

Regulatory Analysis Form

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 IRRC REVIEW COMMISSION

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Podiatry

(2) I.D. Number (Governor's Office Use)

16A-446

IRRC Number: 2316

(3) Short Title

Continuing Education

(4) PA Code Cite

49 Pa. Code §§ 29.13 and
 29.60 - 29.69a

(5) Agency Contacts & Telephone Numbers

Primary Contact: Roberta L. Silver, Assistant Counsel
 Department of State
 State Board of Podiatry
 (717) 783-7200

Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The amended regulation lists a preapproved course provider from which licensees can obtain the requisite amount of continuing education credits in a biennial period and institutes fees for reviewing continuing education waivers or extension requests and reinstatement of license requests following inactive or expired status.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulatory amendments are authorized under Sections 9, 9.1 and 15 of the Podiatry Practice Act (63 P.S. §§ 42.9, 42.9a and 42.15).

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Sections 9 and 9.1 of the Act (63 P.S. §§ 42.9 and 42.9a) require that an applicant for biennial license renewal furnish satisfactory evidence that he or she has completed the requisite hours of approved educational conferences, as determined by the board by regulation, during the two intervening license years.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Currently, the board must approve each educational conference individually. Most often, conference approval is ratified at a subsequent board meeting. During the biennial renewal period, licensees who rely on obtaining course credit for educational conferences given by providers that have not yet been approved by the board cannot renew their licenses. This leaves the licensee open to unauthorized practice of podiatry and inability to obtain insurance during the time that the licensee is not licensed.

The addition of a pre-approved course provider would eliminate the problem of potential unlicensed practice. Licensees would be assured that, so long as they attended conferences offered by or approved by the Council on Podiatric Medical Education, they would not run the risk of unlicensed practice because of their lack of fulfilling the continuing education requirement.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

It is imperative that licensees remain current with skills, new technologies, procedures and pharmacology in the field of podiatric medicine.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Licensees, the public and the Board will benefit from the increase in knowledge and skills of practitioners.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board has not identified any group of individuals or entities who will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All licensees seeking biennial renewal will be required to comply with this regulation. The Board anticipates 1331 licensees will renew their licenses.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

On May 31, 2001, the Board solicited input from and provided an exposure draft of the proposed amendments to the Pennsylvania Podiatric Medical Association and Temple University School of Podiatric Medicine, as required under the directives of Executive Order 1996-1 (February 6, 1996). The Pennsylvania Podiatric Medical Association objected to preapproval of courses given by the American Medical Association and the American Osteopathic Association. The Board agreed to delete the two above-named associations from the list of preapproved providers at its November 28, 2001 meeting. The Board also considered Temple University's request that colleges of podiatric medicine be added to the list of preapproved providers, but did not agree to make the addition.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The amended regulations will not provide additional costs or savings to the regulated community associated with compliance. No legal, accounting or consulting procedures will be implicated in complying with the regulatory amendments.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments will not be affected by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Board will not incur an increase in administrative costs by implementing the regulation. Indeed, the regulatory amendments may alter the focus during board meetings. Presently, the Board has the arduous task, during its bi-monthly meetings, of approving or disapproving courses individually. The amended regulations provide for a pre-approved provider, largely eliminating the task of approving or disapproving each individual course. The Board would, therefore, have additional time during the meetings to focus on disciplinary and regulatory matters.

Additionally, there would be less cost to course sponsors. So long as a course has been approved by the Council on Podiatric Medical Education, the individual course sponsor would avoid time and cost of completing and filing an application for course approval with the Board.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 7/1/01	FY +1 7/1/02	FY +2 7/1/03	FY +3 7/1/04	FY +4 7/1/05	FY +5 7/1/06
SAVINGS:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

There are no cost estimates listed above because there will be no fiscal savings or costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 FY 98-99	FY -2 FY 99-00	FY -1 FY 00-01	Current FY FY 01-02
State Board of Podiatry	\$158,000.00	\$158,405.80	\$110,170.71 (as of 2/28/02)	\$217,000.00 (current budget)

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Because there are no costs, the benefits of this regulation clearly outweigh any potential adverse effects.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered because the Board's enabling statute requires the Board to promulgate regulations for continuing education.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal licensure standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Maryland -- requires 50 CE credits per biennium, no preapproved course providers.

