Scope of Practice Constraints on Nurse Practitioners Working in Rural Areas

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I. INTRODUCTION

Nurse Practitioners (NPs) are a fundamental part of providing health care in the United States.¹ The role of the NP as the primary care provider is especially important in rural areas where the growing decline of primary care physicians is most acute.² The implementation of the Patient Protection and Affordable Care Act (PPACA) will drastically affect how individuals are able to access care.³ Thirty million Americans are predicted to gain access to health insurance, driving up this need for primary care providers.⁴ However, a significant portion of individuals will not be able to receive the care they need because there are many laws and regulations that impede NPs from practicing to their full potential, which has a negative impact on the accessibility of care in less populated regions of the United States.⁵

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³ Primary Care Physician Shortage Expected to Worsen, ASSOCIATED PRESS (Sept. 11, 2013), http://www.sanduskyregister.com/article/4641571 [hereinafter Prim. Care Physician Shortage].
This article argues that the expansion of NP scope of practice laws is necessary in order to provide health care to those living in rural areas following the full implementation of the PPACA, and the article also provides the laws of states that allow full NP autonomy, such as Arizona, as models for other states to follow. This article begins in Part II by providing background information about NPs, discussing the role NPs play in providing health care to patients, the history of NPs, and the educational and certification requirements for practicing in the United States. In Part III, it then examines scope of practice laws and other regulations that have an adverse effect on NPs' ability to provide sufficient care to people living in rural communities. Finally, Part IV proposes a possible solution to these adverse effects by providing examples of states that flourish by allowing NPs to practice to the full extent of their education.

II. BACKGROUND

A. General

The American Association of Nurse Practitioners defines NPs as providers that blend clinical expertise in diagnosing and treating health conditions with an emphasis on disease prevention and health management. NPs must continue their education past their registered nursing preparation and receive a master’s or doctoral degree. Nursing school and medical schools emphasize different focuses. Some argue that one major difference is that nurses are more patient-focused while

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7. Id.
physicians are more disease-focused.9 Like physicians, NPs can specialize; however, while the majority of physicians do specialize, most NPs choose to remain in primary care.10 NPs’ duties include, but are not limited to, analyzing patient histories, ordering lab tests, consultations, diagnostics and treatment, administering immunizations, illness prevention and wellness.11

B. History

In 1965, the University of Colorado started the first NP program.12 By the 1970s, NPs were able to manage the care of patients through nurse-managed health centers.13 At that time, there were between 15,000 and 20,000 practicing NPs.14 The number of practicing NPs tripled to over 60,000 NPs by 2000.15 Currently, in the United States, there are over 171,000 practicing NPs.16

In early 2000, retail health clinics, primarily operated by non-physicians such as NPs, started opening in the United States.17 Some believe within the next few years the amount of these clinics will expand from 5,000 to 10,000 clinics.18 Since non-physicians largely run these clinics, they are able to

9. Id.
10. NP Fact Sheet, AM. ASS’N OF NURSE PRACRS., http://www.aanp.org/all-about-nps/np-fact-sheet (last visited Sept 29, 2013) [hereinafter Fact Sheet]; see also Zand, supra note 8, at 261 (stating some NPs chose to specialize in areas such as neonatal, geriatric, psychiatric or acute care).
15. Id.
provide services at lower costs to patients. NPs are typically paid less than physicians for providing the same services. NPs are reimbursed at eighty-five percent of Medicare reimbursement rates for physicians.

C. Education, Certification Requirements, and Legal Framework

By 1989, most NPs possessed, at minimum, a master’s degree. In order to complete their master’s degree, NPs accrue 500 to 700 supervised clinical hours, depending on their program. Some states regulate NPs by using a Board of Nursing. A large percentage of states also require NPs to be nationally certified before they practice. In most states, in order to sit for the certification exam, a NP must complete a master’s in nursing. Either the National Commission for Certifying Agencies or the American Board of Nursing Specialties must accredit NP board certification in all but three states.

