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## House Professional Licensure

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### House Professional Licensure Committee

3:00 p.m., 1/26/09, Room G-50 Irviss Office Building

By Jason Gottesman and Matt Hess

The committee held a public hearing on HB 1866.

**HB 1866 Gergely** - (PN 2467) Amends The Professional Nursing Law providing the board shall certify a registered nurse as a certified registered nurse anesthetist if the nurse satisfies the requirements established by the legislation and any regulations promulgated by the board. The certification shall expire on the same date as the nurse's license expires.

Committee members in attendance included Chairman Michael McGeehan (D-Philadelphia), Minority Chairman Bill Adolph (R-Delaware), Rep. James Casorio (D-Westmoreland), Rep. Marc Gergely (D-Allegheny), Rep. Jaret Gibbons (D-Lawrence), Rep. Nick Kotik (D-Allegheny), Rep. Deberah Kula (D-Fayette), Rep. Tony Payton (D-Philadelphia), Rep. Cherelle Parker (D-Philadelphia), Rep. Joseph Petrarca (D-Westmoreland), Rep. Ronald Waters (D-Philadelphia), Rep. Matthew Baker (R-Tioga), Rep. Keith Gillespie (R-York), Rep. Sue Helm (R-Dauphin), Rep. John Maher (R-Allegheny), Rep. Mark Mustio (R-Allegheny), Rep. Bernie O'Neill (R-Bucks), and Rep. Doug Reichley (R-Lehigh).

Chairman McGeehan congratulated Minority Chairman Adolph on his new position as Minority Chairman of the House Appropriations Committee and lauded his service on the House Professional Licensure Committee. Minority Chairman Adolph said he enjoyed working on the committee and praised Chairman McGeehan for his bipartisan approach to legislation.

Joseph D'Amico, CRNA, Ph.D, Member and past President of the Pennsylvania Association of Nurse Anesthetists (PANA), and K. Stephen Anderson, CRNA, E.ed., Member of PANA, spoke in favor of the legislation. D'Amico highlighted several benefits of the law:

- Clearly defines certification requirements for Certified Registered Nurse Anesthetists (CRNAs).
- Enable DPW to recognize and credential CRNAs for payment purposes under Medicaid.
- Bring Pennsylvania in alignment with more than 45 other states that have recognized CRNAs in statute.
- Retain students that are leaving the state to practice elsewhere.

D'Amico emphasized that the legislation is not expanding the scope of practice for CRNAs. "This bill will only allow CRNAs to grow as a profession with a legal and clearly defined scope of practice," he stated. D'Amico also stressed that HB 1866 "will not impact or affect the practice of anesthesiology in any way" and noted that CRNAs "are responsible for providing the majority of surgical and procedural anesthetics in Pennsylvania each year."

Anderson said there is a need for greater access to anesthesia care in Pennsylvania and emphasized the following points:

- 24.5 percent of anesthesiologists indicated that they will stop practicing within the next five years or less.
- 86.5 percent of anesthesiologists are practicing in an urban county and 13.5 percent are practicing in a rural county.

- In 2004, only 7.8 percent of Pennsylvania doctors-in-training stayed in Pennsylvania after completing residency.
- There are 26 counties with five or less anesthesiologists with clinical medical privileges and four counties with zero anesthesiologists.

"It is prudent for the Legislature to take actions now to assure full access to anesthesia care in all settings," Anderson stated. "HB 1866 does not alter the present cooperative relationship between CRNAs and anesthesiologists in any way nor does it seek to allow independent practice for CRNAs to perform up the level of their scope of practicing training."

Rep. O'Neill asked why anesthesiologists are leaving their practices. Anderson indicated that the majority are retiring. Rep. Mustio said the issue is turning into a "battle of studies" and questioned how CRNAs handle emergency situations in an "electronic communications setting." Anderson reiterated that a lot of hospitals do not have anesthesiologists. D'Amico said CRNAs are "capable providers and have the skills to take care of emergency situations."

Rep. Maher questioned how CRNAs get paid through Medicaid. D'Amico said that CRNAs currently need anesthesiologists to receive Medicaid payments. Rep. Maher asked what the "sticking point" is between anesthesiologists and CRNAs. D'Amico stated that anesthesiologists should not have an issue with the legislation because it simply allows "CRNAs to grow as a profession with a legal and clearly defined scope of practice."

