Agency Response to Economic Impact Analysis

The Board of Medicine submits the following response to the analysis of the Department of Planning and Budget of amendments to 18 VAC 85-20-10 et seq., Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic, relating to rules for office-based anesthesia.

As the petitioner for the proposed regulations, the Medical Society of Virginia (MSV) was asked to comment on the DPB analysis. The Board concurs with the comments listed below:

MSV agrees with the DBP analysis that "Benefits likely outweigh costs for all proposed clarifying changes and two other proposed substantive changes.

As to DPB's analysis of what we presume they are referring to as "one proposed substantive change", we do concur that the ability to accurately quantify whether or not the benefits exceed the costs is not a precise calculation. However, several of the items noted by the DPB analysis as potentially increasing costs may indeed already be part of a physician's routine standard of care. For example, a pre-anesthetic check-up, an anesthesia plan, and written protocols for office-based anesthesia, procedure selection and patient evaluation are accepted, specialty developed standards of care for physicians routinely performing these procedures. Though the proposed regulations may increase costs for those physicians not currently following these standards, we believe that number to be relatively limited, that some may elect to do this voluntarily, but that for those who choose not to follow accepted quality and safety standards, appropriate regulations may create the added incentive needed for proper patient care.

The analysis also suggests that "Doctors who now only perform surgery and procedures requiring minor, local or topical anesthesia, and whose offices are more than 30 minutes from a hospital would either have to move offices, switch to using other, presumably less optimal anesthesia or stop performing the surgeries they now offer altogether" and therefore would incur higher costs or less revenue. It is the MSV's understanding that doctors only performing surgery that involves the administration of topical anesthesia, local anesthesia, minor conductive blocks, or minimal sedation/anxiolysis which do not result in alteration of consciousness beyond minimal pre-operative tranquilization are not subject to these regulations. (See 18 VAC85-20-320. A.1. Applicability of requirements for office-based anesthesia). Therefore, additional costs would not be incurred.

In addition, the DPB analysis discusses the application of the 300 milligrams or more of lidocaine as the base threshold for complying with these regulations and the extent to which it would apply based upon a dosage to weight ratio. **The MSV work group that developed these proposed regulations consisted of board certified physicians from several specialties, including family practice, plastic surgery, orthopedics, and pediatrics. The 300 milligrams dosage was chosen for these proposed regulations in order to provide for an amount that was easily understood, measurable, applicable**

across the board and recognized by other states with comparable regulations on office-based anesthesia. **Further, the use of 300 mg or more of lidocaine for certain prolonged invasive procedures when it is not used primarily as a local anesthetic is not always the best practice and will signal to the physician that an alternative, more appropriate anesthetic agent should be used.** Guidelines and trigger warnings like these can be readily captured in written protocols for office-based anesthesia, leading to better and safer quality of care.