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Nurse Practitioner Scope of Practice and Patient Harm

Evidence from Medical Malpractice Payouts and Adverse Action Reports

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Nurse practitioners (NPs) are a critical part of the US health care workforce. There are over 200,000 licensed NPs in the United States who function as primary care providers by examining patients, providing diagnoses, ordering tests, administering treatments, and prescribing medications. They often work in areas where physicians are in short supply, providing care to patients who may otherwise go underserved or have to travel far to access care. Our research analyzes whether granting NPs the authority to practice without physician oversight harms patients; our results suggest that there is no harm.

Although nationally certified, the practice environments for NPs located in different states can vary dramatically because of different state scope-of-practice (SOP) laws. SOP laws delineate what licensed health care professionals may and may not do as part of their practice. These laws define the practitioners' roles, articulate oversight requirements, and govern practice and prescriptive authorities. SOP laws exist for all types of advanced practice providers, including NPs and other advanced practice registered nurses, physician assistants, and dental hygienists. In some states, SOP laws require NPs to practice under physician oversight. This oversight may be supervisory, delegative, or collaborative in nature; however, all require a formal agreement to practice with physicians. These oversight laws effectively tie the NP practice to physicians and can set up significant barriers to NP practice. Other states have moved to full practice authority (FPA), where NPs practice without any legal requirement for a formal relationship with a physician.

SOP laws are often controversial, and legislative and regulatory battles frequently ensue over details of the SOP

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requirements. Critics of FPA contend that supervision or collaboration requirements are necessary to protect public health. Physician groups such as the American Medical Association argue that independent NP practice may harm patients because of the shorter length of training and clinical experience required for NP licensure. Proponents of FPA argue that NPs provide high-quality, low-cost, and accessible health care. Currently, 34 states have enacted or passed legislation granting FPA to NPs, while the other states still require some degree of physician oversight of NP practice.

Our research informs the policy debates surrounding SOP reform and evaluates whether eliminating requirements for physician oversight of NPs results in harm to patients. While previous research has evaluated the effects of transitioning to FPA on various proxies for quality of care, most of this research uses measures that are not necessarily attributable to NPs, and it does not directly measure harm. We have advanced this area of research by examining changes in rates of paid medical malpractice claims and adverse license actions against NPs. These data come from the Department of Health and Human Services National Practitioner Data Bank.

Every medical malpractice claim that we analyzed involves the payment of money damages from a defendant health care practitioner to a plaintiff-patient resulting from an award at trial or an out-of-court settlement. Most medical liability claims are without merit and are dismissed with no resulting payments; these unpaid claims are not included in our data. However, paid claims such as the ones we analyzed are highly correlated with adverse patient outcomes and therefore serve as a proxy for the quality of NP care and harm to patients. Adverse license actions are actions taken against a provider's license for reasons related to professional misconduct. These actions include license revocation, probation, and suspension; reprimand and censure; Medicaid and Medicare exclusions; and fines or monetary penalties. Our research focuses on licensure actions taken for reasons of unsafe practice and substandard care and for improperly prescribing, dispensing, and administering medications or drugs. Again, these actions serve as a proxy for harm to patients. By analyzing outcomes directly attributed to NPs, we can provide a straightforward answer as to whether granting FPA to NPs endangers the public health.

Our research estimates the effect of adopting FPA on paid malpractice claims and on adverse action reports against NPs. It finds that allowing NPs to practice without physician supervision leads to no changes in the number of malpractice payouts for NPs. Furthermore, it reveals no harm as measured by counts of adverse actions for reasons of safety violations and prescription drug violations. Our analysis further examines spillover effects on physicians and finds that physician malpractice payout counts decrease after the passage of FPA, which indicates that physicians benefit from severing the legal supervisory relationship with NPs.

NOTE

This research brief is based on Sara Markowitz and Andrew J. D. Smith, "Nurse Practitioner Scope of Practice and Patient Harm: Evidence from Medical Malpractice Payouts and Adverse Action Reports," *Journal of Policy Analysis and Management* (July 2023).