

STATE BOARD OF

# NURSING

NEWSLETTER

Board Telephone: (717) 783-7142  
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Winter 1998/99

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Commonwealth of Pennsylvania

Tom Ridge  
Governor

Kim Pizzigrilli  
Acting Secretary of the Commonwealth

Dorothy Childress  
Commissioner  
Bureau of Professional  
and Occupational Affairs

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Pennsylvania homepage at [www.state.pa.us](http://www.state.pa.us)  
or visit the Department of State  
website directly at:  
[www.dos.state.pa.us](http://www.dos.state.pa.us)

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*Counsel*

**Robert Cameron, Esq.**  
*Counsel*

**Miriam H. Limo, R.N.**  
*Executive Secretary*

**Ann Steffanic**  
*Administrator*

## Remaining Board Meeting Dates for 1999

March 8-9; April 19; May 17-18; June 18; July 15-16;  
Aug. - no meeting; Sept. 27-28; Oct. 25; Nov. 30-Dec. 1

## Message from the Chair

*M. Christine Alichnie, R.N., Ph.D.*

As the chair of the Board of Nursing, I am honored and privileged to serve the citizens of Pennsylvania. Before discussing the goals of the board for 1998, I would like to take this opportunity to welcome our new licensees in the Commonwealth. Since the board's primary purpose is to ensure safe nursing services to the citizens of Pennsylvania, we believe that each licensee should possess a current copy of the *Pennsylvania Rules and Regulations* which govern nursing practice in the state. These regulations are updated periodically to reflect current nursing practice and education. If you do not have the current regulations, contact the board office.

As you read this newsletter, you will receive up-to-date information pertaining to board initiatives and goals for the year. Throughout 1998, our energies were devoted to two major issues still confronting licensed nurses throughout the Commonwealth: prescriptive privilege for the certified registered nurse prac-

itioner and delegation of nursing functions to unlicensed assistive personnel. Regulations pertaining to these two critical issues have enormous impact on consumer care and nursing practice. Safety for the citizens of the Commonwealth is paramount in promulgating regulations. With great perseverance, we are moving forward in a positive fashion on both aspects.

Likewise, the board continues to monitor multi-state licensure; impact of tele-health on nursing practice; and the need for early intervention/treatment for those who are chemically-impaired. Our proactive approach on the latter concern has developed a collaborative effort within the Bureau of Professional and Occupational Affairs and the Professional Health Monitoring Program for the purpose of developing a peer assistance program network throughout the state. The need for such a program is vital to the welfare of the patients we serve.

The board's activities have been numerous with the promulgation of new regulations pertaining to volunteer licenses, sexual misconduct and endorsement qualifications of foreign trained nurses.

The board was greatly encouraged by your positive responses to articles in our last newsletter. We request that you continue to inform us of your concerns regarding regulations of the board. As always, we will continue to strive for input from various professional organizations and constituencies, as well as from individual licensees. The board welcomes individuals and organizational representatives to attend our monthly meetings in Harrisburg.

The members of the board are dedicated to the betterment of the profession through achieving meaningful regulations which protect the public from undue harm and provide safe practitioners in the Commonwealth.

## The Department of State Creates Web Pages for Each Licensing Board and Commission

In November 1998 Acting Secretary of the Commonwealth Kim Pizzigrilli announced a new online resource to make professional licensure information more accessible to the public. "The Ridge Administration believes the Internet is a valuable tool to make information more accessible to Pennsylvanians," Pizzigrilli said. "Over the last three years, the Department of State has undergone an extensive modernization. Through the use of new technology like the Internet, we are becoming more responsive and more effective in meeting the needs of the public."

The Department of State has expanded its website to include professional licensure information for 27 boards and commissions under its jurisdiction. The website is available through the Pennsylvania homepage at [www.state.pa.us](http://www.state.pa.us) or directly through the Department of State's website at [www.dos.state.pa.us](http://www.dos.state.pa.us).

Consumers and licensed professionals who visit the site now will be able to access licensure laws, and application and exam information; to request copies of regulations; to review meeting dates; and to download complaint forms. The new site also marks the first step in the department's efforts to make professional licensure records and board information available to the public via the Internet.

More than 800,000 professionals are licensed and regulated by the boards and commissions under the department's jurisdiction. By improving access to licensure and board information, the department seeks to improve the level of service offered to consumers and professionals who use this information every day.

As part of the Ridge Administration's efforts to improve customer service and provide greater access to public information, the Department of State revised its Internet website

to provide better service and to improve efficiency 24 hours a day, seven days a week. The site allows for instant and convenient access to election information and voter registration statistics; tips on charitable giving; fees and filing requirements for incorporating in Pennsylvania; and basic information about the department. In 1997, Pennsylvania became one of the first states in the nation to tabulate and post election returns to the Internet on election night; and in April 1998, the department began posting campaign-finance reports for statewide candidates on the Internet — fulfilling Gov. Ridge's pledge to provide greater access to campaign-finance information.

The Pennsylvania Homepage, [www.state.pa.us](http://www.state.pa.us), recently was selected as the best state website in the country by *Government Technology* magazine.

# A Day in the Life of Our New Board Member, K. Stephen Anderson, CRNA, M.Ed.

*Interview by Ellen Toker*

*Writer's note: To be fully conversant with all aspects of K. Stephen Anderson's background and qualifications, I spent most of the day on Feb. 6, 1998, with him at Hamot Medical Center in Erie. Much of what I encountered was very new to me since, as a public member of the State Board of Nursing, I haven't spent much time in operating rooms or in the halls of a hospital. Keeping up with Steve and his extremely busy day taught me an enormous amount and left me with a huge regard for my colleague.— Ellen Toker*

Kenneth Stephen Anderson is both a nurse educator and practitioner and has been for some thirty years. Officially, Steve is a Certified Registered Nurse Anesthetist (CRNA) with a Master's Degree in Education. He is the director of the Hamot Medical Center School of Anesthesia in Erie and joined the State Board of Nursing in 1997.

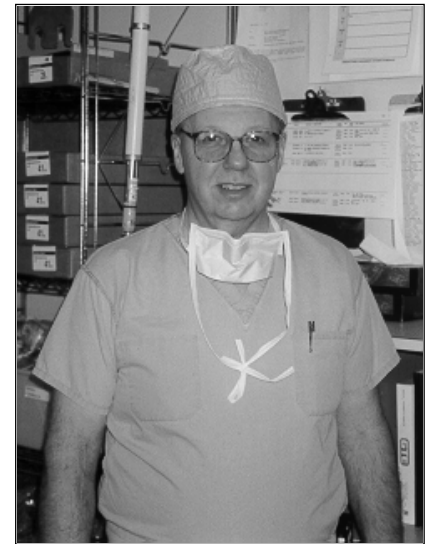
Steve is well known to most people at Hamot — and judging from the comfortable way he interacts with the other CRNAs, anesthesiologists, surgeons and school administrators — he is also very well liked. Steve is an activist and as such makes sure that when he can, he includes time in the operating room doing the practical work of safely administering anesthesia and carefully assessing and monitoring patient reactions and responses. Since he teaches in the School of Anesthesia, his students have the benefit of his hands-on experience. The time he spends in the operating room also keeps him up to date with the latest procedures and techniques.

