



INSTITUTE FOR JUSTICE

April 16, 2020

Via Email and UPS

Governor Ron DeSantis
Office of the Governor
400 S. Monroe St.
Tallahassee, FL 32399-0001
GovernorRon.Desantis@eog.myflorida.com

Re: Florida's restrictions on nurse practitioners during the COVID-19 pandemic

Dear Governor DeSantis:

The Institute for Justice was very pleased to see that you signed HB 607 on March 11, which lived up to your commitment to reform occupational licensing throughout the State. Among other things, this bill loosened unnecessary restrictions on nurse practitioners, including the requirement that nurse practitioners be supervised by a physician throughout their career in order to practice. Unfortunately, however, this bill does not go into effect until July 1. In the meantime, Florida is still barring nurse practitioners from working in hospitals to assist with the COVID-19 pandemic unless they are supervised by a physician. This requirement is hurting the State's emergency efforts and is also completely unnecessary. We thus request that you lift this supervision requirement in your next emergency order.

We understand that you have approved several measures to ease barriers to licensure of health professionals during the pandemic, including allowing emergency license reactivation. These measures are extremely welcome and speak highly of the Sunshine State's ability to act quickly during a crisis. However, there is still more to be done—especially when it comes to nurse practitioners.

Under current state law, nurse practitioners (also known as advanced practice registered nurses) can practice independently only after being supervised by a physician. HB 607 relaxed this requirement by allowing nurse practitioners to be independent after 3,000 hours of supervision. However, this new law does not go into effect for another 76 days.

Meanwhile, current law is preventing many nurse practitioners from helping with COVID-19 patients, even as volunteers. Some physicians are unable to supervise nurse practitioners because of limitations in their medical malpractice insurance, while others



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cannot take on additional supervisory responsibilities during this chaotic time. Nurse practitioners want to be able to help now, but they are getting caught in red tape.

For all these reasons, United States Secretary of Health and Human Services Alex Azar recommended that states relax physician supervision requirements during this health crisis.¹ Many states have already done so, including Kentucky, Louisiana, Massachusetts, Michigan, New Jersey, New York, and Wisconsin.²

Indeed, the supervision requirement is completely unnecessary. Until HB 607 goes into effect, Florida has one of the strictest regulatory regimes for nurse practitioners in the country.³ Even before COVID-19, 28 states did not require career-long supervision of nurse practitioners, and fourteen states and the District of Columbia did not require supervision at all.⁴ In addition, multiple studies, including an extensive 2018 report from the Brookings Institute, have found that physicians' supervision of nurse practitioners does not increase quality or safety but just restricts competition, raises prices, and reduces patient access to care.⁵ During the COVID-19 pandemic, it may also cost lives.

¹ *HHS Sends Letter, Guidance to States Encouraging State Licensing Waivers, Relaxation of Scope of Practice Requirements*, NCSBN (March 27, 2020), <https://www.ncsbn.org/14566.htm>.

² American Association of Nurse Practitioners, *COVID-19 State Emergency Response: Temporarily Suspended and Waived Practice Agreement Requirements*, <https://www.aanp.org/advocacy/state/covid-19-state-emergency-response-temporarily-suspended-and-waived-practice-agreement-requirements>.

³ *E.g.*, American Association of Nurse Practitioners, *State Practice Environment*, <https://www.aanp.org/advocacy/state/state-practice-environment>.

⁴ Becker's Hospital Review, *28 states with full practice authority for NPs* (Dec. 28, 2019), <https://www.beckershospitalreview.com/hospital-physician-relationships/28-states-with-full-practice-authority-for-nps.html>.

⁵ *E.g.*, E. Kathleen Adams & Sara Markowitz, *Improving efficiency in the health-care system: Removing anticompetitive barriers for advanced practice registered nurses and physician assistants* (June 2018), <https://www.brookings.edu/research/improving-efficiency-in-the-health-care-system-removing-anticompetitive-barriers-for-advanced-practice-registered-nurses-and-physician-assistants/>; Institute for Justice, *The Costs of Occupational Licensing* (Nov. 2018), <https://ij.org/report/at-what-cost/costs-of-occupational-licensing/>.



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We thus respectfully recommend that you lift the supervision requirement for nurse practitioners during the pandemic, which would allow them to help overburdened hospitals and needy patients. If you have any question, I can be reached at 631-383-5302 or esmith@ij.org.

Sincerely,

Erica Smith
Senior Attorney
Institute for Justice