

## Managing Risks and Patient Safety Related to Nurse Practitioners and Physician Assistants

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*Is a Nurse Practitioner (NP) or a Physician Assistant (PA) part of your practice? Or, are you thinking about bringing one into your practice? If the answer is "yes" to either question, then this article is for you. With an increased number of NPs and PAs joining the practices of CAP member physicians, our Risk Management & Patient Safety experts offer the following overview of the related risk and patient safety issues.*

### IN THIS ISSUE

- Managing Risks and Patient Safety Related to NPs and PAs
- Navigating the Web to Verify Licensure and Obtain Current Information on Scope of Practice for PAs and NPs

California state laws and regulations address the supervisory responsibility of physicians related to PAs and NPs. Failure to comply may result in a professional liability action brought by a patient against a physician. Not only will the patient care be at issue, but the supervisory responsibilities may also bring liability. In order to provide safe patient care and reduce risk, the physician, prior to the employment or contracting for services with a PA or NP, should determine the following:

- How the PA or NP will be used in the practice.
- Which discipline will help the practice most.
- Which patients will be seen and treated.
- The scope of the PA or NP's responsibilities.
- The skills needed by the PA or NP.

#### **Education, Training, and Licensure**

NPs and PAs perform similar duties, but differ in how each discipline is

educated, trained, and licensed. Nurse Practitioners complete training, beyond that of a Registered Nurse, and are licensed through the California Board of Registered Nursing. Physician Assistants, on the other hand, complete an approved Physician Assistant training program and are licensed by the Medical Board of California.

#### **Nurse Practitioners**

*Scope of Practice:* A Nurse Practitioner is a Registered Nurse (RN) with additional training and skills in physical and psycho-social assessment, diagnosis, and management of illness. They are limited to working in a primary health care (PHC) setting. The NP's scope of practice is expanded by the Standardized Procedures.

*Standardized Procedures:* Standardized Procedures are the legal mechanism for NPs to perform functions which would otherwise be considered the practice of medicine. The Board of Registered Nursing and the Medical

*continued on page 2...*





**A PA or NP, whether full-time, part-time, a leased employee, or an independent contractor, must be supervised by a physician.**

Board jointly developed guidelines for creation of the Standardized Procedures, which can be found at: [www.rm.ca.gov/pdfs/regulations/npr-b2o.pdf](http://www.rm.ca.gov/pdfs/regulations/npr-b2o.pdf).

**Furnishing Drugs and/or Devices:** Nurse Practitioners may furnish drugs and/or devices under the supervision of a physician and in accordance with Standardized Procedures or a formulary. The NP is required to register with the DEA to furnish Schedule II through V controlled substances and may furnish them only as detailed in the specific protocols of the Standardized Procedures.

**Supervision:** Supervision requirements are to be stated in the Standardized Procedures. They may vary from procedure to procedure, and from NP to NP, depending on the physician's comfort level. Physicians are not required to countersign the medical records of an NP's patients.

When the NP is furnishing drugs, the supervising physician must be available by phone. A physician may not supervise more than four NPs at one time.

**Physician Assistants**

**Scope of Practice:** The PA's scope of practice is directed by his or her supervising physician and the nature of the practice (e.g. general surgery, general practice). PAs may also make house calls or go to hospitals and nursing care facilities, after which they report back to the physician.

**Delegation of Services Agreement:** The Delegation of Services Agreement (DSA) defines exactly what tasks and procedures a physician is delegating to the PA. The sample Delegation of Services Agreement may be found at: [www.pac.ca.gov](http://www.pac.ca.gov).

**Drug Ordering:** Physician Assistants are authorized to issue a drug order and administer or provide medication to a patient when there is an authorizing Delegation of Services Agreement in place. The supervising physician must prepare and adopt a written, practice-specific formulary and protocols that identify all criteria for the use of a particular drug and any contraindications. Any deviation from the formulary by the PA should be pre-approved by the supervising physician.

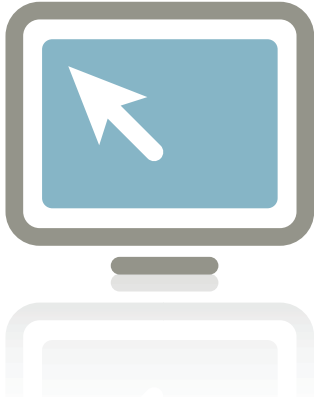
A PA may issue drug orders for Schedule II through V controlled substances if delegated in writing and pre-approved by the supervising physician for the specific patient. The documentation of that drug order must be reviewed, countersigned, and dated by the supervising physician within seven days.

PAs who are authorized to issue Schedule II through V controlled substances must register with the DEA and obtain their own DEA number.

