Final Thoughts from Melissa

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Political action – I’ve been thinking a lot about this aspect of our profession as I make the move to another state that has a vastly different definition of full practice authority. In 2013 I completed my master’s degree, passed the boards and obtained my license as a nurse practitioner (NP). A very well-known hospital system in Michigan hired me for my first job. Within the first few weeks it became clear that they defined the role of an NP much differently than I did and that we had contrasting expectations. I anticipated working to my full practice scope and they were looking for someone to direct and to complete complex consult notes. Not surprisingly, I went online to find a new position in a state which provided full practice authority for NPs.

I had been an active member in my state organization in Michigan and immediately sent an email to the New Mexico Nurse Practitioner Council prior to making the move to obtain practice information for the state. I met kind, compassionate and highly intelligent women who were thrilled to have a new NP who wanted to volunteer her time with the organization.

The past eight years have seen tremendous growth in our organization and in legislative action benefiting NPs in New Mexico. The dedicated work of countless volunteers from across our state, an exceptional lobbyist and the creation of a position for an Executive Director for NMNPC made this advancement of our profession possible. I’m incredibly proud of the growth I’ve witnessed over the course of my time here in New Mexico and I want to encourage anyone reading this to consider what zone of genius you might be willing to offer to the organization. We’re incredibly fortunate to work in a state where we have full practice. However, there’s always more work to do, and we need NPs in our state to remain vigilant and continue to participate in legislative action.

I want to thank NMNPC, the courageous women and men who came before me and all those who will continue the important work after I leave. My one “ask” as I move out of any involvement with this incredible organization is that you reach out to ask how you might be an asset to a group who works every day to protect your ability to provide the highest quality care to the citizens of our state.
We’ve published the NMNPC newsletter for many years, sometimes regularly but at times on an irregular basis. At one point, lack of volunteer time resulted in no newsletters for a number of years. In 2017, the Board of Directors decided to reinstitute a regular newsletter. Since then, we’ve published the newsletter on a quarterly basis. The newsletter has consisted of a variety of information often including most or all of the following:

- President’s message
- News in brief
- Clinical content on a specific condition
- Clinical content from a holistic perspective
- Board of Directors meeting summaries
- Committee reports
- Legislative or policy reports or information
- Information on upcoming CE activities
- Member spotlights
- Social media updates
- AANP Representative report
- Updates from each NMNPC Region
- Editorials on various subjects

NMNPC has some concerns that the newsletters may include too much information or information that’s not useful or interesting to our members. This quarter’s newsletter includes only a few of the features included in previous issues. I’m asking members to review the list above and provide feedback on whether these features were useful or interesting. Past issues of the newsletter are also available on our website for review.

Your opinions are valuable – we’re all busy and because the newsletter is a volunteer activity, we don’t want to use valuable and scarce volunteer resources unless our members value the results of their efforts. Please email your suggestions and comments to goldkate6@gmail.com.
2021 Session Summary

The 2021 partly virtual legislative session ended on March 20 at noon with many bills on the House and Senate calendars left unheard. Legislators introduced a total of 933 bills, constitutional amendments and a few memorials in this session. Only 158 bills actually passed both chambers and are now on their way to the governor who has until April 9 to sign or veto legislation. This is the lowest number of bills passed in at least twenty years. Contrast this number to the 2019 session during which legislators introduced 1663 bills, constitutional amendments and memorials and 326 bills actually passed.

Because of the pandemic, the House largely held meetings virtually. All committee hearings were virtual with most legislators logging in from their homes. House floor sessions often had many Republicans actually on the chamber floor while the majority of Democrats remained home or in their legislative offices. The Senate held committees virtually with members either off site or in their legislative offices. All Senate floor sessions required members to be on the floor or in their legislative office. Senators could not be off site.

Public participation was incredibly easy in the House. Each House committee had a Zoom link on their agenda for expert witnesses, lobbyists and the public, enabling very easy access to testify. When a bill came up, one would simply raise their hand on the Zoom for the committees to call for your one-minute comment unless you were the expert witness providing more detailed testimony. On the other hand, the Senate had a very cumbersome process requiring one to “apply” either through an email or pop-up screen through the email. Initially this required a 24-hour application. By the last weeks of the session, the Senate sometimes didn’t even post the agendas until hours before the hearings.

A significant number of bills came down to three-hour debates on the floor of the House yet the House was still able to pass 50 more bills than the Senate. Many House bills were stuck in Senate Committees that did not meet at their usual frequency or had protracted committee debates. A number of controversial bills, including repeal of the criminalization of abortion, enabling civil rights suits in New Mexico, paid sick leave for businesses, community solar, independent redistricting and several others consumed large amounts of debate time in both chambers. One controversial bill did not get heard in the remaining hours of the session – legalization of cannabis. The governor is calling a special session just to pass this legislation if possible.

2021 Legislation List

- **HB35 Independent Role for CRNAs**
  Remove the interdependent language in the CRNA section in the Nursing Practice Act changing it to independent and allowing for “collaboration” in the hospital session. NMNPC supported. Passed the House and died in the Senate Judiciary Committee.

- **HB47 End of Life Options**
  Creates a process for medical assistance in dying for terminally ill adults who are mentally competent. Nurse practitioners are included as a prescribing provider. NMNPC supported. Passed both chambers and on the governor’s desk.
• **HB67 Primary Care Council**
  Creates a Council within HSD to study how to expand primary care services in NM. NMNPC supported. Passed both chambers and on the governor’s desk.

• **HB75/SB239 Medical Malpractice Act**
  An extensive rewrite of the MMA which includes increased caps on malpractice claims and add NPs, CNSs and CNMs as qualified health care providers under the protection of the act. NMNPC initiated and supported. Passed both chambers and on governor’s desk.