Rep. Kotik asked if they are familiar with anesthesia assistants. D'Amico said anesthesia assistants are not applicable to the bill.

Rep. Reichley questioned why the legislation is necessary. D'Amico said it will "raise the bar of our profession." Anderson, a former member of the Nursing Board, indicated that the legislation would clarify regulatory issues and provide for greater public safety.

Rep. Gergely asked if the association supports eliminating the practice of anesthesia assistants. D'Amico responded "yes." Rep. Gergely questioned if any CRNAs or anesthesiologists that would support allowing anesthesia assistants to work in Pennsylvania. "I would certainly hope not," Anderson responded, and pointed out that CRNAs have to go through a great deal of training and education.

Dr. Joseph Answine, past President of the Pennsylvania Society of Anesthesiologists (PSA), and Dr. Carol Rose, former president of PSA, spoke against the bill. "HB 1866 will degrade patient safety without any corresponding benefits," Dr. Answine stated. "It will change a system for delivering anesthesia care that works very well in achieving its core mission: protecting surgical patients." Dr. Answine conceded that there is not a statutory description of the role of CRNAs but stressed that "regulations governing all anesthetics performed in hospitals and surgical centers are those of the Department of Health and the DOH regulations state that CRNAs must be supervised by an anesthesiologist or the operating physician in a hospital setting." He indicated that PSA and PANA formed a committee to hammer out a deal on statutory language in July 2008 but "PANA rejected the agreed upon language and the discussions ended." He concluded, "We ask the committee to again reject efforts to remove physician involvement in the provision of anesthesia care in Pennsylvania. There is nothing to gain and a great deal to lose."

Dr. Rose pointed out the educational differences between anesthesiologists and CRNAs and expressed concern about the term "electronic communication" which appears in the bill. "It's just not possible to be safely caring for a compromised patient and holding a phone to your ear or texting to get advice from an anesthesiologist who is not physically available to come and help," she stated. She also emphasized that HB 1866 will not decrease medical costs or improve access to anesthesia care.

Rep. Petrarca asked if these are the only regulations dealing with the subject matter. Answine said these particular regulations conflict with the Department of Health standards and the State Board of Nursing regulations say something different. Rep. Petrarca then asked what happens if an anesthesiologist is not available. Rose said there are usually several anesthesiologists on duty and when there is a call from a CRNA, the doctors come running. She noted the CRNAs are never on their own and the doctors are always kept informed. She said the best CRNAs are the ones that call for help all of the time because it keeps the doctor well informed. Rep. Petrarca asked if this bill would save money. Rose said that it would lead to an increase in cost because of the need for more doctors after poor anesthesiological care.

Rep. Stevenson asked if someone could comment on ambulatory surgical centers where no anesthesiologist was available. Answine said that they are present in 80% of all cases, but there are some cases like Gastrointestinal surgery, where no anesthesiologist is required. He noted that if a CRNA makes a mistake, the supervising doctor is also liable and the CRNAs are not solely liable. Rep. Stevenson asked if this bill extends the scope of practice. Answine said that it will because it leaves the definition of "overall direction" up to the state board of nursing and he feels that it will be defined broadly. Rep. Stevenson asked what snagged the bill last term. Answine said it was the statutory recognition and the constant need for supervision.

Rep. Casorio asked if a cost containment analysis could be given. Answine said there is currently only one fee that is charged and there are instances where the CRNA is reimbursed at a lower fee. He said that if that fee increase were to come into play with independent practice then the CRNAs would receive equal reimbursement. He said independent practice would force there to be consultants that would lead to more costs.

Rep. Maher asked if the rub was in the possibility of there being independent practice for CRNAs. Answine said it was. Rep. Maher asked if he was correct in his assumption that this bill only gives CRNAs statutory recognition. Answine said that there will be a dramatic change because of the Department of Health regulations and that elevating the statutory recognition should be done in the regulations. Rep. Maher asked if the same phrasing existed in the state board regulations. Answine said some of the same phrasing exists. Rose said statutory recognition is a fair request, but they already have special recognition by means of their certification. Rep. Maher asked Rose if she had any objection to statutory recognition. Rose said she did not.

