

# **MEMORANDUM OF LAW**

to

Mr. Robert Hay Jr., Executive Director, MSDC

from

Reza Ghafoorian, MD, Esq.

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## MEMORANDUM OF LAW

TO: Robert Hay Jr.  
FROM: Reza Ghafoorian, MD, Esq.  
DATE: March 6, 2024

**RE: Mr. Robert Hay’s request, on behalf of the Medical Society of the District of Columbia, to review the new scope of practice amendments relating to Advanced Practice Registered Nurses (APRN) in the District under the new Health Occupations Revision General Amendment Act of 2023 (“HORA 2023”).**

**QUESTION PRESENTED**

- I. Whether the HORA 2023 allows independent practice by APRNs?
- II. Whether the HORA 2023 distinguishes between the different APRNs specialities?
- III. Whether the HORA 2023 defines a clear scope of practice for APRNs?
- IV. Whether the HORA 2023 establishes an acceptable level of experience for independent practice authority?

**BRIEF ANSWER**

- I. Yes. HORA 2023 allows independent practice to APRNs in the district.
- II. No. HORA 2023 does not distinguish between different APRN specialities.
- III. No. HORA 2023 does not clearly define the scope of practice for APRNs and the extent of experience required before embarking on independent practice.
- IV. No. HORA 2023 does not delineate any additional requirements for independent practice. APRNs can immediately start independent practice upon certification.

**APPLICABLE LAWS****I. HORA Amendments Act 2023**

In the HORA Amendments Act of 2023, the Council of the District of Columbia has amended the scope of practice for **Advanced Registered Nurses** to provide clarity for the scope of practice. Details of applicable amendments are discussed under the Discussions section, below.

**II. Current DC Laws Applicable To Advanced Practice Registered Nursing (APRN)**

DC Code § 3-1201.02 entitled “Definitions of health occupations” states, in part:

**(2) Practice of advanced practice registered nursing** means the performance of advanced-level nursing actions, with or without compensation, by a licensed registered nurse with advanced education, knowledge, skills, and scope of practice who has been certified to perform such actions by a national certifying body acceptable to the Board of Nursing. The practice of advanced practice registered nursing includes:

- (A) Advanced assessment;
- (B) Medical diagnosis;
- (C) Prescribing;
- (D) Selecting, administering, and dispensing therapeutic measures;
- (E) Treating alterations of the health status; and
- (F) Carrying out other functions identified in subchapter VI of this chapter and in accordance with procedures required by this chapter.

DC Code § 3-1206.03 entitled “Collaboration” states:

- (a) Generally, advanced practice registered nurses shall carry out acts of advanced registered nursing in collaboration with a licensed health care provider.

Under DC Code § 3-1206.04. Authorized Acts, APRNs can perform the following acts:

1. An advanced practice registered nurse may:
2. Initiate, monitor, and alter drug therapies;
3. Initiate appropriate therapies or treatments;
4. Make referrals for appropriate therapies or treatments;
5. Perform additional functions within his or her specialty determined in accordance with rules and regulations promulgated by the board; and
6. Sign, certify, stamp, or endorse all documents that require a signature by a physician, in place of a physician, provided it is within the scope of their authorized practice.

Under DC Municipal Regulations Title 17 Chapter 56, the rules describe the limitation of the APRN’s education. APRNs are required to meet the following educational standards:

1. Minimum of 3 core graduate-level courses in the following:
  - a. Advanced physiology/pathophysiology, including general principles that apply across the lifespan;
  - b. Advanced health assessment, which includes assessment of all human systems, advanced assessment techniques, concepts and approaches; and
  - c. Advanced pharmacology, which includes pharmacodynamics, pharmacokinetics, and pharmacotherapeutics of all broad categories of agents.
2. 500 hours of supervised direct care clinical;

3. A valid registered nursing license.

Surprisingly, the rules require strict qualifications for a nursing education program coordinator as follows:

1. minimum of 2 years of clinical experience as an advanced practice nurse;
2. minimum of a Doctoral degree in nursing.

