Important and Time-Sensitive Changes in the APRN Statute Effective July 1

Related Professionals

Jeanne M. Born
803.540.2038
jborn@nexsenpruet.com

Sara S. Rogers
803.540.2172
srogers@nexsenpruet.com

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Governor McMaster signed S. 345 (Act No. 234 of 2018) into law on Friday May 18th amending the Nurse Practice Act and expanding the scope of practice for Nurse Practitioners, Certified Nurse Midwives and Clinical Nurse Specialists (APRNs) — there are no changes relating to physician supervision of Certified Registered Nurse Anesthetists (CRNAs). The law also amends the Medical Practice Act sections pertaining to physicians' practicing with APRNs.

The changes in the law will not allow APRNs to practice independently, requiring physicians and APRNs to enter into a "*Practice Agreement*" that will **replace current written protocol** and **document "medical acts"** the APRN will be able to perform with the support of the physician.

A Practice Agreement is a written agreement between an APRN and a physician or medical staff physicians that outlines the scope of medical acts the APRN will perform pursuant to the agreement, including prescribing of medications. Practice Agreements must also include mechanisms for the physician to maintain responsibility for the quality of care and patient safety.

The new law does not require APRNs or physicians to receive upfront approval of Practice Agreements from the S.C. Board of Nursing (Board of Nursing) or S.C. Board of Medical Examiners (Board of Medical Examiners). However, the new law maintains the requirement that the Board of Nursing conduct random audits of Practice Agreements and adds authority for the Board of Medical Examiners to conduct audits.

In addition, the new law maintains that failure to produce a Practice Agreement within 72 hours of a request from the Board of Nursing or Board of Medical Examiners is grounds for misconduct. Included as new grounds for misconduct are the failure to have a compliant Practice Agreement and failure to comply with the terms of the Practice Agreement, both of which could subject the APRN and/or physician to disciplinary action.

Physicians may only enter into Practice Agreements with APRNs to perform medical acts or functions within the scope of the physician's usual practice, training, or experience. The new law also expands the APRN-to-physician ratio to six full-time equivalent APRNs to one physician, but the physician cannot work with or supervise more than six APRNs and/or physician assistants in clinical practice at any one time.

Physicians entering Practice Agreements with an APRN must also be "readily available" to the APRN, which means the physician can be contacted in person, via telephone, or through other electronic means to provide consultation and advice about the medical acts performed under the Practice Agreement. The 45-mile radius requirement has been eliminated, but the new law requires the physician must be actively practicing medicine within the geographic boundaries of South Carolina.

Practice Agreements must be signed and dated by the APRN and physician or medical staff physicians, prior to the APRN practicing under the agreement. Practice Agreements must be reviewed, signed and dated at least annually, and include the following information:

- The name, address, and S.C. license number of the APRN and physician;
- The nature of practice and practice locations of the APRN and physician; and
- A description of how consultation with the physician is provided, and provisions for backup consultation if the physician is unavailable.

Practice Agreements must include the following minimum information for the medical acts authorized in the Practice Agreement:

- Drug therapies that may be prescribed,including any authorization to prescribed controlled substances — any/all controlled substances must be listed in the Practice Agreement and authorized by the *South Carolina Controlled Substances Act*. S.C. Code 44-53-300 (2006):
  - Schedule III-V controlled substances;
  - Non-narcotic Schedule II controlled substances, not to exceed a 30-day supply;
  - Narcotic Schedule II controlled substances, not to exceed a five-day supply, and another prescription may not be written without the written agreement of the physician;
  - Narcotic Schedule II controlled substances, for patients in hospice or palliative care, and not to exceed a 30-day supply.
- Treatments that may be initiated, continued, or modified;
- Conditions for which therapies may be initiated, continued, or modified; and
- Situations that require direct evaluation by, or referral to, the physician.

Unless otherwise provided in the Practice Agreement, and to the extent permitted by federal law*, APRNs may perform the following medical acts:

- → Provide non-controlled prescription medicines while working at free clinics;
- → Refer patients for Physical Therapy;
- → Pronounce death and sign death certificates;
- → Certify patients as handicapped and declare whether a handicap is temporary or permanent for purposes of obtaining parking placards;
- → Certify that a student is unable to return to school, but may need home or hospital-based instruction; and
- → Issue Hospice orders — **Only physicians may certify hospice orders under federal law*.

An important change in the law also permits both APRNs and PAs to practice via telemedicine, if set forth in the Practice Agreement for APRNs and in the approved written scope of practice guidelines for PAs. If the APRN-patient relationship is established solely through telemedicine, the APRN must obtain approval from the Joint Committee of the Board of Nursing and Board of Medical Examiners prior to prescribing Schedule II or III medications. Similarly, if the PA-patient relationship is established solely through telemedicine, the PA must obtain approval from the Board of Medical Examiners prior to prescribing Schedule II or III medications.

Please feel free to contact us if you have any questions or concerns regarding the changes in the law. We will also be glad to work with you to develop Practice Agreements for your APRNs and physicians. For more information, please contact Jeanne Born.