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Pennsylvania MEDICAL SOCIETY

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February 26, 2007

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

Re: Final Form Regulation #18-398 (#2450), Driver's License Examination,
Department of Transportation

Dear Chairman Coccodrilli:

I am writing as President of the Pennsylvania Medical Society to request that the Independent Regulatory Review Commission (IRRC) vote to disapprove the above-captioned Department of Transportation to permit chiropractors to perform physical examinations for driver's licenses.

As stated during the public comment process, the Medical Society does not believe that General Assembly, when passing the legislation that is the basis for this regulation, intended to expand the scope of practice of chiropractors beyond that contained in the Chiropractic Practice Act of 1986. That Act defines "chiropractic" as "a branch of the healing arts dealing with the relationship between the articulations of the vertebral column, as well as other articulations, and the neuron-musculo-skeleton system and the role of these relationships in the restoration and maintenance of health. The term shall include systems of locating misaligned or displaced vertebrae of the human spine and other articulations; the examination preparatory to the adjustment or manipulation of such misaligned or displaced vertebrae and other articulations; the furnishing of necessary patient care for the restoration and maintenance of health; and the use of board-approved scientific instruments of analysis, including X-ray. The term shall also include diagnosis, provided that such diagnosis is necessary to determine the nature and appropriateness of chiropractic treatment; the use of adjunctive procedures in treating misaligned or displaced vertebrae or articulations and related conditions of the nervous system, provided that, after January 1, 1988, the licensee must be certified in accordance with this act to use adjunctive procedures; and nutritional counseling, provided that nothing herein shall be construed to require licensing as a chiropractor in order to engage in nutritional counseling. The term shall not include the practice of obstetrics and gynecology, the reduction of fractures or major dislocations, or the use of drugs or surgery."

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In reviewing the Department of Transportation's permit application and the information that must be completed by a medical provider, there are a number of elements requiring the professional assessment of the medical provider that are beyond the practice definition of chiropractic, i.e. neurological, cardiac, circulatory or neuropsychiatric disorders. Additionally, the provider is to render professional judgments as to whether the examinee suffers from conditions causing lapses in consciousness or from uncontrolled diabetes or epilepsy. These conditions require diagnosis that is outside the structures and body systems included in the definition of chiropractic.

The Department in responding to comments, points to the fact that chiropractors are recognized as primary care providers by health insurers. Insurers do restrict reimbursement to services which are within the chiropractor's scope of practice by means of procedure code.

The Department also commented that the Medical Society's comments and those of the Pennsylvania Academy of Family Physicians overstate the sophistication of the basic medical examination required under the Vehicle Code. The completion of the provider's report of examination requires a history of treatment and the performance of tests and other measurements necessary to accurately respond to the questions, especially the last one "Does this person have any other condition that would prevent control of a motor vehicle?" If it is the Department's intent to act on the basis of a simple assessment questionnaire in granting driver licensing then it should seek revision to its statute and regulations to permit completion of such an assessment by others, including the driver applicant.

The Medical Society does not believe that the proposed regulations are in keeping with the legislative intent of the General Assembly and are not in the best interest of the general public and therefore ask the Independent Regulatory Review Commission to disapprove these regulations.

Sincerely,



Mark A. Piasio, MD
President

Cc: Senate Transportation Committee
House Transportation Committee
Department of Transportation
State Board of Medicine



PENNSYLVANIA ACADEMY
OF FAMILY PHYSICIANS

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Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Final Rulemaking, Regulation #18-398 (#2450)

Dear Chairman Coccodrilli:

On behalf of the over 4,700 members of the Pennsylvania Academy of Family Physicians (PAFP), we oppose regulation #18-398 (#2450), in final rulemaking submitted by the Department of Transportation (Department), which would permit chiropractors to perform physical medical examinations for first time applicants for drivers licensing in the Commonwealth.

