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Ruth Charbonneau, Director
Office of Legal and Regulatory Affairs
New Jersey Department of Health & Senior Services
PO Box 360
Trenton, NJ 08625-0360

RE:*Comments to Proposal No. PRN 2010-179*

Dear Ms. Charbonneau:

The Medical Society of New Jersey respectfully submits the following comment regarding proposal No. PRN 2010-179.

We focus these comments on the proposed changes to the requirements for the provision of anesthesia in a licensed hospital. In previous re-adoptions of this rule, the administration of anesthesia in a hospital setting was permitted by either 1) a licensed physician with privileges granted under the medical staff bylaws or 2) by a nurse anesthetist under the supervision of a duly licensed and privileged physician.

A petition for rule making was submitted by the New Jersey Association of Nurse Anesthetists on January 19, 2010, seeking to allow advance practice nurses specializing in anesthesia to practice independent of physician supervision. In response, the New Jersey Department of Health & Senior Services proposes to delete the supervision requirement in the re-adoption proposal and defer the terms of the relationship between physician anesthesiologists and advance practice nurses to a collaborative agreement.

Specifically the DHSS proposes that the collaborative agreement "shall address sections governing the availability of an anesthesiologist to consult with the APN/Anesthesia on site, on call or by electronic means and the presence of an anesthesiologist during induction, emergence and critical change in status".

In the interest of patient safety, MSNJ believes the DHSS should specifically and authoritatively set forth the requirements of physician presence and supervision during the administration of anesthesia. Leaving the terms of physician presence and supervision to the terms of collaborative agreements invites inconsistency in patient care standards from hospital to hospital, even within hospitals.

Another weakness of the proposed new language at NJAC 8:43G-6.3 (e)(3) is that it could be read to leave to the collaborators the option of agreeing to no presence or supervision by an anesthesiologist. The language simply states the agreement will address presence of an anesthesiologist. Presumably the parties to a collaborative agreement could decide the anesthesiologist presence is not required, and if the agreement addresses the requirement in the negative, then the collaborative agreement requirements under this proposal are met.

MSNJ urges the DHSS to reconsider the proposed changes advanced by the APN Anesthesia with respect to physician supervision. Clearly patient care works best in a team approach with both physicians and nurse working together in the interests of the patient. The attainment of independent practice through regulatory change may satisfy certain political goals. However, patient safety and good practice must be the primary focus.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Lawrence Downs', with a long, sweeping horizontal line extending to the right.

Lawrence Downs, Esq.
General Counsel
MSNJ