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INDEPENDENT REGULATORY
REVIEW COMMISSION

Mr. Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
333 Market Street
Harrisburg, PA 17101

Re: Regulation No. 16A-5124 (CRNP general revisions)

Dear Mr. Coccodrilli:

I write to you concerning proposed regulations drafted by the State Board of Nursing which would significantly expand the scope of practice parameters for certified registered nurse practitioners (CNRPs).

CONCERNS WITH THE DRAFT CRNP REGULATIONS: 4 ISSUES

ISSUE #1: Insufficient Definition of Collaboration

Under current law, a CRNP can make medical diagnoses and prescribe treatments, including drugs, only under a collaborative agreement with a physician. The General Assembly provided legal meaning for physicians and CRNPs when entering into collaborative agreements by defining the term "collaboration".

The proposed regulations under §21.251 virtually ignore the General Assembly's enacted definition and attempt to create two new definitions that make a distinction between a written collaboration agreement required for prescriptive authority and simply an oral agreement which could govern all other aspects of the collaboration between a CRNP and a physician. This presents danger both to CRNPs and to physicians, and more importantly to patients, who cannot be fully apprised of the collaborative arrangement between the two if the agreement is not in written form. The definition for collaboration found in the statute should be reinserted in the definition section of the draft regulations. All collaborative agreements should be required to be in writing.

ISSUE #2: Overly Expansive Scope of Practice

Current law requires that when a CRNP is making medical diagnoses he or she may do so only in collaboration with a physician. Most recently, the General Assembly in Act 48 of 2007 made

amendments to the CRNP scope of practice by enumerating a list of 8 specific functions that they may perform. The General Assembly again asserted the specific legal requirement that the CRNP may perform the 8 listed functions only in collaboration with a physician.

The proposed regulations under §21.282a attempt to add another extremely broad list of medical examination, diagnosis and treatment tasks and functions that a CRNP may perform, many of which may exceed the education and training of CRNPs, and *without indicating that the tasks may only be performed in collaboration with a physician.*

I am a former physician assistant who went back to medical school. After completing my medical education, including internship, and a 3-year residency in family medicine I realized how much I did not know as a physician assistant. The list of medical functions should be left to the physician-CRNP collaborative teams, not written into regulation so that they become specific practice rights.

The broad and all-inclusive list of medical functions under §21.282a should be deleted and left to the physician-CRNP collaborative teams, thus making them consistent with existing regulations for physician assistants.

ISSUE #3: Insufficient Limitations on Controlled Substance Prescribing

Current law requires that the Board of Nursing "shall not change by addition, or deletion, the categories of authorized drugs without prior approval of the Drug Review Committee." Additionally, the only way for a CRNP to prescribe in the Commonwealth is via a collaborative agreement with a physician. Subject to the terms of the collaborative agreement, the current regulatory law permits a CRNP to write a Schedule II controlled substance for up to a 72 hour dose and notify the physician within 24 hours. The CRNP can also write a prescription for a Schedule III or IV controlled substance for up to 30 days and any refills must be approved by the collaborating physician.

The Board of Nursing is apparently making the assumption that the General Assembly did not intend for the Drug Review Committee to help them make decisions concerning prescribing parameters, even though they are contained in the exact same section of the regulations, in §21.284 titled "Prescribing and dispensing parameters."

By ignoring the statutory requirement of the DRC, it is also implied that the Board of Nursing believes it has the prescribing knowledge and expertise to amend prescribing parameters regarding controlled substances. This is evident by the fact that the regulations would delete the 72 hour current requirement for Schedule II controlled substances and physician notification requirement and replace it with a flat 30-day authorization. The Board of Nursing also intends to eliminate the 30 day requirement and any physician oversight when a CRNP is prescribing a schedule III or IV controlled substance and replace is with a 90 day authorization which may be followed with refills without physician consultation. The Board of Nursing describes the existing regulations as *"unnecessary paperwork that does not positively influence patient care."*

The draft regulations would obliterate the current defined timeline for notification to the collaborating physician as well as physician involvement in the diagnosis and treatment involving prescriptions of controlled scheduled drugs.

In contrast to what the Board of Nursing deems to be *"unnecessary paperwork that does not positively influence patient care"* the PAFP views the proposed patient protection deletions as a dangerous departure from the intent of the General Assembly and from the protection of the public health, safety and welfare.
Identical language is contained in the mid-level provider regulations for the scope of practice of a Physician Assistant under (49 Pa. Code §18.158(a)(3)).

ISSUE #4: Misleading Identification

Current regulatory law requires that a patient be informed at the time of making an appointment that the patient will be seen by a CRNP; that the CRNP must wear a name tag clearly identifying the person as a certified registered nurse practitioner; and requiring a CRNP who holds a doctoral degree to assure that patients are informed the degree is not that of a doctor of medicine or doctor of osteopathic medicine.

The proposed regulatory revision would eliminate in its entirety all of §21.286 titled Identification of the CRNP and obliterate the current requirements.

The obvious purpose of the current regulation is to assure that the public is not misled into believing the health care provider who will be rendering care to him/her holds credentials of a medical doctor or osteopathic physician when in fact he or she does not. The removal of these provisions from the regulation will mislead the public. Current regulations are a reasonable measure to assure legislative intent that CRNPs may not in fact independently practice medicine and should not be misleading the public into believing that they may.

All other mid-level practitioners, as well as psychologists, optometrists and chiropractors who by definition and training hold doctoral degrees, must clearly identify the degree so as not to mislead patients that they are medical doctors or doctors of osteopathic medicine.
CRNPs must be held to the same standards. The current identification provisions are clear, reasonable and necessary to protect the public health, safety and welfare.

ISSUE #5: Physician-CRNP Ratio Eliminated

Current regulatory law requires a 1:4 ratio of physician-to-prescribing-CRNPs collaborating at any one time.

The removal of the ratio is clearly a public protection concern. While most physicians would not collaborate with more prescribing CRNPs than they would be comfortable, regulations must address those situations where bad practitioners would seek to exploit the collaboration relationship and ignore their responsibilities within its parameters. I have supervised nurse practitioners as well as a physician assistant in my office. With my busy schedule in my own practice I find it difficult at times to keep up with one mid-level practitioner and would find it impossible to supervise more than two. The current regulatory 1:4 regulatory ratio requirement should remain intact.

Thank you for your consideration of these comments.

Sincerely,

Samuel E. Schrack, D.O.
701 Northway Rd.
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CC: The Honorable Robert M. Tomlinson, Chair Senate Consumer Protection and Professional Licensure Committee, Room 362, Main Capitol Building, Harrisburg, PA 17120-3006

The Honorable P. Michael Sturla, Chair, House Professional Licensure Committee, Room 333, Main Capitol Building, Harrisburg, PA 17120-2096

Ms. Ann Steffanic, Board Administrator, State Board of Nursing, PO Box 2649, Harrisburg, PA 17105-2649