Ohio -- requires 100 CE credits per biennium. Preapproved course providers include, American Podiatric Medical Association, American Osteopathic Association, American Medical Association and Accreditation Council for Continuing Medical Education. If courses are not nationally accredited, course providers must apply to the local podiatry association for accreditation.

New York -- requires 1.4 credits for each month of the registration period. License renewal is triennial, so a total of 50 credits is required per registration period. Two-thirds of the credits earned must be in the areas of podiatric medicine and surgery; the remaining one-third may be in the areas of health sciences or in areas dealing with podiatric practice issues such as ethics or risk management. Courses must be approved by the New York State Education Department or offered by organizations/sponsors that are approved by the Council on Podiatric Medical Education.

New Jersey -- no CE requirement for license renewal.

Delaware -- required 32 CE credits per biennium. Preapproved providers include American Podiatric Medical Association (and approved affiliates), local podiatric associations and courses sponsored by hospital or clinic residency programs.

This regulation would not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will have no effect on other regulations of the Board or other state agencies.

Regulatory Analysis Form

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board reviews regulatory proposals at regularly scheduled bi-monthly public meetings. The meeting dates are listed on the Department of State website at www.dos.state.pa.us/bpoa. However, the Board has not scheduled public hearings or informational meetings regarding this regulation.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No changes to reporting, record keeping, or other paperwork is required by this regulation.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has perceived no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective upon publication as final rulemaking in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Board reviews its regulations at regularly scheduled bi-monthly public meetings.

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 8, 2002, meeting, proposed the following change:

Amend § 141.41 (relating to general) to be consistent with the flintlock muzzleloading and muzzleloading seasons, to require hunters using muzzleloading rifles during other firearms deer seasons to use calibers .44 or larger as is currently required during the muzzleloading and flintlock muzzleloading seasons.

The proposed amendment will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed amendment is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed amendment was made public at the October 8, 2002, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until December 27, 2002.

1. Introduction

The Commission is proposing to amend § 141.41.

2. Purpose and Authority

Section 141.43 (relating to deer) requires individuals hunting during the muzzleloading and flintlock muzzleloading seasons to use guns using ammunition .44 caliber or larger. The proposed change will make the requirement uniform by imposing the restriction during all hunting seasons.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices. In addition, section 2102(d) of the code authorizes the Commission to promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used. This amendment was proposed under this authority.

3. Regulatory Requirements

The proposed amendment will require hunters carrying muzzleloaders to hunt deer outside of the muzzleloading season to use only muzzleloaders .44 caliber or larger. This is consistent with the existing .44 caliber restriction in muzzleloading and flintlock muzzleloading seasons.

4. Persons Affected

Hunters using muzzleloading rifles during bear and other firearms deer seasons will be affected by the proposed amendment.

5. Cost and Paperwork Requirements

Hunters who have hunted during bear and regular firearms deer seasons using muzzleloading firearms taking ammunition smaller than .44 caliber may need to get different firearms.

6. Effective Date

The proposed amendment will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed amendment, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

(Editor's Note: An amendment to § 141.41 will be codified in the December 2002 Pennsylvania Code Reporter.)

Fiscal Note: 48-149. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

* * * * *

(b) *It is unlawful to:*

* * * * *

(3) Hunt for deer[,] or bear [or elk] through the use of any muzzleloading handgun, or any muzzleloading firearm that is not .44 caliber or larger.

* * * * *

[Pa.B. Doc. No. 02-2097. Filed for public inspection November 22, 2002, 9:00 a.m.]

STATE BOARD OF PODIATRY

[49 PA. CODE CH. 29]

Continuing Education

The State Board of Podiatry (Board) proposes to amend §§ 29.13, 29.60—29.65, 29.67 and 29.68 and add §§ 29.63a, 29.69 and 29.70 to read as set forth in Annex A.

A. Effective Date

The proposed rulemaking will take effect when published as final-form in the *Pennsylvania Bulletin*.

B. Statutory Authority

The proposed rulemaking is authorized under sections 9, 9.1 and 15 of the Podiatry Practice Act (act) (63 P. S. §§ 42.9, 42.9a and 42.15).

