

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS AND THE
REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6902, and 6910 of the Education Law and Part C of Chapter 57 of the Laws of 2022

1. Paragraph (3) of subdivision (a) of section 29.14 of the Rules of the Board of Regents is amended to read as follows:

(3) Failure by a nurse practitioner to comply with [either] the requirements relating to collaboration with a physician of paragraph (a) of subdivision (3) of section 6902 of the Education Law [or the collaborative relationships requirements of paragraph (b) of subdivision (3) of section 6902 of the Education Law].

2. Section 64.5 of the Regulations of the Commissioner of Education is amended to read as follows:

64.5 Nurse practitioner practice

(a) Collaborative Practice

(1) A nurse practitioner who has three thousand six hundred or fewer hours of experience practicing as a licensed or certified nurse practitioner pursuant to the laws of New York or any other state or as a nurse practitioner while employed by the United States Veterans Administration, the United States Armed Forces or the United States Public Health Service shall practice in collaboration with a physician qualified in the specialty involved and in accordance with a written practice agreement and written practice protocols.

(2) Practice agreements and practice protocols shall be maintained in the practice setting of the nurse practitioner and collaborating physician and shall be available to the department for inspection.

[(b)] (3) Practice agreements shall include provisions for referral and consultation, coverage for emergency absences of either the nurse practitioner or collaborating physician, resolution of disagreements between the nurse practitioner and collaborating physician regarding matters of diagnosis and treatment, and the review of patient records at least every three months by the collaborating physician; and may include such other provisions as determined by the nurse practitioner and collaborating physician to be appropriate.

[(c)] (4) Protocols shall identify the area of practice to be performed by the nurse practitioner in collaboration with the physician and shall reflect accepted standards of nursing and medical practice. Protocols shall include provisions for case management, including diagnosis, treatment, and appropriate recordkeeping by the nurse practitioner; and may include such other provisions as are determined by the nurse practitioner and collaborating physician to be appropriate. Such protocols may be updated periodically.

[(d)] (5) The department in its discretion or upon request of a nurse practitioner or collaborating physician may review practice protocols for the purpose of insuring that they are in conformance with accepted medical and nursing practice and with the statutes and regulations governing the practice of medicine, nursing, and the prescribing of drugs, and may render an opinion which shall be binding upon the parties to the protocol. A practice and protocol committee designated by the Deputy Commissioner for the Professions shall review practice protocols and shall recommend

findings as to their adequacy and conformity with current accepted medical and nursing practice. If the department determines that a protocol is inadequate or contrary to current accepted medical and nursing practice it shall communicate that determination, and the reasons therefor, to the nurse practitioner to the collaborating physician in writing. The nurse practitioner and collaborating physician shall conform to accepted medical and nursing practice immediately, and shall submit a revised protocol within 30 days of receipt of the department's determination, unless an extension of time is requested and granted by the department. Continuation of practice in violation of the determination shall constitute unprofessional conduct by either or both licensees.

[(e)](6) An appeal from a determination that a practice protocol is inadequate or contrary to current accepted medical and nursing practice may be taken within 30 days after receipt of the notice of determination by a petition setting forth the reasons for the appeal, and signed by both the nurse practitioner and the collaborating physician. Such joint appeal shall be filed with the Division of Professional Licensing Services and determined by the Committee on the Professions whose determination shall be final.

[(f)](7) In addition to the requirements of section 6810 of the Education Law, prescription forms used by nurse practitioners shall be printed with the name, nurse practitioner certificate number, office address, and office telephone number of the nurse practitioner.

[(g) Collaborative relationships.

(1) Definitions. As used in this subdivision:

(i) Collaborative relationships shall mean that a nurse practitioner communicates, in person, by telephone, or through written means including electronically, with a

physician who is qualified to collaborate in the specialty involved, or in the case of a hospital, the nurse practitioner communicates with a physician qualified to collaborate in the specialty involved and who has privileges at such hospital, for the purposes of exchanging information, as needed, in order to provide comprehensive patient care and to make referrals, as necessary.

(ii) Physician shall mean a New York State licensed and registered physician.

(iii) Hospital shall mean a hospital as defined by Public Health Law section 2801(1).

(2) Notwithstanding any provision in this section to the contrary and insofar as authorized by Education Law section 6902(3)(b), in lieu of complying with the requirements relating to collaboration with a physician, collaborative practice agreements and practice protocols as set forth in subdivisions (a), (b), (c), (d) and (e) of this section, a nurse practitioner may have collaborative relationships, with one or more physicians or a hospital, as such terms are defined in paragraph (1) of this subdivision, provided that the following criteria are met:

(i) The nurse practitioner shall have more than three thousand six hundred hours of experience practicing as a licensed or certified nurse practitioner pursuant to the laws of New York or any other state or as a nurse practitioner while employed by the United States Veterans Administration, the United States Armed Forces or the United States Public Health Service.

(ii) The nurse practitioner shall complete and maintain a form, prescribed by the department, to which the nurse practitioner shall attest, that describes the nurse practitioner's current collaborative relationships. The nurse practitioner shall also

acknowledge on the form that if reasonable efforts to resolve any dispute that may arise with the collaborating physician, or, in the case of a collaboration with a hospital, with a physician qualified to collaborate in the specialty involved and having professional privileges at such hospital, about a patient's care are not successful, the recommendation of the physician shall prevail. The form shall be updated as needed and may be subject to review by the department, upon its request.

(iii) In addition to the form required by subparagraph (ii) of this paragraph, the nurse practitioner shall maintain documentation in written or electronic form that supports his or her collaborative relationships.]

(b) Independent Practice. A nurse practitioner who has more than three thousand six hundred hours of experience practicing as a licensed or certified nurse practitioner pursuant to the laws of New York or any other state or as a nurse practitioner while employed by the United States Veterans Administration, the United States Armed Forces or the United States Public Health Service shall not be required to practice in collaboration with a physician qualified in the specialty involved and in accordance with a written practice agreement and written practice protocols as set forth in subdivision (a) of this section.

[(h)](c) Orders to dispense drugs to prevent human immunodeficiency virus (HIV) infection.

(1) ...

(2) ...

(3)