Steve's job as director of the School of Anesthesia has many facets. He teaches from six to eleven hours each week and is currently teaching Applied Chemistry and Physics, and Pharmacology. C. Kent Persinger, CRNA, Associate Director, and Valerie Hoover, B.S., Program Coordinator, plus a faculty of approximately sixteen CRNAs and anesthesiologists, work under Steve's direction. The twenty-seven month program at the School of

Anesthesia grants a Master's of Science degree in Nursing (MSN) from Gannon University, which has joined forces with Hamot for this educational enterprise. There are currently eighteen students in the program, split into three classes. Hamot's school is highly competitive for a prospective student, and Steve is justifiably proud of all his current students and his many alumni. Steve runs this school from a very non-glamorous office where it is obvious that a lot of work gets done to ensure a quality program.

Running the School of Anesthesia has required creativity and ingenuity on Steve's part. Last year, in order to make sure his students received the required hours of operating room experience doing regional anesthetics, Steve arranged for a month-long rotation for each senior student at the Veterans Administration Medical Center in Cleveland, Ohio. He arranged housing for the students as well. So far this rotation has been enthusiastically received by the Veterans Hospital and by the Hamot students. One of the students remarked that she felt extremely lucky to have had this opportunity at the Veterans Hospital.

As director of the School of Anesthesia since 1974, Steve has had many other challenges that called on his creative problem-solving. Originally the School of Anesthesia was a certificate program. Then Steve sought an affiliation with Edinboro University of Pennsylvania which he did achieve in 1976. In 1989, the program became a graduate program, granting an MSN. But in 1990, the affiliation with Edinboro was no longer viable and Steve needed to find a new affiliate university. Gannon University agreed to join forces with Hamot and now grants the MSN degree to the School of Anesthesia students. Perhaps it sounds effortless in the retelling, but all of the negotiation with both universities required hours of time, energy and persuasion on Steve's part.



K. Stephen Anderson, CRNA, M.Ed.

On a national level, Steve has also been in the forefront. For seven years, he was a member of the Council on Accreditation of Nurse Anesthesia Programs, which is based in Chicago. Toward the end of the seven years, from 1992-1994, he was chairman of the council and traveled to Chicago on a frequent basis. The council also had many official dealings with the United States Department of Education while Steve was the chairman.

One of the most impressive aspects of Steve's personality is that he doesn't leave you in the dark about any topic he feels strongly about: his wife and two daughters, of whom he is immensely proud; his students, who have found wonderful jobs upon graduation (and he can't wait to tell you about them); his philosophy as a nurse, which at its core is that communicating with the patient is key; his relationship with his boss, who is vice president at Hamot and for whom Steve has a great admiration (and she for him); his excitement at being appointed to the State Board of Nursing and his determination to do a good job in this capacity. Everyone I met had the utmost respect for Steve.

## Welcome Two More New Board Members



Janet Hunter Shields, MSN, CRNP, CS, holding Brandain Ness

### Janet Hunter Shields, MSN, CRNP, CS (interview by Ellen Toker)

*Pioneer* is the word one thinks of when reviewing Janet Hunter Shields' resume and all her accomplishments in the nursing field. Janet Shields is a pioneer in that she has always been in the forefront, ahead of her time and future-oriented, looking out for the new and the better for nurses and patients. It would be hard to find a more qualified board member for the Pennsylvania State Board of Nursing. Shields joined the board in February 1998 and will serve until February 2003, which is fortunate for the citizens of this Commonwealth who will have the benefit of her guidance for these next six years.

Since 1989 Janet Shields has been a clinical nurse specialist and pediatric nurse practitioner in the section of Pediatric Surgery at the Milton S. Hershey Medical Center, Hershey, Pennsylvania. She clearly loves her work and radiates enthusiasm when she speak about it. From the beginning, she wanted work in the field of pediatrics and she found her niche in pediatric surgery. For Shields, surgical issues are less mysterious and more concrete and predictable than other issues. She also enjoys, and has a talent for, educating families of her patients.

In addition to the expertise Shields brings to the board from her current position, she also has many other qualifications. As an instructor at Messiah College in Grantham in the 1980s, Shields taught in the classroom, in the hospital and in the laboratory. She supervised students in a retirement center and in community settings. She points to teaching as an experience which broadened her background.

A somewhat unusual and favorite job of Janet Shields was the three seasons she worked as a pediatric nurse practitioner for the Pennsylvania Department of Health in the Adams County Migrant Health Program. One night each week she ran the clinic for the Haitian, Mexican and Puerto Rican workers who came to pick Pennsylvania apples and peaches. She counseled children and families, performed physical assessments and treated minor illnesses. For these families she was the main health care professional they would meet, and she took her responsibility seriously and with great interest in the individuals who needed her care.

Very close to Shields' heart is the extensive work she has done for the Pennsylvania Nurses Association (PNA). She has served on the PNA Board of Directors. She has been chairperson of the Commission on Nurse Practice. And she is the past vice-president of the Council of Advanced Practice Nurses of the PNA. She was a familiar face at the State Board of Nursing meetings when she represented PNA and spoke on occasion to the board as PNA's representative. In 1997 the PNA nominated her for the Nightingale Awards of Pennsylvania in the category of Advanced Practice Registered Nurse. She was a finalist for that award and was the recipient of the PNA's 1996 Nursing Practice Award.

She also has an extensive list of scholarly publications to her credit as well as numerous courses and conferences she has attended for professional development.

The members of the State Board of Nursing welcome Janet Shields and her lively and informed comments and opinions, as well as her wealth of experience in nursing.

### Paula Nyhart Gowen

Paula began her term in January 1998. She is a native of Philadelphia. A graduate of the Chestnut Hill College with a bachelor's degree in English, she taught junior high English in Doylestown and in Elkins Park. The State Board of Nursing is indeed fortunate to have such a gifted and experienced woman as a member. Paula will contribute greatly towards keeping the board aware of important legislative issues that could affect the health and well being of the citizens of Pennsylvania.



Paula Nyhart Gowen

## Change of Name and/or Address Reminder

To ensure receipt of a renewal notice or important information from the board, licensees must contact the board office with any changes in name or address. Name changes require a copy of a court order, marriage certificate, divorce decree or other official document. Please send changes to:

State Board of Nursing  
P.O. Box 2649  
Harrisburg, PA 17105-2649

# Board's New Initiative: Peer Assistance Program

As a new goal for this year, the board is investigating a potential networking group from the state's professional associations for the purpose of initiating a peer assistance program for chemically impaired nurses. Peer assistance programs provide a regional resource throughout the state for early identification and enrollment of chemically impaired nurses into

a treatment and monitoring program; regional support groups to monitor recovery progress; and regional provisions for professional treatment services and evaluations to counseling and legal entities. These programs are voluntary in nature with an attempt to provide early detection and treatment prior to disciplinary action from the board. In future newsletters, the board will inform its licensed population of

the progress towards the development of such a program across this state. Currently, there are splinter groups providing such services. The board's intent is to have a solidified networking system throughout the state. A committee of the board is exploring concepts/issues related to the development of such an integrated system.

