Maine Medical Association

TO: The Honorable Heather Sanborn, Chair
The Honorable Denise Tepler, Chair
Members, Joint Standing Health Coverage, Insurance and Financial Services

FM: Dan Morin, Director of Communications and Government Affairs

DATE: February 18, 2021

RE: **Opposed**
LD 295—An An Act To Repeal Restrictions That Prohibit Certain Advanced Practice Registered Nurses from Providing Essential Health Care Services

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The Maine Medical Association is the state's largest professional physician organization representing more than 4300 physicians, residents, and medical students in Maine whose mission is to support Maine physicians, advance the quality of medicine in Maine and promote the health of all Maine residents.

The Maine Medical Association strongly opposes LD 295, which removes from statute any supervision and training requirements for newly licensed advanced practice registered nursing (APRN) and leaves the development of scope and standards of practice entirely under the purview of the Maine State Board of Nursing.

The MMA strongly believes in the APRN role and current qualifications to provide competent care to patients in many settings across the state. However, passing LD 295 would lower the threshold and qualifications for licensure and allow APRNs to practice independently from day one after graduating from an accredited nurse practitioner education program.

Training guidelines need for licensure in Maine need to maintain more consistency across the spectrum of allowable clinical practice. While we understand the nurse practitioner profession has a unique approach to training, the required training and clinical hours that well prepare APRNs for

their roles in the health care delivery system greatly vary among different programs nationwide. It is our opinion that maintaining 32 MRSA §2102, sub-§2-A is critical to ensuring only appropriately prepared and clinically qualified APRNs are licensed in Maine.

During the 129th Maine Legislative Session, the Joint Committee on Health Coverage, Insurance and Financial Services spent nearly the entirety of the two-year session working with health care stakeholders resulting in Public Law 2019, Chapter 627 concerning physician assistants in Maine. The new law eliminates the requirement that physician assistants render care under the supervision and control of a physician and by extension any 'plan of supervision' but put in place the following **statutory guardrails** prior to:

- Physician assistants with less than 4,000 hours of practice must work under a collaborative agreement.
- Physician assistants with over 4,000 hours of practice may be the principal clinical provider in a practice without a physician partner but must have a practice agreement with a physician.
- Physician assistants with more than 4,000 hours of documented clinical practice as determined by the Board and are employed with a health care facility or physician group practice as defined by this rule under a system of credentialing and granting of privileges and scope of practice agreement are not required to have either a collaborative agreement or a practice agreement.

Overall, nurse practitioner and physician assistant programs are generally similar in the length and both master's and doctorate level tracks are available. Allopathic medicine and osteopathic medical school programs, are of course, significantly longer that NP and PA programs, requiring almost twice the amount of time to complete and thousands more hours of clinical training.

Physicians seeking licensure in Maine must meet detailed post graduate training requirements **directly outlined in state law** for allopathic physicians (M.D.) and osteopathic physicians (D.O.).

Postgraduate training is a critical step in competence for any clinical health care provider before caring for patients independently. It teaches them to apply what they learned in nursing practice

programs, physician assistant programs, and medical schools to build confidence and competence to work through basic health care as well as unexpected scenarios—especially for those clinicians choosing to specialize.

While the Maine Nurse Practice Act and accompanying rules refer to the "delivery of expanded professional health care by an advanced practice registered nurse" rather than the practice of medicine and surgery, under Maine law it is a distinction without a difference. The scope of practice for advanced practice nursing in statute is the functional equivalent.

Requirements for licensure as a potentially autonomous health care provider in Maine sets the minimum competency requirements to diagnose and treat patients and is not specialty specific. Post graduate on-site clinical training is an invaluable part of any clinician's continuing educational experience. There are many job readiness benefits to be gained by perfecting your real-world skills outside of the classroom. In clinical training settings, physicians, physician assistants, and advance practice nurses further learn to hone competencies by applying the targeted scientific methods studied in the classroom. Practice competence relies on a wide range of exposure to equipment, scenarios, environments, and patient populations. Maintaining the statutory requirement to work alongside an experienced physician or supervising nurse practitioner will better ensure potential APRN licensees can apply learned concepts in a patient-centered environment when responsible for making a diagnosis and developing treatment, not to mention maintain consistency in state law across professions.