While the Department accurately points out that under Act 76 of 2004, the General Assembly authorized chiropractors to conduct physical examinations, the statute also provides that the chiropractor act "within the scope of practice" defined by the Chiropractic Practice Act. Based on the scope of practice prescribed in the Chiropractic Practice Act, the PAFP asserts that chiropractors do not have the training and experience to attest to many of the required types of medical diagnoses listed on the Department's "non-Commercial Learner's Permit Application" (DL-180). The Department's DL-180 lists "check-off" boxes that report the provider's examination of the patient. The provider must attest that the patient does not have any of the following conditions: neurological disorders, cardiac or circular disorders such as hypertension, neuropsychiatric disorders, epilepsy, narcolepsy, hysteria, seizure disorders, alcoholism, diabetes.

In the final form proposal, the Department reasoned that the PAFP along with the Pennsylvania Medical Society "overstate the sophistication of the basic medical exam." While we may agree that the DL-180 is a non-sophisticated instrument, we respectfully disagree with the Department's characterization of the list of conditions that a provider must attest are not present in a potential applicant, are anything but unsophisticated.

Additional to this point, Title 76, Chapter 83 of the Department's regulations give context and meaning to the list of medical conditions that appear on the DL-180.

Mr. Arthur Coccodrilli
February 27, 2007
Page two

The purpose of Chapter 83 is in part, to provide meaning to the "physical and mental criteria shall be used by physicians, CRNPs and physician assistants in *conducting physical examinations* of applicants for learner's permits and driver's licenses." In the case of a "mental disorder" found in Chapter 83.5 for example, the clinician must determine if any of the following are present: hallucination or delusion, chronic depression including contemplation of suicide, excessive aggressiveness that would present harm to self or others. Chapter 83 contains multiple other contextual medical conditions as developed by the Department's Medical Advisory Board and in accordance with Chapter 15 of the Vehicle Code.

Fundamentally, the PAFP questions why the Department did not amend Chapter 83 of its regulations in tandem with its final form regulations amending Chapter 75. It would appear based on the analysis presented, that ambiguity may be created in the standards that need to be followed by the clinicians performing the physical medical examinations. In other words, promulgating the Department's intended changes to Chapter 75 without also amending Chapter 83 could essentially create two separate standards, one for physicians, CRNPs and physician assistants, and another for chiropractors. If this analysis is correct, chiropractors would not need to adhere to the same standards when they are performing physical medical examinations.

The PAFP recognizes and supports much of the clinical work performed by chiropractors as evident by the good relationship many of our family physician members have with them in collectively caring for patients throughout the Commonwealth. However, based on the scope of practice defined in the Chiropractic Practice Act, we respectfully oppose the position that chiropractors are trained to attest and identify to the list of medical conditions defined on the DL-180. Thank you for your consideration of our views on this matter.

Sincerely,



Russell S. Breish, MD
PAFP President

CC: The Honorable Roger A. Madigan, Republican Chair, Senate Transportation Committee
The Honorable Barry J. Stout, Democratic Chair, Senate Transportation Committee
The Honorable Joseph F. Markosek, Democratic Chair, House Transportation Committee
The Honorable Richard A. Geist, Republican Chair, House Transportation Committee
Charles D. Hummer, Jr., MD, Chairman, Pennsylvania State Board of Medicine
Anne P. Titler, Pennsylvania Department of Transportation

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PENNSYLVANIA ACADEMY
OF FAMILY PHYSICIANS

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In the final form proposal, the Department reasoned that the PAFP along with the Pennsylvania Medical Society "overstate the sophistication of the basic medical exam." While we may agree that the DL-180 is a non-sophisticated instrument, we respectfully disagree with the Department's characterization of the list of conditions that a provider must attest are not present in a potential applicant, are anything but unsophisticated.

Additional to this point, Title 76, Chapter 83 of the Department's regulations give context and meaning to the list of medical conditions that appear on the DL-180.

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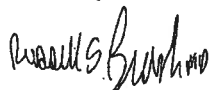
Mr. Arthur Coccodrilli
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Page two

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Fundamentally, the PAFP questions why the Department did not amend Chapter 83 of its regulations in tandem with its final form regulations amending Chapter 75. It would appear based on the analysis presented, that ambiguity may be created in the standards that need to be followed by the clinicians performing the physical medical examinations. In other words, promulgating the Department's intended changes to Chapter 75 without also amending Chapter 83 could essentially create two separate standards, one for physicians, CRNPs and physician assistants, and another for chiropractors. If this analysis is correct, chiropractors would not need to adhere to the same standards when they are performing physical medical examinations.

