



RECEIVED

AUG 10 1998

BPOA LEGAL COUNSEL

Original: 1959
Copies: Smith
Sandusky
Legal

August 7, 1998

Judith Pachter Schulder, Esq.
Counsel, State Board of Dentistry
116 Pine Street
P.O. Box 2649
Harrisburg, PA 17105-2649

RE: No. 16A-464 (Continuing Education)

Dear Ms. Schulder:

The Pennsylvania Dental Hygienists' Association (hereinafter the "PDHA") has reviewed the above-proposed regulations, which were published July 11, 1998. Following are the PDHA's official comments to these proposed regulations. I thank you in advance for your consideration of these matters.

I. Definitions (§33.1)

A "Program Sponsor" is defined as "[t]he party responsible for the development and presentation of the continuing dental education program approved by the Board." The placement of the phrase "approved by the Board" renders this definition ambiguous, as it is the "party" that is approved by the Board and not the "program." The Board should be approving sponsors based on ability to provide bona fide educational programs that support legislative objectives, but should not have the authority to approve specific courses.

The PDHA recommends a change to "[t]he party, which is approved by the Board, and is responsible for the development and presentation of the continuing dental education program."

II. Biennial Renewal of Licenses and Certificates (§33.105)

Subsection (b) requires that, as a condition of biennial renewal, licensees and certificate holders shall maintain current certification in cardiopulmonary resuscitation (hereinafter "CPR"). While the PDHA believes that this requirement is a positive

August 7, 1998
Judith Pachter Schulder, Esq.
Page Two

element in the overall concept of continuing education, this wording lacks clarity in that there are currently two types of CPR certificates available. Basic CPR includes only resuscitation on adults and resuscitation involving obstructed airways. Basic Cardiac Life Support for the Healthcare Provider is more extensive and covers infant, child and adult CPR, one- and two-man response, resuscitation on obstructed airway and stroke victims, and an optional section on automatic external defibrillation.

The PDHA recommends that Basic Cardiac Life Support for the Healthcare Provider be the required form of CPR certification.

III. Reactivation of Licenses and Certificates (§33.106)

Subsection (b) states that "an applicant for reactivation who has failed to renew for more than 5 years may be subject to reexamination." This is granting an individual or entity absolute authority to determine, perhaps arbitrarily, who must be reexamined. Initially, it is unclear who holds the authority to determine that an applicant must be reexamined. Secondly, if it is assumed that the Board holds this power, then the discretion appears to be absolute, without even so much as a limitation on arbitrary enforcement. Although reexamination has always been discretionary, i.e. "may be subject to reexamination", the Board has never applied such discretion. Instead all applicants for reactivation who have failed to renew for five years are subject to reexamination regardless of their activities within those five years (research, instruction, practice in another jurisdiction) and without respect to their individual abilities. This is in direct contradiction to the direction of the Board's statutory authority which specifically provides that discretion will be used in requiring reexamination. 53 P.S. §122.1(b). "Any person whose license or certificate has expired for failure to make biennial registration over a period of more than five years shall apply to the board and may be required to submit to a reexamination." If the legislature had intended that every applicant for reactivation should be required to submit to reexamination, it would have used the word "shall" instead of "may".

The PDHA recommends that the regulation be clarified as follows: "An applicant for reactivation who has failed to renew for more than 5 years may be, at the Board's discretion, not to be unreasonably applied, subject to reexamination. The Board shall, within six months of the promulgation of these regulations, adopt and publish criteria for the application of its discretion to require reexamination under this paragraph."

IV. Credit-Hour Requirements (§33.401)

Subsection (a) states that "[a]n applicant shall complete the following continuing education credit hours during the preceding biennial period." The explanatory comments

August 7, 1998
Judith Pachter Schulder, Esq.
Page Three

accompanying the proposed amendments indicate that that statement prohibits the carry forward of excess credit hours to subsequent biennial periods. (Pa. Bull. vol. 28, no. 28, at 3293.) The PDHA believes that such a requirement is unnecessarily restrictive and unduly onerous. Other professional licensing boards in the Commonwealth provide for credits to be carried forward. Permitting licensees to carry forward some credits would not contribute to any lack of confidence in the continuing competence of any individual licensee. Competence is based on a continuum of professional experiences over a lifetime; rigid parameters in this context do not serve the profession or the public. This modification would enable licensees to plan ahead for major life events without burdening the Board with excessive requests for waivers or deficiency applications. Since continuing education credit reporting will be by certification of each individual licensee on his/her application for licenser renewal, permitting carry forward of a limited number of credits will not impose any additional burden on the Board or its staff. Furthermore, applicants should be made aware that waivers are available in certain instances.

