

The Insurance Federation of Pennsylvania, Inc.

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**Samuel R. Marshall
President & CEO**

November 17, 2004

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17101

INDEPENDENT REGULATORY
REVIEW COMMISSION

2004 NOV 18 AM 7:05

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**Re: Final form regulation - Chapter 167 - anesthesia
Reimbursement**

Dear Mr. Nyce:

We recommend the IRRC disapprove this regulation on final form consideration, consistent with the points raised in our July 26 letter and with the letter of opposition sent to the IRRC by Senator Scarnati, Chairman of the Senate Labor and Industry Committee.

We recognize IRRC staff did not raise any concerns with the regulation when it reviewed it in proposed form this summer, an enormous presumption of validity for the regulation even with Chairman Scarnati's objections.

Nonetheless, we ask that the Commissioners take a fresh and independent look at this regulation as measured against the criteria in the Workers Compensation Act and the Regulatory Review Act. As detailed in our earlier letter, which we incorporate here, the regulation is without statutory authority and deviates from the legislative intent of the underlying statute.

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This regulation is a "first" in many ways. First, it is a first in having a regulation alter the statutory fee schedule in the Act (or in similar provisions in the auto law, act 6 of 1990). Second, it is a first, at least in my experience, in having the IRRC approve a determination of what constitutes reasonable payment for medical services.

That highlights the need for the Commissioners themselves to fully review this regulation, not be bound by determinations of staff (and I say this as a life-long staffer). Again, we recognize that the lack of comment by IRRC staff at the proposed stage makes it difficult under the Regulatory Review Act for the Commissioners to exercise their own judgment on the regulation.

In light of the comments of Committee Chairman Scarnati, however, as well as the comments submitted on this regulation at the proposed stage, and the uniqueness of the regulation, we ask that the Commissioners take an independent reading of the regulation and reject it.

Sincerely,

Samuel R. Marshall



Pennsylvania MEDICAL SOCIETY

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INDEPENDENT REGULATORY
REVIEW COMMISSION

November 11, 2004

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**Mr. John R. McGinley, Jr., Chair
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101**

Dear Chairman McGinley:

I am writing as President of the Pennsylvania Medical Society to support approval of the Department of Insurance final form regulation related to Chapter 167 (Workers' Compensation Act-Provider Fees) currently before the Independent Regulatory Review Commission for consideration. The Medical Society has worked for several years with the Pennsylvania Society of Anesthesiologists and the Department of Insurance to justify the proposed increase in reimbursement levels for anesthesia services provided to injured workers covered by the Workers' Compensation Act.

The Society would like to compliment the Department of Insurance for its diligence in acting in accordance with the requirements of the Act in determining whether the existing workers' compensation reimbursement rate for anesthesiologists was reasonable compared to the average reimbursement rate in the private managed care market. After an exhaustive review of payment data collected and analyzed from numerous payer sources, it was the conclusion of the Department that the existing rate was unreasonable and therefore appropriately recommended that the rate be increased by means of this proposed final form regulation.

The Society has reviewed the comments filed in opposition to the regulation by the Insurance Federation of Pennsylvania (IFP) and find them inconsistent with the provisions of the Act that permit such adjustment of provider reimbursement in the manner carried out by the Department.

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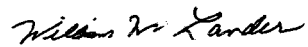
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www.pamedsociety.org

The Society would urge the Commission to act favorably on this regulation.

Sincerely,

A handwritten signature in cursive script that reads "William W. Lander".

William W. Lander, MD
President

Cc: Chairs, Senate Banking and Insurance Committee
Chairs, House Insurance Committee
Commissioner of Insurance
Pennsylvania Society of Anesthesiologists