C. Background and Purpose

Section 9 of the act states the procedure that a licensee must follow to effectuate biennial registration of the license. One of the requirements is that the licensee must furnish "... satisfactory evidence that the applicant attended during the two preceding license years such hours of approved educational conferences as determined by the board by regulation."

Similarly, section 9.1 of the act states that "no applicant for a renewal registration shall be granted a registration for the ensuing biennial licensing period unless the applicant shall furnish to the board satisfactory evidence that he has attended not less than the required number of hours of approved educational conferences during the two intervening license years."

Section 15 of the act authorizes the Board to make reasonable rules and regulations as it deems necessary and proper to carry out the intent and purposes of the act within the scope of the act.

As a result of problems that occurred during the biennial renewal period ending December 31, 2000, the Board now proposes to amend its continuing education regulations to include a preapproved course provider. Currently, § 29.64 (relating to application for approval of educational conferences) states that "course applications shall be submitted to the Board for approval at least 60 days prior to the scheduled date of the proposed educational conference." However, the act gives the Board the authority and discretion to approve a course retroactively, by ratification. See section 9.1 of the act (stating that an "approved educational conference" shall be one "approved or ratified" by the Board). Therefore, a provider's failure to submit a course for approval at least 60 days prior to the scheduled course date does not necessarily preclude approval of that course. At each of its meetings, the Board has the task of sifting through numerous applications setting forth, at length, the course program and contents and voting whether to approve or disapprove the individual courses.

For the biennial period ending December 31, 2000, approximately nine continuing education providers filed applications for course approval with the Board after the October 18, 2000, Board meeting. The conferences had already taken place, but had not yet been approved as providing acceptable continuing education credits for the Board's licensees. Those applications could not be considered by the Board until the following meeting, which took place in January 2001, after the renewal period had already passed. This created an enormous problem for licensees who had relied on the credits they received from those conferences in order to effectuate their biennial registration.

The Board determined that licenses would be renewed for licensees whose applications were incomplete because they had taken a course that had not been approved by the Board. Those licensees' applications were collected and held pending the Board's January 2001 meeting. In the end, those courses were ratified by the Board at its January 2001 meeting and the licensees who relied on those courses renewed their licenses without any further problem. However, the Board was unable to exercise its statutory responsibility to review and approve continuing education courses.

To avoid this problem during the ensuing biennial renewal periods, the Board proposes amending its continuing education regulations to include a preapproved course provider.

D. Description of Proposed Amendments

Proposed § 29.60 (relating to definitions) defines "biennium," "certification," "clock hour" and "provider."

Proposed § 29.61 (relating to requirements for biennial renewal and eligibility to conduct educational conferences) adds the requirements for biennial renewal, emphasizing that it is the responsibility of the licensee to ensure that the licensee has met the required 30 hours of credit per biennium. Applicants for license renewal are required to provide to the Board a signed statement certifying that the licensee has complied with the continuing education requirements. In the past, the problems with noncompliance have arisen because licensees have not been diligent in complying with the Board's regulations that only courses approved by the Board will be accepted as continuing education credit. Additionally, subsection (a) informs the licensee that a maximum of 10 clock hours of computer/internet, self-study magazine or journal article courses will be accepted by the Board.

Sections 29.62 and 29.63 (relating to length of time of educational conferences; and curriculum of educational conferences) are amended to provide that educational conferences shall offer at least 1 hour of instruction, instead of the current 4 hours. This is intended to give both licensees and providers increased flexibility.

The most important addition to the Board's continuing education requirements is § 29.63a (relating to preapproved course provider). Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted by the Board for continuing education credit.

Section 29.64 amends the section for approval of educational conferences by having the applicant—licensee or provider—submit an application for program/course approval if the licensee chooses to attend a program that is not offered by the preapproved provider or if a provider would like to gain Board approval for a particular program it is offering. Section 29.64(b) is proposed to be amended by requiring detailed information about the prospective course. The Board felt that a copy of the program brochure or the course syllabus, or both, would be sufficient.

Section 29.65 (relating to compilation of official attendance list) would be deleted because, under section 9.1 of the act, "no applicant for a renewal registration shall be granted a registration for the ensuing biennial licensing period unless the applicant shall furnish to the board satisfactory evidence that he has attended not less than the required number of hours of approved educational conferences during the two intervening license years." It is the licensee's responsibility to show proof of attendance, not the course provider's responsibility.

