



**The Nurse Practitioner Association** New York State

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**MEMORANDUM OF SUPPORT**  
S.1869 (Hannon)/A.7277 (Gottfried)

*AN ACT to amend the public health law, in relation to authorizing nurse practitioners to execute orders not to resuscitate and orders pertaining to life sustaining treatments*

The Nurse Practitioner Association New York State (“NPA”) is the only statewide professional association of nurse practitioners (“NPs”) in New York, nearly 20,000 of who practice throughout New York State. The NPA and its members are committed to maintaining the highest professional standards for nurse practitioners, and ensuring the greatest quality care for health care consumers. Our organization provides continuing education programs, assists in NP preparation, and advocates with respect to legislative and regulatory issues which affect nurse practitioners and the patients they serve. The NPA strongly supports S.1869 (Hannon)/A.7277 (Gottfried), which would amend the Public Health Law in order to add “attending nurse practitioner” to the list of health care providers who are authorized to execute an order not to resuscitate, as well as orders pertaining to life sustaining treatments.

Nurse Practitioners are advanced practice registered nurses educated at the Masters and Doctoral levels. These professionals are authorized to independently diagnose illness and physical conditions and perform therapeutic and corrective measures, order tests, prescribe medications, devise and immunizing agents, and refer patients to other health care providers. Similarly, NPs are expressly authorized to sign death certificates in the same manner as physicians.

Acknowledging the education, skills, and roles of NPs, in 2010, both the Senate and the Assembly passed legislation that would have authorized NPs to execute orders not to resuscitate. The legislation was supported by the State Education Department (“SED”), which noted that in situations where a NP is serving as the primary care provider for a patient, the NP “may better understand the patient’s medical concerns surrounding cardiopulmonary resuscitation and may be better suited to facilitate discussions relating to the patient’s condition and risks associated with such resuscitation with the patient or the patient’s family. Moreover, the nurse practitioner may be better suited to assess the appropriateness of such an order given the patient’s condition.”

Nevertheless, the bill contained a technical flaw. Earlier in 2010, the State had adopted revisions to the sections of the Public Health Law that addressed orders not to resuscitate, and created separate provisions pertaining to DNR orders in hospitals and DNR orders for residents of mental hygiene facilities. The NP-DNR bill that passed both houses did not account for those revisions and, as a result, the Department of Health (“DOH”) noted that if the bill was signed by the Governor, NPs “would not be permitted to issue DNR orders in hospitals as the legislation originally intended. The Department [did] not believe it is appropriate to have differing standards for mental hygiene facilities and other facilities pertaining to who has legal authority to issue

DNR orders.” As a result, the bill was vetoed by then-Governor Paterson. The legislation, however, has since been revised to address the concerns raised by the Health Department and the Executive.

More and more frequently, NPs are the primary care provider of choice for many New Yorkers, often serving as the attending health care provider for patients – in many settings. As a result, the NP may be more familiar with the wishes of those patients and their family members than any other practitioner. Decisions regarding life sustaining treatment or other orders not to resuscitate are deeply personal ones. The patient should be able to contemplate such decisions in consultation with his or her primary care provider, which in many instances is a nurse practitioner. New York’s patients should not be denied the right to choose to include their primary care practitioner – who may be a NP – in these end of life decisions. Current law, however, only allows physicians to execute such orders. Currently, many patients are deprived of the ability to make this decision in collaboration with their trusted NP. Patients should not be compelled to establish an order not to resuscitate or other life sustaining treatment orders with a physician whom the patient may have little or no history or interaction.

Including nurse practitioners in the list of providers authorized to execute orders not to resuscitate and orders pertaining to life sustaining treatments will lead to successful conversations between healthcare providers and patients, enabling those patients to make clear choices regarding advanced directives. Notably, as of January 1, 2016, Medicare is reimbursing for advance care planning as a separate service provided by health care practitioners – including NPs, physicians, and others. Enacting this legislation is consistent with federal policy.

For the reasons outlined above, and that the prior concerns with the legislation have been resolved in this new bill, the NPA urges the Legislature to pass S.1869 (Hannon)/A.7277 (Gottfried).