Thank you for allowing us to testify in opposition to LD 295. We strongly urge the Committee to vote **Ought Not to Pass**.

ADVANCE PRACTICE REGISTERED NURSING

2-A. Advanced practice registered nursing. "Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

A. [PL 2003, c. 204, Pt. H, §1 (RP).]

B. Within the advanced practice registered nurse's scope of practice as specified by the board by rulemaking, taking into consideration any national standards that exist; and [PL 1995, c. 379, §4 (NEW); PL 1995, c. 379, §11 (AFF).]

C. In accordance with the standards of practice for advanced practice registered nurses as specified by the board by rulemaking, taking into consideration any national standards that may exist. Advanced practice registered nursing includes consultation with or referral to medical and other health care providers when required by client health care needs. [PL 1995, c. 379, §4 (NEW); PL 1995, c. 379, §11 (AFF).]

A certified nurse practitioner or a certified nurse midwife who qualifies as an advanced practice registered nurse may prescribe and dispense drugs or devices, or both, in accordance with rules adopted by the board.

The board shall adopt rules necessary to effectuate the purposes of this chapter relating to advanced practice registered nursing.

ALLOPATHIC MEDICAL LICENSURE

§3271. Qualifications for medical licensure

Except where otherwise specified by this chapter, all applicants for licensure as a physician or surgeon in the State must satisfy the following requirements. [PL 1993, c. 600, Pt. A, §208 (AMD).]

1. Medical education. Each applicant must:

A. Graduate from a medical school designated as accredited by the Liaison Committee on Medical Education; [PL 1983, c. 741, §1 (NEW).]

B. Graduate from an unaccredited medical school, be evaluated by the Educational Commission for Foreign Medical Graduates and receive a permanent certificate from the Educational Commission for Foreign Graduates; or [PL 1989, c. 5, §1 (AMD).]

C. Graduate from an unaccredited medical school and achieve a passing score on the Visa Qualifying Examination or another comprehensive examination determined by the board to be substantially equivalent to the Visa Qualifying Examination. [PL 1993, c. 600, Pt. A, §208

(AMD).]

[PL 1993, c. 600, Pt. A, §208 (AMD).]

2. Postgraduate training. Each applicant who has graduated from an accredited medical school on or after January 1, 1970 but before July 1, 2004 must have satisfactorily completed at least 24 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Notwithstanding other requirements of postgraduate training, an applicant is eligible for licensure when the candidate has satisfactorily graduated from a combined postgraduate training program in which each of the contributing programs is accredited by the Accreditation Council on Graduate Medical Education and the applicant is eligible for accreditation by the American Board of Medical Specialties in both specialties. Each applicant who has graduated from an accredited medical school prior to January 1, 1970 must have satisfactorily completed at least 12 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an accredited medical school on or after July 1, 2004 or an unaccredited medical school must have satisfactorily completed at least 36 months in a graduate educational program accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association, the Royal College of Physicians and Surgeons of Canada or the Royal Colleges of England, Ireland or Scotland. An applicant who has completed 24 months of postgraduate training and has received an unrestricted endorsement from the director of an accredited graduate education program in the State is considered to have satisfied the postgraduate training requirements of this subsection if the applicant continues in that program and completes 36 months of postgraduate training. Notwithstanding this subsection, an applicant who is board certified by the American Board of Medical Specialties is deemed to meet the postgraduate training requirements of this subsection. Notwithstanding this subsection, in the case of subspecialty or clinical fellowship programs, the board may accept in fulfillment of the requirements of this subsection postgraduate training at a hospital in which the subspecialty clinical program, such as a training program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization, is not accredited but the parent specialty program is accredited by the Accreditation Council on Graduate Medical Education.
The board may not require an applicant for initial licensure or license renewal as a physician under this chapter to obtain certification from a specialty medical board or to obtain a maintenance of certification as a condition of licensure. For the purposes of this subsection, "maintenance of certification" means a program that requires a physician to engage in periodic examination, self-assessment, peer evaluation or other activities to maintain certification from a specialty medical board.
[PL 2017, c. 189, §2 (AMD).]

