August 12, 2019

Dr. Wayne Stuberg, Chair
Technical Review Committee
Division of Public Health, Licensure Unit Nebraska
Department of Health and Human Services
P.O. Box 95026
Lincoln, NE 68509

RE: Nebraska Academy of Physician Assistant Credentialing Review

Dear Dr. Stuberg and members of the Technical Review Committee,

Below, please find my testimony for the August 12 public hearing on the Physician Assistant Application for change in scope of practice.

“Good morning, my name is Kurt Schmeckpeper, and I am speaking today on behalf of the Nebraska Academy of Physician Assistants, or NAPA, the applicant group seeking to modernize the Nebraska statutes regulating our practice.

Over the last two meetings NAPA representatives have shared with this committee why our profession thinks these requested changes are needed, and this committee has also heard from other groups who expressed some concern regarding some of the changes we were seeking to make. Because physicians and PAs work together to collaboratively serve patients, we knew we could use that same model to come to agreement on the changes sought under this application.

You should have in front of you two formats of the changes to the application that we are presenting for your consideration. One is a two-page document that lays
out each point of the application and notes where NMA either agreed to the changes or expressed concern. For each of the areas where there HAD BEEN disagreement, the red print shows the new agreement that both groups would like to move forward with. The second, much longer document, is the red-line version of our original application, as it was requested by the Chair of the committee.

The NMA will also be testifying today, and so my testimony is not intended to speak for them, but to give you the context of how our two groups have been working together.

The rest of my testimony today will walk through NAPA’s application, calling your attention specifically to any changes we are requesting to make to our application based on the NAPA/NMA collaboration and compromise.

In general, the NAPA application is seeking the modernization of the statutes regulating the PA scope of practice. These proposed changes will allow PAs to continue to provide high-quality patient care as part of a healthcare team, while also reducing the administrative burdens or statutory confusion currently experienced by both PAs and the physicians with whom they practice.

NAPA’s original technical review application was divided into seven points, with descriptions of the proposed changes starting on page five of the application.

First, NAPA is seeking to modernize the statutory mandates related to PA-physician employment relationships and the practice of PAs. Our application requests that this committee would approve removing specific employment requirements for a PA to practice in a hospital setting that are currently contained in 38-2047(5). NAPA believes that removing these hospital specific provisions will place all PAs (no matter who they are employed by) on an even playing field and will remove any unnecessary confusion about what the statutes may require for hospitals wishing to hire a PA. If this section of statute is repealed, hospitals that are employing PAs are able to decide at their own facility how to manage this employment relationship.

The second piece of this modernization is the first area where we are requesting to change our application. Originally NAPA was requesting to remove the
requirement that physician supervision be continuous. We have agreed with the NMA that rather than removing this requirement, we suggest an addition of language within this supervision requirement that refers the reader back to the definition of supervision in 38-2018. We believe this change helps to clarify what is meant by “supervision,” requiring the ready availability of a physician, but “supervision” does not mean “in person.”

Our application also seeks to remove the overly prescriptive sections of statute mandating the provisions that must be included in the PA-physician practice agreement, currently outlined in Section 38-2050(2). Again, these are decisions best left to the physician and the PA governed by the agreement.

The NAPA application originally sought to increase the PA to physician ratio contained in Section 38-2050(4) from 4:1 to 8:1. However, we believe that the increased access to care we were seeking with this change could also be accomplished by leaving the current ratio in statute and instead working with DHHS to streamline the waiver process via an electronic form and allowing for electronic approval of such form by the PAC in between quarterly meetings.

The third section of our application seeks to amend statutory language to more accurately reflect the current state of physician-PA relationships. Under our application, PAs are allowed to engage in practice under a collaborative agreement with the supervision of a physician and are allowed to practice as a part of a healthcare team. These changes include redefining “supervising physician” as defined in Section 38-2017 to “a licensed physician who supervises a physician assistant under a collaborative agreement”, and; redefining “supervision” as defined in Section 38-2018 to mean the ready availability of the supervising physician for consultation and collaboration on the activities of a physician assistant.

An important part of the application is updating PA scope of practice provisions contained in 38-2047 that allow a PA scope of practice to reflect legal medical services for which a PA has been prepared by their education, training, and experience and is competent to perform, rather than defining the PA’s scope of practice only by the scope of practice of the supervising physician. This is the fourth section of the application.
Our compromise with the NMA in this area is one where we agree in principle, but the exact language for the statutory change will require some additional attention. Overall, our two organizations agree that a PA scope of practice should be based on the education, training, and experience of the PA, as long as those skills are also supported by the PA’s current practice setting, either as a component of the supervising physician’s scope of practice or as a component of the scope of practice of other physicians working with the PA in the same practice.

The fifth point in our application seeks to update PA prescribing provisions under Section 38-2055, to include non-pharmacological interventions and clarifying that provisions allowing healthcare providers to furnish medications to patients in certain cases applies to PAs. While NMA had originally objected to the removal of language that specifies that PAs may prescribe drugs and devices “as delegated to do so by a supervising physician,” we are proceeding with the language in our original application. Prescribing is a part of the PA’s scope of practice that will remain limited by the provisions discussed in the immediately preceding section, where the PA will only be prescribing based on his or her education, training, and experience, as supported by the supervising physicians or other doctors who work with the PA in that practice setting.

The sixth point of our application seeks to modify the membership of the Board of Health, listed in Section 71-260, to include one PA member. This is an important provision that will allow PAs to have better input into the regulation and oversight of our profession.

And finally, our application seeks to change the governance of the PA Committee, set forth in Section 38-2056. We are proposing a compromise change to our application in this area, where we would no longer aim to change the make-up of the PAC Committee, but instead would change the voting provisions. The suggested change in this area would be to give the Board of Medicine and Surgery Physician representative an advisory role on the PAC that would not be a voting role. When the PAC recommendations are passed along to the Board of Medicine and Surgery, that physician member will have a vote at that time as a member of that Board. The additional physician representative on the PAC will continue to have a vote on PAC matters.
We appreciate the Committee's careful review of our application, and we greatly appreciate your consideration of the compromises we are bringing forward today. Thanks for your time and attention and the work you do to improve health care delivery for patients across the state.”

Signed,

Kurt Schmeckpeper, MPAS, PA-C
Past President, Nebraska Academy of Physician Assistants