

## Advanced Practice Providers: Policy, Protocol and Contract Issues

As part of the healthcare industry's ongoing effort to increase efficiency and patient access, many ambulatory care settings are making wider use of nurse practitioners (NPs), physician assistants (PAs) and other types of advanced practice providers. Depending upon their licensure and authorized scope of practice – which can vary considerably from state to state – these team members may assume a variety of roles, ranging from primary care clinicians to specialty care coordinators to chronic disease managers.

Ambulatory care facilities' growing reliance upon non-physician providers creates new risk concerns, requiring heightened attention to such key areas as credentialing, supervision and informed consent. This edition of *inBrief*® is designed to encourage and facilitate focused review of organizational policies, clinical protocols

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and contractual provisions, in order to ensure that they address patient safety concerns and liability exposures associated with the expanding functions and responsibilities of NPs and PAs. (For more information about managing these risks, see CNA *inBrief*® 2016 - issue 3, "[Non-physician Advanced Practice Professionals: A Risk Management Questionnaire for Safer Delegation.](#)")

### NPs and PAs in Ambulatory Care Settings: A Risk Management Questionnaire

The following checklist is designed to serve as a guide for healthcare leaders seeking to utilize NPs, PAs and other non-physician providers without compromising quality of care or legal defensibility. By indicating potential operational, clinical and contractual vulnerabilities, the questionnaire can help spur efforts to update policies and practices and mitigate organizational risks.

RISK CONTROL STRATEGIES FOR ADVANCED PRACTICE PROVIDERS	STATUS	COMMENTS
<b>BASIC POLICY CONSIDERATIONS</b>		
<b>An updated written policy outlines minimal qualifications of newly hired or contracted NPs and PAs</b> , specifying required experience, training and education, as well as skill sets and competencies.		
<b>A written protocol guides the process of hiring/contracting and credentialing NPs and PAs</b> , and this protocol includes the following administrative actions, among others:		
<ul style="list-style-type: none"> <li>▪ Verifying the candidate's education and licensure.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Requesting letters of reference from past supervising physicians and co-workers.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Querying the licensing board of every state where the candidate has practiced regarding adverse actions taken, as well as the National Practitioner Data Bank for reported events.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Reviewing past professional liability lawsuits.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Conducting a background check.</li> </ul>		
<b>Credentialing protocols list approved emergency procedures for non-physician providers</b> and note requisite degree of expertise in these procedures.		

RISK CONTROL STRATEGIES FOR ADVANCED PRACTICE PROVIDERS	STATUS	COMMENTS
<b>BASIC POLICY CONSIDERATIONS (CONTINUED)</b>		
<p><b>NP and PA scope of practice is formally delineated by a written statement</b> that comports with state practice regulations and addresses the following areas, among others:</p>		
<ul style="list-style-type: none"> <li>▪ Health assessment and diagnosis.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Ordering and interpreting of diagnostic tests.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Treatment and advanced interventions.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Drug prescribing.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Monitoring of patient outcomes.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Follow-up care.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Consultation and referral.</li> </ul>		
<p><b>Written policy statements and agreements regarding scope of practice are issued to practitioners and supervisors</b>, and are also kept on file at the healthcare setting.</p>		
<p><b>The supervising physician’s role and responsibilities are delineated in the practice agreement</b> (if required by state law) and communicated to administrators and managers.</p>		
<p><b>NPs and PAs are instructed to follow peer-reviewed, evidence-based and professional society-endorsed clinical pathways/guidelines</b> when determining differential diagnoses and treatment options, and to document use of these resources.</p>		
<p><b>The clinical procedures that NPs and PAs may perform are listed in writing</b>, as are the circumstances for which they are authorized, including emergency situations.</p>		
<p><b>NPs and PAs agree in writing to utilize standardized diagnostic and therapeutic procedures and guidelines</b>, which have been approved by the organization.</p>		
<p><b>These agreements – which include associated requirements and limitations – are signed and dated annually</b> by practitioners and their supervising physicians, as required by state law.</p>		
<p><b>NP and PA health record documentation and co-signature policies are in written form</b> and in accordance with state law.</p>		
<p><b>NPs and PAs are authorized to order only identified categories of drugs</b>, and prescribing parameters are set down in writing.</p>		
<p><b>Written protocol states when NPs and PAs must consult with a physician</b>, as in the following situations, among others:</p>		
<ul style="list-style-type: none"> <li>▪ A patient emergency occurs.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ A patient requests a physician consultation.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ A diagnostic test, examination or patient history produces an unexpected finding.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ A patient’s condition fails to respond to treatment or is outside the practitioner’s prescribed scope of practice.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ A patient returns unexpectedly within 48 hours for the same illness or complaint.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ A patient requires hospitalization or referral to a specialist.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ There is a conflict or question in regard to a state practice act or regulatory requirement.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ The need for an invasive procedure must be determined.</li> </ul>		

