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ROBERT E. NYCE, EXECUTIVE DIRECTOR
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

September 11, 2000

K. Stephen Anderson, M.Ed., CRNA, Chairperson
State Board of Nursing
116 Pine Street
Harrisburg, PA 17105

Re: IRRC Regulation #16A-499 (#2064)
State Board of Medicine
State Board of Nursing
Certified Registered Nurse Practitioners
Prescriptive Authority

Dear Mr. Anderson:

The Independent Regulatory Review Commission disapproved the subject regulation at its public meeting on July 13, 2000. Our Order is enclosed and is available on our website at <http://www.irrc.state.pa.us>.

Section 7(a) of the Regulatory Review Act requires you to notify us within seven days from receipt of this letter if you will: (1) withdraw the regulation; (2) proceed with promulgation under Section 7(b); or (3) proceed with promulgation under Section 7(c).

Sincerely,

Robert E. Nyce
Executive Director

cae

Enclosure

cc: Herbert Abramson
Gerald Smith
Dorothy Childress
Honorable Kim Pizzigrilli

IRRC Regulation #16A-499 (2064)
STATE BOARD OF NURSING
Certified Registered Nurse Practitioners
Prescriptive Authority

Chairperson K. Stephen Anderson, M.Ed., CRNA
State Board of Nursing

REC'D

SEP 11 2000

Date: 9:37 AM

BUREAU OF PROFESSIONAL
& OCCUPATIONAL AFFAIRS

**INDEPENDENT REGULATORY REVIEW COMMISSION
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held July 13, 2000

John R. McGinley, Jr., Chairman
Alvin C. Bush, Vice Chairman, by proxy
Arthur Coccodrilli, dissenting
Robert J. Harbison, III
John F. Mizner, dissenting

Regulation No. 16A-499
State Board of Medicine and
State Board of Nursing
Certified Registered Nurse Practitioners
Prescriptive Authority

On September 17, 1999, the Independent Regulatory Review Commission (Commission) received this joint proposed regulation from the State Board of Medicine and the State Board of Nursing (Boards). This rulemaking adds 49 Pa. Code Sections 18.53 to 18.57 and 21.283 to 21.287. The proposed regulation was published in the October 2, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 6, 2000.

This rulemaking will authorize Certified Registered Nurse Practitioners (CRNP) to prescribe and dispense drugs. In order for a CRNP to prescribe and dispense drugs, the regulations establish education requirements, specify categories of drugs CRNPs may and may not prescribe, require collaborative agreements with physicians, specify CRNP identification requirements and specify physician supervision requirements.

The final regulation contains significant amendments to the proposed version of the regulation. There are three areas that do not meet our criteria as explained below.

First, the Boards added a 2:1 ratio of CRNPs to physicians in Sections 18.57 and 21.287 of the final regulation. This ratio raises questions concerning protection of the public health, need and reasonableness (71 P.S. §§ 745.5a(i)(2) and (3)). These provisions were not in the proposed regulation.

Commentators believe the 2:1 ratio will unnecessarily restrict the availability of healthcare, particularly in underserved rural and urban areas. They also observe that the regulation requires part-time CRNPs to meet the same ratio as full-time CRNPs.

The Preamble does not explain how the 2:1 ratio was determined. The Boards state that CRNPs prescribing drugs is the norm in 42 states. Commentators have stated that only two of those states use a ratio, and that the ratio is higher than the 2:1 ratio in this regulation. The Boards should amend or delete this requirement or explain why it is appropriate.

Second, the waiver process in Sections 18.57(a) and 21.287(a) lacks clarity (71 P.S. § 745.5a(i)(3)). The provision allows a physician to "apply for a waiver...for good cause, as determined by the Boards." This is new language added to the final regulation.

Commentators believe the waiver process is not clearly defined in the regulation. The regulation should be amended to state how to apply to the Boards for a waiver, what information is required, and what criteria the Boards will use to evaluate a request for waiver.

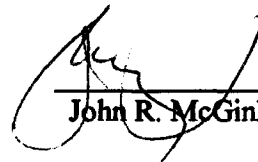
Finally, the requirement in Sections 18.53(2) and 21.283(2) for “a specific course in advanced pharmacology of not less than 45 hours” does not reasonably allow existing CRNPs to comply, would impose unnecessary costs on them, and would impose adverse effects on competition (71 P.S. §§ 745.5a(i)(1) and (3)). Prior to 1992, pharmacology was integrated into other courses in the CRNP curricula. Approximately 40% of practicing CRNPs may not be able to document a “specific” course, even though they may have had equivalent education. A further concern is that the Boards will allow more favorable treatment for out-of-state equivalency for CRNP certification under existing Sections 18.42 and 21.272 (relating to Certification by endorsement; currently licensed), but would foreclose the opportunity for Pennsylvania’s CRNPs to demonstrate an equivalency of the 45-hour advanced pharmacology course. The regulation should allow all CRNPs the opportunity to demonstrate an equivalency of the 45-hour advanced pharmacology course to the Boards.

We have determined this regulation is consistent with the statutory authority of the State Board of Medicine (63 P.S. § 422.15(b)) and the State Board of Nursing (63 P.S. § 212) and the intention of the General Assembly. However, after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is disapproved.





John R. McGinley, Jr., Chairman