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Advanced Practice Within the Law

Changes in Physician Supervision of ARNPs
Cynthia A. Mikos, Esq.

During the last legislative session, the Florida Legislature passed a bill, commonly referred to as HB 699, which modifies certain aspects of physician supervision of advanced registered nurse practitioners ("ARNPs") who work in select office settings. The Governor signed the bill into law during late June 2006. A summary of the supervision changes was forwarded to Florida Nurses Association ("FNA") members shortly thereafter. However, a number of inquiries about the new law have been received by FNA. This article will address some of the common questions about the new law raised by ARNPs across the state.

Who is affected by the supervision changes?

The portions of the new law dealing with supervision do not directly govern ARNPs, but instead limit the numbers of office sites where physicians may supervise ARNPs or physician assistants ("PAs") if the physician is not onsite to provide supervision. Thus, ARNPs may be indirectly affected if their supervising physician is implicated by the changes and should be aware of the new requirements.

More specifically, physicians who supervise satellite offices of a medical practice where ARNPs or physician assistants ("PAs") work without "onsite" physician supervision are limited in the number of offices they may supervise based on the type of services offered. A physician who is engaged in providing primary health care services may not supervise more than four (4) offices in addition to the physician's primary practice location. "Primary health care" means health care services that are commonly provided to patients without referral from another practitioner, including obstetrical and gynecological services, and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services. A physician who is engaged in providing specialty health care services may not supervise more than two (2) offices in addition to the physician's primary practice location. "Specialty health care" means health care services that are commonly provided to patients with a referral from another practitioner and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services. Physicians working in practices specializing in dermatology or skin care services, which include aesthetic skin care services other than plastic surgery may supervise only one (1) other office other than the physician's primary place of practice, except that until July 1, 2011, the physician may supervise up to two (2) medical offices if the addresses of the offices were submitted to the applicable board of medicine before July 1, 2006.

However, the law contains a number of exemptions. Consequently, the provisions do not apply to physicians supervising ARNPs working in: 1) licensed hospitals or ambulatory surgical facilities; 2) conjunction with a college of medicine, a college of nursing, an accredited graduate medical program, or a nursing education program; 3) offices where the only service being performed is hair removal by an ARNP or PA; 4) not-for profit, family-planning clinics that are not licensed as abortion clinics; 5) rural and federally qualified health centers; 6) a licensed nursing home, a licensed assisted living facility, a licensed continuing care facility, or a retirement community consisting of independent living units and a licensed nursing home or assisted living facility; 7) providing anesthesia services in accordance with law; 8) a designated rural health clinic; 9) a program designed to maintain elderly persons and persons with disabilities in a home or community–based setting; 10) university primary care student health centers; 11) school health clinics; or 12) federal, state, or local government facilities.

What qualifies as "onsite" physician supervision*?*

The law does not define "onsite supervision", nor is it a term otherwise defined in the respective practice acts for medical doctors, osteopathic physicians, ARNPs or PAs. Certainly, an office where an ARNP or PA works without the physician supervisor visiting the site is not an office where onsite supervision is provided. On the other hand, an office location where both the physician and ARNP or PA routinely practice together at the same location is an office where onsite supervision is provided and not included in the reach of the new law. However, it is unclear whether onsite supervision is furnished in those instances where the ARNP or PA sometimes practices alone and sometimes with a physician. Consequently, it may be prudent to assure that these part-time supervision arrangements also comply with the new law.

Has the level of physician supervision of ARNPs changed*?*

No, general supervision, which means that the supervising physician is available either in person or by communication devices, remains the type of physician supervision of ARNPs required unless otherwise specified in the protocol between the ARNP and the physician.

How many ARNPs may a physician supervise?

The precise number of ARNPs a physician may supervise is not set by law, unlike the number of supervised PAs which is limited to four (4). However, the longstanding regulation for ARNPs "Standards for Protocols" found at 64B9-4.010, Florida Administrative Code, requires that the supervision arrangement be "appropriate for prudent health care providers under similar circumstances". Nothing has changed in this regard.

What is the difference between physician supervision of an office and physician supervision of an ARNP?