RISK CONTROL STRATEGIES FOR ADVANCED PRACTICE PROVIDERS	STATUS	COMMENTS
<b>CLINICAL SAFEGUARDS</b>		
<p><b>Newly hired NPs and PAs undergo an orientation period</b>, which emphasizes patient care expectations, patient safety/risk management practices and standards, communication skills, clinical documentation protocols, and referral policies and procedures.</p>		
<p><b>During the orientation period, NPs and PAs are monitored</b>, and their knowledge and competencies are verified in writing.</p>		
<p><b>NPs and PAs are assigned collaborating or supervising physicians</b>, as required by state law, who are in the same medical specialty.</p>		
<p><b>Collaborating/supervising physicians are continuously available during assigned work hours</b>, either in person, by telephone or via encrypted electronic media.</p>		
<p><b>The facility maintains a safe ratio of NPs/PAs to collaborating/supervising physicians</b>, as required by state regulations.</p>		
<p><b>Written practice agreements are executed with all NPs and PAs</b>, in order to mutually affirm permitted scope of practice and parameters of care.</p>		
<p><b>Practice agreements address the fundamentals of patient care</b>, including the following clinical tasks and duties, among others:</p>		
<ul style="list-style-type: none"> <li>▪ Taking patient histories, performing physical exams, and ordering laboratory tests and procedures.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Diagnosing, treating and managing diseases.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Performing certain common procedures and minor surgeries, such as lumbar punctures.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Prescribing medications within proper limits.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Coordinating referrals.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Providing patient education and counseling to support healthy lifestyle choices and behaviors.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Complying with patient safety and risk management standards and expectations.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Properly documenting clinical care.</li> </ul>		
<p><b>Practice agreements are reviewed and renewed annually</b>, and revised if necessary to ensure that changing state requirements are met and state-based templates adopted, where available.</p>		
<p><b>NPs and PAs wear an identification badge displaying their credentials</b>, and they educate patients about their role at first meeting.</p>		
<p><b>NPs and PAs prescribe medications in compliance with the relevant state licensing act</b> and in accordance with practice agreements.</p>		
<p><b>NPs and PAs obtain the informed consent of patients for all tests or procedures involving risk</b>, and document this process per organizational policy.</p>		
<p><b>Consent and treatment forms note the non-physician status of NPs and PAs</b> and explain their scope of practice and employment arrangement.</p>		
<p><b>All NP or PA notes are reviewed, countersigned and dated by a collaborating/supervising physician</b>, when required by state law.</p>		
<p><b>Deviations from established clinical pathways and protocols are communicated to the treatment team</b>, and the rationale is noted in the patient health information record.</p>		