The PDHA recommends that extra credit hours should be carried forward for at least one renewal period, and that the Board inform applicants that a waiver can be requested by including waiver information in the applicant's notice of renewal letter and on the renewal form.

Subsection (c) states that a minimum of 50% of credits shall be taken in lecture or clinical presentations. The Board states, as its basis for this requirement, that it believes that interacting with an instructor and other participants is beneficial to the learning process. (Pa. Bull. vol. 28, no. 28, at 3293.) This finding is unsubstantiated. Initially, there is no statistical evidence to support the conclusion that mandatory continuing education creates clinical competency, therefore there is no rational relationship to the preferred treatment given to credits earned through clinical presentations. The PDHA further believes that learning from others is only one avenue to increased knowledge, and perhaps not the best method.

The PDHA recommends that there be no minimum number of credits that must be earned through lecture or clinical presentations.

Subsection (d)(1) provides that "[i]nstructors will be awarded two additional credit hours as preparation time for each credit hour of instruction up to 50% of the required hours." This language is unclear in that it is uncertain precisely how many hours are earned. There is also uncertainty in the definition of "instructor." The term "instructor" must be defined. Is this term limited to instructors of continuing dental education programs presented by approved program sponsors, or does the term also include instructors in dental and dental hygiene programs at educational institutions? It is the PDHA's belief that if the term includes instructors at educational institutions it will be too easy for them to earn 50% of their credits and would subvert the intent of the continuing education program.

August 7, 1998
Judith Pachter Schulder, Esq.
Page Four

The PDHA recommends that the language concerning the number of hours earned be changed to “[i]nstructors will be awarded two hours of preparation time plus one hour of instruction time for each hour spent instructing.”

Subsection (g)(2) allows an applicant to apply to the Board for a waiver.

The PDHA recommends that the Board inform applicants that such a waiver can be requested through the inclusion of that information in the notice of renewal letter and on the renewal form.

V. Continuing Education Subject Area (§33.402)

The PDHA strongly objects to the categorization of “communication skills” as an unacceptable nonclinical subject. Communication skills are an essential component of a competent dental practice, particularly in the area of dental education. If the practitioner is unable to effectively communicate with the patient as to dental procedures and hygiene, the patient’s dental health is likely to suffer. Behavioral Science theoretically includes communication skills, creating more uncertainty regarding what is permissible content and what is not. Furthermore, this exclusion is contrary to the plain language of the enabling statute, which states explicitly that “[n]o credit may be given for courses in office management or practice building. 63 P.S. §122(j.2)(1). The legislative intent to only exclude those categories is clear. This regulation exceeds the Board’s authority for determining appropriate subject areas for credit.

The PDHA recommends the inclusion of Communications Skills and Behavioral Science in acceptable program topics.

VI. Program Sponsors (§33.403)

The PDHA recommends that Subsections (a)(2) and (5) include the equivalent nursing associations.

There is no provision for special, temporary or one-time program sponsors, nor is there any provision for adding new program sponsors in the future.

The PDHA recommends allowing such program sponsors upon the same criteria applicable to the currently approved program sponsors.

Subsection (b)(1) states that program sponsors must disclose certain information in advance to its participants. It is unclear how far in advance this information must be given. For example, the information could be distributed in program announcements which eligible participants would receive before registering for the course or in handouts given to registrants the day of the program presentation.

The PDHA recommends clarification of this section to ensure proper compliance.

August 7, 1998
Judith Pachter Schulder, Esq.
Page Five

VII. Reporting Continuing Education Credit Hours (§33.404)

Subsection (d) states that documentation must be maintained for four years. The PDHA recommends that that period be expressed as two biennial renewal periods since that is the time period in which most of the information in the proposed regulations is expressed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anita Lantzy, RDH".

Anita Lantzy, RDH
President, Pennsylvania Dental
Hygienists' Association

Original: 1959 , 1960
Copies: Smith
Sandusky
Legal
Tyrrell

Lillian J. Caperila, RDH, B.S.
191 Goshen Road
Schwenksville, PA 19473
(610) 287-8282

RECEIVED
STATE BOARD OF DENTISTRY
HARRISBURG, PA
AUG 11 1998

Judith Pachter Schulder, Counsel
State Board of Dentistry
116 Pine Street
P.O. Box 2649
Harrisburg, PA 17105-2649

August 3, 1998

Dear Ms. Schulder:

Re: No. 16A-464 General Provisions for Continuing Education Guidelines

The following are comments to the proposed guidelines with regards to the Continuing Education Guidelines for Dental Professionals.

