

Nurse Practitioners:
Comparing Two States' Policies

*Colin Goodman**

I. INTRODUCTION

Health care in the United States is at the forefront of debates in the United States with the passage of the Patient Protection and Affordable Care Act (PPACA), shortages of doctors, and a growing call for reform in access to health care.¹ One of the many suggested solutions to the shortage of doctors and the call for reform in access to health care is to expand the scope of practice of non-physician healthcare providers, such as nurse practitioners. Expansion of the scope of practice of non-physician healthcare providers is greatly debated.² States are responding differently to the proposition to increase the scope of practice of non-physician healthcare providers.³ Currently, seventeen states and the District of Columbia allow nurse practitioners to practice independent of a physician.⁴ Twelve states require physician supervision of nurse practitioners, while the

* Juris Doctor Candidate, Loyola University Chicago School of Law, Class of 2015. Mr. Goodman is a staff member of *Annals of Health Law*.

1. See, e.g., *The Shame of American Health Care*, N.Y. TIMES (Nov. 17, 2013), <http://www.wausaudailyherald.com/article/20131127/WDH06/311270092/>.

2. See generally James L.J. Nuzzo, *Independent Prescribing Authority of Advanced Practice Nurses: A Threat to the Public Health?*, 53 FOOD & DRUG L.J. 35, 38-42 (1998) (discussing the debate in the 1990s about allowing nurse practitioners to prescribe drugs and the debate that took place in the early twentieth century between the highly trained physicians and lesser-trained pharmacists about who was better qualified to prescribe drugs).

3. See generally Ann Ritter & Tine Hansen-Turton, *The Primary Care Paradigm Shift: An Overview of the State-Level Legal Framework Governing Nurse Practitioner Practice*, 20 HEALTH L. 21, 23 (2008) (discussing different states' policies and practices pertaining to nurse practitioners).

4. Robin Wulffson, *California Nurse Practitioners Fighting to Independently Treat Patients*, L.A. HEALTH EXAMINER (Aug. 15, 2013), <http://www.examiner.com/article/california-nurse-practitioners-fighting-to-independently-treat-patients>.

other twenty-one states require a collaborative agreement with a physician.⁵ Oregon and California are two states that demonstrate the opposite ends of states' reactions to the expansion of the scope of practice for nurse practitioners.⁶ Neither Oregon nor California has the perfect solution. However, by giving nurse practitioners a greater scope of practice, Oregon better addresses the shortage of primary care physicians and the lack of access to health care. Other states should follow Oregon's model of allowing nurse practitioners to practice independently while further regulating the profession.

This article is organized into five parts. Part II will give background of the nurse practitioner profession. Part III will analyze California's policies regarding the scope of practice of nurse practitioners. Part IV will analyze the policies in Oregon, which allow nurse practitioners to practice independently of physicians. Next, Part V presents the arguments for and against increasing nurse practitioners' scope of practice. The final section, Part VI, argues that Oregon provides a concrete solution for the shortage of primary care physicians that other states should follow, although there still is room for improvement.

II. NURSE PRACTITIONERS

In response to a physician shortage, the University of Colorado School of Nursing created the first nurse practitioner program in 1965.⁷ A nurse practitioner is a registered nurse (RN) who has completed some advanced degree in the field of nursing.⁸ Usually this degree is a master's degree.⁹

5. *Id.*

6. See Linda J. Pearson, *The Pearson Report: A National Overview of Nurse Practitioner Legislation and Healthcare Issues*, AM. J. FOR NURSE PRACS., Feb. 2009, at 21, 67, available at http://www.npfreebies.com/ajnp_pearson09.pdf.

7. *Id.*

8. *Id.*

9. *Id.*

After completing an advanced degree or program, a nurse practitioner is qualified to provide primary care to patients.¹⁰ Today, nurse practitioners provide primary care to many patients in the United States in an ever-increasing number of settings.¹¹

There still is a large shortage of primary care physicians in the United States, and the nurse practitioner profession continues to fill the void.¹² In 2007, almost 1,600 primary care physician residency spots were unfilled out of a total of about 2,700 spots.¹³ In the same year, 3,700 primary care nurse practitioners graduated from postgraduate nurse practitioner programs.¹⁴ By 2025, the shortage of primary care physicians may grow to 65,800.¹⁵ This number is staggering, especially in a time when the federal and state governments are focusing on providing basic health care to every American through the implementation of the PPACA.¹⁶ Meanwhile, nurse practitioner numbers have continued to grow; in 2009, over 150,000 nurse practitioners were practicing in the United States.¹⁷