The supervising physician of an ARNP is determined by the written protocol filed with the Department of Health identifying the physician who approves the medical acts delegated to the ARNP. The identification of the physician who supervises the office under this law appears to be a more administrative function. The law does not require that the physician supervisor of the office be registered with the Department of Health or any other regulatory body, unless the physician is a dermatologist with two (2) satellite offices who was required to have already reported to their licensing board. Theoretically, the office supervisor need not be the ARNP protocol physician. However, it may avoid confusion if the supervising physician of an office where the ARNP practices also serves as a supervising physician to the ARNP(s) practicing at the supervised site.

We have a large multi-specialty group practice with several offices and ARNPs and PAs. How does this law affect us?

Each physician in the practice is eligible to supervise the maximum amount of offices permitted in the law. For example, each primary care physician may supervise up to four (4) satellite offices in addition to the physician's primary office location for a total of five (5) offices. A group practice may classify one of the practice's locations as primary for each of its physicians by changing the physician's address on his or her Department of Health practitioner profile, thereby strategically identifying primary office locations to maximize coverage. Then, each primary care physician member of the group could supervise up to four (4) separate office satellite locations where ARNPs or PAs work without onsite supervision. In this way, a physician practice comprised of three (3) primary care physicians could operate up to fifteen (15) locations where ARNPs or PAs practice without onsite supervision. Specialists are more limited in their supervisory capacity and a group practice of three (3) specialists would be able to operate only nine (9) offices where ARNPs or PAs practice without onsite supervision. Physicians working in practices specializing in dermatology or skin care services, which include aesthetic skin care services other than plastic surgery, are the most restricted in their ability to supervise ARNPs or PAs who practice in satellite offices without onsite supervision, as discussed more fully below.

I work in a medispa owned by a physician specializing in obstetrics and gynecology who is my supervising physician. Do I need to locate a new supervising physician under this law?

Whether an ARNP working in a medispa requires a physician supervisor who is a board certified/board eligible dermatologist or plastic surgeon is determined on a case by case basis. The first question one might ask is whether the practice location is exempted from the law. In particular, offices which offer only hair removal are exempted from the law. Secondly, one might question whether onsite physician supervision is already present in the practice arrangement. If so, the law does not apply. Thirdly, one should examine whether the practice engages in primarily dermatologic and skin care services, which include aesthetic skin care services. If not, then the more restrictive supervisions provisions of the law do not apply. Lastly, one should ascertain how many offices are involved and consider whether the problem may be solved by changing the primary office location of the supervising physician to the medispa eliminating the satellite designation of the place where primarily skin care is furnished. In some circumstances, practices may be required to change supervisory physicians to comply with the law.

If the more restrictive provisions related to offices where primarily dermatologic or skin care services, then the physician supervising ARNPs or PAs in satellite offices where onsite supervision is not provided must be board-certified or board-eligible in dermatology or plastic surgery, must submit addresses of all offices not their primary place of practice where the physician is supervising an ARNP or PA to their respective licensing board, must meet mileage restrictions on those locations, and may supervise only one (1) office other than their primary office location, unless previously registered as described above.

Must all offices where ARNPs work post a schedule of when the physician is onsite*?*

If the office is not exempted from the law and if the physician does not provide onsite supervision at the satellite office, then the practice must conspicuously post a current schedule at each office with the regular hours when the supervising physician is present including the hours when the office is open when the physician is not present. This section of the new law was effective July 1, 2006.

If you have questions regarding the effect of HB 699 on your practice, please consult an attorney. The information in this article is not legal advice, but is a general overview of the new law. Additionally, a number of other laws were passed this past session which impose requirements on ARNPs. For a list of those bills followed by the Florida Nurses Association during the legislative session, please call the association office at (407)896-3261 or members may use the members only toll-free line.

Cynthia A. Mikos is a board certified health care attorney in Tampa, Florida. She is a nurse attorney in private practice who serves as practice counsel to the Florida Nurses Association. Ms. Mikos often speaks and writes on legal issues affecting nurses and devotes a significant portion of her legal practice on regulatory health care matters including representation of health care professionals before their licensing boards.