Section 29.67 (relating to approval or disapproval of educational conferences) provides that the Board will notify the designated person stated on the application for course/conference approval as to the approval or disapproval of the application within 30 days of action taken by the Board at the next scheduled Board meeting. This amends the current regulation which requires the Board to take action on an application within 30 days of receipt of the application. The proposed amendment is necessary because the Board meets bimonthly. When an application for approval of an educational course or conference ar-

rives within a month subsequent to a meeting, the Board is unable to meet the current 30 day requirement because the Board meets every 60 days. With the proposed amendment, even if the application arrives right after a Board meeting, the Board has 30 days from the time of the next Board meeting to notify the designated person stated on the application whether or not the course/conference has been approved.

Section 29.68 (relating to continuing education exemptions) adds a provision allowing for waivers of the continuing education requirements for serious illness or other demonstrated hardship. In addition, a fee shall be assessed for review of waiver or extension requests. Section 29.13 (relating to fees) is amended to reflect this new fee.

Section 29.69 (relating to continuing education requirement for biennial renewal of inactive and lapsed licenses) states that a licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium. In addition, a fee of \$25 shall be assessed for reactivation of an inactive or lapsed license. This fee is reflected in § 29.13.

Section 29.70 (relating to disciplinary action authorized) notifies the licensee that submission of fraudulent information to the Board or failure to complete the required number of continuing education credits may result in disciplinary action.

E. Compliance with Executive Order 1996-1, "Regulatory Review and Promulgation"

In compliance with Executive Order 1996-1, in drafting and promulgating the proposed rulemaking, the Board considered the purpose and likely impact of this proposed rulemaking on the public and the regulated community. On May 31, 2001, the Board solicited comments and suggestions on the proposed rulemaking from the Pennsylvania Podiatric Medical Association and Temple University School of Podiatric Medicine. The Pennsylvania Podiatric Medical Association objected to preapproval of courses given by the American Medical Association and the American Osteopathic Association. The Board agreed to delete the two associations from the list of preapproved providers at its November 28, 2001, meeting. The Board also considered Temple University's request that colleges of podiatric medicine be added to the list of preapproved providers but did not agree to make the addition.

F. Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. To the contrary, having preapproved course providers would reduce the amount of paperwork. Course providers would no longer need to file applications for Board approval which are currently processed by Board staff.

G. Sunset Date

The Board continuously monitors the cost effectiveness of its regulations. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 7, 2002, the Board submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the

Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of objections raised.

I. Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Gina Bittner, Board Administrator, State Board of Podiatry, P. O. Box 2649, Harrisburg, PA 17105-2649, gbittner@state.pa.us within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

JEFFREY S. GERLAND, D.P.M.,
Chairperson

Fiscal Note: 16A-446. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 29. STATE BOARD OF PODIATRY
LICENSES**

§ 29.13. Fees

(a) The schedule of fees charged by the Board is as follows:

	* * * * *	
Review of continuing education waiver or extension requests		\$50
Review of reinstatement of license requests following inactive or expired status		\$25

CONTINUING EDUCATION

§ 29.60. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Biennium—The period from January 1 of an odd-numbered year to December 31 of the next even-numbered year.

Certification—A statement signed by the licensee certifying that continuing education requirements have been met along with information and documentation relative to the course.

Clock hour—Educational conferences will be approved for continuing education credit at the rate

of one credit per 60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.

Provider—An agency, organization, institution, association or center approved by the Board to offer an organized course or program.

§ 29.61. [Hours of credit] Requirements for biennial renewal and eligibility to conduct educational conferences.

(a) [An applicant for biennial registration shall offer proof that:

(1) For the January 1987 renewal period, the applicant has completed 16 hours of continuing education credit in conferences approved by the Board.

(2) For and after the January 1989 renewal period, the applicant has completed 30 hours of continuing education credit in conferences approved by the Board.] As a condition of biennial renewal of a license, a licensee shall have completed 30 clock hours of continuing education during the preceding biennium in acceptable courses and programs in podiatry by approved providers. It is the responsibility of the licensee to ensure that credits used to comply with this continuing education requirement have been approved by the Board. Excess clock hours may not be carried over to the next biennium. A maximum of 10 clock hours of computer/Internet, magazine or journal article courses, which are approved by the Council on Podiatric Medical Education, shall be accepted by the Board.