## Committee Update

### Advanced Nursing Practice Committee

*M. Christine Alichnie, R.N., Ph.D., and Jean Fergusson, R.N., Ed.D.*

Over the past year the Advanced Nursing Practice Committee has held several work-intensive meetings with a committee of the State Board of Medicine. These meetings have resulted in a new draft of rulemaking which would grant prescriptive privileges to Certified Registered Nurse Practitioners (CRNPs). The draft was reviewed by the State Board of Nursing and the State Board of Medicine at their meetings. Copies of the draft were sent to various stakeholders in Pennsylvania. After a review of the stakeholders comments, and further discussions with the State Board of Medicine, the boards hope to go forward with proposed rulemaking.

In summary, issues for CRNPs will include the following: (1) approval of a preliminary draft of rulemaking governing prescriptive privileges for CRNPs, (2) approval of standards for Pennsylvania board-approved CRNP programs, and (3) development of regulations for continuing competency for CRNPs.

The Advanced Nursing Practice Subcommittee will continue to seek opportunities to work in collaboration with the State Board of Medicine and the community of stakeholders in regard to the above issues.

### Department of State Health Advisory Committee

*Susanne Kelly, R.N., B.S.N.*

The State Board of Nursing has been participating in the Health Advisory Committee initiated last year by the Secretary of the Commonwealth. This committee has representation from the healthcare related boards within the Bureau of Professional and Occupational Affairs, including the State Board of Nursing. Other members of the committee include representatives from the state boards of Medicine, Osteopathic Medicine, Dentistry, Chiropractic, Optometry, Pharmacy, Physical Therapy, Occupational Therapy, Speech Language and Hearing, Social Work, Psychology and Veterinary Medicine.

Discussion topics include areas of interest or concern related to healthcare regulatory boards. These topics are:

- Sexual misconduct/boundary violations;
- Telehealth/telemedicine;
- Processing complaints and protecting complainants;
- Insurance fraud;
- Legislative updates;
- Prescription privileges;
- Alternative medicine;
- Evaluation process for healthcare and professions seeking licensure and development of a board; and
- Managed care.

## To File a Complaint

If you believe the practice or the service provided by a licensed professional to be unethical, immoral, below an acceptable standard of practice or out of the scope of the profession, you are urged to contact the Bureau of Professional and Occupational Affairs to obtain a complaint form. A toll-free telephone number is shown below.

*in Pennsylvania:*  
**1-800-822-2113**

*out of state:*  
**1-717-783-4854**

A complaint form is also available on the department's internet site.

The web address is:  
**www.dos.state.pa.us**

## Important Reminder on Reporting Suspected Child Abuse

Persons, who in the course of their employment, occupation or practice of their profession come into contact with children, shall report or cause a report to be made when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused child.

Child Abuse, as defined in the Child Protective Services Law (CPSL), includes any of the following:

- any recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age;
- an act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age;
- any recent act, failure to act or series of such acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or exploitation of a child under 18 years of age;

■ serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

Sexual abuse or exploitation is the employment, use, persuasion, inducement, enticement or coercion of any child to engage in or assist any other person to engage in any sexually explicit conduct or any simulation of any sexually explicit conduct for the purpose of producing any visual depiction, including photographing, videotaping, computer depicting or filming, of any sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

If you have reasonable cause to suspect that a child has been abused, a report should be made immediately by telephone to *CHILDLINE* at

**1-800-932-0313.** Within 48 hours of the oral report, a written report must also be made to the appropriate county children and youth service agency by the reporter. Forms can be obtained from the county children and youth service agency.

Willful noncompliance with the reporting requirements of the CPSL will result in the initiation of disciplinary action before the professional licensure board. Criminal sanctions may also be applicable.

A board-regulated practitioner who participates in good faith in making a report; cooperating with an investigation; testifying in a proceeding arising out of an instance of suspected child abuse; or taking photographs, shall have criminal, civil and disciplinary immunity that might result from these actions.

*To obtain a copy of the regulations, please call the board office.*

## Public Access to Information

by Gerard M. Mackarevich, Esq.  
Deputy Chief Counsel,  
Pennsylvania Department of State

The Bureau of Professional and Occupational Affairs is sensitive to its licensees' concerns about personal privacy. However, the Pennsylvania Right-to-Know Act, 65 P.S. §66.1, mandates release of information contained in a "public record" stored by that agency if a member of the public requests it.

The bureau wants you to know that it will take all reasonable steps to safeguard personal information contained in your licensure records. We realize that many of you use your home address on the licensure records maintained by the bureau. However, given the uncertainty over what the Right-to-Know Act requires, neither the bureau nor the board that issues your license can guarantee the confidentiality of the address shown on your licensing record. Therefore, we recommend that, if you have a personal security concern, you might want to consider what many of our licensees have already done: Use a business address or box number as the official address on their licensure records.

## Lapsed Licenses and Licenses Placed on Inactive Status

Pennsylvania law affords non-practicing nurses the option of placing their licenses on inactive status by providing written notice to the Board of Nursing. However, non-practicing nurses who wish to maintain an active license are permitted to do so in Pennsylvania simply by paying the mandated biennial licensure renewal fees. If a licensee neither renews a license nor places it on inactive status, it becomes a lapsed license.

Continued competence regulations which became effective June 19, 1993, apply to individuals who placed their nursing licenses on inactive status for a period of five or more consecutive years on or after January 1, 1986, or whose licenses have lapsed for five or more consecutive years.

§21.30a and §21.156a of the board's regulations state that: A nurse whose license has lapsed for five years or longer or whose license has been placed on inactive status for five years or longer may reactivate the license by doing one of the following:

1. Successfully completing the initial licensing examination approved by the board and submitting the examination fee;

2. Successfully completing a board-approved reactivation program, which includes as a prerequisite to completion the passing of a board-approved nursing achievement examination; or
3. Providing evidence to the board that the applicant has practiced nursing in another jurisdiction at some period of time within the last five years under a current license during that time.

If you do not have a current copy of the Regulations booklet for Pennsylvania nurses, please request one immediately so that you can be up to date. You can call the board office at (717) 783-7142; fax your request to (717) 783-0822; or e-mail the board at: [nursing@pados.dos.state.pa.us](mailto:nursing@pados.dos.state.pa.us) and we will send you a copy as soon as possible.

