

November 1, 2017

Honorable Elaine L. Chao
Secretary
Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Ave. SE., Room W12-140
Washington, DC 20590-0001

RE: DOT-OST-2017-0069 – Notification of Regulatory Review

Dear Secretary Chao,

The American Association of Nurse Practitioners (AANP) appreciates the opportunity to provide comment in response to the Department of Transportation's (DOT) Notification of Regulatory Review (82 Fed. Reg. 45750, October 2, 2017).

NPs are advanced practice registered nurses who are prepared at the masters or doctoral level to provide primary, acute, chronic and specialty care to patients of all ages and walks of life. Daily practice includes: assessment; ordering, performing, supervising and interpreting diagnostic and laboratory tests; making diagnoses; initiating and managing treatment including prescribing medication and non-pharmacologic treatments; coordinating care; counseling; and educating patients and their families and communities. NPs practice in nearly every health care setting including clinics, hospitals, Veterans Affairs and Indian Health Care facilities, emergency rooms, urgent care sites, private physician or NP practices (both managed and owned by NPs), nursing homes, schools, colleges, retail clinics, public health departments, nurse managed clinics, homeless clinics, and home health. NPs hold prescriptive authority in all 50 states and the District of Columbia. It is important to note that 89.2% of NPs are certified in primary care, the majority of whom see Medicare and Medicaid patients. NPs complete more than one billion patient visits annually.

AANP has a long history of working with the DOT to establish safe practices for commercial truck drivers, including the development of the current Federal Motor Carrier Safety Administration (FMCSA) certification program. As you are aware, nurse practitioners are already authorized to become certified medical examiners by the FMCSA and are included as certified medical examiners in the national registry. We have reviewed the indicated chapters and have identified three areas that require regulatory updating.

Medical Review Officers (MRO):

While NPs are certified medical examiners, the language regarding NPs serving as MROs who receive, review and evaluate laboratory results generated by an employer's drug testing program needs to be updated.¹ Nurse practitioners have the education and clinical training to perform the duties of an MRO, and as long as an NP completes the DOT's training and certification program for MROs, they should be allowed to perform in that capacity.

¹ 49 CFR § 40.3, 49 CFR § 40.121

DOT has not updated the practitioner roster for performing MRO duties since 2000² and the current definition is not consistent with the role that nurse practitioners play in today's health care system. We ask that the DOT update the definition of an MRO to include nurse practitioners in the class of clinician allowed to fulfill that role.

Certified Medical Examiners:

As previously noted, NPs are authorized to become certified medical examiners by the FMCSA. Consistent with this, and with the scope of practice of nurse practitioners, NPs need to be authorized to be certified as aviation medical examiners by the Federal Aviation Administration (FAA)³ and as medical examiners for locomotive engineers by the Federal Railroad Administration (FRA).⁴ DOT has recognized that NPs have the education and clinical training to fill the role of medical examiner which should be reflected throughout the DOT regulations. This unnecessary regulatory burden should be removed and the FMCSA definition of certified medical examiner be implemented by the FAA and FRA as well.

Disability Determination for Uniform System for Parking:

Title 23 Part 1235 of the Code of Federal Regulations provides guidelines for states to establish a uniform system for handicapped parking for persons with disabilities. The guidelines for issuing special license plates and windshield placards to identify when a person has a disability state that a disability determination is conducted by a licensed physician. This guidance is outdated and inconsistent with state rules authorizing NPs to perform these duties. Use of language such as "medical professional" or "medical provider" would be more consistent with current terminology and practice. We suggest that DOT update these regulations and change the word "physician" to "medical professional" or "medical provider" in their guidance.

We thank you for the opportunity to respond to this request for recommendations. We would appreciate DOT updating your regulations and sub-regulatory guidances regarding the inclusion of nurse practitioners in DOT regulatory language. We look forward to a continuing dialogue with the DOT on ways that NPs can assist in managing our nation's transportation system. Should you have comments or questions, please direct them to MaryAnne Sapio, V.P. Federal Government Affairs, msapio@aanp.org, 703-740-2529.

Sincerely,

David Hebert
Chief Executive Officer

² 65 Fed. Reg. 79526, Dec. 19, 2000.

³ https://www.faa.gov/other_visit/aviation_industry/designees_delegations/designee_types/ame/become

⁴ 49 CFR 240.7