

Risk Matters: Supervision and Delegation of Advanced Practice Providers



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A topic which generates many questions from policyholders is the supervision of and delegation to advanced practice providers. The questions we are asked most frequently are:

- “What is the liability risk to the supervising/collaborating physician?”
- “What are the duties of the supervising/collaborating physician?”
- “Do you have a protocol “form” that I can use?”

Unfortunately, there is no “one size fits all” protocol or cookie-cutter template which can be used. Advanced practice providers are governed by rules and regulations that are specific to each state in which they are licensed. It is imperative that a provider/practice obtain and become familiar with current and applicable state laws governing the employment and

supervision/collaboration of advanced practice providers.

First and foremost, the liability risk to the physician can increase exponentially based upon the number of advanced practice providers supervised. In almost every case where an advanced practice provider is sued, the supervising/collaborating physician is also sued (in those states where a supervising/collaborating physician is required).

With respect to the duties required, before entering into an agreement with the advanced practice provider, the physician/practice should investigate requirements for the following:

- supervision of the advanced practice provider
- written protocols
- prescription writing
- services at off-site/remote locations
- review of records created by the advanced practice provider

Copies of pertinent legislation/rules/regulations and examples of protocols may, in some states, be obtained from the respective state licensure board. If a practice elects to purchase a recognized text or a specialty-specific text to use as a protocol, this should be utilized only after collaborative review between the supervising physician and the advanced practice provider and then modified as needed to meet the practice needs. Also, some states, such as Tennessee, do not provide examples of protocols, thus requiring the physician and the advanced practice provider to develop an individual protocol/collaboration agreement that is specific to the needs of their practice arrangement.

In medical malpractice claims involving advanced practice providers, the failure to properly supervise/collaborate is often alleged. In most states, proper supervision/collaboration first begins with a detailed protocol which is jointly developed by the supervising physician and advanced practice provider as stated above. A copy of this protocol must be maintained on-site, and SVMIC recommends that both the supervising physician and advanced practice provider sign and date the protocol once the document has been finalized. SVMIC further recommends that this protocol be reviewed and updated in accordance with state regulations to ensure that the advanced practice provider is receiving appropriate oversight. Second, it is imperative that the supervising/collaborating physician perform their duties in accordance with both the state laws and the jointly developed protocol as well as ensure that the advanced practitioner is acting in accordance with the laws and protocol. Supervision/collaboration cannot be merely perfunctory.

Appropriate supervision/collaboration does not typically require the continuous and constant physical presence of the collaborating/supervising physician; but it may require the physician to make a personal review of historical, physical, and therapeutic data on all patients and their condition as often as medically indicated. Collaborating/supervising physicians should examine and comply with the state rules governing such review. Prescription writing of narcotics typically requires additional review by the

supervising/collaborating physician and is another area of potential liability.

Finally, some states limit the number of advanced practice providers that a physician may supervise/collaborate. Supervision of, and collaboration with, a significant number of advanced practice providers can be a “red flag” that proper oversight is lacking.

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