3. Examination. Each applicant must achieve a passing score on each component of the uniform examination of the Federation of State Medical Boards or other examinations designated by the board as the qualifying examination or examinations for licensure. Each applicant must additionally achieve a passing score on a State of Maine examination administered by the board.
[PL 1993, c. 600, Pt. A, §208 (AMD).]

4. Fees. Each applicant shall pay a fee up to $600 plus the cost of the qualifying examination or examinations.
[PL 1999, c. 685, §7 (AMD).]

5. Board action. An applicant may not be licensed unless the board finds that the applicant is qualified and no cause exists, as set forth in section 3282-A, that may be considered grounds for disciplinary action against a licensed physician or surgeon.
[PL 1993, c. 600, Pt. A, §208 (AMD).]

6. Waiver for exceptional circumstances. The board may waive the requirements of subsection 2 for a physician who does not meet the postgraduate training requirements but who meets the requirements of this subsection.

A. To be considered for a waiver under this subsection, the physician must:

(1) Be a graduate of a foreign medical school, not including a medical school in Canada or Great Britain;

(2) Be licensed in another state; and

(3) Have at least 3 years of clinical experience in the area of expertise. [PL 2005, c. 363, §1 (NEW).]

B. If the physician meets the requirements of paragraph A, the board shall use the following qualifications of the physician to determine whether to grant a waiver:

(1) Completion of a 3-year clinical fellowship in the United States in the area of expertise. The burden of proof as to the quality and content of the fellowship is placed on the applicant;

(2) Appointment to a clinical academic position at a licensed medical school in the United States;

(3) Publication in peer-reviewed clinical medical journals recognized by the board;

(4) The number of years in clinical practice; and

(5) Other criteria demonstrating expertise, such as awards or other recognition. [PL 2005, c. 363, §1 (NEW).]

C. The costs associated with the board's determination of licensing eligibility in regard to paragraph B must be paid by the applicant upon completion of the determination under paragraph A. The application cost must reflect and not exceed the actual cost of the final determination. [PL 2005, c. 363, §1 (NEW).]

[PL 2005, c. 363, §1 (NEW).]

7. Special license categories. The board may issue a license limited to the practice of administrative medicine, or any other special license, as defined by routine technical rule of the board adopted pursuant to Title 5, chapter 375, subchapter 2-A.
[PL 2013, c. 355, §7 (AMD).]

PHYSICIAN ASSISTANT LICENSURE

§3270-G. Physician assistants; scope of practice and agreement requirements

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative agreement" means a document agreed to by a physician assistant and a physician that describes the scope of practice for the physician assistant as determined by practice setting and describes the decision-making process for a health care team, including communication and consultation among health care team members. [PL 2019, c. 627, Pt. B, §17 (NEW).]

B. "Consultation" means engagement in a process in which members of a health care team use their complementary training, skill, knowledge and experience to provide the best care for a patient. [PL 2019, c. 627, Pt. B, §17 (NEW).]

C. "Health care team" means 2 or more health care professionals working in a coordinated, complementary and agreed-upon manner to provide quality, cost-effective, evidence-based care to a patient and may include a physician, physician assistant, advanced practice nurse, nurse, physical therapist, occupational therapist, speech therapist, social worker, nutritionist, psychotherapist, counselor or other licensed professional. [PL 2019, c. 627, Pt. B, §17 (NEW).]

D. "Physician" means a person licensed as a physician under this chapter or chapter 36. [PL 2019, c. 627, Pt. B, §17 (NEW).]

E. "Physician assistant" means a person licensed under section 2594-E or 3270-E. [PL 2019, c. 627, Pt. B, §17 (NEW).]

F. "Practice agreement" means a document agreed to by a physician assistant who is the principal clinical provider in a practice and a physician that states the physician will be available to the physician assistant for collaboration or consultation. [PL 2019, c. 627, Pt. B, §17 (NEW).]

G. "Prescription or legend drug" has the same meaning as "prescription drug" in section 13702-A, subsection 30 and includes schedule II to schedule V drugs or other substances under the federal Controlled Substances Act, 21 United States Code, Section 812. [PL 2019, c. 627, Pt. B, §17 (NEW).]