Update on Professional Liability Plans for Florida NP's
Barbara Lumpkin, RN
Associate Executive Director

Representatives from Marsh Affinity Group, administrators of the professional liability plans endorsed by ANA and FNA, informed FNA in December of 2005 that they would discontinue writing professional liability insurance plans for Nurse Practitioners in Florida as of May 16, 2006. We immediately met with the Governor, legislators, and nurse practitioner groups to discuss how this would impact nurse practitioners in Florida knowing that NSO, another major provider of professional liability plans in Florida, had stopped writing new policies for ARNPs in Florida in 2004. Marsh Affinity Group representatives shared with us that

to their knowledge the only insurer still writing new policies in Florida is Cotterell Mitchell Phifer (CMF) and they immediately started, and continue today, to refer calls from Florida NPs to CMF. We determined that ARNPs by law can be insured through the state Joint Underwriting Association (JUA) until more carriers would be willing to write new policies in Florida. We know however that at least one Family Nurse Practitioner was told that the annual premium under JUA was $23,000.00 so that was not a viable option for her.

It seems that now is a good time to share our thoughts as to how this critical situation came to be especially in light of the fact that the plans available up until late 2005 were very reasonable in cost and only offered a very high policy limit of coverage, typically $1,000,000/$3,000,000. As a result of our closely monitoring the medical malpractice crisis debate in the Florida Legislature over the last six to eight years, and knowing that physicians were lowering their coverage to either 100,000/300,000 or 250,000/750,000 because of the extremely high premiums or electing to "go bare", it was obvious that NPs were very likely the "deep pockets" in their practices. It has been estimated by others that up to 30% of Florida physicians are bare or carry no insurance. ARNPs are not permitted to go bare under Florida law. Therefore, the ARNP always had coverage even if the physician did not. As discussed below FNA's efforts to introduce legislation last session that permitted ARNPs to go bare under the same circumstances as their physician colleagues were defeated in committee.

On several occasions over the last five years Paula Massey and I approached the staff of Marsh Affinity Group to offer a plan with lower coverage, especially in light of the minimal coverage physicians have in Florida. Those requests seemed to fall on "deaf ears" until December of last year. We were presented with documentation from a CMA insurance study that Florida led the nation in medical malpractice lawsuits where NPs are named as defendants, and that contributed to NSO's decision to stop writing new policies for Florida ARNPs. The amount of payouts on behalf of ARNPs in Florida also led Fireman's Fund, the Underwriters of the Professional Liability Plans offered by Marsh, to make the decision to stop writing new liability policies for ARNPs in Florida. Marsh Affinity Group representatives promised to seek the ability to market a Claims Based Policy rather than the previously offered Occurrence Based Policy under a "surplus line insurer" early in 2006. Surplus line means that the plan offered by the insurer is not an admitted insurance product approved by the state's department of insurance, thus is not subject to regulations limiting premium increases and other consumer protections. Both NSO and Marsh had previously offered only admitted occurrence based policy products to Florida ARNPs.

The regulations governing ARNPs allow ARNPS to purchase an irrevocable letter of credit in the amount of $100,000 per incident and $300,000 per annual aggregate. We know of one Florida NP who checked this option out and the cost was very high but not quite as bad as the JUA premium.

We know that Florida NPs are just as competent and skilled as NPs in other states and quickly determined that we should try to get legislative support as well as try to get other plans made available.

When we met with Speaker of the House, Representative Allan Bense, we spoke with him about this new "barrier" NPs face because in Florida Nurse Practitioners do not have the option of "going bare". He immediately suggested that we should get a bill filed to provide NPs with that option as a way to bring the issue to the forefront as legislators shape health policy and legislation during the upcoming 2006 session. Our great friend Representative Bill Proctor from St. Augustine filed the bill making "going bare" an option for NPs under the same criteria as physicians. Senator Burt Saunders from Naples, another great friend filed the bill in the Senate. Let me say here that "Going Bare" is not a great option to have because it does include the provision that the practitioner must have the ability to pay a $100,000.00 judgment within thirty days of the final order or the practitioner will lose their license. However, we continue to believe that this is an option that should be available to NPs and frankly other health care practitioners. Our bill got a late hearing in the Senate and during debate it was very obvious that the bill was "in trouble" so it was temporarily passed, meaning it died without ever having a vote.

