Members of the Massachusetts Board of Registration in Nursing,
Dr. Lorena Silva, Executive Director,
Massachusetts Board of Registration in Nursing
239 Causeway St., Suite 500, 5th Floor,
Boston, MA 02114

Subject: **EMERGENCY AMENDMENTS TO** **MASSACHUSETTS REGULATIONS 244 CMR 4.00**

Dear Executive Director Silva and Members of the Board,

The American Association of Nurse Practitioners (AANP) is the largest professional membership organization for nurse practitioners (NPs) of all specialties. It represents the interests of the more than 248,000 licensed NPs in the United States, including the over ten-thousand licensed NPs in the commonwealth of Massachusetts. AANP provides legislative leadership at the local, state, and national levels, advancing health policy; promoting excellence in practice, education, and research; and establishing standards that best serve NP patients and other health care consumers. As the voice for NPs, AANP is invested on behalf of our over one-thousand four hundred AANP nurse practitioner members in Massachusetts and their patients in any changes that impact policy and health care delivery.

AANP values the opportunity to comment on the proposed changes to Massachusetts Regulations 244 CMR Chapter 4 and Chapter 10 for the hearing scheduled for July 16, 2021. These regulations were reviewed by comparison to the statutory requirements set forth in emergency [law st.2020, c.260*, An Act Promoting a Resilient Health Care System that Puts Patients First*](https://malegislature.gov/Bills/191/S2984) enacted in January of 2021.

AANP appreciates that the proposed emergency amendments to regulations for the Board of Registration in Nursing for 244 CMR 4.00 and 10.00 strongly prioritize the critical improvements state lawmakers intended with the passage of Chapter 260 of the Acts of 2020 to advance patient access to NP care.

We have identified four major areas for comments in the enclosure. Should the proposed regulations be implemented without change, some rulemaking elements would create bottlenecks in the pool of qualified providers available to serve patients; limiting the potential gains to the healthcare system intended for the Commonwealth with this legislation.

For questions regarding these comments, best practice recommendations from the Consensus Model, or any of the statutes referenced in the review, please contact in writing the AANP State Government Affairs Department Policy Analyst, Ashley Shew, by phone 571-777-8450 or in writing to ashew@aanp.org.

Sincerely,

Tay Kopanos, DNP, Vice President, State Government Affairs

American Association of Nurse Practitioners

Ashley Shew, Policy Analyst, State Government Affairs
American Association of Nurse Practitioners

1. **Requirements for Qualifying Healthcare Professional
244 CMR 4.07 Current proposed revisions (Page 17 of 21)**

*4.07 Advanced Practice Registered Nurses Eligible to Engage in Prescriptive Practice* ***[…]****For purposes of 244 CMR 4.07, a Qualified Healthcare Professional means a person who meets the following criteria: (a) A physician who: 1.holds an unrestricted full license issued by the Board of Registration in Medicine (BORIM) that is in good standing; and 2.is Board-certified in a specialty area appropriately related to the APRN’s area of practice, or has hospital admitting privileges in a specialty area appropriately related to the APRN’s area of practice, and 3.holds a valid controlled substances registration issued by the U.S. Drug Enforcement Administration, or the Department of Public Health, or both. (b) A CRNA, CNP or PNMHCS who holds: 1.a valid Registered Nurse license in good standing issued by the Board, and 2.advanced practice authorization issued by the Board that it is in the same clinical category as the person being supervised; and 3.a controlled substance registration issued by the U.S. Drug Enforcement Administration, or the Department of Public Health, or both, for a minimum of one year; and 4. either i. a combination of supervised practice for a minimum of two years plus independent practice authority for a minimum of one year, or ii. three years of independent practice authority*.

**AANP Recommendation:**
AANP recommends modifying “*qualifying healthcare professional” (QHP)* requirements in *CMR 244 4.07 to* retain the flexibility, discretion and authority granted by state law to the Board of Nursing (BON) in keeping with legislative intent to improve access to care.AANP’s interpretation of the new statute *section 80E of Chapter 112 of M.G.L* is that legislators granted BON authority to set the minimum requirements for a qualifying health professional APRN supervisor at zero years and to approve alternative professional experience for independent practice that satisfies the statute. This application of the law is consistent with safe public policy and the experience of other full practice authority states.