A majority of the laws and regulations regarding NPs are enforced at the state level. Each state’s Nurse Practice Act is the principle regulator of the profession. Moreover, regulations at the federal level, such as

22. Historical Timeline, supra note 12.
25. BUPPERT, supra note 11, at 5.
26. Id.
29. Lauren E. Battaglia, Note, Supervision and Collaboration Requirements: The
Medicare reimbursement laws, further constrict NPs. Restrictions on NPs’ ability to be reimbursed for the services they provide to patients coupled with insurance companies’ refusal to recognize NPs as primary care providers prevent NPs from using the full scope of their education. Advocates of expanding NPs’ scope of practice believe that insurance companies should reimburse NPs and physicians at equal rates when they are performing the same services. The reimbursement of NPs at lower rates disincentivise them to practice in rural areas because these NPs are typically operating on a smaller budget. For instance, in Arizona, Medicaid laws make it nearly impossible for NPs to independently practice because they are not able to get sufficiently reimbursed for the services they provide. Medicaid and Medicare should reimburse NPs at an equal rate to encourage them to work in rural areas.

D. Scope of Practice

Scope of practice laws in many states restrict the services that NPs are allowed to provide to patients. These restrictions include an inability to prescribe medications, work independently without physician supervision, and regulations limiting their capability to admit patients to hospitals. Since the enactment of the PPACA, numerous states are choosing to expand

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30. Ritter & Hansen-Turton, supra note 13, at 23.
31. Health Policy Brief, supra note 20.
33. Id.
35. Rendleman, supra note 32.
37. Health Policy Brief, supra note 20; Yee et al., supra note 5, at 2.
NPs scope of practice to fulfill the need of the growing insured population.\textsuperscript{38} Surveys show that, currently, only about twelve percent of medical school graduates pursue primary care residency.\textsuperscript{39} This marked decline in primary care physicians, combined with the expansion of access to health care by the PPACA’s expansion of healthcare, highlights the necessity of expanding NP scope of practice in order to ensure that the United States population may adequately address its healthcare needs, especially within rural communities.\textsuperscript{40}

Many physician groups oppose broadening NPs’ scope of practice.\textsuperscript{41} These groups believe the expansion of NPs’ role in providing health care will compromise the quality of care and the safety of patients.\textsuperscript{42} The American Academy of Family Physicians and American Medical Association (AMA) are concerned that by expanding NPs’ scope of practice laws, patients would be confused by the title of doctor and whether that title also applied to non-physicians.\textsuperscript{43} The AMA believes that medical doctors should remain the leaders of the healthcare industry.\textsuperscript{44} It further believes that increasing the responsibility of nurses is not the answer to the primary care physician shortage.\textsuperscript{45} The groups opposed to expanding NP scope of practice believe that physician-led teams best meet patients’ needs because the differences in NP and physician education and clinical experience create different standards of care.\textsuperscript{46}

On the other hand, many NPs believe that they should be allowed to

\textsuperscript{38} Karen Donelan et al., Perspectives of Physicians and Nurse Practitioners on Primary Care Practice, 368 NEW. ENG. J. OF MED. 1898, 1899 (May 16, 2013).
\textsuperscript{39} Autonomy, supra note 4.
\textsuperscript{40} Autonomy, supra note 4.
\textsuperscript{41} Donelan et al., supra note 38, at 1904.
\textsuperscript{42} Id.
\textsuperscript{43} Iglehart, supra note 23, at 1937.
\textsuperscript{44} Patchin, supra note 1.
\textsuperscript{45} Id.
\textsuperscript{46} Health Policy Brief, supra note 20.
practice to the full extent of their education and training. The Federal Trade Commission supports these NPs and believes that physician groups opposing the expansion of NPs’ scope of practice do not provide a legitimate reason for their stance. The Institute of Medicine also advocates for the expansion of the NP role, stating that policy changes are essential for the health and safety of people in the United States. Without changes to the scope of practice, many individuals living in rural areas will not have access to the medical attention they need.

