Fields of Opportunities

STATE OF IOWA

TERRY BRANSTAD, GOVERNOR
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IOWA BOARD OF MEDICINE
MARK BOWDEN, MPA, EXECUTIVE DIRECTOR

January 6, 2017

Iowa Board of Physician Assistants
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0075

RE: ARC 2832C

The Iowa Board of Medicine has reviewed ARC 2832C and has determined that the proposed rulemaking should be terminated as it does not satisfy the mandate expressed in 2015 Iowa Acts, Senate File 505, division XXXI, section 113.

The Iowa Board of Physician Assistants, in its Amended Notice of Intended Action for ARC 2832C, cites to several national organizations' policies relied upon in the development of its proposed rule.

Review of these policies support the Board of Medicine's position that a meaningful supervisory relationship between the supervising physician and the physician assistant must exist. Given that physicians are ultimately responsible for all care provided to the patient, both boards have an imperative responsibility to their licensees to provide them guidance on the standards of practice to which they are held. The public expects a defined, appropriate level of supervision by a physician who delegates medical services to a physician assistant.

The Board of Medicine is concerned that the changing nature of medicine, particularly increased corporate ownership, has negatively impacted physician assistant (PA) supervision in Iowa. More and more physicians are employed by healthcare systems and they are being required to supervise PAs as a condition of employment. The physicians are concerned that they no longer have an individual professional relationship with PAs, and often it is unclear which PAs they are required to supervise at any given time. Physicians are concerned that the employment relationship has replaced a meaningful supervisory relationship. Corporate supervision of its employees is not a replacement for a meaningful and mandatory supervisory relationship between the physician and the physician assistant.

During this protracted joint rule-making process, the Board of Medicine heard from several hospital and clinic systems that their business model has numerous physicians available to supervise physician assistants. One clinic at University of Iowa Hospitals and Clinics, for example, reports having more than 20 different physicians supervising two physician assistants. In the hospital's emergency room, multiple physicians are schedule concurrently with multiple physician assistants. In regional health care systems, physicians are being assigned oversight of

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remote medical sites with physician assistants they have never personally met or have evaluated. As these circumstances have been described to the Board of Medicine, physicians in large and small healthcare settings are not performing traditional supervisory roles, but are scheduled to be available to a physician assistant should a question arise during their shift. The Board of Medicine does not believe "available for consultation" encompasses the entire meaning of supervision envisioned by the Legislature or expected by a patient. Certainly, it is important to be available when a physician assistant is practicing, but supervision means much more.

The Board of Medicine's concern is supported by the policies cited in the preamble of the Board of Physician Assistants' proposed rule, ARC 2832C.

The American Academy of Family Physicians (AAFP) released "Guidelines on the Supervision of Certified Nurse Midwives, Nurse Practitioners and Physician Assistants." Available at http://www.aafp.org/about/policies/all/guidelines-nurses.html (January 5, 2017). The guidelines recognize the importance of the team approach to medical care. The AAFP provides the following guidance on supervision:

> **It is the responsibility of the supervising physician to direct and review the work, records, and practice of the NPP [non-physician provider] on a continuous basis to ensure that appropriate directions are given and understood and that appropriate treatment is rendered consistent with applicable state law. Supervision includes, but is not limited to: (1) the continuous availability of direct communication either in person or by electronic communications between the NPP and supervising physician; (2) the personal review of the NPP's practice at regular intervals including an assessment of referrals made or consultations requested by the NPP with other health professionals; (3) regular chart review; (4) the delineation of a plan for emergencies; (5) the designation of an alternate physician in the absence of the supervisor; and (6) review plan for narcotic/controlled substance prescribing and formulary compliance. The circumstance of each practice determines the exact means by which responsible supervision is accomplished....**
> **The supervising physician must regularly review the quality of medical services rendered by the NPP by reviewing medical records to ensure compliance with directions and standard of care. The minimum frequency with which such review takes place is, in some instances, specified in federal and state law. In establishing the frequency and extent of record review, the physician may consider the scope of duties that have been delegated to the experience of, and the patient load of the NPP.**

The American Osteopathic Association, jointly with the American Association of Physician Assistants (AAPA) issued a paper in July 2013, "Osteopathic Physicians and Physician Assistants: Excellence in Team-Based Medicine." Available at http://www.osteopathic.org/inside-aoa/public-policy/state-government-affairs/Documents/aoa-aapa-statement.pdf (January 5, 2017). Here's what the AOE and AAPA's joint statement says:

> **The physician, in collaboration with the PA, defines the PA's role in the practice, typically through a written delegation, practice or collaboration agreement**

describing the types of responsibilities the PA will assume and how the physician will provide oversight. This collaboration leads most physician and PAs working together to reach a level of trust and understanding in their practice that enables the PA to work to the fullest extent of their education, training and expertise.