The 2006 legislature did pass legislation denying Joint and Several Liability, but the legislature was not prepared to address malpractice in any other legislation because, as you know, tort reform is always controversial and divisive. FNA did join a coalition of many businesses and professions that supported the legislation diluting Joint and Several Liability, meaning that no individual can be held liable for more than their share of the incident. During our many meetings with policy makers, legislators, and other stakeholders, FNA member Janegale Boyd, RN and President of the Florida Association of Homes for the Aging suggested that we hold discussions with Ponce DeLeon, an insurance company that offers liability coverage for skilled nursing facilities and assisted living facilities. Ponce DeLeon came onto the scene with state support to offer these facilities insurance when other insurers had abandoned them because of increasing claims and cost risks. Ponce DeLeon has indeed developed a professional liability plan for NPs in Florida that is an occurrence based policy and we await the approval of this product by the Florida Insurance Commissioner. We hope to hear any day that this product is approved and available to Nurse Practitioners in Florida.

While working with Ponce DeLeon and lobbying policy makers we continue to seek knowledge of other products available for our members and colleagues in Florida and this is where we are at this time:

Marsh Affinity Group has severed its discussions with Fireman's Fund and is seeking a new underwriter so they can develop a plan for Florida NPs.

- CMF continues to write new policies on NPs who have never had a claim against them. The number to call for CMF is 1-800-221-4904.

- NSO, as of August 1st, is offering, once again, new claims based policies at the 250,000/750,000 coverage and they will consider applications of all applicants even if there has been prior claim. Their website is **http://www.nso.com.fna** and the phone number to call is 1-866-216-8080.

We are also suggesting that NPs get the lowest coverage available that meets the state required 100,000/300,000 coverage understanding that there are some hospitals that still may require 250,000/750,000 if you have clinical privileges.

The Florida Board of Nursing wrote a letter to the Insurance Commissioner requesting him to approve the Ponce DeLeon Product and we appreciate their support.

Know that we continue to work to get more options for you and we also work in conjunction with regional ARNP groups and FNPN to keep NPs informed as to what is available.

Asset Protection

Stratton Smith, JD, LLM
Stratton Law Group
Tampa

Would you take all your cash, put it on your coffee table, open your door and leave? Or would you put it in an insured bank account? If your answer is the latter, then you already understand the concept of asset protection - at least a little bit.

Asset protection is rarely an action taken apart from other types of planning. It is simply an additional element that should be included as part of your ordinary planning process. For example, if you are fortunate enough to have cash to invest, you might invest in several different stocks or bonds to diversify as well as reduce your risk. You might deposit your cash in more than one bank to keep your deposit under the insured limit for each account. Simple steps, but it is another manner of protecting assets.

Despite objections to "asset protection" actions by creditors as being improper and even illegal, it is neither. A famous judge named Learned Hand stated that no man is required to arrange his affairs so as to maximize his taxes for the benefit of the government. No one is required to leave his or her assets exposed to creditors either, so long as they do not commit fraud on their creditors. The best observation of our changed society is that we have a predatory legal system. In other words, we are swimming with voracious sharks - naked.

What you cannot do is transfer your assets for less than adequate consideration (insert the word "gift" here, and you'll get it) at a time when you are faced with creditor claims or other known or potential threats of a lawsuit. That transfer is known as a fraud on creditors. In some states, it is also illegal to move assets from a non-exempt category to an exempt one when you have a claim or threat of a claim; that is called a fraudulent transfer. For example, if you had borrowed money from your 401(k) Plan, and later when you found out that you were about to be sued for an "at fault"
accident at a time when you were uninsured, and only then did you transfer money from your personal bank account to repay the loan - that is illegal.

What can you do? To determine that, we need to first consider how liabilities occur. A simple way of considering this is Stratton's Theory of Liability: "Push" versus "Pull". If you push someone causing a fall and injury, you are personally liable - the "Push" liability. If you own an automobile and lend it to someone who is in an accident, causing injuries, you are also liable as the *owner* the "pull" liability (the ownership attracts or "pulls" the liability).

You can protect yourself from much of the "Pull" liabilities by holding appropriate assets in a business entity, such as a Limited Liability Partnership. For example, you purchase a condominium at the beach with the expectation of personally using it only occasionally and renting it at other times. Here an LLp1 is a good protection to go along with your premises insurances. In most instances the entity bears the liability, not you. This may cost you the asset you owned in that entity, but it limits your exposure and the damage to you by your not being personally liable for merely owning a rental house.

With respect to issues of the "Push" liability, you must arrange for your assets to be exempt from creditors' claims as much as possible under state law. If a liability arises which is yours personally, if your assets are protected by their method of ownership. exempt status (from claims of creditors), or otherwise protected, then the potential harm of a judgment is minimized.

