

Joint Advisory Opinion of the South Carolina Board of Medical Examiners and the South Carolina Board of Nursing

RE: Administrative Process for the Approval of the Exemption Requests Involving Advance Practice Registered Nurses

Date: March 27, 2015 (SC Board of Nursing) and May 4, 2015 (SC Board of Medical Examiners)

Both the South Carolina Board of Medical Examiners and South Carolina Board of Nursing share responsibility for regulating the relationship between a supervising physician or dentist and an advance practice nurse (APRN), including a NP, CNM or CNS.

The Medical Practice Act addresses this relationship in multiple provisions. Specifically, S.C. Code Ann. § 40-47-20(14) defines “delegated medical acts to the APRN” as “additional acts delegated by a physician or dentist to the Advanced Practice Registered Nurse (NP, CNM, or CNS) which may include formulating a medical diagnosis and initiating, continuing, and modifying therapies, including prescribing drug therapy, under approved written protocols as provided in Section 40-33-34 and Section 40-47-195. Delegated medical acts to the APRN (NP, CNM, or CNS) **must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners.** Delegated medical acts to the APRN (NP, CNM, or CNS) must be performed under the general supervision of a physician or dentist who must be readily available for consultation.” (Emphasis added.)

Further, § 40-47-20 (43) defines "readily available" as “the physician must be in near proximity and is able to be contacted either in person or by telecommunications or other electronic means to provide consultation and advice to the practitioner performing delegated medical acts. **When application is made for more than the equivalent of three full-time NPs, CNMs, or CNSs to practice with one physician, or when a NP, CNM, or CNS is performing delegated medical acts in a practice site greater than forty-five miles from the physician, the Board of Nursing and the Board of Medical Examiners shall review the application to determine if adequate supervision exists.**” (Emphasis added.)

Finally, § 40-47-195 discusses the responsibilities of a supervising physician, as well as considerations for the written protocol agreed upon by the supervising physician and APRN, as follows:

(A) A licensee who supervises another practitioner shall hold a permanent, active, unrestricted authorization to practice in this State and be currently engaged in the active practice of their respective profession or shall hold an active unrestricted academic license to practice medicine in this State.

(B) Pursuant to this chapter, only licensed physicians may supervise another practitioner who performs delegated medical acts in accordance with the practitioner's applicable scope of professional practice authorized by state law. It is the supervising physician's responsibility to ensure that delegated medical acts to the APRN (NP, CNM, or CNS) or other practitioners are performed under approved written scope of practice guidelines or approved written protocol in accordance with the applicable scope of professional practice authorized by state law. A copy of approved written scope of practice guidelines or approved written protocol, dated and signed by the supervising physician and the practitioner, must be provided to the board by the supervising physician within seventy-two hours of request by a representative of the department or board.

(C) In evaluating a written guideline or protocol, the board and supervising physician shall consider the:

- (1) training and experience of the supervising physician;
- (2) nature and complexity of the delegated medical acts being performed;
- (3) geographic proximity of the supervising physician to the supervised practitioner; when the supervising physician is to be more than forty-five miles from the supervised practitioner, special consideration must be given to the manner in which the physician intends to monitor the practitioner, and prior board approval must be received for this practice; and
- (4) number of other practitioners the physician supervises. Reference must be given to the number of supervised practitioners, as prescribed by law. When the supervising physician assumes responsibility for more than the number of practitioners prescribed by law, special consideration must be given to the manner in which the physician intends to monitor, and prior board approval must be received for this practice.

The Nurse Practice Act has similar provisions.

Pursuant to § 40-33-20(23), "delegated medical acts" means additional acts delegated by a physician or dentist to the NP, CNM, or CNS and may include formulating a medical diagnosis and initiating, continuing, and modifying therapies, including prescribing drug therapy, under approved written protocols as provided in Section 40-33-34. **Delegated medical acts must be agreed to jointly by both the Board of Nursing and the Board of Medical Examiners.** Delegated medical acts must be performed under the general supervision of a physician or dentist who must be readily available for consultation. (Emphasis added.)

Section 40-33-34(C) (2) provides, "**when application is made for more than three NP's, CNM's, or CNS's to practice with one physician or when a NP, CNM, or CNS is**

performing delegated medical acts in a practice site greater than forty-five miles from the supervising physician, the Board of Nursing and Board of Medical Examiners shall each review the application to determine if adequate supervision exists.” (Emphasis added.)

To facilitate the process of joint review by both boards and minimize the inherent delay, the Boards of Medical Examiners and Nursing hereby revise the current administrative process for review of APRN requests for waivers and approval of additional delegated medical acts as follows:

- (1) A joint committee shall be established for the sole purpose of reviewing and taking action upon waiver requests relating to mileage restrictions and/or the number of APRNS to be supervised, as well as requests for consideration of additional delegated medical acts.
- (2) This joint committee shall be comprised of two licensed members in good standing from both the Board of Medical Examiners and the Board of Nursing, with an alternate designated by each.
- (3) The joint committee shall meet as needed to consider any pending requests but not less than once per month. If no requests are pending, the joint committee will convene during the next month in which requests are received.
- (4) The joint committee shall establish requirements for the documentation to be offered in support of each request. Requests for either a mileage or ratio waiver may be reviewed based on documentation alone. For a “documentation only” review, the joint committee may convene via teleconference. In the event the joint committee has questions about a particular application that cannot be resolved by reviewing the documentation alone, the applicant may be invited to appear before the joint committee in person.
- (5) The joint committee will review any requests for approval of additional delegated medical acts within thirty (30) days of receipt, unless exigent circumstances necessitate a delay. In the event the joint committee has questions about a particular application that cannot be resolved by reviewing the documentation alone, the applicant may be invited to appear before the joint committee in person.
- (6) An applicant may have any recommendation made by the joint committee reviewed by the full Board of Medical Examiners and Board of Nursing at the next scheduled meeting of each respective board, provided that the matter will be presented to the full Board of Nursing first. In the event the full Board of Nursing denies a request, it will not be forwarded to the full Board of Medical Examiners.
- (7) Requests for waivers shall be submitted to the Board of Nursing. The administrative staff for both boards will work together to organize the date, order and process for each meeting of the joint committee.
- (8) This process will be implemented on May ____, 2015.