(b) [Colleges, universities, podiatry associations or other groups] Providers approved by the Board are eligible to conduct educational conferences.

(c) Applicants for license renewal shall provide, on forms approved by the Board, a signed statement certifying that the continuing education requirements have been met and information to document their certification, including the following:

- (1) The date attended.
- (2) The clock hours claimed.
- (3) The title of the course or program and description of content.
- (4) The provider which sponsored the course or program.
- (5) The location of the course or program.

(d) The licensee shall retain documentation of completion of the prescribed number of clock hours for 5 years which shall be produced upon demand by the Board or its auditing agents.

§ 29.62. Length of time of educational conferences.

(a) Educational conferences shall offer at least [4 hours] 1 hour of instruction.

(b) Educational conferences will be approved for continuing education credit at the rate of one credit per clock hour of [applicable] instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.

§ 29.63. Curriculum of educational conferences.

(a) [At least 4 hours of educational conference shall be devoted to covering at least four of the

following basic subjects:] Basic subjects for educational conferences may include: anatomy, physiology, bacteriology, mycology, pharmacy, chemistry, X-ray, surgery, preoperative care, postoperative care, biomechanics, pathology, dermatology, and law and podiatry.

* * * * *

§ 29.63a. Preapproved course provider.

Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted for continuing education credit. All courses shall fall within the scope of podiatry practice. The Board will not approve courses or programs, or portions thereof, in office management or in marketing the practice.

§ 29.64. Application for approval of educational conferences.

The Board may approve other continuing education courses or programs for credit so long as the applicant submits an application furnished by the Board for program approval in compliance with the following:

[(a)] (1) Course applications shall be submitted to the Board for approval at least 60 days prior to the scheduled date of the proposed educational conference. [Courses shall be approved prior to the solicitation of a student for the conference or the publication of an announcement pertaining to the conference.

(b)] (2) The application shall [contain the following information:] include a copy of the full program brochure or the course syllabus, or both. Further information may be required and shall be submitted in a timely fashion.

[(1) Full name and address of eligible institution or organization.

(2) Title of the program.

(3) Dates for the proposed conference.

(4) Location of the proposed conference.

(5) Identification of the conference and lecturers, including name, title or affiliation, professional degree, and colleges or institutions in which the lecturers have given instruction. If the lecturers are not associated with approved schools, a memo concerning their professional activities and achievements shall be submitted.

(6) A schedule of the proposed conference which includes the title and brief description of each subject to be presented and the lecturer or panel to present the subject, specifying the time allotted thereto.

(7) The total number of educational hours included in the conference, excluding coffee breaks, lunches, visits to exhibits, and the like.

(8) The signature of the chief executive officer, secretary, or registrar of the eligible institution or organization, that is, the person who will authenticate the attendance at the educational conferences.

(9) The name and address of the person designated to receive the official notification of the action of the Board upon the application.]

[(c)] (3) ***

§ 29.65. [Compilation of official attendance list]
(Reserved).

[(a) The group, organization, or institution sponsoring an educational conference shall be responsible for designating an authorized representative to authenticate attendance and compile an official attendance list of Pennsylvania licensees in attendance at their conference.

(b) It shall be the responsibility of the authorized representative to submit an official attendance list to the Board Office within 30 days following the final day of the conference.]

§ 29.67. Approval or disapproval of educational conferences.

(a) The Board will notify [the designated person stated on the application] an applicant for course approval as to the approval or disapproval of the application within 30 days of [receipt of the application by the Board] action taken by the Board at the next scheduled Board meeting.

* * * * *

§ 29.68. Continuing education exemptions.

(a) Continuing education credits are not required for the years in which a licensed and currently registered podiatrist is in active military service or engaged in an American Podiatry Association approved Podiatric Residency Program.

(b) The Board may waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee for serious illness

or other demonstrated hardship. The request shall be made in writing, contain supporting documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. A waiver request will be evaluated by the Board on a case-by-case basis. The Board will send written notification of its approval or denial of a waiver request.

