

Full practice authority: What it means for NPs

Liability considerations as nurse practitioners' scope of practice expands

Multiple studies have proven the effectiveness of nurse practitioners (NPs) in improving patient outcomes, yet for many years, the push for NPs to gain full practice authority (FPA) has been an uphill battle. Fortunately, recent developments have led to significant progress with achieving FPA for NPs in the United States. This is good news for NPs — and for patients — but it's crucial to understand that FPA comes with professional responsibilities and the need to protect yourself against potential liability.



Multiple studies have proven the effectiveness of nurse practitioners (NPs) in improving patient outcomes, yet for many years, the push for NPs to gain full practice authority (FPA) has been an uphill battle. Fortunately, recent developments have led to significant progress with achieving FPA for NPs in the United States. This is good news for NPs — and for patients — but it's crucial to understand that FPA comes with professional responsibilities and the need to protect yourself against potential liability.

FPA defined

According to the [American Association of Nurse Practitioners \(AANP\)](#), state practice and licensure laws related to NPs fall into three categories: restricted, reduced, and full.

FPA laws and regulations enable NPs to practice to the full extent of their education, training, and certification, [without physician oversight](#). NPs can evaluate patients, diagnose, order, and interpret diagnostic tests, and initiate and manage treatments (including prescribing medications and controlled substances) under the licensing authority of the State Board of Nursing.

Reduced practice limits NPs' ability to engage in at least one element of their practice. For example, the NP may not be able to prescribe controlled substances. The law requires NPs to have a collaborative agreement with another healthcare provider to provide patients care or limits the setting of one or more elements of NP practice.

When their practice is *restricted*, NPs are restricted in their ability to engage in at least one element of their practice, and they are required to have supervision, delegation, or team management by another health provider to provide care.

According to the [AANP](#), 24 states and the District of Columbia allow FPA, 15 have reduced practice, and 11 have restricted practice.

Drivers of FPA

Trends driving FPA include the COVID-19 pandemic, recognition of how NPs can improve the nation's healthcare, a shortage of primary care providers, and the shift in care away from hospitals.

The *COVID-19 pandemic* prompted several states and the Centers for Medicare & Medicaid Services to ease or suspend supervision requirements and modify some practice requirements to enhance providers' ability to provide care and address physician shortages. It's expected that many of these changes will remain even after the pandemic subsides. The demand for care created by the pandemic came on top of an aging population and the implementation of the Affordable Care Act in 2010, which enabled millions of people to obtain coverage for healthcare.

NPs' *role in the nation's health* received major support from the 2021 report, [The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity](#). The report, published by the National Academies of Sciences, Engineering, and Medicine, calls for eliminating restrictions on the scope of practice; doing so will "increase the types and amount of high-quality health care services that can be provided to those with complex health and social needs and improve both access to care and health equity."

According to data from the [Health Resources & Services Administration](#), as of November 2021, 85 million people live in areas with a *shortage of primary care providers*. Rural areas are more likely than urban areas to have shortages. In 2020, the Association of American Medical Colleges [predicted](#) that the shortage of primary care physicians would be between 21,400 and 55,200 by 2033. (Those figures jump to 54,100 and 139,000 when specialty physicians are included.)

About 70% of NPs deliver primary care, according to the [AANP](#), making them an ideal source to provide care in underserved areas. In fact, a 2021 [study](#) by Xu and colleagues noted that many NPs are already working in states with an inadequate supply of primary care providers to care for patients who are dual-eligible for Medicare and Medicaid. Yet these states, primarily in the Southeast, often restrict practice, hampering access. In addition, a 2018 [report](#) from UnitedHealth estimated that if NPs had FPA, there would be a 70 percent reduction in the number of people living in areas with a primary care shortage.

The *shift of care away from hospitals* has driven the need for NPs with FPA so they can practice autonomously. For example, NPs provide much of the care in retail clinics and urgent care centers. Models that focus on population health, such as accountable care organizations, also provide an ideal setting for the autonomous NP. And NPs are playing greater roles in home and long-term care.

It's worth noting that a diverse group of organizations support FPA for NPs, including AARP, the Federal Trade Commission, National Academy of Medicine, National Council of State Boards of Nursing, and the Department of Veterans Affairs, which granted FPA to NPs in 2016.

FPA and liability

FPA is the gold standard for NP practice, but it also may increase the risk of liability, particularly in areas related to the scope of practice, medications, and diagnosis. For example, according to the NSO [Nurse Practitioner Claim Report: 4th Edition](#), claims related to diagnosis rose from 32.8 percent in 2012 to 43 percent in 2017. In the same time frame, the percent of claims related to medications increased from 16.5 percent to 29.4 percent, and those related to scope of practice jumped from 0.5 percent in 2012 to 4.2 percent.

To protect yourself, periodically review your coverage with your insurance provider to ensure it is sufficient based on your practice specialty (e.g., adult medical/primary care and family practice made up 53.7 percent of closed claims in the NSO report) and location (the most common areas of closed claims are physician or NP office practices and aging services/skilled nursing settings). You also should have coverage related to actions that could be brought against your license.