When the joint rulemaking commenced 16 months ago, the Board of Medicine proposed a collaboration agreement, specifically tailored to fit each practice, but this local control was met with opposition by the Board of Physician Assistants, which wanted consensus on the existing standards expressed in the PA Board's rules in the Iowa Administrative Code. Currently, more than 40 states require some sort of written practice agreement to address the specific supervisory and collaborative expectations in a physician-physician assistant.

The Board of Medicine and the Board of Physicians Assistants have worked jointly on rulemaking since August 2015. The Board of Medicine has worked diligently to reach a compromise with the Board of Physician Assistants throughout this rulemaking process. The boards' subcommittees have met on numerous occasions and the Board of Medicine has made a good faith effort to reach an agreement that is acceptable to both boards. The Board of Medicine has serious concerns that the Board of Physician Assistants abandoned the joint rulemaking process on October 19, 2016, and developed its own rule outside of the joint rulemaking process the two boards had worked under for nearly two years. This is not the joint rulemaking.

The Board of Medicine cannot support the Board of Physician Assistants' proposed rule. The proposed rule does not satisfy the legislative mandate. The proposed rule fails to provide the much-needed guidance and clarity to physicians who supervise physicians assistants in Iowa.

The proposed rule states "supervision means an ongoing process by which a supervising physician and physician assistant jointly ensure that medical services provided by the physician assistant are appropriate." The rule provides no guidance regarding that "ongoing process." The proposed rule defines what supervision is not, but provides no guidance to what actually constitutes supervision. The boards have a responsibility to their licensees and to the public to provide clear guidance on supervision expectations. This proposed rule, ARC 2832C, provides no such guidance.

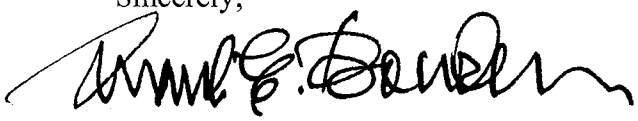
645 Iowa Administrative Code rule 327.8(2)(d) requires physicians and physician assistants to review "requirements for licensure, practice, supervision and delegation of medical services as set forth in Iowa Code." None of the requirements referenced are set forth in Iowa Code. Rather, the requirements are set forth in the Iowa Administrative Code. Accordingly, the proposed rule, as drafted does not require supervising physicians or physician assistants to review the regulations that would actually inform them of the requirements by which they must practice.

Further, the PA Board's definition of supervision uses similar language. The definition contained in 645 IAC 327.8(1) also fails to include regulations set forth in administrative rule and only references the Iowa Code. This omission creates a conflict in the Board of Physician Assistants' administrative rules that will lead to further confusion among licensees.

As written, the definition of supervision in ARC 2832C eliminates all physical presences requirements set forth in administrative rules. Effectively, this proposed language eliminates the requirement of remote medical site visits set forth in 645 Iowa Administrative Code 327.4. Such language creates more confusion and provides less clarity to licensees. The Board of Physician Assistants should not adopt a rule in direct conflict with existing rules. If the Board of Physician Assistants intends to remove the remote site visit requirement it should do so in a more transparent way – by rescinding the rule requiring on-site visits. As the Board of Physician Assistants will recall, the move to rescind remote site visits in 2014 precipitated the joint rulemaking process in the first place.

The Board of Medicine remains available to work with the Board of Physician Assistants to achieve the legislative mandate expressed in Senate File 505, but the Board of Medicine has serious concerns that join rulemaking is even possible, given the continued inability to reach and maintain general agreement on specific minimum standards or a definition of supervision for appropriate supervision of physician assistants by physicians. At this time, the Board of Medicine is respectfully asking the Iowa Legislature for direction in completing the Senate File 505 directive.

