



ADVANCED PRACTICE PROVIDERS: IDENTIFYING TRENDS AND RISKS WITH ADVANCED PRACTITIONERS

**Aileen Brooks, RN, CPHRM, JD
Malecki & Brooks Law Group**

ORGANIZATION OF PRESENTATION

1. Advanced Practice Providers
2. Overview of Law in Illinois
3. Collaboration and Supervision
4. Risk Issues
5. Recent Legislation

ADVANCED PRACTICE PROVIDERS — WHAT'S IN A NAME?

- No longer “mid-level practitioners”
- No longer “physician extenders”
- Sometimes referred to as “associate providers”
- Referred to as “non-physician practitioners” by Medicare

ADVANCED PRACTICE PROVIDERS— WHO ARE THEY?

- Healthcare practitioners educated at master's level and many at the doctorate level
- Professionals with specialized training and national certification
- Includes Advanced Practice Registered Nurses (APRNs) and Physician Assistants (PAs)

APPLICABLE LAW IN ILLINOIS

Nurse Practice Act

225 ILCS 65/

68 Ill. Adm. Code 1300/

Physician Assistant Practice Act of 1987

225 ILCS 95/

68 Ill. Adm. Code 1350/

Medical Practice Act

225 ILCS 60/1

APRN DESIGNATIONS

In Illinois, Advanced Practice Registered Nurses include:

- Certified Nurse Midwives (CNMs)
- Certified Nurse Practitioners (CNP)
- Certified Registered Nurse Anesthetist (CRNAs)
- Clinical Nurse Specialists (CNSs)

CERTIFIED NURSE PRACTITIONERS

- Family Nurse Practitioner
- Adult-Gerontology Nurse Practitioner
- Emergency Nurse Practitioner

CLINICAL NURSE SPECIALISTS - CERTIFICATIONS

Adult Health CNS, Adult Gerontology CNS

Pediatric CNS

Adult Psychiatric-Mental Health CNS, Child/Adolescent Psychiatric-Mental Health CNS

Gerontological CNS, Public/Community Health CNS

Home Health CNS

Diabetes Management-Advanced

APRN SCOPE OF PRACTICE

- “Advanced practice nursing . . . is based on knowledge and skills acquired throughout an advanced practice nurse's nursing education, training and experience.” 225 ILCS 65/65-30(a)
- Also includes the Registered Nurse Scope of Practice

APRN SCOPE OF PRACTICE (CONTINUED)

Scope of practice includes, but is not limited to:

- “Advanced nursing patient assessment and diagnosis.”
- “Ordering diagnostic and therapeutic tests and procedures, . . . , and interpreting and using the results of diagnostic and therapeutic tests”

225 ILCS 65/65-30(c)(1-2)

COLLABORATION VS. CONSULTATION

- “Collaboration” means a process involving 2 or more health care professionals working together, each contributing one's respective area of expertise to provide more comprehensive patient care.
- “Consultation” means the process whereby an advanced practice nurse seeks the advice or opinion of another health care professional.

68 Ill. Adm. Code 1300.10

COLLABORATIVE AGREEMENTS

“Written collaborative agreement” means a written agreement between an advanced practice registered nurse and a collaborating physician, dentist, or podiatric physician pursuant to [225 ILCS] Section 65-35. (As of 1/1/18, only CRNAs may have a collaborative agreement with a podiatric physician)

A sample collaborative agreement can be found at 68 Ill. Adm. Code 1300 - Exhibit A. (not yet updated to new law)

COLLABORATIVE AGREEMENTS — REQUIRED OR NOT?

“A written collaborative agreement is required for all advanced practice *registered* nurses engaged in clinical practice prior to meeting the requirements of Section 65-43, except for advanced practice registered nurses who are authorized privileged to practice in a hospital, hospital affiliate, or ambulatory surgical treatment center.”

225 ILCS 65/65-35(a)

COLLABORATIVE AGREEMENT PURPOSE

- “A written collaborative agreement shall describe the relationship of the advanced practice registered nurse with the collaborating physician ~~or podiatric physician~~ and shall describe the categories of care, treatment, or procedures to be provided by the advanced practice registered nurse.”
- Does not require employment relationship.

225 ILCS 65/65-35(b)

MEANINGFUL COLLABORATION

- Promote the exercise of professional judgment of the APRN
- Specify those procedures that require a physician's presence as the procedures are being performed
- Jointly establish practice guidelines and orders
- Consultation in person, via telecommunication or electronic communication

See 68 Ill. Adm. Code 1300.420(a).