All nurse practitioners must be RNs.¹⁸ Beyond this initial requirement, each state's policies and regulations pertaining to nurse practitioners differ

10. *See id.*

11. Ritter & Hansen-Turton, *supra* note 3, at 21. Nurse practitioners work in traditional settings such as physician groups and hospitals as well as less-traditional settings such as nurse-managed health centers and retail health clinics. *Id.*; Lauren E. Battaglia, *Supervision and Collaboration Requirements: The Vulnerability of Nursepractitioners and Its Implications for Retail Health*, 87 WASH. U. L. REV. 1127, 1128 (2010).

12. *See id.*

13. *See id.*

14. *Id.*

15. Wulffson, *supra* note 4.

16. *See, e.g., A Better Bargain for the Middle Class*, THE WHITE HOUSE, <http://www.whitehouse.gov/a-better-bargain#health> (last visited Nov. 3, 2013).

17. Michael B. Zand, *Nursing the Primary Care Shortage Back to Health: How Expanding Nurse Practitioner Autonomy Can Safely and Economically Meet the Growing Demand for Basic Health Care*, 24 J.L. & HEALTH 261, 263 (2011); *see* Ritter & Hansen-Turton, *supra* note 3, at 21.

18. Zand, *supra* note 17, at 264.

greatly from those of other states.¹⁹ Forty-two states require nurse practitioners to hold a master's degree while the remaining eight states require a specific course of study.²⁰ States also differ in regulating the practice of nurse practitioners. Most states require some level of physician involvement in the practice of nurse practitioners.²¹ At times, the amount of required physician involvement can be ambiguous in states' regulations.²² Fourteen states and the District of Columbia do not require physician involvement.²³ California does not allow nurse practitioners to practice independently and requires collaboration with physicians.²⁴ On the other hand, Oregon is one of the least restrictive states for nurse practitioners.²⁵

III. CALIFORNIA

The scope of practice for nurse practitioners in California is very limited in that it is the same as the defined scope of practice for RNs.²⁶ California requires that an applicant seeking certification as a nurse practitioner have an active, valid RN license; have a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing; and finish a nurse practitioner program approved by the California Board of Registered Nursing (the California Board).²⁷ The California Board requires that the program include all of the theoretical and clinical instruction that

19. See generally Pearson, *supra* note 6 (charting the different laws and regulations of each state).

20. See *id.*

21. See *id.* at 273.

22. *Id.* (noting that some states have explicit requirements of physician involvement, such as explicitly defining cooperation between nurse practitioners and physicians, while other states do not define their requirements).

23. See *id.* at 277.

24. See Pearson, *supra* note 6, at 21.

25. See generally *id.* at 67 (providing a break down of states' laws and regulations with respect to different categories of nurse practitioner responsibilities).

26. CAL. CODE REGS. tit. 16, § 1485 (Westlaw through 8/30/13 Reg. 2013, No. 35).

27. CAL. BUS. & PROF. CODE § 2835.5 (West, Westlaw through Ch. 309 of 2013 Reg. Sess. & all 2013-2014 1st Ex. Sess. laws).

the nurse practitioner will need to provide primary health care.²⁸ The program must consist of thirty semester units, of which three credits per week must be clinical practice.²⁹

California, like all fifty states, allows nurse practitioners to prescribe medicine, though in California the prescribing authority of a nurse practitioner must be under an agreement with a physician.³⁰ California's Business and Professional Code allows nurse practitioners to order durable medical equipment, to certify disability in collaboration with a physician, and to approve, sign, modify or add to a plan of treatment for those receiving home health services, but only after consultation with a physician.³¹

On February 21, 2013, Senator Hernandez of the California State Senate introduced a bill that would allow nurse practitioners to practice independently of physicians.³² The bill stated that the California Senate found that nurse practitioners are integral to the state's healthcare system.³³ It further stated that allowing nurse practitioners to practice independently would become necessary with the addition of an estimated five million people who would obtain healthcare coverage through the PPACA.³⁴ Currently, the bill is sitting in committee and will not become law.³⁵ The California Medical Association, which represents physicians in the state,

28. CAL. CODE REGS. tit. 16, § 1484 (Westlaw through 9/13/13 Reg. 2013, No. 37).

29. *Id.*

30. Ritter & Hansen-Turton, *supra* note 3, at 24; see Pearson, *supra* note 6, at 21. Nurse practitioners are only allowed to prescribe drugs or devices specifically agreed on by the nurse practitioner and physician. Pearson, *supra* note 6, at 21.