The PAFP recognizes and supports much of the clinical work performed by chiropractors as evident by the good relationship many of our family physician members have with them in collectively caring for patients throughout the Commonwealth. However, based on the scope of practice defined in the Chiropractic Practice Act, we respectfully oppose the position that chiropractors are trained to attest and identify to the list of medical conditions defined on the DL-180. Thank you for your consideration of our views on this matter.

Sincerely,



Russell S. Breish, MD
PAFP President

CC: The Honorable Roger A. Madigan, Republican Chair, Senate Transportation Committee
The Honorable Barry J. Stout, Democratic Chair, Senate Transportation Committee
The Honorable Joseph F. Markosek, Democratic Chair, House Transportation Committee
The Honorable Richard A. Geist, Republican Chair, House Transportation Committee
Charles D. Hummer, Jr., MD, Chairman, Pennsylvania State Board of Medicine
Anne P. Titler, Pennsylvania Department of Transportation

#2450

Kathy Cooper

From: Andy Sandusky - PAFP Govt & Legal Affairs Dir [asandusky@pafp.com]
Sent: Tuesday, February 27, 2007 11:06 AM
To: IRRC
Subject: Regulation #18-398 (#2450)

To Whom It May Concern:

Please find attached in PDF format a copy of the Pennsylvania Academy of Family Physicians comments regarding Regulation #18-398 (#2450). A hard-copy has been sent via US Mail addressed to Chairman Coccodrilli.

If you have any questions or concerns, please contact.

Sincerely,
Andy Sandusky

Andrew Sandusky
Director of Governmental Affairs
PA Academy of Family Physicians
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717-571-6647 (Cell)

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**Pennsylvania
Psychiatric Society**

The Pennsylvania
District Branch of the
American Psychiatric Association

February 22, 2007

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Arthur Coccodrilli, Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Coccodrilli:

I am writing on behalf of the Pennsylvania Psychiatric Society, representing nearly 1,800 physicians specializing in the practice of psychiatry, to comment on a Proposed Rulemaking published December 3, 2004, in the *Pennsylvania Bulletin*. This final form regulation is scheduled for consideration by your agency on Thursday, March 1, 2007. The proposal relates to the addition of chiropractors to those who may administer physical examinations for new driver applications.

House Bill 1912 of 2004 (Now Act 76 of 2004) amended the Vehicle Code by adding chiropractors to those who may legally perform physical examinations for drivers' licenses. We would also note that the enabling legislation limits this power to chiropractors "acting within the scope of practice contained in the . . . Chiropractic Practice Act." The proposed rulemaking is inconsistent with this requirement.

The definition of "chiropractor" in the practice act is limited generally to conditions and manipulations of the vertebral column and the neuro-musculo-skeletal system (see the definition of "chiropractor" at 63. P.S. § 625.102). Diagnostic authority is similarly limited, being restricted to that which "is necessary to determine the nature and appropriateness of chiropractic treatment." Chiropractors are not educated or licensed to perform general physical exams that would establish the absence or presence of a multitude of conditions that could impact an individual's ability to drive safely, such as epilepsy, cardiac arrhythmia, or the need for medications that can impair consciousness or attention.

Second, although the proposed changes to the regulation fall under a section titled "Physical Examinations," the paragraph concludes with a reference to using a special form for "alleged mental disability." Thus we are particularly concerned that the regulation appears to give chiropractors the ability to assess mental disability, a task for which they are completely unqualified by virtue of training or licensure. The definition of "chiropractor" in the Chiropractic Practice Act is appropriately void of language related in any way to the diagnosis or treatment of psychiatric illness or mental disability.

We therefore recommend (1) that the proposed rule be re-written to appropriately limit the physical conditions to whose presence, absence, or severity a chiropractor may attest; and (2) that the rule specifically prohibit a chiropractor from assessing or making a statement about mental conditions that would affect a person's ability to safely operate a motor vehicle.

Sincerely yours,

Deborah Ann Shoemaker
Executive Director

cc: Ms. Anne Titler, Acting Manager, PENNDOT
Representative Joseph Markosek, House Transportation Committee Chairman
Senator Roger Madigan, Senate Transportation Committee Chairman

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