[PL 2019, c. 627, Pt. B, §17 (NEW).]

2. Scope of practice. A physician assistant may provide any medical service for which the physician assistant has been prepared by education, training and experience and is competent to perform. The scope of practice of a physician assistant is determined by practice setting, including, but not limited to, a physician employer setting, physician group practice setting or independent private practice setting, or, in a health care facility setting, by a system of credentialing and granting of privileges.
[PL 2019, c. 627, Pt. B, §17 (NEW).]

3. Dispensing drugs. Except for distributing a professional sample of a prescription or legend drug, a physician assistant who dispenses a prescription or legend drug:

A. Shall comply with all relevant federal and state laws and federal regulations and state rules; and [PL 2019, c. 627, Pt. B, §17 (NEW).]

B. May dispense the prescription or legend drug only when:

(1) A pharmacy service is not reasonably available;

(2) Dispensing the drug is in the best interests of the patient; or

(3) An emergency exists. [PL 2019, c. 627, Pt. B, §17 (NEW).]

[PL 2019, c. 627, Pt. B, §17 (NEW).]

4. Consultation. A physician assistant shall, as indicated by a patient's condition, the education, competencies and experience of the physician assistant and the standards of care, consult with, collaborate with or refer the patient to an appropriate physician or other health care professional. The level of consultation required under this subsection is determined by the practice setting, including a physician employer, physician group practice, or private practice, or by the system of credentialing and granting of privileges of a health care facility. A physician must be accessible to the physician assistant at all times for consultation. Consultation may occur electronically or through telecommunication and includes communication, task sharing and education among all members of a health care team.
[PL 2019, c. 627, Pt. B, §17 (NEW).]

5. Collaborative agreement requirements. A physician assistant with less than 4,000 hours of clinical practice documented to the board shall work in accordance with a collaborative agreement with an active physician that describes the physician assistant's scope of practice, except that a physician assistant working in a physician group practice setting or a health care facility setting under a system of credentialing and granting of privileges and scope of practice agreement may use that system of credentialing and granting of privileges and scope of practice agreement in lieu of a collaborative agreement. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a collaborative agreement under this subsection. Under a collaborative agreement, collaboration may occur through electronic means and does not require the physical presence of the physician at the time or place that the medical services are provided. A physician assistant shall submit the collaborative agreement, or, if appropriate, the scope of practice agreement, to the board for approval and the agreement must be kept on file at the main location of the place of practice and be made available to the board or the board's representative upon request. Upon submission to the board of documentation of 4,000 hours of clinical practice, a physician assistant is no longer subject to the requirements of this subsection.
[PL 2019, c. 627, Pt. B, §17 (NEW).]

6. Practice agreement requirements. A physician assistant who has more than 4,000 hours of clinical practice may be the principal clinical provider in a practice that does not include a physician partner as long as the physician assistant has a practice agreement with an active physician, and other health care professionals as necessary, that describes the physician assistant's scope of practice. A physician assistant is legally responsible and assumes legal liability for any medical service provided by the physician assistant in accordance with the physician assistant's scope of practice under subsection 2 and a practice agreement under this subsection. A physician assistant shall submit the practice agreement to the board for approval and the agreement must be kept on file at the main location of the physician assistant's practice and be made available to the board or the board's representative upon request. Upon any change in the parties to the practice agreement or other substantive change in the practice agreement, the physician assistant shall submit the revised practice agreement to the board for approval. Under a practice agreement, consultation may occur through electronic means and does not require the physical presence of the physician or other health care providers who are parties to the agreement at the time or place that the medical services are provided.
[PL 2019, c. 627, Pt. B, §17 (NEW).]

7. Construction. To address the need for affordable, high-quality health care services

throughout the State and to expand, in a safe and responsible manner, access to health care providers such as physician assistants, this section must be liberally construed to authorize physician assistants to provide health care services to the full extent of their education, training and experience in accordance with their scopes of practice as determined by their practice settings.
[PL 2019, c. 627, Pt. B, §17 (NEW).]
SECTION HISTORY
PL 2019, c. 627, Pt. B, §17 (NEW).