* **Sixteen jurisdictions** *(13 states, the District of Columbia and 2 U.S. territories)* authorize independent practice for NPs without any supervisory period after licensure.
* Only **four states** also require supervising NPs to meet added criteria or document time-in-practice prior to serving in the role of a “qualified health professional” for other licensed NPs.
* These minority of states with added criteria for supervising health professionals have experienced challenges with securing supervising providers and impacted the ability of NP-clinics to hire new graduates.
* **No state** that has authorized NPs to serve as supervisory health professionals has ever sought to *add* more restrictions or criteria. In fact, due to those workforce challenges described above, Colorado later retired their added criteria for APRN supervising healthcare professionals.

Based on the safety track record and experiences of other states, AANP encourages the Board to exercise its authority and adopt less restrictive regulation to better balances the needs of public safety and access to care.

 **Suggested Language:**

*For purposes of 244 CMR 4.07, a Qualified Healthcare Professional means a person who meets the following criteria: (a)A physician who holds an unrestricted full license issued by the Board of Registration in Medicine (BORIM) that is in good standing;*

*(b)A CRNA, CNP or PNMHCS who holds: 1. A valid Registered Nurse license in good standing issued by the Board, and 2. Advanced practice authorization issued by the Board and; 3. Independent practice authority or alternative professional experience as determined by the Board.*

1. **Requirements for APRN Guidelines and Documentation****244 CMR 4.07(2) Current proposed revisions (Pages 18-19 of 21)**

Prescriptive Practice
*CRNAs, CNPs or PNMHCSs may engage in prescriptive practice as authorized pursuant to G.L. c. 94C, § 7 and G.L. c. 112, §§ 80B, 80E and 80H.
[…]
(c) CRNAs, CNPs or PNMHCSs with less than two years of supervised practice experience, or its equivalent, may engage in prescriptive practice with supervision by a Qualified Healthcare Professional/CRNAs, CNPs or PNMHCSs with less than two years supervised practice will develop mutually agreed upon guidelines with the Qualified Healthcare Professional which will:*

*1. identify the supervising Qualified Healthcare Professional, including a defined mechanism for the delegation of supervision to another Qualified Healthcare Professional, including but not limited to, duration and scope of the delegation and

2.Describe circumstances in which Qualified Healthcare Professional consultation or referral is required3. CRNA guidelines do not need to be signed. CNP and PNMHCS guidelines shall be signed. The guidelines will be kept on file in the workplace and conform to M.G.L. c. 94C, the regulations of the Department of Public Health at 105 CMR 700.000 et seq., 105 CMR 721.000 et seq., M.G.L. c. 112, §§ 80B, 80E, 80H, 80I, and the regulations of the Board of Registration in Nursing at 244 CMR 4.00*

 **AANP Recommendation:**
AANP recommends modifying the *“clinical guidelines”* elements in 244 CMR 4.07(2) *Prescriptive Practice* to satisfy the documentation requirements of *section 80E(a) of Chapter 112 of M.G.L* while maintaining the flexibility the legislature intended for the BON and APRN to develop guidelines. The new statute does not require guidelines to contain specific procedures for delegation or alternative QHP as currently proposed in regulation. New statute *does* require that guidelines must be developed and signed by the CRNA, CNP **and** PNMHCNS roles. [*Section 80E, 80H of Chapter 112 of M.G.L]*

**Suggested Language:**

*CRNAs, CNPs or PNMHCSs with less than two years of supervised practice experience, or its equivalent, may engage in prescriptive practice with supervision by a Qualified Healthcare Professional . CRNAs, CNPs or PNMHCSs with less than two years supervised practice will develop mutually agreed upon guidelines with the Qualified Healthcare Professional which will:*