Sincerely,



Mark Bowden
Executive Director

cc: Administrative Rules Review Committee of the Iowa Legislature

January 6, 2017

Susan Reynolds
Iowa Department of Public Health, Professional Licensure Division
Lucas State Office Building
Des Moines, IA 50319

Iowa Board of Physician Assistants,

Thank you for the opportunity to comment on the proposed amended rules on physician supervision. Thank you also to both the Board of Physician Assistants (PA Board) and the Iowa Board of Medicine (BoM) for their continued consideration of this rule section. The Iowa Association of Rural Health Clinics (IARHC), supports the proposed ARC 2832C, unless validated evidence is brought forward which would show a risk to patient safety. While IARHC is an ardent supporter of rural providers and eased access to quality care for rural Iowans, patient safety remains our number one concern in consideration of this rule.

IARHC appreciates the efforts of the BoM and the PA Board on ARC 2531C and the current adopted rules by BoM. However, rural health clinics have expressed concern that those rules would reduce flexibility for essential specialty care, and behavioral health and telehealth services, in rural areas which would lead to a decrease in rural Iowa healthcare access; further the rules are likely to increase clinic costs for rural providers. Proposed ARC 2832C would give physicians and physician assistants the flexibility to determine the adequate level of oversight needed for quality patient care, while maintaining the current two week visit requirement for remote clinics and maintaining the supervising physician's responsibility for the patient's care. This flexibility would help ensure all Iowans have access to quality care provided by talented professionals and remote access via telehealth technology to needed specialty care. Access to quality care in local communities improves health outcomes and thus improves the economic viability of our state.

IARHC again thanks the PA Board and BoM for their work up to this point and would encourage the PA Board and the BoM to continue working on perfecting these rules to ensure quality access for all Iowans.

Sincerely,

Lee Elbert
President of the Iowa Association of Rural Health Clinics
Franklin Medical Center, Hampton, Iowa

Iowa Osteopathic Medical Association
IOMA

January 3, 2017

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Susan Reynolds
Professional Licensure Division
Iowa Department of Public Health,
Lucas State Office Building
Des Moines, IA 50319-0075

RE: ARC 2832C Notice of Intended Action to amend Chapter 327, "Practice of Physicians Assistants," Iowa Administrative Code

Dear Ms. Reynolds,

The Iowa Legislature determined that the current regulations for physician assistant supervision did not provide sufficient guidance regarding appropriate physician assistant supervision and enacted Senate File 505 mandating that the Board of Medicine and the Board of Physician Assistants to adopt joint rules to establish an improved definition of supervision and/or minimum standards of practice for physician assistant supervision in Iowa.

The subcommittee's met and ultimately determined that a minimum standard of practice for physician assistant supervision would provide greater guidance to physicians, physician assistants and the general public. They also determined that much of that guidance is already in rules for the physician assistants and just needed to be reiterated in physician rules.

During the initial discussions, the Iowa Osteopathic Medical Association and Iowa Medical Society, as suggested by our national organizations, strongly suggested a practice or collaboration agreement describing the types of responsibilities the physician assistant will assume and how the physician will provide oversight. The suggestion was strongly denied by the physician assistant organization and was removed from the discussions and the discussions then focused on what was felt to be the necessary minimum standards needed. Hence, the agreed upon rules by the subcommittees and which were adopted by the Board of Medicine.

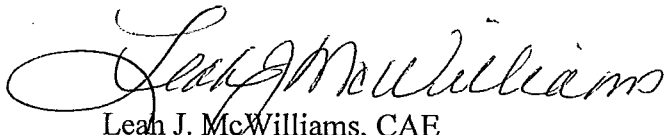
The new rule 645 – 327.8 Definition of physician supervision of a physician assistant does not provide enough guidance to physicians who are responsible for the patient and whose license is in jeopardy if something goes wrong. Physicians want to know what the standards are by which they are being judged. They must have authority for initiating and implementing quality-control programs for non-physicians delivering medical care in team-based practices. This new rule will only provide more confusion at this point.