*Editor's note:*

*In each issue of the State Board of Nursing Newsletter we will try to highlight a section of the current Rules and Regulations for licensed nurses. Since the board office has received numerous questions about lapsed licenses and licenses placed on inactive status we have decided to begin with this regulation.*

## Commentary

# Reporting Elder Abuse: “Voluntary or Mandatory”

by Jeffrey J. Wood, Esquire, Chief Counsel, Pennsylvania Department of Aging

*Jeffrey J. Wood, Esquire, was appointed Chief Counsel to the PA Department of Aging by Gov. Tom Ridge in April 1995. Wood assigns and supervises the Aging legal work, advises Aging Secretary Richard Browdie on matters affecting older Pennsylvanians, and represents Aging in administrative forums, county courts and state appellate courts on elder law issues including contracts, regulations, legislation, constitutional challenges, health care matters, and particularly with the Pharmaceutical Assistance Contract for the Elderly (PACE) Program and older adult protective service intervention in cases of abuse, exploitation and fraud.*

Our senior citizens may be one of our most valuable resources, but they can also become our most vulnerable citizens. Sickness, loneliness, or mere “old age” can leave an older adult vulnerable to abuse. **The purpose of this Commentary is to provide general information, not legal advice, about the issue of ‘reporting elder abuse’.**

The Pennsylvania Department of Aging (PDA) is formally charged by the Older Americans Act (42 U.S.C.A. § 3025(a)) and the Pennsylvania General Assembly (71 P.S. § 581-1) with being an advocate for the interests of older Pennsylvanians at all levels of government. PDA oversees many services and benefits to older people — most provided through the 52 state-wide Area Agencies on Aging (AAAs), and works with the Governor’s Office and the General Assembly on legislation benefiting older persons. PDA has consistently pursued its role as advocate inside and outside state government through planning, training and research as well as the administration of federal and state funds for elderly programs through AAAs. PDA and AAAs are both leaders of, and partners in, what is known as the state and local Aging Services Network.

PDA and AAAs through The Older Adults Protective Services Act (35 P.S. § 10225.101 *et seq.*) have assisted thousands of older Pennsylvanians to overcome abusive situations or protect them from potential abandonment, abuse, financial exploitation or neglect, including self-neglect. The Act provides that any person having reasonable cause to believe that an older adult is in need of protective services may report such information to the AAA (35 P.S. § 10225.302(a)). An older adult is defined by the Act as a person in our Commonwealth who is age 60 or over (35 P.S. § 10225.103; see 71 P.S. § 581-2).

The Act, which was effective July 1988,<sup>1</sup> enables anybody to voluntarily report suspected abandonment, abuse, financial exploitation or

neglect. Abuse is defined in the Act as: the infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish; or as the willful deprivation of necessary goods or services to maintain physical or mental health; or, as any sexual act, harassment or placing one in reasonable fear of serious bodily injury (35 P.S. § 10225.103; see 23 Pa. C.S.A. § 6102 and 18 Pa. C.S.A. § 2301). Consequently, **any person** who has personal knowledge that abuse has been, or is being, perpetrated upon an older adult, may **voluntarily** report such to the AAA.

Notwithstanding, the Act’s voluntary reporting directive, the Act has been amended by Act 13-97, effective December 1997, mandating any employee or administrator of a facility (facility being defined in the Act) who has reasonable cause to suspect that an individual receiving care, services or treatment from a facility is a victim of abuse, shall immediately make a report of such abuse to the AAA (35 P.S. § 10225.701 (a)(1)). Further, any employee or an administrator who has reasonable cause to suspect that such individual is the victim of sexual abuse, serious physical injury or serious bodily injury or that a death is suspicious shall, in addition to contacting the AAA and PDA, immediately contact law enforcement officials to make a report (35 P.S. § 10225.701 (b)(1)). Consequently, **any employee** or an administrator who has knowledge that abuse has been, or is being, perpetrated upon an older adult, is **mandatorily required** to report, depending upon the severity of the abuse, to the AAA, PDA and law enforcement.

In addition to The Older Adults Protective Services Act voluntary and mandatory elder abuse reporting declarations, our Crimes Code (18 Pa. C.S.A. § 101) mandates reporting criminal acts or abuse for certain Commonwealth Agencies and for certain medical personnel, when such Agencies and personnel are engaged in the performance of their duties. That is, in specific circumstances, the law requires reporting:

The Crimes Code, as amended by Act 28-95, effective September 1995, requires any member or agent of the Commonwealth Agencies of PDA, Department of Health or Department of Public Welfare, when in the course of conducting the performance of regulatory or investigative duties, and having reasonable cause to believe that an individual receiving care, services or treatment has suffered bodily injury or been unlawfully restrained, shall im-

mediately report such criminal act abuse to the local law enforcement agency or to the Office of Attorney General (18 Pa. C.S.A. § 2713(c)). That is, where personnel or agents of PDA, Department of Health or Department of Public Welfare have cause to believe that the criminal act of omission defined as “neglect of care-dependent person” has been, or is being, perpetrated, it is mandatory that such Commonwealth Agency personnel report to law enforcement or the Attorney General. Consequently, any **employee or agent** of PDA, Health or Public Welfare **must report** suspected neglect of care-dependent persons.

Further, the Crimes Code, Act 334-72, effective June 1973, directs that a physician, intern or resident, or any person conducting, managing or in charge of any hospital or pharmacy, or in charge of any ward or part of a hospital, to whom shall come or be brought any person suffering from any wound or other injury inflicted, by his own act or by the act of another, by means of a weapon or has injuries inflicted in violation of any penal law of this Commonwealth (18 Pa. C.S.A. § 5106(a)), shall report such criminal act injuries to the local law enforcement agency or to the State Police. Such is **mandatory reporting for medical personnel** when injuries sustained are the result of suspected criminal activity.

PDA continues its efforts to raise public and professional awareness of elder abuse and remains committed to intervening in the lives of our older Pennsylvanians in appropriate cases while avoiding unnecessary infringement of their civil liberties. At the same time, PDA provides services and legal protection to victims and confidentiality for those who report cases of abuse. PDA is looking to the future, planning how to best meet the needs of Pennsylvania’s older citizens and their communities. As we head into the 21st century, our emphasis is on health care and disease prevention, and our mission continues to be to enhance the lives of communities, families and older Pennsylvanians...we need you to carry on this mission. Elder abuse happens everywhere — across the country, across the state and across the street. But you can do something about it. But first, you must open your eyes to the issue.

<sup>1</sup> The Act, initially enacted as Act 79-87, but was amended and Sections renumbered by Act 169-96, effective March 1997. Further, the Act was amended by Act 169-96 to add Chapter 5, effective July 1998, relating to criminal background checks for personnel providing care to older adults; however, such discussion is outside the scope of this *Commentary*.

# Disciplinary Actions

*The following is a chronological listing of formal disciplinary or corrective measures taken by the board from Jan. 21, 1997, through Nov. 7, 1997. Each entry includes the name of the respondent; the respondent's license number; the respondent's city; the sanction imposed; a brief description of the basis for the disciplinary or corrective measure; the effective date; and whether the measure was taken pursuant to an Adjudication and Order (A&O); Consent Agreement & Order (C&O); or Automatic Suspension (AS).*

*Every effort has been made to ensure that the following information is correct. However, these actions and their effective dates should not be relied upon without verification from the board office. Official confirmation of the current status of a license or registration can be obtained by writing to the State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649.*

*It should be noted that the names of persons listed below may be similar to the names of persons who have not had disciplinary or corrective measures taken against them.*

**MARIANNE M. HAGAN**, license no. **RN-207157-L**, of Philadelphia, was suspended for two and one-half years, six months active and the remainder stayed in favor of probation, for failing to practice nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic or other drugs which tend to impair judgment or coordination. (1-21-97) (C&O)