COLLABORATING PROVIDER

“A physician licensed to practice medicine in all its branches, ~~or a podiatrist licensed under the Podiatric Medical Practice Act,~~ in active clinical practice may collaborate with an advanced practice *registered* nurse in accordance with the requirements of the Nurse Practice Act.”
(225 ILCS 60/54.5(b))

~~Must be “. . . for services the collaborating physician or podiatrist generally provides to his or her patients in the normal course of clinical medical practice . . .”~~ (applies to PAs only)
(deleted from APN statute in 2015)

68 Ill. Adm. Code 1300.420(a).

AVAILABILITY OF COLLABORATING PROVIDER (GENERALLY)

Collaboration does not require physical presence by collaborating physician ~~or podiatrist~~ where services are rendered.

However, “methods of communication shall be available for consultation with the collaborating physician ~~or podiatric physician~~ in person or by telecommunications or electronic communications as set forth in the written agreement.”

225 ILCS 65/65-35 (b)

CERTIFIED REGISTERED NURSE ANESTHETISTS

“In the case of anesthesia services provided by a certified registered nurse anesthetist, an anesthesiologist, a physician, a dentist, or a podiatric physician must participate through discussion of and agreement with the anesthesia plan and remain physically present and available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions.”

225 ILCS 65/65-35(c)

CRNA – SUPERVISION REQUIREMENT

- Supervision of CRNA is required.
- Can be by an anesthesiologist or an operating practitioner (requires adoption of a policy) unless state has requested exemption and opted out of supervision requirement. (42 CFR §482.52(a)(4) and (c))
- Illinois has not opted out of the CRNA supervision requirements

CRNA — WHAT DOES “IMMEDIATELY AVAILABLE” MEAN?

“An anesthesiologist is considered “immediately available” when needed by a CRNA under the anesthesiologist’s supervision only if he/she is physically located within the same area as the CRNA, e.g., in the same operative/ procedural suite, or in the same labor and delivery unit, and not otherwise occupied in a way that prevents him/her from immediately conducting hands-on intervention, if needed.”

See CMS Manual System Pub. 100-07, May 21, 2010.
Interpretive Guidelines §482.52(a) and (c).

RISKS — WHAT CAN GO POSSIBLY GO WRONG?



RISK MANAGEMENT TIPS

- Ensure services performed by the advanced practitioner are within his/her license and scope of practice
- Avoid employment, credentialing and privileging mismatches

Example - hiring an adult NP who provides care for pediatric patients

RISK MANAGEMENT TIPS - CONTINUED

- Determine the required and appropriate level of supervision
- Specify those procedures that require a physician's presence when the procedures are being performed
- Establish and follow practice protocols, guidelines and orders

RISK MANAGEMENT TIPS - CONTINUED

- Collaborate regularly
- Consult as appropriate
- Document, document, document

CASE EXAMPLES

Toddler presents to ED with several day history of fever and vomiting. Seen by APN, diagnosed with viral illness, discharged home with septic work up initiated.

CASE EXAMPLES

Pregnant woman presents to OB triage for rule out labor, diagnosed with UTI by CNM and discharged home.

LEGISLATION

Public Act 100-0513 (HB0313) was signed on 9/20/17.

- “APN” to change to “APRN”
- APRNs may collaborate with MDs and other APRNs
- Prescriptive authority (with limitations) (225 ILCS 65/65-43)
 - Must have consultation relationship* with MD if APRN will prescribe benzodiazepines or Schedule II opioids.
 - Must identify the specific Schedule II narcotics prescribed; may not administer via injection
 - Must discuss monthly with MD these patients’ benzo/opioid therapy.
 - *Must be recorded in Prescription Monitoring Program website.

LEGISLATION (CON'T)

Public Act 100-0513 (HB0313) was signed on 9/20/17.

- “Full practice authority” defined, requirements set forth
- No Collaborative Agreement – must file attestation of completion* after 250 hours CE/training and at least 4,000 hours of clinical experience after first attaining national certification; applies to APRN, CNM, CNS, NP.

225 ILCS 65/65-43

(*form not yet available)

QUESTIONS?

Aileen M. Brooks

Malecki & Brooks Law Group

205 E. Butterfield Road, Suite 225

Elmhurst, IL 60126

abrooks@mbhealthlaw.com

Direct: (773) 664-3303

Office: (630) 948-4807