



2656

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MEDICINE

P.O. Box 2649
Harrisburg, PA 17105-2649
(717) 783-1400

November 17, 2008

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, PA 17101

RECEIVED
2008 NOV 17 AM 11:57
INDEPENDENT REGULATORY REVIEW COMMISSION

Re: Final Regulation
State Board of Medicine
16A-4926: Nurse-Midwife Prescriptive Authority

Dear Chairman Coccodrilli:

On November 14, 2008, the State Board of Medicine notified you that it was tolling the review period of the referenced final rulemaking, previously delivered November 3, 2008. That notice should have included the attached statement.

Sincerely,

Ollice Bates, Jr., MD, Chairperson
State Board of Medicine

OB/TAB:rs
attachment

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Thomas A. Blackburn, Regulatory Unit Counsel
Department of State
Cynthia Montgomery, Senior Counsel in Charge
Department of State
Sabina I. Howell, Counsel
State Board of Medicine
State Board of Medicine

TOLLING BY STATE BOARD OF MEDICINE
OF FINAL REGULATION
16A-4926 (NURSE-MIDWIFE PRESCRIPTIVE AUTHORITY)

On November 3, 2008, the State Board of Medicine delivered final rulemaking 16A-4926 (nurse-midwife prescriptive authority). Among other things, the final rulemaking added to § 18.2 (licensure requirements) subsection (b) to provide, “A nurse-midwife without a collaborative agreement who has met the requirements of subsection (a) may be licensed conditioned upon subsequent filing of the collaborative agreement.”

In a meeting on November 10, 2008, staff of the House Professional Licensure Committee indicated that it intended to disapprove the final rulemaking at the HPLC meeting on November 17, 2008. Section 35(c)(1) of the Medical Practice Act of 1985 (63 P.S. § 422.335(c)(1)) provides, “A nurse-midwife is authorized to practice midwifery pursuant to a collaborative agreement with a physician and regulations promulgated by the board.” The HPLC recommended removing § 18.2(b) as the HPLC does not believe that the Board has statutory authority to require a nurse-midwife to file the collaborative agreement with the Board as a condition of licensure.

Based upon this recommendation of the HPLC, by letter dated November 14, 2008, the Board is tolling its final rulemaking. The Board will remove § 18.2(b) from the final rulemaking. Instead, the Board will amend § 18.5(a) to prohibit a nurse-midwife from practicing midwifery without having entered into a collaborative agreement “and filed the collaborative agreement with the Board.” The Board intends to resubmit this revised final rulemaking on November 17, 2008.

RECEIVED
NOV 17 AM 11:51
STATE BOARD OF MEDICINE