



**THE STATE EDUCATION DEPARTMENT**  
**THE UNIVERSITY OF THE STATE OF NEW YORK**  
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## **PAYMENT OF COLLABORATING PHYSICIANS BY NURSE PRACTITIONERS**

### Statement of Issue

In order to practice lawfully, New York State Education Law requires a Nurse Practitioner to enter into a written collaborative agreement with a physician qualified to collaborate in the specialty involved (Title VIII, Article 139). In some situations, collaborating physicians may expect to receive some form of reasonable payment for the services which they render, such as availability for consultation or chart review, or other tasks surrounding fulfillment of their obligations under the collaborative agreement. The purpose of this memorandum is to offer guidance to Nurse Practitioners related to circumstances under which such payment may be provided. Questions regarding physicians' conduct related to this issue should be directed to the Department of Health's Office of Professional Medical Conduct.

### Regents Rules-Part 29

Part 29 of Regents Rules describes conditions that may be considered professional misconduct. Section 29.1(b)(3) of the Rules states that unprofessional conduct shall include:

***“directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services.”***

### Interpretation

The Office of the Professions has interpreted this rule, within the context of Nurse Practitioner practice, to mean that a Nurse Practitioner may pay a collaborating physician for the fair market value of services such as chart review and consultation. However, there is no compulsion for the NP to enter into such an arrangement nor is it appropriate to include such terms within the written collaborative agreement. When a payment agreement does exist, the payment may not influence the nature of the chart review nor result in any exclusive arrangement between the NP and physician for patient referrals in exchange for the services rendered. It is understood that in certain instances Nurse Practitioners may refer patients to their collaborating physicians when medically necessary including situations where a Nurse Practitioner may not be granted hospital privileges. Such instances would not automatically be considered professional misconduct unless NPs bind themselves into an exclusive arrangement for referrals to the collaborating physician(s) or otherwise give or receive compensation for such referrals.

### Contact Information

If you have additional questions, please contact Barbara Zittel, Executive Secretary to the State Board for Nursing, by mail: Education Department Building, 89 Washington Ave., Nursing Board Office, Second Floor, West Wing, Albany, NY 12234, e-mail: [nursebd@mail.nysed.gov](mailto:nursebd@mail.nysed.gov), phone: 518-474-3817 Ext. 120, or fax: 518-474-3706.

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