For example, numerous states recognize a type of titling available only to married persons, called *"tenants by the entireties".* In a sense, the marriage owns the assets which are titled in this manner. This type of ownership is similar to *"joint tenants with rights of survivorship",* except that a creditor of only one of the marital partners cannot collect with respect to an asset held in this manner. However, if *both* marital partners are liable to a creditor, this limited immunity from claims is ineffective. Consider that the owner of a motor vehicle is primarily liable in an accident, and the driver only secondarily liable. The lesson is, DO NOT HOLD your vehicles in joint title. The owner should be the same person who customarily drives the vehicle, which avoids joint liability. Hold assets which cannot be better protected in the name of "tenants by the entireties" titling.

Florida has a list of exempt assets in Chapter 222 of the Florida Statutes: homestead4; life insurance or annuities you own where you are the insured or annuitant; IRAs; pre-paid tuition plans and §529 plans; assets held as custodian for minors; and wages of up to 6 months may be set aside in an exempt account. ERISA exempts Pension and Profit Sharing Plans, and most government or charitable organization plans are also exempt. The devil is in the details - be sure to get qualified professional help with any attempt to use these exemptions.

If your parents or grandparents want to leave you something in their Will, how wonderful. If they have a lot to leave, then discuss having your portion set up in a discretionary trust to protect you from asset loss. Consider the same thing for your children. In such an arrangement, assets are set aside for the beneficiary and managed by the trustee, and distributions are entirely in the discretion of the trustee. The beneficiary cannot *ever* be the sole beneficiary to his or her own benefit, or the asset protection is lost. Since the beneficiary does not own a right to the benefit (it is discretionary), a creditor cannot collect anything from the trust. Do not consider this for under $300,000. Done correctly, this is very powerful magic against the evil spirits.

It is possible to create a self-settled trust (you create it for you) that is also discretionary as above. Alaska, Delaware South Dakota, Rhode Island, Nevada, and others have enacted legislation permitting asset protection trusts. The effectiveness of these trusts in protecting assets is questionable under the U.S. Constitution. Offshore trusts are quite effective, but also quite expensive. In these types of asset protection trusts, the rules are clear that you must not be under threat of a claim on the date of transfer of assets, or you may fail in your efforts and be subject to additional legal peril.

Use of entities to diminish personal liability and collection of your assets by a creditor is an excellent technique. In essence, partnerships are associations with persons you have chosen as partners. Common law has long prevented creditors from taking partnership interests in actions to collect judgments, and neither can partnership assets be taken to satisfy a partner's debts. Recent Florida legislation has added statutory constraints and further pronounced this common law protection as part of our written law. The sole means for collecting from partnerships is the use of a "charging lien" which allows a creditor to collect from any distribution from the partnership because of the partner's interest in the partnership - in other words, from a share of the assets or profits. For the creditor, the problem is that even if no distribution is made (assume the managing partner is friendly to the debtor partner), the creditor will receive a Schedule K-1 showing *to the creditor* the share of the profits earned by the debtor partner as being taxable to the creditor. Most creditors do not like this. and will not seek a charging lien.

Until the creation of the Limited Partnership, and more recently, the Limited Liability Partnership (LLP) and the Limited Liability Limited Partnership (LLLP). there was too much risk of partner misdeed to use a general partnership except in special

situations. such as in the family. Improvements in the laws permitting these newer forms of partnerships and clarifying the protections have made these the preferred entities for holding real property and conducting some forms of business. LLCs and corporations (even Subchapter S corporations) do not enjoy the protections afforded to partnerships.

These laws are frequently changed by legislatures and court decisions. DO NOT ATTEMPT THESE ON YOUR OWN - find a professional. Learn how to best protect yourself, be careful. and periodically check for changes, but make this part of your pattern for your financial, tax, estate, and ASSET PROTECTION planning.

1 0ther entities will also provide this protection but do not have the tax pass-through benefits, or the ownership interests in which are readily collectible.
2 The IRS and certain other Federal claims are collectible from assets assets owned in this manner.
3 Most homesteads are automatically titled In this way, although you may not realize it.
4 Recent changes in the Bankruptcy Code have limited the amount that is exempt to $125,000 in equity unless you have held homestead for 40 months. Successive homestead periods of ownership are "tacked" (added together).

