



STATE OF NEW YORK
DEPARTMENT OF HEALTH

Corning Tower

The Governor Nelson A. Rockefeller Empire State Plaza

Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Executive Deputy Commissioner

January 7, 2009

Kevin Bolan, RPA-C
Professional Practice Chair
New York State Society of Physician Assistants
4 Santanoni Drive
Newcomb, New York 12852

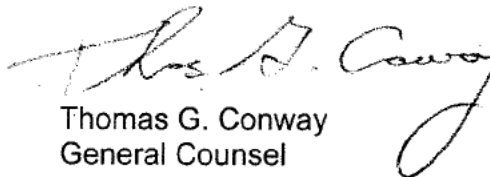
Dear Mr. Bolan:

This is in response to your November 14, 2008 letter to the Director of the Office of Professional Medical Conduct, Keith Servis, concerning the ability of physician assistants "to engage in business relationships with physicians, and have an ownership interest in a medical practice." Your letter has been forwarded to me for response.

An inverted employment relationship occurs when, in the context of a medical facility that is not regulated by Article 28 of the Public Health Law, a physician agrees to a subordinate employment arrangement with the physician assistant the physician is supposed to be supervising. Under those circumstances, an inherent conflict exists. The conflict pits the physician-employee's loyalty to the employing physician assistant, as well as the physician's dependency on the employing physician assistant for monetary compensation or other benefits, against the physician's independent medical judgment as the physician assistant's supervisor. This conflict may compromise the quality of care the patient receives.

A physician assistant or a physician assistant's entity may not employ a physician supervisor or hire a physician supervisor through an independent contractor or other mechanism. Employment of a physician supervisor by a physician assistant is contrary to the Legislature's purposes, findings and intent as set forth in Section 1 of Chapter 1135 of the Laws of 1971, which provides that physician assistants shall be "available for employment by physicians." The statutory scheme embodied in Articles 37 and 38 of the Public Health Law and Article 131-B of the Education Law is consistent.

Sincerely,



Thomas G. Conway
General Counsel