(c) A fee shall be assessed for review of waiver or extension requests in accordance with § 29.13 (relating to fees).

§ 29.69. Continuing education requirement for biennial renewal of inactive and lapsed licenses.

(a) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium as required in § 29.61 (relating to requirements for biennial renewal).

(b) A fee will be assessed for review of reinstatement of license requests following inactive or expired status in accordance with § 29.13 (relating to fees).

RECIPROCAL LICENSURE

§ 29.70. Disciplinary action authorized.

A licensed podiatrist who submits a false report or fails to complete the required number of continuing education credits may be subject to disciplinary action.

[Pa.B. Doc. No. 02-2098. Filed for public inspection November 22, 2002, 9:00 a.m.]

FEE REPORT FORM

Agency: State - BPOA

Date: 3/25/2002

Contact: David Williams

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

Fee-Request for Extension or Waiver of Continuing Education Requirement: **\$50.00**

Estimated Biennial Revenue: **\$200.00 (4 requests x \$50.00)**

Fee Description:

The fee will be charged to every applicant who requests a waiver of continuing education required for biennial renewal or time extension to complete continuing education for biennial renewal.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Podiatry to review and process a continuing education extension or waiver request and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process request	(.25 hr)	8.29
Board Meeting- discuss/vote	(.08 hr)	18.75
Administrative Overhead:		<u>20.65</u>
	Total Estimated Cost:	\$47.69
	Proposed Fee:	\$50.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$50.00 be established to process a request for extension or waiver of continuing education required for biennial renewal.

Page 2 Request for Waiver or Extension for Continuing Education 3/25/2002

Board administrator receives request from licensee, reviews for completeness, contacts licensee to request additional information if necessary, places request on agenda for board meeting, notifies requestor of board decision after board meeting.

Board members evaluate circumstances leading to the request, vote to approve or deny as appropriate.

FEE REPORT FORM

Agency: State - BPOA

Date: 3/25/2002

Contact: David Williams

Phone No. 783-7194

Fee Title, Rate and Estimated Collections:

License Reinstatement Fee:	\$25.00
Estimated Biennial Revenue:	\$450.00 (18 applicants x \$25.00)

Fee Description:

The fee will be charged to every applicant who requests reinstatement of license following inactive or expired status.

Fee Objective:

The fee should (1) offset the identifiable costs incurred by the State Board of Podiatry to review and process a reinstatement request and (2) defray a portion of the Board's administrative overhead.

Fee-Related Activities and Costs:

Staff time- process request	(.17 hr)	3.71
Administrative Overhead:		<u>20.65</u>
	Total Estimated Cost:	\$24.36
	Proposed Fee:	\$25.00

Analysis, Comment, and Recommendation:

It is recommended that a fee of \$25.00 be established to process a request for licensure reinstatement.

Page 2 License Reinstatement Fee

3/25/2002

Staff receives request to reinstate an expired or inactive license, reviews application and supporting documents to ensure that continuing education credits were earned in the correct time period, reviews affidavit of non-practice and C.V. to confirm that applicant was not practicing in this state, updates computer file and issues license.

Regulation 16A-446

State Board of Podiatry

PROPOSAL: Regulation 16A-446 amends 49 PA Code, Chapter 29, regulations of the State Board of Podiatry. The amendment revises the Board's regulations pertaining to continuing education.

The proposed Rulemaking was originally published in the Pennsylvania Bulletin on October 26, 2002, and was resubmitted for Committee review on January 29, 2003. The Professional Licensure Committee has until February 18, 2003 to submit comments on the regulation.

ANALYSIS: Licensees of the Board are required to complete 30 clock hours of continuing education from Board approved providers as a condition of biennial license renewal. The Board proposes amending Sec. 29.61(a) to clarify that licensees are responsible for ensuring that the courses taken have been approved by the Board. Excess clock hours may not be carried over to the next biennium, and a maximum of 10 clock hours of computer/internet, magazine or journal article courses, which are approved by the Council on Podiatric Medical Education, will be accepted by the Board.

Applicants for license renewal will be required to document completion of the continuing education requirement, providing specific information about the courses attended. Licensees must retain documentation of continuing education hours for 5 years. Educational conferences must offer at least one hour of instruction, and the basic subjects for educational conferences are set forth in Sec. 29.63(a).

