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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

CHAIRMAN
PROFESSIONAL LICENSURE COMMITTEE

Original: 2420

December 15, 2005

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

Dear Chairman McGinley:

The House Professional Licensure Committee held a meeting on December 14, 2005, to consider the following:

Regulation 16A-4917 – Final rulemaking of the State Board of Medicine relating to licensure of medical doctors. The committee voted to approve the regulation.

Regulation 16A-5410 – Final rulemaking of the State Board of Pharmacy relating to technology and automation. Since the board issued a letter stating it was withdrawing the regulation, the committee went over this regulation.

Regulation 16A-5121 – Final rulemaking of the State Board of Nursing relating to temporary practice permits. Since the State Board of Nursing issued a letter stating it was withdrawing the regulation, the committee went over the regulation.

Regulation 16A-608 – Final rulemaking of the State Board of Vehicle Manufacturers, Dealers and Salespersons relating to protect proceedings. The committee voted to approve the regulation.

Regulation 16A-4916 – Proposed rulemaking of the State Board of Medicine relating to physician assistants. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comments:

1. The committee notes that the General Assembly intended there to be supervision of a physician assistant by a physician. The Medical Practice Act of 1985 states that:

**A physician assistant shall not perform a medical service
without the supervision and personal direction of an approved**

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physician. Section 13(d) of the Medical Practice Act of 1985.

A physician assistant shall not independently prescribe or dispense drugs... The board shall request the comments and recommendations of the State Board of Pharmacy. Section 13(f) of the Medical Practice Act of 1985.

The physician designated as having primary responsibility for the physician assistant shall not have primary responsibility for more than two physician assistants. Section 13(e) of the Medical Practice Act of 1985.

A physician assistant may be employed by a medical care facility under the supervision and direction of an approved physician or group of physicians, provided one of those physicians is designated as having the primary responsibility of supervising and directing the physician assistant and provided that a physician assistant shall not be responsible to more than three physicians. Section 13(g) of the Medical Practice Act of 1985.

A physician assistant license empowers the holder to assist a medical doctor in the provision of medical care and services under the direction and supervision of that medical doctor as provided in this act. Section 36 of the Medical Practice Act of 1985.

The committee recognizes the Medical Practice Act of 1985 provides that the board shall promulgate regulations which define the supervision and personal direction required by acceptable medical standards embraced by the medical doctor community in the Commonwealth. Also, the board must approve the written agreement with the physician assistant. Section 13 of the Medical Practice Act.

The enabling act also provides that the board can only approve a written agreement which satisfies the restrictions on those agreements set forth in the statute. The restrictions include: (1) having each physician whom the physician assistant will assist sign the document; (2) describing in the document the manner in which the physician assistant will be assisting each physician; and (3) describing in the document the nature and degree of supervision that each physician will provide to a physician assistant. Further, the

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board can only approve a written agreement that is consistent with these restrictions.
Section 13 of the Medical Practice Act of 1985.

Given the parameters of the statute, the committee notes the following:

- (a) The Pennsylvania State Coroners Association has provided comments regarding the board's proposal to allow a physician assistant to pronounce a patient dead. The committee asks the board to review and consider these comments.
 - (b) Highmark has provided comments regarding the board's proposal to allow a physician assistant to prescribe narcotics. The committee asks the board to review and consider these comments.
 - (c) The Hospital and Healthsystem Association of Pennsylvania (HAP) has submitted comments. The committee asks the board to review and consider these comments.
 - (d) The board proposes to allow a physician assistant to run a satellite office. A physician will review the charts of "selected patients" at the satellite facility. The committee seeks assurance from the board that selected review is consistent with acceptable medical standards of the medical doctor community.
 - (e) The board proposes to delete the requirement that a physician see a patient every third visit and at least once a year. The proposal substitutes the discrete time frame for seeing patients with language that states that a physician must "review directly with a patient the progress of the patient's care as needed." The committee recommends that the physician assistant or supervising physician inform the patient of this standard.
 - (f) The proposal changes the requirement that the board "register" a supervising physician as opposed to "approve" the physician. The term "approved physician" is found in Section 13(d) of the Medical Practice Act of 1985.
2. The committee asks the board for clarification regarding the manner in which the board will approve the written agreement to insure that it comports with the statute and the physician's scope of practice.
3. In the preamble of the proposed regulation, the board stated that it must write new regulations which reflect the state of the art of medical practice and ease the restrictions on physician assistants. In order to aid the committee in its work with

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respect to assessing the proposed regulations and the medical practice currently permitted in other states, the committee requests the following:

