MONTANA MEDICAL ASSOCIATION

2021 Eleventh Avenue, Suite 1 * Helena, Montana 59601-4890
Telephone (406) 443-4000 * Instate (877) 443-4000 * Fax (406) 443-4042
Website www.mmaoffice.org * email mma@mmaoffice.org

October 5, 2011

Montana Board of Medical Examiners
301 South Park Avenue
PO Box 200513
Helena, Montana 59620-0513

Dear Board of Medical Examiners,

The Montana Medical Association extends its appreciation to the Board for your work to propose administrative rule changes that provide clarification to licensees. The MMA supports the efforts to ensure there is clear communication of a licensee's regulatory obligations.

While we generally support the administrative rule changes that provide such clarification in MAR Notice 24-156-75, the MMA is offering the below points for your further consideration and encourage the Board to not adopt all the rules as proposed. MAR Notice 24-156-75 does include changes to the administrative rules that relate to the practice of acupuncture. The MMA has no comments on those proposed rule changes.

The MMA supports the proposed rule changes to ARM 24.156.1622 that help to clarify the areas of consideration and provisions to be included in an appropriate supervision agreement and delegation and duties agreement. Physicians who supervise physician assistants want that relationship to be one built on clear communications and an understanding of roles to provide the best patient care.

However, the MMA questions the need to require the Board's approval of the duties and delegation agreement. Per 37-20-301, MCA, "a supervising physician and the supervised physician assistant shall execute a duties and delegation agreement constituting a contract…" It reads further to define the term, how changes are to be handled, and that the Board of Medical Examiners may specify by rule other requirements for the agreement. This statute makes particular note of the rulemaking authority for the Board and it is more limited. The new requirement to require approval of this "contract" should be weighed against this statutory language and the particular rulemaking authority granted, in addition to those statutes noted in the notice which gives the Board broad rulemaking authority. The MMA requests the Board review this statute and give consideration to the statute with regard to the adoption of rules related to filing and approving of delegation and duties agreements.

Further, the supervising physician and supervised PA are charged with executing the duties and delegation agreement. They are in the best position to know the practice situations and the experience and training both bring to the arrangement. This will make each duties and delegation agreement unique to their practice situation. The rule changes being proposed to clarify the content will serve to improve these agreements. However, the approval requirement is an added step and regulatory burden that may bring more paperwork shuffling without much added value. The

reasonable necessity statement notes the rule changes are based on consideration of *potential* practice situations. MMA suggests that the Board's efforts to further clarify what should be considered when creating such an agreement and what should be provided for in the agreement as proposed in this rule package is the better approach. We request the filing and approval requirement not be adopted at this time, and offer that the Board could revisit such a need after first monitoring the impact of other rule changes being proposed.

The last area the MMA would like to offer comment on is NEW RULE VI. This rule as currently drafted has created some confusion. It is unclear on if the rule is requiring specific PAs to now also be licensed under the Montana Board of Radiologic Technologists or if the rule is requiring a license <u>or</u> the approval of an educational curriculum. The reasonable necessity statement indicates a permit or license would be required. If a permit or licensure is to be required, the MMA asks the Board to consider the immediate impact to providing health care across Montana as currently trained PAs, supervised by a physician, who are already performing such delegated duties would have to pursue licensure or approval of the kind and blend of training they had in years past. The rules provides for no "grandfathering" of those PAs already trained and experienced.

We would request the Board to revisit these rules, not adopting as proposed to allow further study of the impact of such changes to delivering care across Montana, to determine if current practices are truly putting patient safety at risk, to determine if dual licensure is the best avenue to address a training requirement, and to consider curriculums available to ensure PAs are adequately trained in radiologic procedures, including advanced procedures. We believe the Board of Medical Examiners has the ability to seek expertise in areas where such expertise may not be readily available on the Board or within Board staff to set training standards. MMA does support the intent to ensure PAs are adequately trained. PAs should be able to provide evidence of such training as such delegated tasks are considered. MMA offers its assistance to the Board in exploring best practices to address any concerns and to ensure adequate training of PAs for such delegated tasks.

Thank you for your consideration of the above points on the proposed rule changes.

Sincerely,

Jean Branscum
Executive Vice President