



ASK AN ATTORNEY

Considerations for Use of Physician Extenders

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Our primary care practice is considering adding either a nurse practitioner or physician assistant. What are some of the legal considerations that would apply?

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As Americans focus on health care reform, physician practices continue to strive to provide quality primary care to their patients, in a timely and cost effective manner. Increasingly, patients are becoming more comfortable with seeing mid-level providers for their care. Primary care practices have found that using physician extenders can allow them to provide high quality patient care, treat patients in a timely manner, improve patient satisfaction and enhance the financial profitability of the practice.

Nurse Practitioners

The scope of practice of a nurse practitioner includes the diagnosis and treatment of illness. In the office setting, nurse practitioners may perform physical examinations, administer immunizations, write prescriptions, order and interpret laboratory tests and make referrals to other health care providers. Nurse practitioners have the time to address the patient's health concerns while providing education regarding healthy choices and overall coordination of health care services.

A nurse practitioner must practice under a written practice agreement with a collaborating physician. A collaborating physician may not supervise more than four nurse practitioners who are not located at the same premises as the physician. The practice agreement will establish practice protocols which reflect current medical and nursing practice, and set forth the scope of supervision. The practice agreement must address the referrals to and consultations with the collaborating physician, coverage for absence of either the nurse practitioner or collaborating physician, resolution of disagreements between the collaborating physician and nurse practitioner and periodic review of patient records by the collaborating physician.

The review of patient records by the collaborating physician must occur on a timely basis, but no less often than every three months. The law does not require any specific numbers or ratios of patient charts to be reviewed by the collaborating physician. That decision is left to professional judgment and will vary based on the nurse practitioner's experience and the collaborating physician's knowledge of the nurse practitioner's abilities and judgment. Our office recommends that the physician countersign and date the chart notes at the time of the supervisory review.

While subject to the supervision of the collaborating physician, nurse practitioners practice independently. New York law does not require that medical orders, prescriptions or laboratory orders be countersigned by the collaborating physician.

Physician Assistants

New York law allows a physician assistant (PA) to perform medical services under the supervision of a physician, so long as the duties assigned to the PA are within the scope of practice of the supervising physician. Thus, in a primary care private office setting, the scope of practice for a PA is substantially similar to that of the nurse practitioner as discussed above.

While the PA must be "continuously" supervised, unlike the case with the nurse practitioner, there is no requirement for a written practice agreement with practice protocols. The continuous supervision standard does not require that the supervising physician be physically present at the office while the PA is rendering medical services. However, the supervising physician must be immediately available to consult with the PA about patient matters, by telephone or other reliable means of communication. The supervision requirement for PAs differs from nurse practitioners in that there is no requirement for

chart review. From a risk management perspective, our office recommends that the supervising physician nevertheless periodically review and countersign selected patient charts to evidence professional supervision of the PA.

New York law does not require that the supervising physician countersign medical orders, laboratory orders or prescriptions. Prescriptions must be written on the supervising physician's prescription form and be signed by the PA first by printing the name of the supervising physician, then printing the name of the PA and then signing the prescription form followed by the designation "RPA" and the PA's registration number. Note that a PA does not have the authority to write prescriptions for certain controlled substances.

Additional Considerations

Primary care practices that choose to employ nurse practitioners or PAs should have a thorough understanding of rules, regulations, policies and procedures for billing Medicare, Medicaid and the various private medical insurance

companies. Doing so will allow the practice to maximize collections and profitability from these physician extenders, while minimizing the risk of claims denial or audits.

Supervising or collaborating physicians should also be aware that they are personally liable for claims of malpractice against those physician extenders that they supervise. Even in the setting of a professional corporation, professional limited liability company or registered limited liability partnership, the supervising physician has the same liability as if he or she had personally committed the claimed act of malpractice. However, such claims may be covered by the physician's available malpractice insurance coverage. In addition, the practice should consider separate malpractice insurance coverage for the physician extender.

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