**Supervision:** The physician (either MD or DO) is responsible for all medical services provided by the PA and for following each patient's progress. The supervising physician is not required to be on-site but he or she must be available by electronic communication.

**Expanded Use of NPs and PAs: Cosmetic Procedures**

A growing trend among physicians is to add cosmetic procedures to their practices. Under a physician's supervision, and after appropriate training, NPs and PAs may use lasers or intense pulse light devices, inject Botox, and perform microdermabrasion if these treatments are designated in the Standardized Procedures or the Delegation of Services Agreement.



## Navigating the Web to Verify Licensure and Obtain Current Information on Scope of Practice for PAs and NPs

Physicians who employ a Nurse Practitioner (NP) or Physician Assistant (PA) in their practices should be familiar with the official California website for the employee's corresponding profession. **On these websites, a physician can annually verify licensure and obtain updates as the legislature continues to amend the scope of practice of these professionals.**

### Physician Assistants

Physician Assistant information may be found at: [www.pac.ca.gov](http://www.pac.ca.gov). The site's "Frequently Asked Questions" tab provides a question and answer format for the supervising physician. It includes information regarding license verification and scope of practice. Additionally, the "Forms and Publications" section includes a sample Delegation of Services Agreement and important "Informational Bulletins," including one for the supervising physician.

### Legislative Update - 2008

California Assembly Bill 3 (AB3) will make important changes to the scope of practice for Physician Assistants. All supervising physicians and PAs should familiarize themselves with these changes to ensure that they are in compliance. The Physician Assistant Committee of the California Department of Consumer Affairs is awaiting approval of the regulations needed to implement the changes from AB3. The committee intends to make a list of the approved course providers available to licensees on the website.

Once approval is granted, the following changes will be implemented:

- **Ratio of Supervising Physician to Physician Assistant:** The number of PAs which a physician may supervise was increased from two to four.
- **Chart Countersignature:** The number of charts the supervising physician is required to review

and sign has been lowered to five percent from 10 percent.

- **Patient Specific Authority:** AB3 eliminates the requirement that a PA obtain patient specific authority prior to writing a drug order for a Controlled Substance (Schedule II through V), if a physician assistant has completed an approved educational course in controlled substances, and if delegated by the supervising physician. If a physician assistant chooses not to take the educational course, the requirements for patient-specific authority remain unchanged.

### Nurse Practitioners

Nurse practitioner information is found at: <http://www.rn.ca.gov/regulations/np.shtml>. This site also has a "Frequently Asked Questions" tab which contains similar information to that found on the physician assistant site. An explanation and sample Standardized Procedures can be found at: <http://www.rn.ca.gov/pdfs/regulations/npr-b-20.pdf>.

### Legislative Update - 2008

Currently, Assembly Bill 1436 is pending passage which will expand the Scope of Practice for Nurse Practitioners in the area of educational requirements and supervision.

These sites will help physicians remain compliant with the constantly changing laws that affect their employees and their practice. Therefore, please take time to review the above websites and mark them on your web browser as "Favorites."

If you have further questions, the websites provided will have the most current information. But, as always, the Risk Management & Patient Safety Department will be available to assist you.

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### **Summary**

The scope of practice for the NP or PA is specifically defined by California law. It requires that any physician who employs, or contracts with, a PA or NP have written Standardized Procedures or Delegation of Services Agreement.

When CAP sees claims around these issues, typical allegations are:

- The physician failed to supervise and/or monitor the PA or NP;
- The PA or NP had allowed licensure to expire;
- The PA or NP held himself out as a physician; the patient thought they were seeing a physician;
- The PA or NP exceeded his/her scope of practice (or scope of the Standardized Procedures/Delegation of Services Agreement); or,
- The PA or NP did not have the skill, experience, or expertise to perform the procedure.

### **Important Risk Management Strategies for Physicians**

- Check background, qualifications, and experience when hiring.
- Create the Standard Procedures/Delegation of Services Agreement prior to hiring a PA or NP. Document all protocols for scope of practice; review and update annually.
- Establish that the services provided by the PA or NP are typically offered and are part of your documented treatment plans.
- Identify a plan of care, in conjunction with the PA or NP, and discuss it with the patient.
- Remain on-site when your PA or NP is seeing patients.
- Inform patients of your working relationship with the mid-level provider.
- Remain actively involved in the patient's plan of care.
- The PA or NP, whether full-time, part-time, a leased employee, or an independent contractor, must be supervised by a physician.
- Check the appropriate website frequently for changes to the legal scope of practice for your PA or NP.
- Annually, validate the PA or NP licensure.
- Notify the Cooperative of American Physicians, Inc. of any additions or changes to your licensed staff.

Please call our Membership Department at 800-252-7706 for information about the training needed to include cosmetic procedures in a practice, or if you add or change the number of PAs and/or NPs to your practice.

## **CAPsules**

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