**JENNY M. FRIEDMAN**, license no. **RN-319775-L**, of Colmar, Montgomery County, was suspended for five years, two years active and the remainder stayed in favor of probation, for failing to practice nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic or other drugs which tend to impair judgment or coordination; for possessing, using, acquiring or distributing a controlled substance or caution legend drug for other than an acceptable medical purpose, and for unprofessional conduct. (1-21-97) (C&O)

**SUZANNE SELLETTI KENNEDY**, license no. **PN-088664-L**, of Brookhaven, Delaware County and Villa, NJ, was revoked as the result of addiction to narcotic drugs. (1-21-97) (A&O)

**ELIZABETH HOPE**, license no. **RN-299938-L**, of Cambridge Springs, Crawford County, was revoked as the result of her conviction for third degree murder. (1-21-97) (A&O)

**JOAN CURRY**, license no. **RN-252150-L**, of Erie, and Sheffield, Warren County, was indefinitely suspended, for not less than one year, for being unable to practice nursing with reasonable skill and safety to patients by reason of physiological or psychological dependence on alcohol. (1-21-97) (A&O)

**PAMELA WILLIAMS FAZICK**, license no. **RN-291208-L**, of Pottstown, Montgomery County, was indefinitely suspended for not less than three years and assessed a \$500 civil penalty as a result of her physiological or psychological dependence on drugs and the misappropriation of drugs from an employer or patient. (1-21-97) (A&O)

**JANET SCOTT**, license no. **PN-099636-L**, of Philadelphia, was revoked and assessed a \$500 civil penalty as the result of having her license disciplined in Connecticut and pleading guilty to two counts of harassment by communication. (2-25-97) (A&O)

**PATRICIA D. GAMON (D'ABRUZZO)**, license no. **RN-225456-L**, of Zieglerville, Montgomery County, was indefinitely suspended based on her inability to practice nursing with reasonable skill and safety to patients and for misappropriating drugs from an employer and patient. (2-25-97) (C&O)

**SHIRLEY HALDEMAN**, license no. **PN-043736-L**, of Mountville, Lancaster County, was reprimanded as a result of pleading guilty to charges of retail theft. (2-25-97) (A&O)

**LAWRENCE D. SWARMER**, license no. **RN-185028-L**, of Arnold, Westmoreland County, was indefinitely suspended as a result of having his licenses disciplined by the states of Illinois and Indiana and being physiologically or psychologically dependent upon drugs and alcohol. (2-25-97) (A&O)

**RICHARD DAVID FISHER**, license no. **PN-080797-L**, of Gulfport, FL, was reprimanded as a result of having his license disciplined in Florida for falsifying patient records and practicing practical nursing without an active license. (2-25-97) (A&O)

**MARCELLA R. NORMAN**, license no. **RN-324785-L**, of Aliquippa, Beaver County, was automatically suspended as a result of her conviction for acquiring or obtaining possession of a controlled substance by misrepresentation, fraud, forgery or deception. (3-3-97) (AS)

**KELLY A. WILLIAMS**, license no. **PN-106036-L**, of Mullica Hill, NJ, was ordered to complete seminars in patient priorities and patient assessment on or before March 25, 1998. This discipline was based upon her failing to perform a complete assessment and render proper and complete first aid to a patient. (3-24-97) (C&O)

**RANDI J. RATUSHNY**, license no. **RN-254309-L**, of West Chester, Chester County, was indefinitely suspended, as a result of having her license disciplined in Delaware. (3-24-97) (C&O)

**MICHAEL J. BLUEMLING**, license no. **PN-078967-L**, of Rankin, Braddock County, was revoked for pleading guilty to simple assault and endangering the welfare of children. (4-3-97) (A&O)

**CORRINE PERZEL PACELLI**, license no. **PN-058974-L**, of Lattimer Mines, Luzerne County, was revoked based on her pleading guilty to receiving stolen property and theft by deception. (4-3-97) (A&O)

**JOYCE J. JURGENS**, license no. **RN-177485-L**, of Fort Collins, CO, was automatically suspended as the result of her guilty plea and conviction for unlawfully obtaining Morphine, a Schedule II narcotic controlled substance by fraud, deceit, misrepresentation or subterfuge. (4-10-97) (AS)

**MICHELLE LEE WINNER**, license no. **PN-067617-L**, of Muncy, Lycoming County, was automatically suspended as the result of her plea of no contest to and sentencing on charges of possession of a controlled substance, Marijuana, and possession of drug paraphernalia. (4-24-97) (AS). The suspension was later stayed in favor of probation. (9-23-97) (A&O)

**DONNA MARIE ZAPKO**, license no. **RN-500621-L**, of West Wyoming, Luzerne County, was indefinitely suspended as a result of having her license disciplined in another state. (4-30-97) (C&O)

**PATRICIA HEIDER COLBERT**, license no. **RN-243180-L**, of Mineral Point, Cambria County, voluntarily surrendered her license based on impairment. (4-30-97) (C&O)

**LINDA FIKE TRESSLER**, license no. **PN-104711-L**, of McHenry, MD, was suspended for twelve months for obtaining property in exchange for a worthless check. (4-30-97) (C&O)

**CAROL ANN WENTZELL**, license no. **PN-042511-L**, of Pen Argyl, Northampton County, was suspended for three years, the first three months active with the remainder stayed in favor of probation; and required to take two continuing education courses based on unprofessional conduct in failing to respect a patient's right to freedom from psychological and physical abuse. (4-30-97) (A&O)

**MARY ELIZABETH SHIELDS**, license no. **PN-250308-L**, of Carnegie, Allegheny County, was indefinitely suspended and assessed a \$500 civil penalty as the result of her making false statements in disposition of felony charges. (4-30-97) (A&O)

**SUSAN SCHNUPP NOWICKI**, license no. **RN-290558-L**, of Pittsburgh, Allegheny County, was indefinitely suspended based on impairment. (4-30-97) (C&O)

## Disciplinary Actions *(continued)*

**DEATRA M. SCHWAB PATTERSON**, license no. **RN-297707-L**, of Lancaster, was indefinitely suspended, but for not less than three years, for violating a consent agreement in which she had agreed to abstain from the use of controlled substances, participate in random drug screens and provide the Bureau of Professional and Occupational Affairs with verification that she was participating in drug treatment and counseling. (4-30-97) (A&O)

**LAURA ASPINWALL JOHNSON**, license no. **RN-235540-L**, of Perryopolis, Fayette County, was indefinitely suspended, but for not less than three years, for violating a probationary order by not abstaining from the use of controlled substances and alcohol and not providing the Bureau of Professional and Occupational Affairs with verification that she was participating in drug treatment and counseling. (4-30-97) (A&O)

**JOYCE BARDALL**, license no. **RN-146047-L**, of Mount Alto, Franklin County, was revoked as a result of having her license disciplined in Maryland. (5-28-97) (A&O)

**LINDA M. MEDVE**, license no. **PN-097707-L**, of Brownsville, Fayette County, was indefinitely suspended, but for not less than two years, for failing to progress satisfactorily under her treatment program; failing to comply with the terms of her Impaired Professional Program Agreement; and being unable to practice practical nursing with reasonable skill and safety to patients by reason of physiological or psychological dependence on drugs. (5-28-97) (A&O)