31. See CAL. BUS. & PROF. CODE. § 2835.7 (West 2013).

32. S.B. 491, Cal. Leg. 2013-2014, Reg. Sess. (2013).

33. *Id.*

34. *Id.*

35. See *id.*; Stephanie O'Neill, *Battle to Reform Nurse Practitioner Rules Will Continue, Vows Author of SB 491*, S. CAL. PUB. RADIO (Sept. 6, 2013, 6:00 AM), <http://scpr.org/news/2013/09/06/39086/battle-to-reform-nurse-practitioner-rules-will-con/>.

spent over one million dollars in opposition of the bill.³⁶

The bill introduced by Senator Hernandez proposed further regulation of the nurse practitioner profession as well as an expansion of its scope of practice.³⁷ The bill proposed an added requirement that an applicant for nurse practitioner certification must hold a national certification as a nurse practitioner from a national certifying body recognized by the California Board.³⁸ In addition to the activities already allowed by California law, the bill allowed nurse practitioners to manage physical and psychosocial health status, examine and diagnose patients, prescribe drugs, give referrals, delegate tasks to a medical assistant, and perform other tasks in accordance with their training.³⁹ The bill also tried to amend the section of the law allowing nurse practitioners to prescribe drugs;⁴⁰ the new provisions sought to require nurse practitioners to take a prescription drug course, which would allow them to prescribe Schedule II drugs.⁴¹

IV. OREGON

In Oregon, the scope of practice of nurse practitioners is much less restrictive than in California.⁴² This less restrictive scope of practice helps alleviate some problems that arise from the shortage of primary care physicians. Oregon defines a nurse practitioner as a RN who is qualified to practice nursing in a more expanded role and has been deemed qualified as such by the Oregon State Board of Nursing (the Oregon Board).⁴³ Oregon allows a nurse practitioner to complete and sign death certificates and to

36. Wulffson, *supra* note 4.

37. *See* Cal. S.B. 491.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Compare* Pearson, *supra* note 6, at 21 *with id.* at 67.

43. OR. REV. STAT. § 678.010 (2013).

prescribe drugs.⁴⁴ The laws of Oregon dictate that the Oregon Board decides nurse practitioners' scope of practice.⁴⁵ The Oregon Board is comprised of five registered nurses, one licensed practical nurse, one certified nurse assistant, and two members of the public who do not fit the description of the other required positions on the board.⁴⁶

Oregon has more qualifications than California before an individual is able to hold himself out as a nurse practitioner. With respect to a nurse practitioner's qualifications, the applicant must hold a current RN license in the State of Oregon.⁴⁷ The applicant must also obtain either a Master's Degree in Nursing or a Doctorate in Nursing from a Commission on Collegiate Nursing Education or from a National League for Nursing Accreditation Commission accredited graduate nursing program.⁴⁸ This requirement is similar to California's requirement of an advanced degree. However, Oregon stipulates exactly what degrees would fulfill the requirement.⁴⁹ Oregon specifically noted what education and experiences the Oregon Board thinks that a nurse practitioner should have in order to practice primary care by providing that a nurse practitioner must also complete a one-year program involving both theoretical and clinical experience.⁵⁰ After certification, a nurse practitioner must renew his or her license every two years after completing 100 hours of continuing education.⁵¹

Oregon nurse practitioners are given many responsibilities, more than

44. *Id.* § 678.375.

45. *See id.* §§ 678.375, 380.

46. *Id.* § 678.140.

47. OR. ADMIN. R. 851-050-0002 (2013).

48. *Id.*

49. *See Id.*

50. *See id.* 851-050-0001.