III. NP SCOPE OF PRACTICE IMPLICATIONS ON RURAL AREAS

People living in rural communities are one of the populations most adversely affected by NP scope of practice regulations. Currently there are sizeable shortages of primary care physicians in these areas creating heavy reliance on NPs. Surveys show that five million patients are currently living in rural shortage areas, and that number will only continue to grow with the implementation of the PPACA. Another concern for those living in rural areas is finding physicians willing to work in these locations. It can take years for these communities to find a physician

47. Iglehart, supra note 23, at 1936; Donelan et al., supra note 38, at 1899; see also PRIORITIES FOR NURSING’S FUTURE- RECOMMENDATIONS FROM THE NURSING CMTY. PREPARED FOR THE OFF. OF MGMT. AND BUDGET, ASSOC. OF CMTY. HEALTH NURSING EDUCATORS, available at http://www.achne.org/files/public/NCPrioritiesForNursing’s Future.pdf (emphasizing that NPs should practice to the full extent of their education and training to ensure that patients are receiving access to providers).


49. Health Policy Brief, supra note 20.

50. Yee et.al, supra note 5, at 7

51. Id. at 1.


53. Id. at 4.

54. Prim. Care Physician Shortage, supra note 2; Wannapa Khaopa, Dire Need For Doctors in Rural Areas, THE NATION (May 3, 2011), http://www.nationmultimedia.com/2011/05/03/national/Dire-need-for-doctors-in-rural-areas-30154461.html. Most physicians are from urban areas and prefer to stay in that environment to work resulting in a severe
In order to fill the void of primary care physicians in rural areas, one approach is to expand the scope of NPs’ practice allowing them to be put to greater use. One-third of NPs providing primary care in rural areas are not allowed to see patients independently. However, in some areas, it is not possible or practical for patients to see their physician, and they rely on the care NPs are able to provide them. All states should allow NPs to practice independently from a physician.

NPs who choose to specialize play an integral role in providing care to people in rural areas because they can supplement or replace care that would ordinarily be provided by physicians. For instance, advance-practice psychiatric nurses can provide mental health services to those individuals living in areas with shortages of mental health professionals. One survey reveals that more than half of rural patients have to travel over twenty miles for specialty care, which could instead be provided to them locally by specialized NPs. This travel is caused, in part, by physician supervision regulations.

Many NPs believe the restrictions requiring them to work under the supervision of physicians create barriers on their ability reach vulnerable populations that live in rural communities. Some physicians find it difficult and refuse to collaborate with NPs working in rural communities.

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55. Id.
56. Yee et al., supra note 5, at 1.
57. CTR. FOR HEALTH REFORM & MODERNIZATION, supra note 52, at 35.
58. Id.
59. CTR. FOR HEALTH REFORM & MODERNIZATION, supra note 52, at 35.
60. Id.
61. Id. at 3. The average length a patient travels to see a primary care physician is 60 miles. Id.
62. Yee et al., supra note 5, at 3.
63. Id.
because it is not feasible to provide the supervisory role from many miles away, as required by restrictive scope of practice laws.\textsuperscript{64} The direct supervision requirement not only interferes with NPs’ ability to treat patients, but also to what extent they are able to provide important care.\textsuperscript{65} Some states, like Arizona, adopted scope of practice laws to rectify this problem by allowing NPs to practice autonomously.\textsuperscript{66}

In some states, NPs are able to practice independently without physician supervision, but these nurses still face restrictions on prescribing medications.\textsuperscript{67} In more restrictive states, NPs are not granted any prescribing authority without collaboration with, or supervision by, a physician.\textsuperscript{68} The limitations placed on NPs’ prescribing authority in rural and other areas cause patients to experience unnecessary delays in obtaining and refilling prescription medications.\textsuperscript{69}