*1. identify the supervising Qualified Healthcare Professional,*

*2. describe circumstances in which Qualified Healthcare Professional consultation or*

*referral is required.*

*3. The guidelines will be signed and kept on file in the workplace and conform to M.G.L. c. 94C, the regulations of the Department of Public Health at 105 CMR 700.000 et seq., 105 CMR 721.000 et seq., M.G.L. c. 112, §§ 80B, 80E, 80H, 80I, and the regulations of the Board of Registration in Nursing at 244 CMR 4.00*

1. **Modernize Rulemaking to Align with National Standardized Terminology
244 CMR 4.0 et. Seq. 10.00 Current proposed revisions (Pages 4, 16 of 21)**

244 CMR 4.03, **Clinical Categories** of Advanced Practice Registered Nurses *4.03:* ***Clinical Categories*** *of Advanced Practice Registered Nurses*

*Board recognized APRN clinical categories and abbreviations include:*

1. *Certified Registered Nurse Anesthetist (CRNA)*
2. *Certified Nurse Midwife (CNM)*
3. *Certified Nurse Practitioner (CNP)*
4. *Clinical Nurse Specialist (CNS)*
5. *Psychiatric Nurse Mental Health Clinical Specialist (PNMHCS). This* ***category*** *corresponds to M.G.L. c. 94C, §§ 1, 7 and 9 and G.L. c. 112, §§ 80E and includes the advanced practice registered nurse* ***clinical category*** *Psychiatric Clinical Nurse Specialist (PCNS).
[…]*244 CMR 4.06 *“(3)” Certified Nurse Practitioner”.*
6. *Certified Nurse Practitioner (CNP): A CNP will only practice in the* ***clinical category(s)*** *for which the CNP has attained and maintained certification. A CNP may attain additional competencies within their* ***category(s)*** *consistent with the scope and standards of CNP practice. It is the responsibility of each CNP to maintain records of competency-based training and submit evidence to the Board upon request.*

*[…]*

**AANP Recommendation:**
AANP recommends modernizing the term *“clinical category”* throughout 244 CMR in favor of clinical *“APRN role(s)”***.**This terminology would be consistent with thenational standard, align with the APRN Consensus Model, and provide greater clarity for APRNs relocating from another state or jurisdiction to Massachusetts.

**Suggested Language Examples:**

*4.03: Clinical* ***Roles*** *of Advanced Practice Registered Nurses
Board recognized clinical* ***Roles*** *and abbreviations include:*

1. *Certified Registered Nurse Anesthetist (CRNA)*
2. *Certified Nurse Midwife (CNM)*
3. *Certified Nurse Practitioner (CNP)*
4. *Clinical Nurse Specialist (CNS)*
5. *Psychiatric Nurse Mental Health Clinical Specialist (PNMHCS). This category corresponds to M.G.L. c. 94C, §§ 1, 7 and 9 and G.L. c. 112, §§ 80E and includes the advanced practice registered nurse clinical* ***APRN role*** *Psychiatric Clinical Nurse Specialist (PCNS).*
6. **Selected Conforming Changes:
Revisions to Definitions commensurate with above recommendations for 244 CMR 10
244 CMR 4.0 et. Seq. 10.00 *Current BON adopted revisions as of June 11, 2021***

*Code of Massachusetts Regulations
Title 244: Board of Registration in Nursing*

*Chapter 10.00: Definitions and Severability*

*244 CMR 10.01*

*10.01: Definitions
The following definitions apply to all of 244 CMR, unless otherwise specified…*

 **AANP Recommendation:**

The current proposed definitions in *244 CMR 10* may need additional revisions to align new statute and any changes to *244 CMR 4.00*. AANP recommends retaining most of the newly constructed definitions in *244 CMR 10* with minor updates to accommodate new statute and align with APRN consensus model language for the profession.

* 1. Elimination of current definition of *“supervising physician”* and eliminate corresponding references throughout 244 CMR.
	2. Modify existing definition of *“guidelines”* to strike *“physician”* and replace with *“qualifying healthcare professional*”, which is further outlined in CMR 244 4.07.
	3. Update definitions of *“APRN Practice”* and *“Board Recognized APRN Certification Organization”* to clarify clinical “*APRN role(s)”* using standardized national terminology recommended by the APRN consensus model.