51. *Id.* 851-050-0138; *RN/LPN Licensure Information*, OR. STATE BD. OF NURSING, http://www.oregon.gov/osbn/Pages/rn-lpnlicensure.aspx#RN/LPN_Renewal_Information (last visited Dec. 13, 2013).

many states.⁵² According to the Oregon Board, a nurse practitioner must manage a client's health problems.⁵³ The nurse practitioner is held accountable for her actions and for the patient's outcome.⁵⁴ In order to do this, a nurse practitioner may assess, diagnose, develop a plan for, intervene for, or evaluate a patient.⁵⁵ A nurse practitioner is also allowed to prescribe drugs that are in accordance with the practitioner's training and scope of practice.⁵⁶ Senator Hernandez's bill in California proposed a very similar scope of practice for nurse practitioners.⁵⁷ Without the passage of such a bill in California, nurse practitioners in that state are essentially RNs with a few extra responsibilities while Oregon nurse practitioners actually have many responsibilities. California and other states with a restrictive scope of practice for nurse practitioners should propose legislation to increase their nurse practitioners' scope of practice to mirror that of Oregon's nurse practitioners.

V. SCOPE OF PRACTICE ARGUMENTS

The topic of the expansion of the scope of practice of nurse practitioners is hotly debated.⁵⁸ The most vocal opponents are physicians,⁵⁹ who argue that expanding the scope of practice is bad for public health because of the dangers posed by allowing nurse practitioners to practice independently when they have significantly less education and experience in the medical

52. See generally Pearson, *supra* note 6 (charting the different laws and regulations with respect to nurse practitioners of each state).

53. OR. ADMIN. R. 851-050-0005 (2013).

54. *Id.*

55. *Id.*

56. *Id.*

57. Compare *id.* with S.B. 491, Cal. Leg. 2013-2014, Reg. Sess. (2013).

58. See, e.g., *supra* note 4.

59. See generally Nuzzo, *supra* note 2; Zand *supra* note 17; O'Neill *supra* note 35; Wulffson *supra* note 4 (giving physician's arguments and specific instances of their opposition).

field.⁶⁰ Physicians must obtain an undergraduate degree while completing required courses, obtain a medical degree from a four-year institution, pass the boards, and have a minimum of three years of residency and further training in medicine.⁶¹ A nurse practitioner must complete either an associate or a bachelor's degree, and then complete a Master's degree in nursing, which can be either two or three years.⁶² The number of years of education for a physician is almost always greater than the number of years for a nurse practitioner.

Some physicians liken the push for independent prescribing authority for nurse practitioners to the debate between physicians and pharmacists in the early 1900s.⁶³ Drugs were unregulated, and when the government tried to regulate them, the laws were not enforced.⁶⁴ Pharmacists were prescribing drugs to people after a limited consultation with a physician and, in some cases, were diagnosing illnesses and giving drugs to patients with no physician involvement.⁶⁵ Drugs were poorly administered, and there were health consequences.⁶⁶ Physicians argue that only through better regulation and more restrictions on the prescription authority of pharmacists was the health crisis caused by independently prescribing pharmacists averted.⁶⁷ Physicians, in the same way, believe that nurse practitioners are not trained extensively and that they lack the knowledge to properly prescribe drugs.⁶⁸

60. See, e.g., Nuzzo, *supra* note 2.

61. See *id.* at 45.

62. AM. ASS'N. OF COLLS. OF NURSING, YOUR GUIDE TO GRADUATE NURSING PROGRAMS 3-4 (2011), available at http://www.aacn.nche.edu/news/articles/attachment/2011/10/07/grad-brochure.gradstudentsbrochure_omyqp.pdf.

63. See generally Nuzzo, *supra* note 2 (discussing the debate in the early 1900s about prescribing authority granted to pharmacists and comparing that debate to the debate about prescribing authority of nurse practitioners).

64. See *id.* at 35-36, 39.

65. See *id.* at 39.

66. See *id.*

67. See *id.* at 46.

68. *Id.* at 45.