Some states are beginning to remove restrictions on NPs’ scope of practice by streamlining collaborative agreements, lifting prescription authority bans, allowing NPs to have hospital admittance authority, and adjusting payer policies.\textsuperscript{70} Some states, such as Maryland, provide their NPs more freedom to engage with individuals of rural communities by allowing them to work at multiple sites.\textsuperscript{71} Instead of being confined to strictly a hospital setting, NPs have the freedom to go out into other areas of

\begin{itemize}
\item \textsuperscript{64} Id.
\item \textsuperscript{65} Id.
\item \textsuperscript{66} Autonomy, supra note 4.
\item \textsuperscript{67} Id.
\item \textsuperscript{68} Id.; see also Ritter & Hansen-Turton, supra note 13, at 24 (detailing “some states require physicians to ‘delegate’ their prescriptive authority to nurse practitioners that they supervise”).
\item \textsuperscript{69} Autonomy, supra note 4. Washington provides a different outlook for their NPs, stating that they only need consultation if they are performing something new or unfamiliar. WASH. ADMIN. CODE § 246-840-300 (2013), available at http://apps.leg.wa.gov/wac/default.aspx?cite=246-840-300.
\item \textsuperscript{70} Yee et al., supra note 5, at 3.
\item \textsuperscript{71} Id.
\end{itemize}
the community, so long as they have a consultation agreement with a physician. If states want to improve their residents living in rural areas access to much needed health care, they must lessen the restrictions on NP scope of practice by adopting less oppressive standards and oversight regulations. To this end, Arizona passed expansive laws relating to independent practice of NPs, granting them authority to prescribe medications without the oversight of physicians. Reasons for these expansive laws include a lack of primary care providers in the state and the large amount of individuals living in rural areas. States with large rural populations, such as Arizona, tend to have no physician involvement with NPs in order to meet these demands, and other states should follow their lead.

Like Arizona, Virginia’s legislature passed laws in order to expand NPs’ abilities to reach more patients. The state removed restrictions that forced NPs to primarily work in the same location as a physician, and the state permits them to use telemedicine techniques. These techniques include remote monitoring systems for patient data through the internet, call centers

72. Id.
73. Autonomy, supra note 4; Yong-Fang Kuo et al., States With The Least Restrictive Regulations Experienced The Largest Increase In Patients Seen By Nurse Practitioners, 32 HEALTH AFFS. 1236, 1236 (2013), available at http://content.healthaffairs.org/content/32/7/1236.full.pdf+html (last visited Dec. 5, 2013). Patients in states with the least restrictive regulations had over two times greater likelihood of receiving their primary care from a NP. Id.
75. Id.
76. Id.
78. Id.
Telemedicine techniques allow NPs to interact remotely with patients to conduct medical evaluations, patient education, and provide follow up care. Telemedicine provides individuals living in rural areas with quicker access to health professionals. Instead of having to travel or wait long spans of time to receive care, they can log into web meetings or online videos to talk to NPs. Patients conveniently use telemedicine to participate in in-home care and monitoring. Rural areas in Virginia also utilize mobile imaging centers and lab specimen collections, which send the information through secured emails improving diagnostic capabilities. Telemedicine has a large impact on rural communities by providing direct access to clinical care.

Because of these changes to scope of practice laws in Virginia, the non-profit organization Health Wagon can better assist an underserved population of individuals in the Appalachian Mountains. Health Wagon staffs a converted recreation vehicle with NPs, creating a mobile unit that is able to travel to the difficult mountainous terrain to reach patients that urgently need medical care. In order to satisfy Virginia’s scope of practice laws, Health Wagon consults with a volunteer physician. NPs working for Health Wagon are able to provide assistance to patients suffering from a wide range of ailments such as chronic obstruction, cancer.

80. Id.
82. Id.
83. Id.
84. Id.
85. Id.
86. Vestal, supra note 77.
87. Id.
88. Id.
and heart disease. This is a beneficial program and by easing restrictions, other states’ NPs will be able to utilize similar programs.