**Suggested Language: (Continued on Next Page)**

*APRN Practice. Professional nursing activities including, but not limited to: advanced assessment, diagnosis, treatment, referrals, consultations, and other modalities for individuals, groups or communities across the life span for health promotion or health maintenance and for those who are experiencing acute or chronic disease, illness, trauma or other life-altering event in which rehabilitative, and/or palliative interventions are necessary, to the extent that those activities lie within the APRN’s authorized clinical* ***role ~~category~~,*** *scope of practice competencies, and accepted standards of Advanced Nursing practice.*

*[…]*

**Suggested Language, 244 CMR 10.00, Continued:**

*Board-recognized APRN Certifying Organization. A certifying organization for APRN practice which employs the following characteristics and criteria:*

*(a) is national in the scope of its credentialing;*

*(b) establishes and maintains conditions for writing the certification examination consistent with acceptable national standards;*

*(c) establishes and maintains educational requirements consistent with the requirements of the* ***APRN clinical role ~~category~~ of practice;***

*(d) establishes and maintains standard methodologies national in scope such as incumbent job analysis studies;*

*(e) designs and administers a certification examination that represents entry-level practice in* ***the APRN clinical role ~~category~~*** *and represents the knowledge, skills and abilities essential for the delivery of safe and effective advanced practice nursing care;*

*[**…]*

*Guidelines, as used in 244 CMR 4.00: Advanced Practice Registered Nursing, means written instructions and procedures describing the methods that an APRN with prescriptive practice is to follow when managing medications and that specifies those instances in which referral to or consultation with a* ***~~physician~~ a qualifying health care provider*** *is required for appropriate medication management. When appropriate, guidelines shall also address procedures for the ordering of tests and therapeutics.*

*[…]*

*~~Supervising Physician.~~*

*~~A physician holding an unrestricted full license in Massachusetts who:~~* *~~(a) has completed training in the United States approved by the Accreditation Council for Graduate Medical Education (ACGME) or in Canada approved by the Royal College of Physicians and Surgeons in Canada (RCPSC) in a specialty area appropriately related to the APRN’s area of practice, is Board-certified in a specialty area appropriately related to the APRN’s area of practice, or has hospital admitting privileges in a specialty area appropriately related to the APRN’s area of practice. Notwithstanding the above, a physician who collaborates with a certified Psychiatric Clinical Nurse Specialist must have completed training in psychiatry approved by the ACGME or the RCPSC, or be Board-certified in psychiatry;~~*

*~~(b) holds valid registration(s) to issue written or oral prescriptions or medication orders for controlled substances from the Massachusetts Department of Public Health and the U.S. Drug Enforcement Administration;~~*

*~~(c) provides supervision to a certified nurse practitioner, a certified psychiatric clinical nurse specialist, or certified registered nurse anesthetist, as provided for in the appropriate law or regulations of the Board of Registration in Nursing at~~* [*~~244 CMR 4.07~~*](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1012167&cite=244MADC4.07&originatingDoc=I3EBF73D0D54B11EBA8B3C0112FDA2153&refType=VP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Category))*~~: APRN Eligible to Engage in Prescriptive Practice and the regulations of the Board of Registration in Medicine at~~* [*~~243 CMR 2.10~~*](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1012167&cite=243MADC2.10&originatingDoc=I3EBF73D0D54B11EBA8B3C0112FDA2153&refType=VP&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Category))*~~: Advanced Practice Nurse (APN) Eligible to Engage in Prescriptive Practice;~~*

*~~(d) signs mutually developed and agreed upon prescriptive practice guidelines with the APRN, and~~*

*~~(e) reviews the prescriptive practice of a certified nurse practitioner, certified psychiatric clinical nurse specialist or certified registered nurse anesthetist as described in the guidelines~~*~~.~~