

February 21, 2024

The Honorable Denis McDonough
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Dear Secretary McDonough:

The undersigned medical societies are writing to convey our ongoing concerns with the Department of Veterans Affairs (VA) effort to develop National Standards of Practice (NSP) through the Federal Supremacy Project. We urge the VA to address flaws in the NSP development process, including halting efforts to supersede well-established state law.

Our previous letters highlighted our concerns that the VA's efforts to develop NSPs for 51 health care occupations preempts state scope of practice laws, potentially allowing non-physicians to perform procedures that are outside the scope of their knowledge, training, and state-based licensure and, importantly, making it virtually impossible for state boards to oversee medical care at VA facilities in their states. While these concerns remain front and center in our opposition to the Federal Supremacy Project, equally problematic is the differential standards that will inevitably result between the NSPs and state licensure and scope of practice laws. Veterans would be exposed to a different and lower standard of practice than non-Veterans.

Our organizations are particularly concerned about reports that the VA is considering adopting different standards for some occupations that will vary based on the location of the employing VA facility and state scope of practice laws. Similarly, we have heard reports that the VA is considering allowing some non-physicians who hold licenses from states with certain scope laws to practice under that license at any VA facility, regardless of the facility's location. The VA has also indicated that some of the approximately 19 non-physician occupations that the VA has inexplicably decided to exercise Supremacy on may have their scope of practice decided on a facility-by-facility basis.

The inconsistency in standards mentioned by the VA calls into question the need for NSPs, which have been promoted as necessary to standardize health care practices systemwide in the VA regardless of state licensure and scope of practice laws. Moreover, these proposed differing standards go against the VA's claims that the new electronic health record (EHR) system that is being developed in partnership with the Department of Defense (DOD) cannot handle different privileging and care across the system.

We therefore call on the VA to explain how the development of multiple NSPs for one occupation and the ability for scope to be determined on a facility-by-facility basis would be meaningfully different than the current variability among state scope of practice laws. If the joint VA/DOD EHR system can handle different NSPs, it should also be able to handle different state

scope of practice laws, thereby calling into question the need for this entire project. Instead, the VA should focus on strengthening team-based care, improving oversight of its non-physician workforce, including documenting disciplinary actions, and consistently reporting to the National Practitioner Data Bank.

However, if the VA continues to develop NSPs, we urge the Department to increase transparency by disclosing the names of NSP Workgroup participants to ensure that these Workgroups are fair, well rounded, knowledgeable, supportive of team-based care, and not just working to achieve a predetermined outcome favored by a particular stakeholder. Moreover, our organizations strongly urge the VA to include physician representatives on all the Workgroups and ensure that these physicians are not in VA leadership positions or unduly influenced by connections with the VA. Our organizations believe that it is critical that the VA has unbiased physician representatives who are willing to follow the evidence on all NSP Workgroups and we stand ready to assist the VA in identifying physicians willing to serve in this capacity.

We appreciate your consideration of our concerns and would welcome the opportunity to meet with you again to discuss any questions you may have. If you have any questions, please contact Margaret Garikes, Vice President for Federal Affairs, at margaret.garikes@ama-assn.org, or by calling 202-789-7409.

Sincerely,

American Medical Association
AMDA - The Society for Post-Acute and Long-Term Care Medicine
American Academy of Allergy, Asthma & Immunology
American Academy of Dermatology Association
American Academy of Family Physicians
American Academy of Neurology
American Academy of Ophthalmology
American Academy of Otolaryngology–Head and Neck Surgery
American Academy of Physical Medicine and Rehabilitation
American Association of Neurological Surgeons
American College of Allergy, Asthma, and Immunology
American College of Cardiology
American College of Emergency Physicians
American College of Physicians
American College of Radiology
American College of Surgeons
American Osteopathic Association
American Psychiatric Association
American Society for Dermatologic Surgery Association
American Society of Anesthesiologists
American Society of Cataract & Refractive Surgery
American Society of Hematology

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American Society of Plastic Surgeons
American Society of Retina Specialists
College of American Pathologists
Congress of Neurological Surgeons
International Pain and Spine Intervention Society
Renal Physicians Association
Society for Vascular Surgery
Society of Interventional Radiology