Stratton Smith earned his Doctor of Jurisprudence from the University of Florida College of Law and Masters of Laws in Taxation from Boston University School of Law. He is founder and Senior Partner of Stratton Law Group located in Tampa, Florida, member of The Florida Bar, and admitted to practice in the State of Florida. The firm's practice focuses on Asset Protection, Estate Planning, Business Transactions (including International), Corporate and Business, Commercial Transactions, and Real Estate. Martindale-Hubbell @has rated Stratton as "A V", its highest rating. He was formerly a successful Financial Planner for 10 years and a member of the Million Dollar Roundtable.

House Bill 587 Signed by Governor Bush
Update by Barbara Lumpkin

This bill reads as follows:
Section 1. The legislature finds that there exists a compelling interest in patients being informed of the credentials of the health care practitioners who treat them and in the public being protected from misleading health care advertising. The Legislature finds that the areas of licensure for the practice of health care can be extremely confusing for patients and that health care practitioners can easily mislead patients into believing that the practitioner is better qualified than other health care practitioners simply by creating a sham practice designation. Therefore, the Legislature has determined that the most direct and effective manner in which to protect patients from this identifiable harm is to ensure that patients and the public be informed of the training of health care practitioners and intends by this act to require the provision of the information.
Section 2. Here the bill amends chapter 456.072 by adding the following language as grounds for discipline: a new (t) Failing to identify through written notice which may include the wearing of a name tag, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type license the practitioner holds. This paragraph does not apply to a practitioner while the practitioner is providing services in a facility licensed under chapter 394, chapter 395, or chapter 400. (These are licensed hospitals and nursing homes). Each Board or the Department where there is no Board, is authorized by rule to determine how its practitioners may comply with this disclosure requirement.

I don't know about you but I find the introductory language (Section 1 above) very unnerving but it is there and signed by the Governor into law. Read carefully Section 2 as a new requirement that you must either wear a name tag with your licensure and credentials or inform your patients that you are an Advanced Registered Nurse Practitioner. Also note the advertising note so that if you advertise at all, be sure to include your licensed title. This bill took effect July 1, 2006.

BOARD OF NURSING TO REVIEW ARNP PROTOCOLS
IS YOURS READY?
Cynthia A. Mikos, Esq.

Now is the time to review your protocol with your supervising physician to ensure it is in full compliance with Florida's regulatory requirements. The Board of Nursing ("Board") is planning its implementation of new law which requires it to review ARNP protocols and refer to the Department of Health ("Department") those that are not compliant. At its August meeting, the Board's Executive Director, Rick Garcia, announced that the first reviews are expected to occur during spring 2007 as ARNPs renew their licenses.

All ARNPs who perform delegated medical acts must do so under a written protocol with a Florida-licensed medical doctor, osteopath or dentist. The Board has opined that even psychiatric nurse practitioners who do not prescribe perform delegated medical acts when they diagnose using the DSM diagnosis codes. Consequently, whether you are a nurse practitioner, a certified registered nurse anesthetist ("CRNA"), or a certified nurse midwife ("CNM"), you need to have a written protocol with a supervising physician which is filed with the Department of Health. So, take this opportunity to ensure that you have the required protocol.

Historically, protocols were required to be filed annually and within thirty days of a change in the protocol.[i] However, protocols were merely filed with the Department, but no one was expressly charged with reviewing them. This left the profession open to criticism during its efforts to obtain controlled substance prescribing privileges because opponents consistently complained that protocols were not filed or reviewed for compliance. To cure this alleged deficiency, a provision was included in HB 699 that decreased the filing requirements to biennially to coincide with the licensure renewal process, and designated the Board as the appropriate reviewing body. The requirement to file a new or updated protocol within thirty days after entering a new supervisory relationship or upon changes to the protocol remains unchanged.
Similarly, the CRNA's and CNM's obligation to also file a copy of the protocol with each facility where they practice has not been altered.[ii]

The regulatory standards against which the protocol will be measured are found at section 64B9-4.010 Florida Administrative Code entitled "Standards for Protocols" ("Standards"). You should obtain a copy of the Standards which may be located on the FNA website at http://www.floridanurse.org/, (coming) the Board of Nursing website at http://www.doh.state.fl.us/mqa/nursing/, or a public library. An identical requirement is included in the Medical Practice Act regulations because physicians are also required to file a copy of the protocol with the Department in conjunction with the notice of supervision medical doctors are required to file when they enter into a supervisory relationship with an ARNP, a paramedic, or an emergency medical technician pursuant to section 458.348, Florida Statutes.