**STEVEN K. SHAW**, license no. **PN-076721-L**, of Clearfield, Clearfield County, was indefinitely suspended for being addicted to hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, and for unprofessional conduct. (6-24-97) (C&O)

**MARTHA BIELICKI MILLER**, license no. **PN-090693-L**, of Carlisle and New Cumberland, Cumberland County, was indefinitely suspended, stayed in favor of probation, as the result of her guilty plea to obtaining welfare funds by misrepresentation. (6-24-97) (A&O)

**CHERYL L. KONCEWICZ**, license no. **PN-063805-L**, of Ellwood City, Lawrence County, was automatically suspended for pleading guilty to unlawfully obtaining Morphine and Demerol, both Schedule II narcotic controlled substances, by fraud, deceit, misrepresentation or subterfuge. (7-10-97) (AS)

**JOSEPH S. BREAU**, license no. **RN-326352-L**, of Glassboro, NJ, was suspended for one year and seven days, the first seven days active and the remaining year stayed in favor of probation. Breau was also required to complete continuing education for nursing which would include classroom as well as clinical instruction. This discipline was based upon medication/transcription errors. (7-22-97) (C&O)

**MONA HAGGERTY COUNTS**, license no. **RN-284774-L**, of Waynesburg, Greene County, was assessed a \$250 civil penalty and reprimanded as a result of having her license disciplined in another state. (7-22-97) (C&O)

**SUSAN ZUROVCIK SHELLY**, license no. **RN-317889-L**, of McKeesport, Allegheny County, was assessed a \$350 civil penalty and suspended for one year stayed in favor of probation. During the period of probation, she is required to complete a seminar relating to patient rights. This discipline was based upon her actions in placing a piece of tape over a patient's mouth. (7-22-97) (C&O)

**KATHRYN L. GAGNER**, license no. **RN-316002-L**, of New Hope, Bucks County, was indefinitely suspended for being addicted to drugs which tend to impair judgement and coordination. (7-22-97) (C&O)

**LINDA G. THOMPSON**, license no. **RN-314241-L**, of New Castle, Lawrence County, was indefinitely suspended for being addicted to drugs which tend to impair judgement and coordination. (7-22-97) (C&O)

**DAWN E. LEWIS**, license no. **PN-101636-L**, of Philadelphia, was suspended for being addicted to drugs which tend to impair judgment or coordination; for misappropriating drugs from an employer or patient; and for being unfit or incompetent. Following at least two years suspension, the remaining period is to be stayed in favor of probation. (7-22-97) (C&O)

**VICKI WORKMAN GUTHRIE**, license no. **PN-096211-L**, of Smithfield, Fayette County, was suspended for one year, stayed in favor of probation, as a result of having her license disciplined in another state. (7-22-97) (C&O)

**CELESTE MANKIN**, license no. **PN-078288-L**, of Philadelphia, was indefinitely suspended, for not less than two years, based on findings that she was addicted to drugs and diverted drugs from her place of employment. (7-22-97) (A&O)

**SUSAN A. KURIMCAK**, license no. **RN-260624-L**, of Mount Pleasant, Westmoreland County, was automatically suspended, stayed in favor of probation, for her guilty plea to two misdemeanor counts of possession of Hydrocodone, a Schedule III controlled substance. (7-22-97) (AS)

**ALEXANDRA CORDOVA WYANT**, license no. **RN-334599-L**, of Wilmington, DE, was reprimanded as a result of having her license disciplined in another state. (7-22-97) (C&O)

**TIMOTHY J. SHARP**, license no. **RN-317873-L**, of Allentown and Leetsdale, Allegheny County, was automatically suspended as the result of his guilty plea to misrepresentation by acquisition of a Schedule III narcotic controlled substance. (9-2-97) (AS)

**MARY BEST KRAUS**, license no. **PN-065087-L**, of Pittsburgh, Allegheny County, was automatically suspended as the result of her guilty plea to eight felony counts of acquisition of a Schedule III narcotic controlled substance by misrepresentation. (9-2-97) (AS)

**ROBIN M. (PIERI) KARNOFSKY**, license no. **PN-090946-L**, of Marlton, NJ, was automatically suspended as the result of her guilty plea to one count of knowingly or intentionally possessing Vicodin, a Schedule III controlled substance. (9-17-97) (AS)

**DEBORAH L. THOMPSON**, license no. **RN-200833-L**, of Annville, Lebanon County, was automatically suspended as the result of her guilty plea and conviction on one charge of unlawful possession of controlled substances, Percocet and Fentanyl. (9-18-97) (AS)

**CHANDRA SATPATHY MISRA**, license no. **RN-283008-L**, of North Wales, Montgomery County, was reprimanded for failing to respect and consider a patient's right to freedom from psychological and physical abuse and failing to safeguard the patient's dignity and right to privacy. (9-22-97) (C&O)

**CAROL HOVER CARTER**, license no. **PN-068968-L**, of Titusville, Crawford County, voluntarily surrendered her license for negligence or incompetence on repeated occasions in the practice of the profession. (9-22-97) (C&O)

**SHARON JOHNSON MYERS**, license no. **PN-095372-L**, of Towanda, Bradford County, was suspended for two years, stayed in favor of probation, based upon her conviction for simple assault. (9-22-97) (C&O)

**JOYCE A. DOUGHERTY**, license no. **RN-302585-L**, of Wilmington, DE, was suspended for one year, stayed in favor of probation, for using and acquiring a controlled substance for other than an acceptable medical purpose. (9-22-97) (C&O)

**THOMAS W. DRIVER**, license no. **RN-293425-L**, of Buckingham, Bucks County, was indefinitely suspended as a result of having his license disciplined in another state. (9-22-97) (C&O)

**FAITH A. KIRCHHOFF**, license no. **RN-169385-L**, of Mt. Carmel, Northumberland County, was suspended for one year, with 30 days active and the remainder stayed in favor of probation, for failing to document and maintain accurate records. Kirchoff is also required to complete a course relating to nursing ethics or professional behavior. (9-22-97) (C&O)

**DOROTHY LANTZ MERVINE**, license no. **PN-094655-L**, of Ebensburg, Cambria County, was suspended for one year as the result of not respecting or considering an individual's right to freedom from psychological and physical abuse and failing to safeguard a patient's dignity and right to privacy. (9-23-97) (A&O)

## Disciplinary Actions *(continued)*

**KERRI L. BEVILACQUA**, license no. **PN-098018-L**, of Westmoreland City, Westmoreland County, was indefinitely suspended for not less than two years, as the result of her physiological or psychological dependence upon alcohol. (9-23-97) (A&O)

**SHARON SABEL**, license no. **RN-510304-L**, of Hawley, Wayne County, was suspended for three years, with the first six months active and the remainder stayed in favor of probation; and assessed a \$1,000 civil penalty as the result of committing fraud or deceit in the practice of nursing and practicing nursing without having a valid and unexpired license. (9-23-97) (A&O)

**VIRGINIA L. BARMETLER**, license no. **RN-153789-L**, of Butler, was suspended, stayed in favor of probation; and assessed a \$1,000 civil penalty based on her conviction for indecent assault and corruption of a minor. (9-23-97) (A&O)