On the other side, advocates for the expansion of the scope of practice of nurse practitioners argue that healthcare costs will decline and more people will have access to health care.⁶⁹ As mentioned above, there is a serious shortage of primary care physicians in the United States.⁷⁰ Nurse practitioners may be a good option for alleviating some of that shortage.⁷¹ Advocates for the expansion of scope of practice also point to studies that suggest quality of care does not suffer when comparing the treatment of a physician and an independently practicing nurse practitioner.⁷² An early study conducted by the Office of Technology Assessment of the United States Congress in 1986 reported that the quality of care was just as good with nurse practitioners as it was with physicians.⁷³ This study emphasized the patient's experience and did not focus on things such as correctness of diagnosis and morbidity rates.⁷⁴ A more recent study, completed in 2000 by the Journal of American Medical Association, showed that nurse practitioners offer the same or better quality of care than physicians.⁷⁵ The result was that little difference, if any at all, was found between physician and nurse practitioner primary care.⁷⁶ Advocates for the expansion of nurse practitioner scope of practice also suggest that nurse practitioners are more patient-focused and better prepared for the current trend in patient-centered care.⁷⁷

The PPACA is expected to create a larger clientele of patients in the

69. See Zand, *supra* note 17, at 261.

70. See Ritter & Hansen-Turton, *supra* note 3, at 21; Zand, *supra* note 17, at 265-66.

71. See Zand, *supra* note 17, at 261.

72. See Ritter & Hansen-Turton, *supra* note 3, at 22.

73. *Id.*

74. Nuzzo, *supra* note 2, at 43.

75. See Ritter & Hansen-Turton, *supra* note 3, at 22.

76. *Id.* (quoting Mary Mundinger et al., *Primary Care Outcomes in Patients Treated by Nurse Practitioners or Physicians*, 283 JAMA 59, 68 (2000)).

77. See Zand, *supra* note 17, at 262 (suggesting that nurse practitioners are better at examining patient's history and family and providing patient-focused care as opposed to physicians' disease-focused practice).

healthcare industry.⁷⁸ This expectation is supported by the growth in the number of patients in Massachusetts after the passage of a similar healthcare act in the state.⁷⁹ Primary care physician shortage is already a serious problem that affects access to healthcare in the United States.⁸⁰ Nurse practitioners and their advocates argue that they can help solve the problem.⁸¹

It is important to note that financial self-interest plays a large role in the debate over nurse practitioner scope of practice.⁸² This self-interest is evidenced by the amount of money spent by the California Medical Association in support and on behalf of physicians in order to defeat the California bill which would increase nurse practitioner scope of practice.⁸³ Both sides admit that financial self-interest is a consideration,⁸⁴ however, they maintain that their offered propositions would benefit all healthcare consumers.⁸⁵

VI. ARGUMENT

A. Arguments for and Against the Expansion of Nurse Practitioner Scope of Practice

Both sides of the scope of practice debate present valid arguments. However, just because something is the status quo does not mean that it is

78. See Tine Hansen-Turton et al., *Nurse Practitioners in Primary Care*, 82 TEMP. L. REV. 1235, 1235 (2010).

79. See *id.*

80. See *id.* at 1236 (providing statistics showing twenty-nine percent of people with Medicare had trouble finding a doctor who would take the insurance, seventy-five percent of Americans have trouble getting health care nights, weekends, and holidays, and thirty percent of Americans cannot get into see a doctor on the same day as making the appointment).

81. See *id.* at 1245.

82. See Nuzzo, *supra* note 2, at 46.

83. See Wulffson, *supra* note 4.

84. See Nuzzo, *supra* note 2, at 46.

85. See *id.*

the best method.⁸⁶ The proponents for limiting nurse practitioner scope of practice cannot argue with the fact that there is a serious shortage of primary care healthcare providers.⁸⁷ Therefore, the scope of practice must be expanded for nurse practitioners in all states similar to the way the state of Oregon regulated this expansion, and ideally the scope of practice for nurse practitioners across the nation would be expanded even further than in Oregon to meet the needs of Americans.

The PPACA seeks to make health care more accessible to all Americans.⁸⁸ The PPACA's undertaking is noble, but it will be hard to accomplish without an increase in the scope of practice for nurse practitioners. States take different approaches to expanding the scope of practice for nurse practitioners.⁸⁹ As discussed above, Oregon and California currently have very opposite approaches.⁹⁰ Neither is perfect, but Oregon better meets the demands caused by a primary care physician shortage by allowing nurse practitioners to practice independently and, therefore, has the better policy.

California's bill that would have expanded nurse practitioners' scope of practice failed in part due to the intense opposition by the California Medical Association.⁹¹ Without some other development, the shortage in California will not be remedied by staying on its current course. Only sixteen of fifty-eight counties in California have enough providers for their

86. See generally Zand, *supra* note 17, at 268-69 (explaining the physician monopoly and evolution of that monopoly on medical care).

