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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 13, 2009

Joseph C. Gallagher, Jr., D.O., Chair  
State Board of Osteopathic Medicine  
2601 North 3rd Street  
Harrisburg, PA 17110

Re: Regulation #16A-5318 (IRRC #2644)  
State Board of Osteopathic Medicine  
Prescriptive Privileges for Physician Assistants

Dear Mr. Gallagher:

The Independent Regulatory Review Commission disapproved your regulation on April 2, 2009. Our order is enclosed and will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

Within 40 days of receipt of our order, Section 7(a) of the Regulatory Review Act requires you to select one of the following options: (1) proceed with promulgation under Section 7(b); (2) proceed with promulgation under Section 7(c); or (3) withdraw the regulation. If you do not take any action within this period, the regulation is deemed withdrawn.

If you or your staff have any questions, please contact me at 783-5506.

Sincerely,

Kim Kaufman  
Executive Director

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Enclosure

cc: Honorable Robert M. Tomlinson, Chair, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Chair, Senate Consumer Protection and Professional Licensure Committee  
Honorable Michael P. McGeehan, Chair, House Professional Licensure Committee  
Honorable William F. Adolph, Jr., Chair, House Professional Licensure Committee  
Honorable Pedro A. Cortes, Secretary, Department of State

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held April 2, 2009

Arthur Coccodrilli, Chairman  
George D. Bedwick  
Nancy Sabol Frantz, Esq.  
Karen A. Miller  
John F. Mizner, Esq.

Regulation No. 16A-53118 (#2644)  
State Board of Osteopathic Medicine  
Prescriptive Privileges for Physician Assistants

On October 10, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Osteopathic Medicine (Board). This rulemaking amends 49 Pa. Code Chapter 25. The proposed regulation was published in the October 20, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 26, 2009.

This final-form regulation would permit physician assistants practicing under the supervision of osteopathic physicians to prescribe, dispense and administer drugs and therapeutic devices.

Dr. Joseph C. Gallagher, Jr., Chair of the Board, appeared at the public meeting on April 2, 2009, and represented that he was fully authorized to request, on behalf of the Board, that we disapprove this final-form regulation to allow the Board the opportunity to revise § 25.177(a)(3) pertaining to prescriptions for Schedule II controlled substances. Without support from the promulgating Board, this regulation does not meet the reasonableness criterion set forth in the Regulatory Review Act and is not in the public interest. 71 P.S. § 745.5b(b)(3). Therefore, in response to the Board's request, we disapprove this regulation.

**BY ORDER OF THE COMMISSION:**

Regulation #16A-5318 (IRRC #2644) is disapproved.



Arthur Coccodrilli  
Arthur Coccodrilli, Chair