- a. A list of the states which permit physician assistants to prescribe Schedule II drugs.
 - b. All of the limitations imposed upon the prescription of Schedule II drugs with respect to those states that permit this practice.
 - c. The scope of practice of physician assistants in other states, including the acts which may be delegated by the supervising physician, review of patient files by the physician, and the extent to which the physician assistant may prescribe drugs.
 - d. The supervision requirements of physicians in other states.
4. The committee seeks detailed information from the board regarding the training of physician assistants, including curriculum, degrees obtained, patient contacts, national certification, continuing education and clinical study.
5. The board proposes that a physician who supervises a physician assistant is designated a "supervising physician." The proposed regulation does not define the term. The committee recommends that a definition of "supervising physician" be added and that the board clarify in the regulation that all physicians assisted by physician assistants are "supervising physicians."
6. The committee recommends that Section 18.142 Written Agreements contain language requiring each physician who is being assisted by a physician assistant to sign the written agreement so that the regulation is consistent with the statute.
7. The committee recommends the words "works with" be deleted in Section 18.142 and that the term "assist" be used so that the regulation is consistent with the statute.
8. The committee recommends that the board restore that portion of subsection (b) of Section 18.142 which the board wishes to delete. The committee makes this recommendation because the language the board wishes to delete is language found in the statute. Further, the language the board is deleting sets the standard by which the board must judge a written agreement, as stated in Section 13(e)(5) of the Medical Practice Act of 1985.
9. The board proposes to allow up to thirty-six hours for notification to the physician of a medical regimen ordered or executed by a physician assistant when the physician is not

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present and up to ten days for the countersignature by the supervising physician. The committee seeks assurance from the board that these time frames are consistent with acceptable medical standards of the medical doctor community.

10. The committee notes that the board proposes to delete current language regarding which drugs may be dispensed by a physician assistant with limitation and which drugs may be dispensed without limitation. The committee further notes that the board is deleting language in subsection (b) of Section 18.158, which describes the steps a physician must take if the physician assistant will dispense drugs. Finally, the committee notes that the written agreement must specify which drugs a physician assistant may not prescribe.

11. The board proposes to allow up to thirty-six hours for notification to the physician of a physician assistant's prescribing a drug when the supervising physician is not physically present and up to ten days for the countersignature of the supervising physician. The committee seeks assurance from the board that these time frames are consistent with acceptable medical standards of the medical doctor community

12. The committee notes that the board is deleting the language of subsection (b) of Section 18.161 Physician Assistant Employed by Medical Care Facilities. The committee recommends that the board restore that language as it is found in Section 13(g) of the Medical Practice Act.

13. The committee recommends that the board add language to Section 18.171 Identification and Notice Responsibilities. The committee recommends that the phrase "at least" be added to subsection (d). Given that many patients are elderly or infirm, they may not be able to read the name tag of a physician assistant without the larger type.

14. The committee request clarification from the board regarding the duty of confidentiality between a physician assistant and a patient and how the proposed regulation will impact upon patient confidentiality between doctor and patient.

15. The committee notes that Section 13(f) of the Medical Practice Act provides that a physician assistant may not independently prescribe drugs and that the board must request comments and recommendations form the State Board of Pharmacy regarding the dispensation of drugs.

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16. The committee recommends the words "training and experience" be added to paragraph (2) of Section 18.152 Role of Physician Assistants.
17. The committee notes a drafting error with respect to paragraph (3) of Section 18.158(a). The committee recommends the second sentence be listed as its own paragraph.
18. Section 18.151, specifically paragraph (4), states that the physician assistant may authenticate with his signature a form that may otherwise be authenticated by a physician, as permitted by the supervising physician, state or federal law, or facility protocol. The committee requests list of the types of documents to which this would apply.

Please feel free to contact my office if any questions should arise.

Sincerely,

A handwritten signature in cursive script that reads "Thomas P. Gannon".

Thomas P. Gannon
Chairman
House Professional Licensure Committee

cc: The Honorable Pedro A Cortes, Secretary of the Commonwealth
Department of State
The Honorable Kenneth A. Rapp, Deputy Secretary
Regulatory Programs, Department of State
The Honorable Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
The Honorable Peter V. Marks, Sr., Deputy Commissioner
Bureau of Professional and Occupational Affairs
Barbara Adams, General Counsel to the Governor
David J. DeVries, Executive Deputy General Counsel
Albert H. Masland, Chief Counsel
Department of State
Ruth Dunnewold, Senior Deputy Chief Counsel
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Joyce McKeever, Deputy Chief Counsel
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