87. See generally Wulffson, *supra* note 4 (outlining the primary care physician shortage in California as well as the United States as a whole).

88. *The Patient Protection and Affordable Care Act: An Overview of Its Potential Impact on State Health Programs*, LEGISLATIVE ANALYST'S OFFICE (May 13, 2010), http://www.lao.ca.gov/reports/2010/hlth/fed_healthcare/fed_healthcare_051310.aspx.

89. See generally Pearson, *supra* note 6 (charting the different laws and regulations of each state).

90. See discussion *supra* Parts II-III.

91. Wulffson, *supra* note 4.

residents.⁹² This lack of providers can be alleviated by nurse practitioners if their scope of practice is increased to allow them more responsibilities such as the ability to practice and prescribe certain drugs independent from a physician. Restricting a nurse practitioner to practice under a doctor prevents that nurse practitioner from practicing in areas underserved by physicians because there are no or very few physicians under which to practice. Eliminating the restriction would allow those nurse practitioners to go out into these areas and help meet the primary care needs of the people living there. It would also allow nurse practitioners to more efficiently treat patients because they would not be required to consult a physician before every treatment, diagnosis, or prescription. Oregon better regulates its nurse practitioners compared to California because Oregon provides its residents greater access to care due to the expanded role of nurse practitioners. Although the primary care physician shortage continues to affect Oregon, the state can rely on nurse practitioners to carry some of the burden.⁹³

Oregon's success refutes some of the arguments against an expansion of the scope of practice of nurse practitioners. First, Oregon's success refutes the argument that nurse practitioners do not have enough education and are not prepared to practice independently. This proposition is not supported because studies show that quality of care does not suffer when comparing the treatment and care of a nurse practitioner and of a primary care physician.⁹⁴ Oregon regulates what educational programs will be accepted

92. *Id.*

93. See Elizabeth Hayes, *Doctor Shortage is on the Horizon. Who'll Pick Up the Slack?*, PORTLAND BUS. J. (Aug. 5, 2013), <http://www.bizjournals.com/portland/blog/health-care-inc/2013/08/doctor-shortage-is-on-the-horizon.html?page=all> (quoting Janet Meyer, CEO of Health Share of Oregon, as saying, "We do rely on nurse practitioners for a big part of our capacity. I don't know how we'd maintain the system if we didn't have them.").

94. See Ritter & Hansen-Turton, *supra* note 3, at 22.

for those wanting to be licensed as nurse practitioners in the state.⁹⁵ One can assume that Oregon believes these programs to be the focused education needed for proper care.⁹⁶ The greater access to care that Oregon residents receive can be recreated in other states that decide to implement similar scope of practices for their nurse practitioners.

B. Further Steps to Expand Scope of Practice

The policies and regulations in Oregon do not address all concerns. Physicians complete extensive training to be licensed to practice medicine.⁹⁷ One can imagine that this commitment is a serious investment in time, money, and hard work. If a nurse practitioner with less training is allowed to do some of a physician's tasks, provisions should be in place to ensure that the nurse practitioner is able to provide adequate primary care. In this regard, Oregon's policies concerning nurse practitioners could be strengthened considerably and still provide for an alternative to physicians. For instance, Oregon could stipulate that nurse practitioners be allowed to practice only after completing a set amount of time under the supervision of a physician, in a program similar to a physician's residency requirement. This additional regulation, if adopted by other states, would benefit those states as well by helping to ensure that nurse practitioners are ready to take on additional responsibilities.

The Oregon legislature gave the Oregon State Board of Nursing wide discretion in deciding the scope of practice of nurse practitioners.⁹⁸ Since

95. OR. ADMIN. R. 851-050-0002 (2013).

96. For instance, the Oregon State Board of Nursing stipulates exactly what advanced degrees will be accepted. *See id.* 851-050-0002. It also has many requirements about the programs that will be deemed acceptable for nurse practitioners. *See id.* 851-050-0001.

97. *See* Nuzzo, *supra* note 2, at 45.

