



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

November 14, 2019

The Honorable Thomas E Brinkman, Jr.
Ohio House of Representatives
77 S. High St, 11th Floor
Columbus, OH 43215

Dear Representative Brinkman:

The Federal Trade Commission (“FTC” or “Commission”) Office of Policy Planning appreciates the opportunity to respond to your request for comments on House Bill 177 (“H.B. 177” or “the Bill”), a proposal to expand the scope of practice of Advanced Practice Registered Nurses (“APRNs”) in Ohio.¹ We understand that the Bill might be the subject of a subcommittee hearing or vote in the next week. Given that time constraint, FTC staff cannot conduct a specific analysis of H.B. 177. We have, however, analyzed other policy proposals that, like the Bill, would rescind requirements that APRNs practice under a mandatory written “collaborative practice” agreement. Attached to this letter, please find three prior FTC staff analyses of APRN restrictions similar to those addressed in the Bill; we expect these may be helpful to you and your colleagues.²

First, in March 2014, the Commission authorized FTC staff to issue a report, *Policy Perspectives: Competition and the Regulation of Advanced Practice Registered Nurses* (“Report”).³ The Report describes a general framework for analyzing the costs and benefits of restrictions on APRN practice,⁴ including mandatory “collaborative” agreements, and applies that framework and available evidence to some of the issues identified in your letter.⁵ The Report recognizes, in particular, that “improved collaboration and coordination among health care providers are fundamental goals of many current health care quality and cost-containment initiatives.” The Report cautions, however, that effective collaboration does not require formal supervision or “collaborative practice” agreement requirements: “On the contrary ... rigid [statutory] requirements may impede, rather than foster, development of effective models of team-based care.”⁶

FTC staff comments authorized by the Commission in 2016 applied that same framework to two separate proposals, by the West Virginia legislature⁷ and the U.S. Department of Veterans Affairs,⁸ to permit independent practice by both generalist and specialist APRNs. As discussed in the West Virginia comment, “[b]ecause particular regulatory restrictions on ... may harm consumers without offering countervailing health and safety benefits, we have recommended that policy makers apply the same basic framework and considerations to all APRN policies, including those regarding specialist APRNs.”⁹ The comment noted a particular concern, shared by the Institute of Medicine, that excessive scope of practice restrictions may impede access to both primary and specialized care that APRNs have the training and experience to provide,¹⁰ and that access to practitioners might be especially problematic in rural or other underserved areas.¹¹

We hope these documents will be helpful as the Ohio legislature considers changes to statutory restrictions on APRN practice. Please feel free to contact us if you have any questions about the attached materials or if further issues arise during consideration of the Bill. You may reach me directly at (202) 326-2004 or bsayyed@ftc.gov, or you may contact my colleague, Daniel Gilman, at (202) 326-3136 or dgilman@ftc.gov.

Respectfully submitted,



Bilal Sayyed
Director

¹ Letter from the Hon. Thomas E. Brinkman, Jr. to Bilal Sayyed, Director, FTC Office of Policy Planning (Oct. 18, 2019).

² These documents express the views of the Federal Trade Commission’s Office of Policy Planning, Bureau of Economics, and Bureau of Competition. They do not necessarily represent the views of the FTC or any individual Commissioner. The Commission did, however, vote to authorize staff to issue each of these documents.

³ FED. TRADE COMM’N STAFF, POLICY PERSPECTIVES: COMPETITION AND THE REGULATION OF ADVANCED PRACTICE NURSES (2014), <https://www.ftc.gov/system/files/documents/reports/policy-perspectives-competition-regulation-advanced-practice-nurses/140307aprnpolicypaper.pdf>.

⁴ *Id.* at 12-13.

⁵ Regarding supervision and “collaborative practice” requirements, see *id.* at 20-38.

⁶ *Id.* at 34. Regarding mandatory supervision or “collaborative” agreements generally, see *id.* at 27-38.

⁷ FTC Staff Comment to the Senate of West Virginia Concerning the Competitive Impact of WV Senate Bill 516 on the Regulation of Certain Advanced Practice Registered Nurses (APRNs) (Feb. 2016), <https://www.ftc.gov/policy/policy-actions/advocacy-filings/2016/02/ftc-staff-comment-senate-west-virginia-concerning>. W.V. House Bill 4334, amending Section 30 of the W.V. Code, was approved by the Governor of West Virginia on March 29, 2016, http://www.legis.state.wv.us/Bill_Status/bills_history.cfm?INPUT=4334&year=2016&sessiontype=RS.

⁸ FTC Staff Comment to the Department of Veterans Affairs: Proposed Rule Regarding Advanced Practice Registered Nurses (July 25, 2016), https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-office-policy-planning-bureau-competition-bureau-economics-department-veterans/v160013_staff_comment_department_of_veterans_affairs.pdf; see also Dep’t Veterans Affairs, Advanced Practice Registered Nurses, Final Rule with Comment Period, 81 FR 90198 (Dec. 14, 2016) (granting full practice authority to VHA CNPs, CNMs, and CNSs).

⁹ West Virginia Comment, *supra* note 7, at 5; see also Dep’t Veterans Aff. Comment, *supra* note 8, at 6.

¹⁰ West Virginia Comment, *supra* note 7, at 4-5.

¹¹ *Id.* at 6.