological and behavioral aspects of human conditions. This period of intense study is supplemented by two years of patient care rotations through different specialties, during which medical students assist licensed physicians in the care of patients. During clinical rotations, medical students continue to develop their clinical judgment and medical decision-making skills through direct experience managing patients in all aspects of medicine. Following graduation, students must then pass a series of examinations to assess a physician's readiness for licensure. At this point, medical students "match" into a 3-7 residency program during which they provide care in a select surgical or medical specialty under the supervision of experienced physician faculty. As resident physicians gain experience and demonstrate growth in their ability to care for patients, they are given greater responsibility and independence. NP programs do not have similar time-tested standardizations. While there are many reputable nurse practitioner programs, there has been a recent proliferation of online-only nurse practitioner programs, some boasting 100% acceptance rates and programs that offer little to no oversight of students' clinical training.

We are also concerned that this legislation could result in increased health care costs due to overprescribing and overutilization of diagnostic imaging and other services by NPs. One study showed that, in states that allow independent prescribing, NPs were 20 times more likely to overprescribe opioids than those in prescription-restricted states. Multiple studies have also 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. The authors opined this increased utilization may have important ramifications on costs, safety and quality of care. They further found greater coordination in health care teams may produce better outcomes than merely expanding nurse practitioner scope of practice alone.

To repeat, while NPs play a critical role in providing care to patients, their skillsets are not interchangeable with that of fully trained physicians. Patient care would undoubtedly be adversely affected by removing requirements for nurse practitioners to collaborate with physicians. Instead of removing these requirements to document collaborative relationships, the standards for physician-NP collaboration should be strengthened to incorporate additional documented criteria for how care will be coordinated with a physician practicing in that specialty to help better recognize and treat potentially complex cases.

Based on the foregoing, the Medical Society of the State of New York opposes this legislation and urges that it be defeated.

Respectfully Submitted,

9/16/20
MMA - oppose

MSSNY DIVISION OF GOVERNMENTAL AFFAIRS