

## **Guide to Participating in the Regulatory Process on CNS Practice Issues**

The process for developing regulations or rule making is one of those where the statement, the devil is in the details, certainly applies. Regulations are developed after legislation has been passed and forwarded to the appropriate agency, such as the Board of Nursing, to write the rules or the details that were not contained in the legislation.

It is always best to have those details addressed in the legislation, such as the educational requirements for being recognized as a clinical nurse specialist, however, that does not always happen. Nevertheless, a CNS should strive to have as many details included in the legislation as possible.

After the challenge of getting legislation introduced, passed in the state legislature and signed by the governor, one may think that the job is done. However, that is most often not the case. The newly passed statute is referred to the agency that has authority over the content included in the bill. For CNS practice issues, this agency is most often the Board of Nursing.

### **Steps to Ensure that Regulations Influencing CNS Practice Cause no Harm**

While working with the agency to develop the rules, keep in mind that these rules are developed to protect the public and should not result in barriers to the public's access to CNS care.

1. Become familiar with the state agencies, i. e. board of nursing, process for developing the regulations by going to their website or calling the board, if necessary. Most often, this includes an opportunity for public testimony and local CNS affiliates will want to participate.
2. Ask if your state board has an advanced practice committee or task force and request the names of members. Find out when your state board and the advanced practice committee meet and request notification of meeting times and the agenda.
3. Call your state nurses association and find out if there is an advanced practice group that is providing oversight of state board actions regarding advanced practice nursing.
4. Meet with other CNSs in your hospital, city, state, or NACNS Affiliate Group to organize a group to promote appropriate regulations.
5. Understand the language in the bill and the content that has been deferred to the agency to regulate.

6. Develop the language you would like to have inserted into the regulations, such as the definition of the CNS, educational requirements, prescriptive authority, if the statute contains this language, Consensus Model grandfather clause (See FAQs on the Consensus Model.)
7. Remember that appropriate regulation protects the public. It should not create barriers that prevent improved patient care through CNS practice.

### Points to Keep in Mind when Working on Regulations

- A graduate degree (master's or doctorate) from a program that prepares CNS is **the** credential for entry into CNS practice.
- CNSs have practiced for 50 years. During that time, there has been no evidence that CNS practice presents, either actual or potential, public safety concerns that would warrant a change in regulations.
- When faced with unnecessary supervisory requirements, you can quote the Federal Trade Commission's (FTC) letter to the Florida House of Representatives and another FTC letter to the Texas Senate. (See Resource List in Toolkit.)
- The Institute of Medicine's (IOM) Future of Nursing report supports APRNs practicing to the full extent of their education and training.
- CNS specialty practice evolves in response to public need for specialty nursing care. Regulation should not prohibit the development of new specialty practice.
- Advanced Practice Registered Nurse (APRN) is an umbrella term used to denote the current four groups of advanced practice nurses – Clinical Nurse Specialists, Nurse Anesthetists, Nurse Midwives and Nurse Practitioners. The *practice competencies* of each group are distinguishable and unique. In so far as it is practice that is regulated, and the practice of each group differs one from the other, there can be no single set of or uniform regulations for APRNs that satisfies the needs of all four groups without creating barriers for one or more groups.
- Be familiar with the FAQ on the Consensus Model and grandfathering.
- Regulatory requirements for CNSs are title protection and scope of practice. Each state should include **title protection** and **scope of practice** for CNS in state regulations.
- Some regulators use certification by examination as a proxy for second license. A second license for a CNS who is practicing within nursing's domain of practice is redundant. Second licensure is appropriate for any

APRN, including the CNS, when the practice extends beyond the domain authorized by the RN license and into another licensed scope of practice, such as medical diagnosis and treatment of disease and prescriptive authority.

- Regulation that requires a CNS to be certified by examination as a CNS in a specialty when there is no exam is a major barrier and denies the public access to CNS practice in such specialties as orthopedics, rehabilitation, neurology, cardiology, pain management, to name a few. Requiring a CNS in these specialties to take what is termed a “related exam” such as ANCC’s CNS Medical/Surgical exam, does not demonstrate specialty knowledge and begs the question of the existence of such a requirement for public safety reasons.

### Resources on the Legislative and Regulatory Process:

1. Mason, D. J., Dickson, E. L., Perez, (G)A., & McLemore, M. R. (2020). Policy & politics in nursing and health care (8th ed.). Elsevier.
2. Davidson, S. B., Beardsley, K., Busch, A. H., Garner, A., Heresa, S., Hodges, N. D., Snyder, K. N., & Rosenfeld, A. (2001). Statutory and regulatory recognition for clinical nurse specialists in Oregon. *Clinical nurse specialist CNS*, 15(6), 276–283. <https://doi.org/10.1097/00002800-200111000-00011>