

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable Joan Carter Conway, Chairman  
Members, Senate Education, Health & Environmental Affairs Committee  
The Honorable Thomas M. Middleton, Chairman  
Members, Senate Finance Committee  
The Honorable Roy Dyson

FROM: Joseph A. Schwartz, III  
Pamela Metz Kasemeyer  
J. Steven Wise

DATE: March 3, 2010

RE: **OPPOSE** – Senate Bill 484 – *State Board of Nursing – Nurse Practitioners – Certification Requirements and Authority to Practice*

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The Maryland State Medical Society (MedChi), which represents over 7,300 Maryland physicians and their patients, opposes Senate Bill 484.

Senate Bill 484 deletes the requirement that Nurse Practitioners (“NP’s”) enter into a written agreement with a physician. The NP’s advance this change in the name of combating the primary care physician shortage, particularly on the Eastern Shore, Southern Maryland, and Western Maryland. MedChi is all too familiar with this shortage but does not believe eliminating collaborative practice requirements is the appropriate remedy to this problem; other constructive solutions are available to the General Assembly to address it.

Under current law, a NP may practice if a written agreement is entered into between the NP and a physician. The two do not have to be at the same location. The written agreement ensures that the NP has at least one physician to whom the NP can readily turn when diagnosis and treatment issues arise. The agreement also establishes, with the approval of the Board of Nursing and the authorization of a physician, the competencies of the NP within the allowed scope of practice.

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This structure is completely undone by Senate Bill 484, and the NP would be permitted to practice medicine entirely independent of a physician. More troubling is that the bill places all NP's, regardless of experience, on equal footing with physicians despite the fact that they have less education and substantially less clinical training (equal to less than one year of a physician's 3-5 year residency period). This drastic difference in education and experience means that there are many more instances where an NP will not be able to make the proper diagnosis or implement the proper treatment for a patient. Attached is a letter from Dr. Audrey Corson of Montgomery County, who was a nurse practitioner prior to becoming a physician, and she succinctly relates the difference in experience between the two and its impact on patients:

*“An ill patient presenting for medical care to treat his fever may have a simple respiratory infection. Or, he may instead have meningitis, and without prompt appropriate treatment could die within hours. An ill patient presenting with abdominal pain may have the latest gastrointestinal virus. Or, he may instead have appendicitis ready for rupture without urgent surgery. The long years of training by a physician, caring for sick patients in the hospital during medical school, internship and residency, is preparation for such differentiation. The patient's evaluation by a nurse practitioner on the other hand, is done through the eyes of someone who has had, by comparison, brief and superficial training, has never managed acutely ill patients, has never seen patients deteriorate in the emergency room or Intensive Care Unit and has never had the sole responsibility for their care.”*

The collaborative agreement ensures that the NP has a physician to turn to who can assist in such situations. If Senate Bill 484 passes, what will the NP do when met with an after-hours emergency that they do not recognize or are unsure how to treat? Turning to the yellow pages to find a physician is no answer, since a physician receiving a call from a NP with whom the physician has no prior relationship will be reluctant to provide guidance over the phone for fear of malpractice liability. The NP's seek hospital admitting privileges in the bill as a way to ensure physician access, but it is far from clear whether hospitals would be willing to credential NP's to admit patients. Besides, directing patients to an emergency room only exacerbates an existing problem. For these reasons, the requirement of an established collaborative relationship with a physician should remain intact.

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It is notable that current health maintenance organization (HMO) law allows a NP to serve as a patient's primary care provider in certain circumstances, but the HMO must still provide 24 hour access to a physician for services that need immediate attention and for diagnostic and treatment services. *See* Health—Gen'l § 19-705.1. Senate Bill 484 would allow the HMO to provide access *only* to a NP for these services, with no requirement of physician involvement. *See* Senate Bill 484, p. 11-12. This is neither the level of service that HMO enrollees are paying for nor the level of care that should be available to them.

To be clear, MedChi acknowledges that more can be done to identify physicians who will enter agreements with NP's, particularly by linking physicians outside of shortage areas with NP's in them. Indeed, after being approached by the NP's in late 2009 with this legislative proposal, MedChi has begun looking into ways that it can identify willing physicians and put them in touch with NP's in those areas. Furthermore, MedChi is willing to work with the NP's to consider and adopt changes to the collaborative agreement process, as it did in 2009 with Nurse Midwives. While making substantial changes to the written agreement aspect of the relationship, the new Nurse Midwife regulations recognize and preserve the need for consultation and collaboration with a physician. The regulations are the result of legislation passed by this Committee 2 years ago (House Bill 1407/2008) and we believe a similar directive from this body with a more compressed timeframe would do much to remedy the issue.

In sum, MedChi stands willing to work with the parties to develop improvements to the current system of collaboration, but firmly believes that eliminating the requirement altogether is not the answer to the physician shortage and will have significant and negative effects on patient safety.

For these reasons, MedChi opposes Senate Bill 484.

**For more information call:**

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