98. *See generally* OR. REV. STAT. §§ 678.375, 380 (2013) (providing that the Oregon State Board of Nursing can stipulate the required education for nurse practitioners, determine the scope of practice, and set procedures for certification).

the Oregon Board is appointed and not elected, one can imagine that this decision would circumvent some of the political pressures from physician and nursing groups that affected the California legislature in its decision to table the expansion of nurse practitioners' scope of practice. However, this decision also allows nurses to control their own scope of practice. As mentioned above, the Oregon Board is completely comprised of people involved in the nursing profession with the addition of two community members.⁹⁹ This composition could possibly lead to decisions that benefit nurses and nurse practitioners, but may jeopardize patient outcomes. Oregon should provide for a more impartial decision maker in this process, possibly by including a physician or a state official involved in health care to the Oregon Board.

Other possible disadvantages to an expanded scope of practice for nurse practitioners could be addressed in further legislation and regulation.¹⁰⁰ For example, if nurse practitioners practice independently there is a potential misunderstanding by the public that nurse practitioners are doctors.¹⁰¹ Policies and regulations dictating how nurse practitioners should identify themselves should be enforced.¹⁰²

The failed bill in California seemed to address some of the problems that could result from allowing nurse practitioners to practice independently. It

99. OR. REV. STAT. §§ 678.375, 380 (2013).

100. Other issues such as insurance and malpractice are outside the scope of this article but are important issues that need to be addressed as independently practicing nurse practitioners become more prevalent in the United States. *See generally id.* at 279-83 (discussing insurance and malpractice and the issues they present to nurse practitioners).

101. *See Zand, supra* note 17, at 279.

102. *See id.* Currently, nurse practitioners that have a doctorate degree in nursing may legally identify themselves with the prefix of "Dr." in some states. *Id.* Previously, Oregon did not allow nurse practitioners with doctorate degrees to identify "Dr."; in 2009, Oregon reversed and allowed this identification. *Id.* at 279 n.158. Allowing nurse practitioners to identify as "Dr." could lead to confusion about whether or not the nurse practitioner is a medical doctor. *Id.* at 279. Currently, six states do not allow them to identify as doctors, while many states do not regulate the title and ability to use "Dr." as prefix. *Id.*

provided that a nurse practitioner could practice independently only after a set number of hours under physician supervision.¹⁰³ The bill also required certification by a national certifying body.¹⁰⁴ Although the California bill did not go as far as Oregon in stipulating exact degrees, the requirement of national certification seems to fulfill this deficiency by naming a trusted source that the state of California recognizes as a certification that would enable a person to practice as a nurse practitioner within the state.¹⁰⁵

VII. CONCLUSION

Oregon tries to solve the problem of primary care provider shortage by allowing nurse practitioners to practice independently. Its policy is more effective and efficient than California's, which places restrictions on nurse practitioners that do not allow them to practice independently.¹⁰⁶ However, Oregon's regulations concerning nurse practitioners fail to completely address the many issues that arise from allowing nurse practitioners to practice independently. Legislation that allows independent practice, but provides more guidelines and stricter qualification processes should be instituted in Oregon as well as in other states. California and other states should follow Oregon's lead and work to enact laws that will expand the scope of practice of nurse practitioners. Quality of care is not decreased in

103. S.B. 491, Cal. Leg. 2013-2014, Reg. Sess. (as amended August 14, 2013) ("Notwithstanding any other provision of this chapter, a nurse practitioner who holds a certification as a nurse practitioner from a national certifying body may practice under this section without physician supervision if the nurse practitioner has practiced under the supervision of a physician for at least 4160 hours . . .").

104. *Id.*

105. Compare S.B. 491, Cal. Leg. 2013-2014, Reg. Sess. (2013) (requiring that a person wishing to practice as a nurse practitioner in the state "[p]ossess a master's degree in nursing, a master's degree in a clinical field related to nursing, or a graduate degree in nursing"), with OR. ADMIN. R. 851-050-0002 (2013) (requiring a Master's Degree in Nursing or a Doctorate in Nursing from a Commission on Collegiate Nursing Education or from a National League for Nursing Accreditation Commission accredited graduate nursing program).

106. See Pearson, *supra* note 6, at 21.

states that allow independent practice.¹⁰⁷ It follows that nurse practitioners should be allowed to do that which they are trained to do: help the public with its primary care shortage by practicing independently.

107. See Ritter & Hansen-Turton, *supra* note 3, at 22.