Comment #1: Under Subchapter F - Section 33.401 (a)

Since it is acceptable (in other states) to carry over credit hours obtained in a previous biennial period (if needed), I am in strong support of allowing credits in excess of minimum required that was obtained prior to the two year renewal period to be permitted as a carry over to the next biennial renewal period. (Rationale: There are many rural areas of this state that will produce hardship for some licensees to attend continuing education programs to fulfill at least 50% of mandatory lecture requirements.

** If the above request is not approved, I strongly feel that the Board should at least consider acceptance of c.e.u credits that all licensees have taken during the year 1998 to count towards the 2001 renewal. (For at least only this renewal period)*

(Rationale: Since the Law of mandated Continuing Dental Education was signed in 1996, but all dental licensees were never properly informed as to *when* the regulations would take effect, I believe it is only fair to permit consideration of all continuing education credits that were taken when licensees believed that the 1999 renewal period would be the expected period to record all required c.e.u hours.)

Comment #2: Under Subchapter F - Section 33.401 (d)

"Should the title 'Instructor' be further clarified to distinguish between those that teach in dental and dental hygiene programs from those that prepare and present continuing education programs?"

(**Rationale:** It would be relatively easy to fulfill the 50% ceu's for each biennial period since Instructors of dental school programs are teaching at all times, and can utilize these contact & preparatory hours to maintain license commitment without effort. Whereby, those presenting contemporary research and practice in continuing education seminars will be gaining knowledge and sharing with licensees newly updated clinical information)

Additional Comment - under same section:

Section 33.401 (d) should be amended to read:

A maximum of 50% of the required credit hours may be taken through individual study, serving as an instructor or author of a book, article or continuing education program (*relating to subject areas of section 33.402*)

Rationale: Those electing to take their 50% of c.e.u.'s in an alternative method may not comply to section 33.402.

Comment #3 **Section 33.402 [Continuing Education Subject Areas]**

Under section (b) (5) "Communication skills"

Although I strongly agree with the Board's decision to not allow subject areas that relate to practice building and financial strategies, I strongly disapprove of not allowing the subject area of "communication skills".

Rationale: When this law was signed, I do believe that the "consumer" was the Board's foremost concern when expecting all dental professionals to remain current in their clinical competency. One of the most important skills that a dental hygienist is educated to perform for the benefit of their patient is "*instruction of patient dental education*" to improve the overall oral health of the consumer. Without obtaining current educational tactics to improve this skill in areas related to methodology and compliance, I believe that this is a deficit to the clinical and preventive therapist (dental hygienists).

Comment #4 **Section 33.403 [Program sponsors]**

To add to section (a) (12) to read:

"Professional Journals in compliance with the Dental Associations listed in (a)(1-7) that offer independent continuing education articles through correspondence and appropriate post-testing examination for successful completion."

Rationale: If 50% of requirements will allow for independent study methods, then this needs to be addressed in the category of approved sponsors.

Comment #5 [49 PA. Code Ch. 33] **Expanded Function Dental Assistants**

Under Section 33.102 [relating to professional education]

(c)(1)(iii) Dental Assisting Programs should follow the same accreditation standards as those specified in section (c)(1)(ii) from CODA rather than exceptions which would permit those standards to be at the approval of the Board of Dentistry.

Under Section 33.103 [Examinations]

(d) [NERB] The board should not recognize the Dental Hygiene Examination of NERB (only) *unless* accompanied by the required additional 75 hours of EFDA training & education. If the dental hygiene program *includes* this EFDA education, does the candidate take Dental Hygiene NERB **and** also the EFDA examination to obtain a certificate as an EFDA ?

Under Section 33.114 [Relating to first certification examination]

There is no stated provision for what the candidate must do in the event that they have failed the first scheduled EFDA examination and would they need to do to prepare for a second examination?

Comment #6 **Subchapter C. Minimum Standards of Conduct and Practice**

Under Section 33.205a.

(a)[Scope of Professional practice]

Recommendation to amend (a)(1)(vii) to read:

“Placing and finishing composite resin restorations and/or sealant material as a restorative procedure”.

Respectfully submitted for the Board’s consideration,


Lillian Caperila

[Affiliations:]

PDHA Vice President (present)
Chairperson for PDHA Academy of Dental Hygiene Studies (1996-98)
Instructor, Harcum College Dental Hygiene Program (1993-present)
Clinical Practitioner - Periodontal Practice (1980-present)