**CAROL L. SWEENEY MILLER**, license no. **RN-318124-L**, of Mechanicsburg, Cumberland County, was revoked as the result of her guilty plea to one count of attempting to acquire Roxanol, a Schedule II narcotic drug, by misrepresentation. (9-23-97) (A&O)

**MARY KAY FEDENCZ MILLER**, license no. **PN-078286-L**, of Philadelphia and Souderton, Montgomery County, was revoked as the result of her addiction to alcohol and prescription drugs, working while intoxicated and diverting drugs from patients. (9-23-97) (A&O)

**PATRICIA E. BAINBRIDGE**, license no. **PN-090946-L**, of McKees Rocks, Allegheny County, was automatically suspended for one year as the result of her guilty plea to charges of possession of a controlled substance, Darvocet, a Schedule IV controlled substance. (9-25-97) (AS)

**TERESA CLOUSER**, license no. **PN-092886-L**, of Hanover, York County, was revoked, stayed in favor of three years active suspension and two years probation, as the result of her addiction to hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination, and engaging in unprofessional conduct. (9-29-97) (A&O)

**LINETTE A. HAZUDA**, license no. **RN-191214-L**, of Easton, Northampton County, was revoked as the result of her pleas of nolo contendere to one count of possession of a concealed firearm and four counts of terroristic threats. (9-29-97) (A&O)

**SUSAN HUNTER ORZEL**, license no. **RN-272311-L**, of Palmer (Easton), Northampton County, was indefinitely suspended as a result of having her license disciplined in New Jersey. (9-29-97) (A&O)

**ROSEMARIE HARVILLA PETRILLA**, license no. **PN-095608-L**, of Hazleton, Luzerne County, was suspended for one year as the result of her guilty plea to one count of social security fraud. (9-29-97) (A&O)

**DAVID OESCHGER**, license no. **RN-303962-L**, of Pittsburgh, Allegheny County, was automatically suspended for a period not to exceed one year, as the result of his guilty pleas to one count of possession of drug paraphernalia and one count of possession of a controlled substance, Heroin. (10-7-97) (AS)

**KENNETH P. MASON**, license no. **RN-248749-L**, of Hancock, NY, was indefinitely suspended for at least one year for possessing, using or acquiring a controlled substance for other than an acceptable medical purpose; having been convicted of a misdemeanor which relates to his employment as a licensed nurse; and as a result of having his license disciplined in another state. (10-20-97) (C&O)

**SUSAN SPENCER TRAUGER**, license no. **RN-325840-L**, of Hershey, Dauphin County, was reprimanded for unprofessional conduct. (10-20-97) (C&O)

**LESLIE M. GALLOWAY**, license no. **PN-066516-L**, of Erie, was suspended for three years, stayed in favor of probation, for being addicted to drugs which tend to impair judgement and coordination. (10-21-97) (C&O)

**NELIA ISON SANTILLANA**, license no. **RN-286029-L**, of Philadelphia, was reprimanded and ordered to take additional educational requirements, based on improper documentation. (10-21-97) (C&O)

**CAROL LANDIS FRACASSI**, license no. **PN-076424-L**, of Erie, was indefinitely suspended, based upon her addiction to drugs/alcohol. (10-21-97) (C&O)

**WENDY MACKAY SPINA**, license no. **RN-286498-L**, of Butler, was suspended for six months, stayed in favor of probation. Spina is required to continue with the drug and alcohol treatment program she has participated in since November 1994. This discipline was based upon addiction to drugs and/or alcohol. (10-21-97) (C&O)

**DANIEL ROBERT SMILEY**, license no. **RN-501101-L**, of Gibsonia, Allegheny County, was reprimanded and assessed a \$200 civil penalty for unprofessional conduct by failing to conform to the ethical or quality standards of the profession, in that Mr. Smiley misappropriated drugs from an employer. (10-21-97) (C&O)

**DIANE M. EBBITT**, license no. **RN-288851-L**, of West Mifflin, Juniata County, was suspended for three years and four months, stayed in favor of probation, based upon addiction to drugs and/or alcohol. (10-21-97) (C&O)

**JANICE ROSPORSKI**, license no. **RN-118309-L**, of Pittsburgh, Allegheny County, was suspended for three years, stayed in favor of probation, based upon her addiction to drugs/alcohol. (10-21-97) (C&O)

**SARAH SIMON**, license no. **RN-138430-L**, of Carthage, NY, was suspended as a result of having her license disciplined in that state. (10-21-97) (C&O)

**JACALYN JOAN SMITH**, license no. **PN-254048-L**, of Curwensville, Clearfield County, was suspended for three years for violating a voluntary recovery program agreement. (10-21-97)

**JOHN J. LESZUN**, license no. **RN-301774-L**, of Waynesburg, Greene County, was revoked as a result of having his license disciplined in West Virginia. (10-21-97) (A&O)

**EMMA CLINGERMAN PUPO**, license no. **PN-093924-L**, of Chambersburg, Franklin County, was reprimanded for unprofessional conduct. (10-21-97) (C&O)

**MARILYN SKILES ARCHULETA**, license no. **RN-235198-L**, of Lancaster, was indefinitely suspended, based on her being addicted to drugs which tend to impair judgement and coordination. (10-21-97) (C&O)

**CATHRYN M. CLAPPS**, license no. **RN-270852-L**, of Mountain Top, Luzerne County, was suspended for three years, stayed in favor of probation, based on her conviction of a crime. (10-21-97) (C&O)

**SHEILA LENNOX SIEGEL**, license no. **RN-293897**, of North Huntingdon, Westmoreland County, was revoked for being addicted to drugs which tend to impair judgement and coordination; and for violating a board order. (10-22-97)

**REGINA GAFFNEY KASIEWSKI**, license no. **RN-289679-L**, of Bensalem, Bucks County, was suspended for being addicted to drugs which tend to impair judgement and coordination; and for violating a board order. (10-22-97)

**CATHERINE HOLTGRAVER**, license no. **RN-162967-L**, of Pittsburgh, Allegheny County, was automatically suspended as the result of knowingly or intentionally possessing a controlled substance, Meperidine Hydrochloride (Demerol), a Schedule II controlled substance. (10-29-97) (AS)

**JOANN HYSOCK SLUCK**, license no. **PN-095015-L**, of Shenandoah, Schuylkill County, was automatically suspended as the result of her guilty plea to possession of a Controlled Substance, Heroin, and possession of drug paraphernalia, with intent to use. (11-7-97) (AS)

# Substitute Health Care Decision Making: Blazing Trails Across The Slippery Slope

by Christopher Gorton, M.D., MHA, Chief Medical Officer, Pennsylvania Department of Public Welfare

One of the most difficult tasks that confronts physicians is assisting the people they serve in deciding what medical interventions are appropriate. The challenges of providing the necessary information in an understandable fashion, of being non-directive, of knowing when the person has truly decided and of accepting the person's decision when it does not match what the physician would choose are all reasons why medicine is as much art as science. These issues are magnified when the decisions come at the end of an individual's life and when the outcome may literally mean the difference between death and continued life.