RISK CONTROL STRATEGIES FOR ADVANCED PRACTICE PROVIDERS	STATUS	COMMENTS
<b>CLINICAL SAFEGUARDS (CONTINUED)</b>		
<b>Regular team meetings are held so that NPs, PAs and others can discuss issues of concern,</b> including any noted obstacles to compliance with established clinical pathways/protocols.		
<b>The charts of NPs and PAs are reviewed frequently during the probationary period,</b> every six months thereafter and as part of the annual performance review process, unless state law specifies otherwise.		
<b>Chart reviews assess key elements of documentation,</b> including the following:		
<ul style="list-style-type: none"> <li>▪ Diagnostic descriptions, comprising a differential diagnosis, plan and disposition.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Notation that routine standing orders have been followed, when applicable.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Explanations for any deviations from clinical guidelines or established policies and procedures, when applicable.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Rationale for referrals to outside healthcare providers.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Patient discussions, indicating names of participants, questions asked and answered, health literacy assessment and decisions reached.</li> </ul>		
<ul style="list-style-type: none"> <li>▪ Informed consent/refusal process.</li> </ul>		
<b>The organization employs an electronic referral system,</b> which permits monitoring and evaluation of the referral practices of NPs and PAs.		
<b>CONTRACTUAL PROTECTIONS</b>		
<b>Agreements/contracts with NPs and PAs clearly state expectations,</b> including full- or part-time practice commitments, exclusivity provisions, and continued education and training requirements.		
<b>Agreements/contracts designate collaborating/supervising and backup physicians by name,</b> describe the terms of collaboration/supervision, specify supervisory settings and address on-call coverage arrangements.		
<b>Agreements/contracts define specific duties of NPs and PAs,</b> which accord with authorized scope of practice and collaborating/supervising physicians' areas of expertise.		
<b>Agreement/contract provisions address patient safety and risk management expectations,</b> confidentiality rules, peer and quality review activities, and other applicable tasks and responsibilities.		
<b>Agreements/contracts delineate prescriptive authority and limitations,</b> and include a list of medications that NPs and PAs are permitted to prescribe.		
<b>Agreement/contract language clearly and unambiguously describes work hours, compensation, benefits and bonus policies,</b> as well as grounds for termination, such as failure to adhere to organizational policies and procedures.		
<b>Agreements/contracts specify annual performance review criteria for non-physician providers,</b> including patient satisfaction, thoroughness and accuracy of documentation, incident reporting, participation in root cause analyses, teamwork and communication skills, and adherence to risk management and patient safety protocols, as well as compliance with facility policies, bylaws and standards.		

RISK CONTROL STRATEGIES FOR ADVANCED PRACTICE PROVIDERS	STATUS	COMMENTS
<b>CONTRACTUAL PROTECTIONS (CONTINUED)</b>		
<b>Agreements/contracts cite specific statutes and regulations governing the roles of NPs and PAs,</b> and expressly list actions and behaviors that constitute breach of contract.		
<b>Agreements/contracts indicate professional liability insurance coverage requirements,</b> specifying limits of liability and stating which party is responsible for paying premiums, whether coverage is occurrence or claims-made, and how end-of-term or "tail" coverage will be managed.		
<b>Agreements/contracts incorporate standard protective language,</b> including non-compete, non-solicitation and non-disparagement clauses, as applicable.		
<b>Contracts of non-employed practitioners contain a contractor clause,</b> clearly stating that the NP or PA is not an employee of the organization.		
<b>Agreements/contracts are signed and dated annually by NPs, PAs and all collaborating/supervising physicians,</b> and copies are provided to the state licensing authority, where required by law.		

This tool serves as a reference for organizations seeking to evaluate risk exposures associated with advanced practice providers. The content is not intended to represent a comprehensive listing of all actions needed to address the subject matter, but rather is a means of initiating internal discussion and self-examination. Your clinical procedures and risks may be different from those addressed herein, and you may wish to modify the tool to suit your individual setting and patient needs. The information contained herein is not intended to establish any standard of care, serve as professional advice or address the circumstances of any specific entity. These statements do not constitute a risk management directive from CNA. No organization or individual should act upon this information without appropriate professional advice, including advice of legal counsel, given after a thorough examination of the individual situation, encompassing a review of relevant facts, laws and regulations. CNA assumes no responsibility for the consequences of the use or nonuse of this information.

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