Numerous physicians have expressed concerns that the changing nature of medicine, particularly the increased corporate employment of physicians, has negatively impacted physician supervision in Iowa. More and more physicians are employed by large healthcare systems and are being required to supervise physician assistants as a condition of employment. The

physicians are concerned that they no longer have an individual professional relationship with physician assistants, and often it is unclear which physician assistants they are required to supervise at any given time. Physicians are concerned that the employment relationship has replaced a meaningful supervisory relationship.

The Iowa Osteopathic Medical Association asks that the Board of Physician Assistants not adopt this rule, but continue discussions with the Board of Medicine to negotiate joint rules.

Sincerely,



Leah J. McWilliams, CAE
Executive Director

1/4/17

Dear PA Board members,

I have worked with both physician assistants and nurse practitioners throughout my over 40 year medical career. I am currently the Chief Medical Officer for Primary Health Care, Inc : a Federally Qualified Health Center system here in central Iowa. I have reviewed the proposed rules ARC 2832C and agree with the PA Board on your principles of team oriented collaborative practice. In my experience it is a proven model for delivering high-quality cost effective patient care. Our organization already has a system set up to evaluate patient care and to provide support and supervision for our PAs and NPs. I appreciate that the rules recognize that each physician and each practice may face different obstacles for providing necessary care to patients as delineated in 327.8(2) Additional elements of supervision. This flexibility is critical so that regulation and oversight does not create an additional barrier to health care delivery especially in the underserved populations we serve

Sincerely,

Bery Engebretsen, MD
Chief Medical Officer
Primary Health Care, Inc
1200 University Ave
Des Moines, IA 50314

Iowa Physician Assistant Society

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West Des Moines, IA 50266
ph: (515) 282-8192 fax: (515) 282-9117

January 4, 2017

Susan Koehler, PA-C, Chair and
Members, Board of Physician Assistants, State of Iowa
321 E 12th Street, 5th Floor
Des Moines, Iowa 50319-0075

In re: Iowa Society of PA Public comments to ARC 2832C, Physician Assistants.

Dear Chair and Members,

On behalf of the 1,250 licensed PAs represented by the Iowa Society of PAs (IPAS), thank you for this opportunity to comment on the board's intention to adopt an amendment to administrative code relating to PA supervision. The society appreciates your consideration of our comments.

IPAS joins the American Academy of PAs (AAPA) in supporting ARC 2832C.

Senate File 505 (SF 505), passed by the Iowa legislature in its 2015 session, directs the board of medicine and the board of physician assistants to "jointly adopt rules pursuant to chapter 17A to establish specific minimum standards **or** a definition of supervision for appropriate supervision of physician assistants by physicians." [Emphasis added]Senate File 505 is a narrowly focused directive to both boards by the legislature. What the medical board has promulgated goes well beyond defining supervision or minimum standards and exceeds the legislature's directive. The Iowa PA Society is on record expressing concern that the medical board rule is potentially anti-competitive, costly and endangers access to care to Iowa's vulnerable populations. In fact, several analyses by the University of Iowa, AAPA, and the Iowa Department of Health's survey demonstrated that that the medical board proposal would place a $3.1 million a year burden on our healthcare system. It is unfortunate that these other proposals were advanced without independent, peer-reviewed documentation that shows benefit from these ill-advised requirements.

What is truly troubling is that the medical board insists that its regulation is in effect. This is already having a negative impact on PAs' and their physicians' ability to serve patients. Yet, the medical board regulation cannot be in effect as it is not part of any jointly adopted rule as required by the legislature.

Consequently, we urge the PA board to continue its support of this new rule, ARC 2832C, and encourage the medical board to do likewise. The PA board proposal will allow PAs and supervising physicians to continue to determine the appropriate level of supervision and documentation - maintaining maximum flexibility at the practice level. That will benefit patients by improving their access to quality care as it has in the past.

The Iowa PA Society is on record as supporting regulatory proposals that are evidence-based, do not increase costs, and do not place unnecessary restrictions on PAs and physicians providing care to patients. The PA board's proposal accomplishes this. The PA Board rule, ARC 2832C, also satisfies the mandate of Senate File 505 without endangering the care currently provided by physician - PA practices, especially for medically underserved communities.

Thank you for allowing IPAS to share our perspective with you. Please let us know if you have any questions. You may contact us at info@iapasociety.org.