The Standards reiterate that general supervision is the appropriate level of supervision between the physician and the ARNP unless the protocol states otherwise. General supervision authorizes the procedure being carried out, but does not require the physician's physical presence when the procedure is performed so long as the physician remains available for consultation or advice by communication device.[iii] The Standards also require that the degree and method of physician supervision "be appropriate for prudent health care providers under similar circumstances." While it may be obvious that a dentist is not an appropriate supervisor for most ARNPs, the new review process may identify other types of supervisory relationships that the Board does not consider to be appropriate.

The Standards also require specific types of information such as certain identifying data, descriptions of each party's duties, conditions the ARNP may treat, treatments that may be implemented by the ARNP, drugs the ARNP may order, and instances when referral or increased supervision is required. ARNPs should ensure that each enumerated requirement is covered by the protocol. One mechanism to assist with this is to label the protocol section consistently with the enumerated requirements. Beware relying on a sample protocol or another previously filed protocol because they may not include all the mandated components. For example, at least one well-distributed sample protocol included a provision that ARNPS could renew controlled substances initially ordered by a physician. This provision is not consistent with current Florida law in most practice settings, and may subject the ARNP to Department investigation for practicing outside the scope of practice. If in doubt as to what may be included in the protocol, consider seeking legal review of the document prior to filing it.

An effective protocol will contain all the required elements, and be properly filed with the Department and the facility as needed. It will adequately describe those acts that the ARNP may perform so that the ARNP is not vulnerable to the complaint that the supervising physician was not aware that the ARNP was performing the act. On the other hand, it will not be so specific that the ARNP has no room for professional judgment. Both parties should sign the protocol and keep copies of the document for at least four years after its termination. A well-drafted protocol should protect both the ARNP and the supervising physician.

Cynthia A. Mikos is a board certified health care attorney in Tampa, Florida. She is a nurse attorney in private practice who serves as practice counsel to the Florida Nurses Association. Ms. Mikos often speaks and writes on legal issues affecting nurses and devotes a significant portion of her legal practice on regulatory health care matters including representation of health care professionals before their licensing boards

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[1] Section 464.012, Florida Statutes.
[1] Id.
[1] Section 64B9-4.001, F.A.C..

Mid-Year Report for Advanced Registered Nurse Practitioners in Florida

It has been several months since we last published a Newsletter for all ARNPs licensed in Florida but not because there is not much action. As you know we, the Florida Nurses Association have been working extremely hard to not only protect your current scope of practice but also to gain authority for you to prescribe controlled substances. FNA is the largest professional association of Registered Professional Nurses in Florida and the only one that represents you from entry into the profession till your retirement from practice. The diversity within our association horizontally, vertically, and culturally enriches us and fortified our ability to respond to nurses individually and collectively. Nurses make up the largest profession within the entire health care industry and we continue to be blessed by a public that considers nurses to be the most trusted and ethical of the professions according to Gallup polling in November 2005. Now in 2006 according to a Harris Poll nurses join firefighters and physicians being in the most prestigious professions so we have the public's trust and respect and for that we should be thankful.

As trailblazers within our profession we know that there are times when you feel like Florida laws and regulations are much more restrictive than in other areas of our nation and in some distinct areas that is true. However it is also true that we are less restrictive than the many states where an NP must always have a collaborative agreement with a physician in the same specialty. Yes, we still have the archaic words, general supervision rather than collaboration but when you really look at how services are rendered in Florida and the great professional working relationships many of you have with physicians in your practice, your professional life is hopefully rewarding and satisfying.

We are in the process of looking at issues in addition to prescribing controlled substances that need to be addressed through legislation during the 2007 session We want to amend the statute that defines "Informed consent" for health and medical procedures to add NPs and PAs as practitioners authorized to provide informed consent. We also want to make sure that NPs and PAs can sign death certificates as well. These are just two of the issues already identified that we would like to get resolved through legislation during the upcoming session.