Rep. Waters said that this idea has been around for a while because people are nervous about certain aspects of the legislation. Rep. Waters said he would like to know what happens when CRNAs outnumber doctors. Answine said that nothing different happens, there are just fewer doctors. He said doctors are making headway in catching up in regards to the number of personnel. Rep. Waters asked about CRNA reciprocity across jurisdictions. Answine said they can practice without supervision under Medicare. Rose said they cannot practice in another jurisdiction without a nursing license.

Rep. Baker asked if there has been any discussion about modifying the current regulations. Answine said there has not been. Rep. Baker asked if, out of the 45 states mentioned, Answine could pick a model. Answine said it would be hard, but New Jersey comes to mind. Rep. Baker asked if there is a clear difference of opinion regarding whether they are seeking independent practice. Answine said there is enough of a history to indicate that is what is being sought in this legislation. Rep. Baker asked if the 2008 language would stay on the table if something like New Jersey could not be reached. Answine said they are always willing to talk anytime, anywhere.

Rep. Gergely asked if independent practice exists anywhere in United States. Answine said that it may exist in some rural areas. Rep. Gergely said he is not for independent practice, but wanted to know if there is a national standard for CRNA certification. Rose noted that reciprocity is different from certification, but that there is a national certification test and national standard. Rep. Gergely asked if CRNAs were hindered by the fact that they do not have a reciprocal license from

Pennsylvania. Rose said she did not believe so and that one cannot keep a CRNA from moving to another state. Rep. Gergely asked if we already allow for electronic certification. Answine said that this is not allowed because of Department of Health regulations. Rep. Gergely asked why the "overall direction" wording is a problem. Answine explained it is because it leaves the definition up to the state board of nursing. Rep. Gergely asked if this bill would allow hospitals to get rid of anesthetists. Answine felt that it would reduce the power of the doctor and that it has nothing to do with the procedure itself, but with the fact that anesthesia is given and there are always risks involved when anesthesia is administered. Rep. Gergely asked where the bill allows for independent practice. Answine and Rose said the definition of "overall practice" will be interpreted broadly and "medical direction" should be used in its place. Rep. Gergely asked on their opinion of anesthesia assistants. Answine said that they are not nurses and he would prefer there to be a CRNA and a doctor in the room, but so long as there is an anesthesiologist, he will accept an assistant. He did note that an assistant is not nearly as qualified as a CRNA.

James Goodyear, MD, President of the Pennsylvania Medical Society (PMS), testified against passage of the bill. He noted that anesthesiologists are critical in quality care and that CRNAs have professional limitations that anesthesiologists do not. He said that these limitations require there to be a more fully trained professional in the room.

Betsy Snook, CEO of the Pennsylvania of the Pennsylvania State Nurses Association, gave her support to the bill and awaited questions from the members.

Guy Horning, a CRNA, testified that safety is always a concern and their goal is not independent practice. He said this is not the practice of medicine, but the practice of nursing. He said there is a reciprocity loophole where a CRNA can get a temporary license and that that in the military CRNAs are not supervised by anesthesiologists, but are left to be supervised by the surgeon and nothing bad happens as a result.

Rep. Gergely asked about the clinical doctorate mentioned earlier in the hearing. Horning said it is just a way for CRNAs to expand their education and improve their profession. Rep. Gergely then called for an independent study on the effects of allowing CRNAs to work independently.

Carey Plummer, CEO of Jersey Shore Hospital testified about the great need for people trained in anesthesiology. He said this is especially true in rural areas and that anesthesiologists are leaving due to the malpractice laws in Pennsylvania. He noted that all of this can be fixed in the Department of Health regulations and that CRNAs are mostly what rural hospitals are able to obtain due to the low number of willing anesthesiologists. He said without CRNAs working independently, rural hospitals will not be able to perform even the most routine surgeries.

Rep. Petrarca asked if hospital policies trump department regulations. Plummer said that they do not, but the hospital policies have to meet the regulations promulgated.

Members also received the following written testimony:

- Dr. Richard Henker, Chairman of the Pennsylvania State Nurses Association Cabinet on Nursing Practice.