Avoiding liability

To avoid liability as an NP, ensure you are practicing under the laws and regulations in the state(s) where you are licensed. You can find a summary of information at the AANP website (<https://www.aanp.org/practice/practice-information-by-state>), but you'll still need to review the state's Nurse Practice Act in detail.

You also should consider how you can reduce your risk of liability in a variety of areas, including your relationship with your patients (e.g., communicate clearly and work with patients to identify goals), documentation of patient information (e.g., keep records secure and don't make subjective comments), informed consent (e.g., explain risks and take time to answer questions), patient education (e.g., use the teach-back method to ensure understanding and document education in the health record), and barriers to compliance (e.g., be nonjudgmental and identify patient concerns). Pay particular attention to medication safety (see: *Reducing liability*).

Positioned to succeed

NPs with FPA are well-positioned to improve patients' access to care and to deliver excellent care to those who seek their help. However, NPs also must ensure that they protect themselves from liability related to lawsuits and actions against their licenses.

Article by Georgia Reiner, MS, CPHRM, Risk Specialist, NSO

References

- American Association of Nurse Practitioners. State practice environment. n.d. <https://www.aanp.org/advocacy/state/state-practice-environment>
- Association of American Medical Colleges, HIS Markit Ltd. The complexities of physician supply and demand: Projections from 2018 to 2033. 2020. <https://www.aamc.org/system/files/2020-06/stratcomm-aamc-physician-workforce-projections-june-2020.pdf>
- CNA, NSO. Nurse Practitioner Claim Report: 4th Edition. 2017. <https://www.nso.com/Learning/Artifacts/Claim-Reports/Nurse-Practitioner-Claim-Report-4th-Edition-A-Guide-to-Identifying-and-Addressing-Professional-Liability-Exposures>
- Health Resources & Services Administration. Shortage areas. 2021. <https://data.hrsa.gov/topics/health-workforce/shortage-areas>
- National Academies of Sciences, Engineering, and Medicine. The Future of Nursing 2020-2030: Charting a Path to Achieve Health Equity. Washington, DC: The National Academies Press. 2021. <https://nam.edu/publications/the-future-of-nursing-2020-2030/>
- Simmons University. Where can nurses work without physician supervision. n.d. <https://bit.ly/3Htl76N>
- UnitedHealth Group. Addressing the nation's primary care shortage: Advanced practice clinicians and innovative models. 2018. <https://www.unitedhealthgroup.com/content/dam/UHG/PDF/2018/UHG-Primary-Care-Report-2018.pdf>
- Xu WY, Retchin SM, Beurhaus P. Am J Manag Care. 2021;27(5):212-216. <https://www.ajmc.com/view/dual-eligible-beneficiaries-and-inadequate-access-to-primary-care-providers>

Disclaimer: The information offered within this article reflects general principles only and does not constitute legal advice by Nurses Service Organization (NSO) or establish appropriate or acceptable standards of professional conduct. Readers should consult with an attorney if they have specific concerns. Neither Affinity Insurance Services, Inc. nor NSO assumes any liability for how this information is applied in practice or for the accuracy of this information.

This risk management information was provided by Nurses Service Organization (NSO), the nation's largest provider of nurses' professional liability insurance coverage for over 550,000 nurses since 1976. The individual professional liability insurance policy administered through NSO is underwritten by American Casualty Company of Reading, Pennsylvania, a CNA company. Reproduction without permission of the publisher is prohibited. For questions, send an e-mail to service@nso.com or call 1-800-247-1500. www.nso.com.

Reducing liability

NPs can use several strategies to reduce possible legal action related to their practice:

- Review the Nurse Practice Act(s) in the state(s) in which you are licensed every year.
- Review your job description or contract annually to ensure they reflect your actual practice.
- Refer patients as indicated and document referrals and follow-ups.
- Follow any written protocols in place.
 - Identify any additional protocols that are needed and notify your supervisor or employer.
- Assess and document barriers to patient communication in patients' healthcare information record, including low health literacy and limited English proficiency, as well as the steps you have taken to promote patient education and understanding (such as use of interpreters or plain-language patient education materials).
- Assess patients and document barriers to treatment adherence in the patient healthcare information record, such as patients' concerns about potential side effects, out-of-pocket costs, or transportation to and from follow-up appointments.
- Take steps to ensure medication safety.
 - Know the types of medications that you can prescribe.
 - Provide patient education for each medicine.
 - Conduct a medication reconciliation at each patient encounter. Include prescribed medicines, OTC, and herbal products.
 - Avoid telephone orders. When they are unavoidable, request that the pharmacist read the order back to you.
 - Document allergies, including a description of past reactions.
- Do not practice outside your scope of practice. If you are unsure if something is within your scope, check with the State Board of Nursing or your state or specialty professional nursing association.