In this publication we share with you information about bills that were passed during the 2006 legislative session as well as some of the initiatives we work on throughout the year to enhance your professional experience in Florida. We hope that many of you will be motivated to consider joining the Florida Nurses Association. We are very pleased that two thousand of your NP colleagues do belong but if the other nine thousand add membership support we would increase our power and influence in the public policy arena probably ten fold. We understand that you have many needs for your resources to fund but this profession is your business and your resource pool so joining is like paying your power bill. We also know that as the umbrella organization of nurses that we cannot meet all of your professional network needs that are often better met by specialty organizations such as the American College of Nurse Practitioners, the American Academy of NPs, The American College of Nurse Midwives, or the Florida Association of Nurse Anesthetists. FNA belongs to the two former through an association membership and we work very closely with the latter two organizations, especially on legislative issues. We hope you will visit our website at www.floridanurse.org where you will find a way to join on line as well as see many of our activities and programs.

********** **NEWS ALERT**********

We will be adding an ARNP Corner on our website which will contain news and resources useful to Florida's ANRP's, including downloadable guidelines for protocols and other publications.

It will also feature the most updated legislative news and events related to ARNP Issue. We hope to have this up an running in the next month. !

Florida Nurses Association
Public Policy Nursing Symposium
October 6, 2006
Crowne Plaza Hotel Orlando-Airport

About the Symposium

The Florida Nurses Association has been a political force related to nursing and healthcare issues for many years. Our Legislative Program, consisting of our presence in Tallahassee and a statewide network of nurses called Legislative District Coordinators has kept us in a prominent position in Florida Politics. Our opinion on healthcare issues is sought out by key politicians on a regular basis, and we have been able to have a significant influence on healthcare policy in the state.

It is essential that we continue to prepare nursing leaders to be effective lobbyists at the state and local level. Understanding the political system and the processes involved in effecting change are keys to our success. It is in this spirit that we offer programs such as this one to give nurses the tools they need to be a part of the solution. This year we are working on an exciting agenda including several dynamic speakers on topics pertinent to nursing and health policy. We are also planning a re-organizing and re-energizing of the Legislative District Coordinator program with some basic and advanced content for those new and seasoned grassroots lobbyists! Please stay tuned for a more detailed agenda.

Registration Form
Florida Nurses Association
Public Policy Nursing Symposium and ARNP Issues Forum
October 6-7, 2006

Day One - Public Policy Symposium
Florida Nurses Association
Public Policy Advanced Practice Nursing Symposium 2006
Agenda

Day One

8:00am-9:00am	**Registration**
9:00am-9:30am	**Welcome** Overview of the Day Introductions
9:30am-10:30am	**Keynote- Addressing Unity Issues for Nursing** Nancy Rudner-Lugo, ARNP
10:30am-10:45am	Break
10:45am-11:45am	**The Legislative/Political Landscape in Florida** Bob Levy and Jose Diaz, Robert M. Levy Associates
11:45pm-12:45pm	**Lunch**
1:00pm-2:00pm	**Member of Florida Legislature** Rep. Dean Cannon (tentative)
2:00pm-3:00pm	**Developing FNA Legislative Agenda for 2007 2009** Barbara Lumpkin, RN
3:00pm-4:00pm	**Planning Session: Legislator Visits**
4:00pm	**Adjournment**

Day Two

9:30am – 2:00pm **ARNP Issues Forum (lunch included)**

Day Two - ARNP Issues Forum $35 members $40 non members

	Before Sept 21	After Sept 21
FNA Member	$70 _____	$80 _____
Non-Members	$100_____	$110_____
Full Time Student	$ 50 _____	$60 _____
Retired Member	$50 _____	$60 _____

Issues Forum

FNA Member	$35 _____
Non-Members	$40_____
Full Time Student	$ 25 _____
Retired Member	$ 25 _____

Name_____Credentials_____

Address_____

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Circle Payment Method:
Check Enclosed MasterCard Visa AmEx Discover

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Exp._____Security Code_____

Signature: _____

**Refunds for this conference must be requested by September 21, 2006. No refunds will be made after this date. No telephone registration accepted.

This conference is approved for **3.6** Continuing Education Board of Nursing contact hours.

Return completed registration form and payment to:
Florida Nurses Association
P.O. Box 536985
Orlando, FL 32853-6985
Tel: 407-896-3261 Fax: 407-896-9042
For additional information contact: Lael at
conferences@floridanurse.org

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