Various ethical principles come into play in such decisions, including non-maleficence, beneficence, autonomy and justice. The Hippocratic ideal of "First, do no harm," is the core of the ethical principle of non-maleficence. Since every intervention has its costs and risks, those that offer no potential benefit to the individual in question (so-called "futile interventions") are generally considered inappropriate. The principle of beneficence, the converse of non-maleficence, implores one to consider interventions whenever there is the reasonable possibility of benefit to the individual. The interplay of beneficence and non-maleficence lie at the core of the risk-benefit analysis in any informed consent discussion.

Unfortunately, individuals cannot always be in control of their own health care decisions. Disease or disability may rob them of their autonomy. Physicians are regularly challenged to assist in a decision process in which the individual in question has been incapacitated, either temporarily or permanently, and cannot make his or her own decisions. Traditionally, clinicians next turn to family members, invoking the ancient principles of clan and kinship. The law recognizes and values these family relationships, but it also recognizes the risks inherent in utilizing substitute decision makers. For this reason, the law has built processes to discern the preferences of the individual in question and to limit the powers of any substitute decision makers.

The PA Advanced Directives Act gives a voice to incapacitated individuals by allowing competent adults to declare in advance what their preferences are in the event that they cannot express themselves. But, in recognition that individuals will not be able to anticipate the detailed circumstances that will confront them, the law places limitations on the scope of the Advanced Directive process. First, because an Advanced Directive is an exercise of personal

autonomy, only the individual in question may execute one. Substitute decision makers may not properly issue an Advanced Directive on behalf of someone else. Second, an Advance Directive properly executed by a competent adult only becomes effective when the individual is certified to be terminally ill or permanently unconscious by two physicians, in writing. Only when these two conditions are met may an Advance Directive properly be used as the sole criterion to justify the withholding of treatment.

Competent adults may also name someone to act on their behalf, to be their "attorney-in-fact" (alternatively referred to as a durable power of attorney). The law places no restrictions on whom an individual may name as his or her attorney-in-fact, and in the event of incapacitation, the attorney-in-fact takes precedence over all other potential substitutes, regardless of degree of kinship. Only a court may replace a properly named attorney-in-fact by naming a court-appointed guardian of the person. No substitute decision maker other than a court may name an attorney-in-fact or guardian for another individual.

Because of the risks inherent in substitute decision making, there are limits on the powers of families, physicians, guardians and attorneys-in fact. Substitute decision makers are required to act in the best interests of the individual in question, without consideration for other competing priorities and agendas, including their own. Physicians should seriously question any decision that appears to be motivated by any interest other than the best interest of the individual in question. The Supreme Court of Pennsylvania held *In Re Dorone* that next-of-kin may not validly object to life-sustaining care.<sup>1</sup> In its *Fiori* decision, the Supreme Court also stated that substitute decisions "should effectuate, as much as possible, the decision the individual would make for himself/herself."<sup>2</sup> Physicians have a responsibility to educate themselves about the limitations which exist with respect to decision-making authority.

Substitute decision making is a particular concern for individuals with permanent life-long disability such as mental retardation. With respect to autonomy, these individuals may be unable to express their preferences or may only do so with difficulty. Families and physicians may be reluctant to allow persons with disabilities to participate in health care decisions. Physicians should keep in mind that the principles elucidated above are no different for persons with permanent disability and that

in the eyes of the law adults are presumed to be competent until adjudicated incompetent by a court. Persons with mental retardation work, drive, marry, have families and vote if they are able and wish to. The law allows them the same opportunity to participate in health care decisions. When the court does appoint a guardian for an individual with developmental disabilities, that guardian is subject to the same limitations as any other guardian.

Another important ethical principle to consider is that of justice. Individuals with physical and mental disabilities are entitled to all appropriate medical care that non-disabled individuals would receive. Disability is not a terminal illness. People with disabilities should be offered medication, surgery, chemotherapy, transplantation, incubation and ventilation, cardio-pulmonary resuscitation and any other appropriate intervention necessary to preserve their life or improve their health. When provided appropriate access to medical care, individuals with disabilities often lead long, full, happy lives. Individuals with disabilities who become terminally ill are similarly entitled to appropriate palliative care, including hospice services, in order to afford them a dignified and comfortable death. To avoid being accused of discriminating against an individual on the basis of a physical or mental disability, physicians must consciously and deliberately challenge themselves to consider whether care decisions are being made on the basis of the objective clinical facts or are being driven by perceptions of a person's underlying disability.

In summary, physicians play a central role in assisting individuals, and in some circumstances substitute decision makers, in making decisions about their health care. The ethical principles of autonomy, beneficence, non-maleficence and justice need to be considered as physicians offer potential courses of intervention or non-intervention. Care must be taken to ensure that decisions are demonstrably in the best interests of the individual in question. Physicians must understand the limitations of substitute decision makers [and must recognize the State's compelling interest in preserving life]. Great caution must be exercised to ensure that health care decisions are not improperly biased by issues of disability or other life circumstances.

<sup>1</sup>In *re Dorone*, 534 A.2d 452 (Pa. 1987).

<sup>2</sup>In *re Fiori*, 673 A. 2d 905 (Pa. 1996).

*The above article has been reprinted at the request of the Pennsylvania Department of Public Welfare as an informational piece for licensees.*

# Volunteer Licenses

by Joyce McKeever, Deputy Chief Counsel, Pennsylvania Department of State

Beginning in 1998, the State Board of Nursing has volunteer licensing available without charge to licensees. The volunteer license authorizes retired practitioners to volunteer their time and services in community-based clinics.

Notice of proposed rulemaking was published in the spring of 1997, and final regulations authorizing the issuance of volunteer licenses were published in November 1997. The regulations implement Act 141 of 1996, known as the Volunteer Health Services Act. The Act was intended to assist hospitals, health systems and community organizations to establish primary care treatment centers for the poor and medically underserved areas.

A volunteer license may be issued to a qualified individual who has retired from active practice with a license issued by the board and in good standing. An applicant for volunteer licensure must agree to provide primary health services without remuneration in an approved clinic. Primary health services include such services as regular checkups, immunizations, school physicals, health education, prenatal and obstetrical care, early periodic screening and diagnostic testing and health education. Each volunteer licensee treats patients within his or her scope of practice.

An individual who receives a volunteer license will have his or her active license placed on inactive status. It may be reactivated upon application to the board. The license issued to the volunteer will be valid for the biennial period and may be renewed. A volunteer li-

cence is subject to the general disciplinary provisions of the Act with regard to licensee misconduct.

Licensees with mandatory professional liability insurance requirements are relieved of those requirements, so long as they hold a volunteer license and limit their practices to approved clinics.

In addition to the State Board of Nursing, the state boards of Medicine, Osteopathic Medicine, Dentistry, Podiatry, Optometry and Chiropractic also have authority to issue volunteer licenses.

Applications for volunteer licenses are available by calling the board office at (717) 783-7142, or by e-mailing the board office at: [nursing@pados.dos.state.pa.us](mailto:nursing@pados.dos.state.pa.us).

P E N N S Y L V A N I A

State Board of  
Nursing

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