• **HB109 CNPs Authority to Dispense Drugs**
  This was our bill which we had to pull because of originally conflicting information as to its need. Pulled.

• **SB61 Rural Primary Care Clinician Loan Repayment Act**
  Created a new program where DOH would distribute grants to rural health care facilities to help repay the loans of providers working at those facilities. Included NPs and CNMs. NMNPC supported. Passed both chambers and died on the House floor in the last days.

• **SB62 Health Care Preceptor Income Tax Credit**
  Created a $1,000 preceptor tax credit for providers serving as preceptor for a UNM or NMSU health care student. NMNPC supported. Passed the Senate and died in Senate Finance.

• **SB71 Patient’s Debt Collection Protection Act**
  Requires providers to assist patients in applying for eligible health insurance programs and limits ability of providers to collect debt from indigent patients. An amendment limited the providers required to follow this act to those with gross receipts of $20 million or more. NMNPC worked with Medical Society to limit the providers this act would include. Passed both chambers and on governor’s desk.

• **SB96 Maternal Mortality Committee Revisions**
  Clarifies the types of cases reviewed and membership in the committee. NMNPC monitored. Passed both chambers and on governor’s desk.

• **SB184 Congenital Syphilis Testing**
  Requires a physician or (amended in) NP and CNM to test pregnant women for syphilis during pregnancy and at delivery pursuant to CDC guidelines. NMNPC supported the amendments we proposed. Died in Senate Judiciary.

• **SB244 NP Sign Exemption for Vaccination Forms**
  This bill simply added NPs to the physician-only language for exempting minors for health reasons from certain vaccinations. NMNPC initiated and supported this bill. Passed the Senate and died the last night on the House floor.

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**A Moment to Be Remembered**

In 1976, the New Mexico Legislature enacted the Medical Malpractice Act to address a serious problem with physicians unable to access medical malpractice insurance. Providers and New Mexico’s trial lawyers made an agreement to limit the financial liability of providers by putting a cap on the amount of damages providers had to pay out. In order to protect patients, the legislation created a Patient Compensation Fund (PCF) to provide the ongoing medical care for injured patients. Physicians were then able to purchase an occurrence malpractice insurance policy and pay an assessment fee into the PCF.

For 45 years, the Act had not changed except for a minor increase in the cap. Though hospitals were always “qualified health care providers,” they could not participate in the act and the PCF until 2006. Since that time, most of the hospitals in New Mexico have joined the Act and paid into the PCF.

In some part due to the increasing deficit in the PCF, this year the trial lawyers introduced legislation (HB75 Representative Daymon Ely) to legally remove hospitals from the act. One of their reasons was that the cap should be much higher for hospitals than for individual providers. This controversy has been brewing for years.

In coalition with the New Mexico Medical Society and the New Mexico Hospital Association, we developed legislation (SB239 Senator Liz Stefanics) following the recommendations of the Office of Superintendent of Insurance to update the Act in response to their bill.

The governor forced the parties to negotiate an agreement which is what you see below in the amended version of HB75.

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**Progress for APRNs, CNMs and all Nurses in New Mexico**

- **Expansion of Qualified Health Care Providers**

  - In addition to the currently eligible providers (doctors, CRNAs, hospitals and facilities), the list now includes certified nurse practitioners (NPS), clinical nurse specialists (CNSs), certified nurse midwives (CNMs) and health care business entities. Of extreme importance is the new prohibition on individual lawsuits for nurse employees of hospitals. As qualified health care providers, hospital-employed NPs, CNSs and CNMs can no longer be individually sued.

  continued on page 5
Patient Compensation Fund Oversight Committee
- Respective organizations will choose nine members annually.
  - Two members each representing the New Mexico Medical Society, the New Mexico Hospital Association, the New Mexico Trial Lawyers Association and patient advocates
  - One member representing certified nurse practitioners
- The committee will review the processes and data associated with the administration of the PCF and advise the Superintendent of Insurance and report to the Legislature annually.

Patient Compensation Fund Debt Obligation
- Annual assessment fees (surcharges) will be set to bring the fund to solvency by December 31, 2026.
- All participating hospitals will be responsible for addressing their portion of debt by December 31, 2026.
- Beginning in 2027, hospitals will still enjoy the benefit of the Act but no longer be part of the PCF.

Malpractice Caps
- Base coverage will be $250,000 (through the underlying insurance carried by each provider).
- The PCF will cover each independent provider from the base level to the new individual cap on non-economic damages of $750,000 (with a CPI adjustment beginning in 2023).
- The PCF will also cover the hospitals and outpatient facilities through 2026 and will have a non-economic damages cap of $4 million in 2022 and rising annually to $6 million in 2026.

Medical Review Commission
- The function of the Medical Review Commission is to provide panels of peer providers to review all malpractice claims against an independent provider.
- No malpractice action may be filed in any court against a provider until the Commission has completed their review and rendered their decision.

What does this mean for me as an NP, CNS or CNM?
- If you’re an employee of a hospital or other covered ancillary clinic, you’re covered by your hospital’s or clinic’s insurance. They will provider your coverage and now you can’t be sued individually.
- If you’re an independent provider or work for someone not covered by the act, you may choose to purchase an occurrence policy for $250,000/$750,000 and join the Act by paying an assessment fee into the Patient Compensation Fund. Your assessment is actuarily determined based on the type of provider you are. NPs doing primary care will have the lowest assessment. CNMs will likely have a higher assessment. Other specialties will have differing assessments.
NMNPC 2021 Spring Conference

Pre-Conference Workshops
April 8

Register Now!
Registration Open Unit April 7

5 hours of NCPM CE
10.9 hours of pharmacology CE

Up to 31.5 hours of CE plus
up to 12 hours of additional CE for workshops