IV. PROPOSAL

In order to utilize NPs to their full abilities in rural areas, states must broaden their scope of practice laws by allowing NPs to practice to the full extent of their education with minimal physician oversight. Studies have shown that unnecessary physician oversight reduces patient access jeopardizing patient health and safety and hinders medication management. States should preferably mirror Arizona’s laws by entirely removing supervision requirements of NPs. Once these supervision requirements are removed, NPs will be able to prescribe medication independently. By eliminating these barriers, NPs would be able to practice autonomously and fill in the primary care void exacerbated by the PPACA. Some believe that physician oversight causes communication barriers between the provider and the patient leading to unnecessary confusion. These adaptations, along with other scope of practice expansions, would allow more NPs nationwide to effectively run a rural

89. Id.
91. Id.
92. CTR. FOR HEALTH REFORM & MODERNIZATION, supra note 52, at 5; see also INST. OF MED. OF THE NAT’L ACADS., THE FUTURE OF NURSING FOCUS ON SCOPE OF PRACTICE 2 (October 2010), available at http://www.iom.edu/~/media/Files/Report%20Files/2010/The-Future-of-Nursing/Nursing%20Scope%20of%20Practice%202010%20Brief.pdf [hereinafter FUTURE OF NURSING] (suggesting that states need to keep up with the evolving health care industry and adjust their scope of practice laws so that NPs can practice autonomously); see also Autonomy, supra note 4 (describing that states should relax out-of-date scope of practice restrictions that do not allow NPs to play lead roles in providing health care to patients).
93. FUTURE OF NURSING, supra note 92.
94. Id.
95. BLAZEK, supra note 90.
health clinic without the oversight of physician.\textsuperscript{96}

Medicare laws that interfere with NPs’ abilities to receive payment and provide services need to be reformed.\textsuperscript{97} Medicare laws should be adjusted so that coverage for NPs’ and physicians’ services is consistent.\textsuperscript{98} Medicare regulations that prevent NPs from ordering home care services without a physician cosigner cause unnecessary delays in care and should be removed in order to increase needed access to these services.\textsuperscript{99} This barrier does not allow independently practicing NPs to provide the full range of healthcare services needed by their patients.\textsuperscript{100} In states like Arizona that do allow NP autonomy, many choose not to open their own practices because of reimbursement issues.\textsuperscript{101} Scope of practice laws and reimbursement issues must be solved simultaneously in order to provide the access needed in rural areas.\textsuperscript{102}

V. CONCLUSION

People living in rural areas do not have sufficient access to health care, which is exacerbated by a lack of primary care physicians.\textsuperscript{103} This lack of primary care physicians will continue to increase as the PPACA is implemented.\textsuperscript{104} NPs are more than capable of filling this void, but many are unable to do so because of restrictive state laws. In order for this

\textsuperscript{96} Yee et.al, supra note 5, at 7
\textsuperscript{98} Id.
\textsuperscript{99} Rendleman, supra note 32.
\textsuperscript{100} Id.
\textsuperscript{101} Yee et.al, supra note 5, at 4; see also Julie Appleby, Nurse Practitioners Try New Tack To Expand Foothold In Primary Care, KAISER HEALTH NEWS, (Sept. 08, 2013) http://www.kaiserhealthnews.org/stories/2013/september/09/nurse-primary-care-slowed-by-insurer-credentialing.aspx (noting some insurers still do not accept NPs as primary care providers in their networks).
\textsuperscript{102} Id.
\textsuperscript{103} Prim. Care Physician Shortage, supra note 2.
\textsuperscript{104} Id.
geographic population to best be served, scope of practice laws need to be expanded to allow NPs to practice to the full range of their abilities. This expansion must be a collaborative effort amongst all facets of government and healthcare providers. The focus in solving the primary care shortage needs to turn away from increasing primary care physicians and towards allowing NPs to serve the needs of the patients living in rural communities. Allowing NPs to practice independently from physicians is the best way to provide this important and desperately needed care.