The rules require that the APRN's certification program:

1. Not prepare beyond the scope of practice of the role or population;
2. Address a subset of the population-focus

### III. Current DC Laws Applicable To Certified Midwife Nurse

DC Municipal Regulations under Title 17, Chapter 58, Sec. 5808 states the following scope of practice:

- (a) Manage the care of the normal obstetrical patient;
- (b) Perform minor surgical procedure;
- (c) Manage the normal obstetrical patient during labor and delivery to include amniotomy, episiotomy, and repair;
- (d) Initiate and perform local anesthetic procedures and order the necessary anesthetic agents to perform the procedures;
- (e) Manage care of the newborn;
- (f) Perform post-partum examination;
- (g) Provide gynecological care for women;
- (h) Prescribe appropriate medications;
- (i) Provide family planning and STD services;
- (j) Provide primary health care; and
- (k) Such other functions and services the Board deems appropriate upon review and analysis of professional and association literature which articulates scopes and standards for nurse-midwifery practice.

## DISCUSSIONS

### I. APRNs

#### **A. HORA 2023 Expands APRNs Scope of Practice to Allow Independent Practice.**

Under the current laws, APRNs must practice under the supervision and in collaboration with a licensed care provider. However, HORA 2023 first amends the definition of APRN practice to include the word “independent” and further repeals DC Code Sec. 3-1206.03 which required practice in collaboration with a licensed health care provider.

Under DC laws, APRN includes certified nurse midwife (CNM), a certified registered nurse anesthetist (CRNA), clinical nurse specialist (CNS) and nurse practitioner (NP). NP specialties include:

- (a) Adult Nurse-Practitioner;
- (b) Pediatric Nurse-Practitioner;
- (c) Family Nurse-Practitioner;
- (d) Gerontologic Nurse-Practitioner;
- (e) Neonatal Nurse-Practitioner;
- (f) School Nurse-Practitioner; and
- (g) Psychiatric Nurse-Practitioner.

Maryland allows independent practice of Nurse Practitioners with restrictions. Nurse Practitioners in Maryland are APRNs who are Certified Nurse Practitioner (CNP). Nurse Practitioners do not include a certified nurse midwife (CNM), a certified registered nurse anesthetist (CRNA), or a clinical nurse specialist (CNS).<sup>1</sup>

Virginia also allows independent practice of Nurse Practitioners with more than 9,000 continuous practice hours (5 years). Prior to this practice VA laws require NPs to enter into a collaboration agreement with a physician. CNMs, CRNAs and CNSs do not have independent practice authority under VA laws.

#### **B. HORA 2023 Expands Certified Nurse Practitioner’s Duties and Scope of Practice Under Newly Added Sec. 607a of the Act.**

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<sup>1</sup> COMAR 10.27.07.00 - Practice of the Nurse Practitioner; also see, 10.27.07.01 - Definitions, and 10.27.07.03. Nurse Practitioner Scope and Standard of Practice.

(a) In addition to the general functions specified in § 604, a certified nurse practitioner may provide a full range of primary, acute and specialty healthcare services, including:

- (1) Ordering, performing and interpreting diagnostic tests such as lab work and x-rays;
- (2) Diagnosing and treating acute and chronic conditions such as diabetes, high blood pressure, infections, and injuries;
- (3) Prescribing medications and other treatments;
- (4) Managing patients' or clients' overall care;
- (5) Counseling;
- (6) Educating patients on disease prevention and positive health and lifestyle choices; and
- (7) Any other functions and roles as prescribed by rules.

**C. HORA 2023 Expands Certified Clinical Nurse Specialist's Duties and Scope of Practice Under Newly Added Sec. 607b of the Act.**

(a) In addition to the general functions specified in § 604, a certified clinical nurse specialist may provide diagnosis, treatment, and ongoing management of patients or clients related to specific specialties, including:

- (1) Populations (such as pediatrics, geriatrics, women's health);
- (2) Settings (such as critical care or emergency room);
- (3) Diseases or medical subspecialties (such as diabetes or oncology);
- (4) Types of care (such as psychiatric or rehabilitation); or
- (5) Types of problem (such as pain, wounds, stress).

(b) The practice of a clinical nurse specialist includes:

- (1) Providing for the continuous improvement of patient or client outcomes and nursing care;
- (2) Practicing within the core competencies and behaviors specified by the National Association of Clinical Nurse Specialists or other national certifying body recognized by the Board;
- (3) Creating therapeutic environments through mentoring and system changes;
- (4) Practicing with individual clients, families, groups, and populations of clients; and
- (5) Any other functions and roles prescribed by rules.

**D. HORA 2023 Imposes New Qualifications the APRNs Under Newly Added Sec. 607b of the Act.**

HORA 2023 requires that each of CRNAs, CNMs, CNPs, and CNSs possess at least a master's degree to qualify for certification as an advanced practice registered nurse.