Best regards,

A. Jared Wiebel, PA
President
Iowa PA Society

cc: Susan Reynolds, Department of Health (Susan.Reynolds@idph.iowa.gov)
Adam S. Peer, Director, AAPA (apeer@aapa.org)

December 27, 2016

Dear Iowa PA Board,

I am writing to express my support for your proposed rules (ARC 2832C) that expand the definition of PA supervision without limiting access to care.

As an Iowa licensed pharmacist who has worked with PAs for many years, I find that PAs are skilled care providers who often practice where medical care is otherwise not available. In contrast to previous PA rule proposals, ARC 2832C allows physician / PA teams to continue to provide quality care to patients.

As you know other comparable medical professionals like pharmacists, nurses and physicians regulate their own through regulatory boards that perform peer review. PAs have done this successfully for many years, too. That should be allowed to continue. It is the Iowa way of regulating medical care professionals.

Thank you for considering my comments.

Sincerely yours,

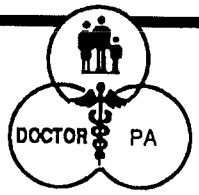
James McCormick R. Ph.

James McCormick, RPh
20388 Wendover Place
Dallas Center, IA 50063

REDFIELD MEDICAL CLINIC

1013 First Street, Box C, Redfield, Iowa 50233

Ronald McHose, D.O.
Ed Friedmann, P.A.



(515) 833-2301

December 23, 2016

Dear PA Board Members,

We strongly support your PA Board rules (ARC 2832C) that add more detail to the definition of PA supervision without limiting access to care.

With more than 40 years of experience with the effectiveness of the physician-PA team, it is clearly evident that the double safety factor of having both the physician and PA responsible for the care provided works well for Iowa.

The record of no disciplinary action regarding PA supervision for the past 10 years, by either the PA or medical board, clearly supports the effectiveness of the current PA regulatory system. Crucially these rules continue to allow patients better access to care, especially in our small towns like Redfield, by permitting the flexibility of the rule exception process without having to go through two boards to obtain it.

Importantly, these rules allow the continued flexibility of supervision through the use of modern technology like telemedicine and remotely accessible medical records. We believe the rules in ARC 2832C satisfactorily address any concerns regarding proper physician oversight and do not make access to care any more difficult.

Thank you for considering our recommendations.

Sincerely,

Ed Friedmann, PA/ Ronald McHose, DO

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IMS
IOWA MEDICAL SOCIETY

December 14, 2016

Susan Reynolds
Professional Licensure Division
Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50309
Via email: susan.reynolds@iowa.gov

RE: ARC 2832C – Amended Notice of Intended Action, Definition of Physician Supervision of a Physician Assistant

Dear Ms. Reynolds:

On behalf of the more than 6,500 physician, resident, and medical student members of the Iowa Medical Society (IMS), thank you for this opportunity to comment on the Iowa Board of Physician Assistants' (IBPA) notice of amended rules regarding appropriate physician supervision of a physician assistant (PA).

On March 8, 2016, IMS submitted written comments in support of ARC 2417C, the board's previous iteration of these administrative rules. IMS continues to believe that the joint rules – twice agreed to by subcommittees of the IBPA and the Iowa Board of Medicine (IBM) and contained in ARC 2417C and 653 IAC 21.4 – represent reasonable, uniform minimum standards for appropriate supervision, which are consistent with the majority of practice arrangements across the state. IMS supports these joint rules and was pleased to see the IBM rule package take effect June 15, 2016.

IMS is concerned that ARC 2832C represents a unilateral departure from the joint rule package that was crafted in compliance with the legislative directive contained in SF 505. The decision by the IBPA not to move forward with ARC 2417C in a timely manner has already caused significant confusion among providers, with licensees of the two boards unsure of the expectations for how their practice arrangement should be structured to protect public safety and avoid the potential for discipline. ARC 2832C is likely to cause further confusion as PAs and their supervising physicians must reconcile the two independent rule packages.

Physician assistants play an invaluable role on the physician-led care team; physicians and the PAs they supervise should be focused on providing high-quality patient care, not on navigating disparate administrative regulations. IMS urges the IBPA to carefully consider the implications of its decision to move forward with ARC 2832C in place of the jointly-crafted ARC 2417C.

Thank you again for the opportunity to provide input.

Sincerely,

Clare Kelly

Clare M. Kelly
Executive Vice President & CEO