The Board intends to designate courses or programs offered or approved by the Council on Podiatric Medical Education as being pre-approved. All other courses must be approved by the Board. Applications for course approval must be submitted at least 60 days prior to the scheduled date of the proposed course, and must include a copy of the full program brochure and/or course syllabus. The Board will notify an applicant of approval or disapproval within 30 days of action taken by the Board at the next scheduled Board meeting.

The proposal would delete the requirement for course providers to authenticate licensee attendance at a conference and to submit an official attendance list to the Board within 30 days following the conference. A provision for requesting waivers from the continuing education requirement would be included. A fee of \$50 would be established for reviewing waiver or extension requests, and a \$25 fee would be established for review of requests to reinstate inactive or expired licenses.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated. However, the Committee submits the following comments:

1. Although primary responsibility rests with licensees to document continuing education compliance, the Committee suggests that the Board continue to require course providers to authenticate attendance and retain documentation of attendance for a period of time equal to that required of licensees. The Committee notes that Dental Board regulations require both licensees and course providers to retain documentation for a period of four years. This provides a backup means to authenticate attendance should a licensee's documentation be lost or come into question.
2. The Committee notes that the exposure draft of the proposed amendments included courses given by the American Medical Association and the American Osteopathic Association as being preapproved. Reference to these organizations was withdrawn after objection by the Pennsylvania Podiatric Medical Association (PPMA). The Committee requests an explanation as to the grounds for the PPMA's objection, and questions why courses offered by the excluded associations cannot be of some educational value to licensees.
3. Section 29.61(a)(2) allows a maximum of 10 hours of continuing education through computer/internet, magazine or journal article courses. The Committee requests an explanation as to how continuing education is accomplished through those means.

House of Representatives
Professional Licensure Committee
February 5, 2003

Comments of the Independent Regulatory Review Commission

on

State Board of Podiatry Regulation No. 16A-446

Continuing Education

February 28, 2003

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Podiatry (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 29.60. Definitions. – Clarity.

“Clock hour” is defined as, “Educational conferences will be approved for continuing education credit at the rate of one credit per 60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.” The phrase, “Educational conferences will be approved for continuing education credit at the rate of one credit per 60 minutes” is a substantive provision. Substantive provisions in a definition are not enforceable. Therefore, the Board should move this provision of the definition to Section 29.62, relating to length of time of education conferences. We recommend that the definition of “clock hour” be changed to “60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.”

2. Section 29.61. Requirements for biennial renewal and eligibility to conduct educational conferences. – Clarity.

Subsection (c) uses the phrase “forms approved by the Board.” The form name or number should be included in the final-form regulation. The regulation should specify how and where an applicant could obtain the form. If the form is available for downloading from the Board’s website, this information should be included in the regulation.

Subsection (d) requires a licensee to retain documentation of completion of the prescribed number of clock hours for five years. This requirement is vague. The final-form regulation should clarify if the five-year requirement is specific to each course completed or to each biennial period.

3. Section 29.63a. Preapproved course provider. – Reasonableness; Clarity.

This section identifies courses within the scope of podiatry that are offered or approved by the Council on Podiatric Medical Education are preapproved and will be accepted for continuing

education credit. In its comments on the proposed regulation dated February 12, 2003, the House Professional Licensure Committee questioned why courses given by the American Medical Association and American Osteopathic Association were not also listed as preapproved. We share the concerns raised by the House Professional Licensure Committee and request an explanation of why these organizations were not included as pre-approved course providers for courses relevant to podiatric medicine.

4. Section 29.68. Continuing education exemptions. – Statutory authority; Legislative intent; Reasonableness; Protection of public health, safety and welfare.

This section states, in part, that the Board, "... may waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee for serious illness or other demonstrated hardship." We question the Board's statutory authority to provide this waiver. Section 9.1 of the Podiatry Practice Act (63 P.S. § 42.9a) requires that an applicant for renewal registration furnish the Board with satisfactory evidence of attending the required hours of continuing education courses. There is no provision for exemption or waiver. If an applicant does not provide satisfactory evidence, then he or she cannot receive renewal for the next biennial licensing period.

If the Board demonstrates that it has the statutory authority to grant waivers, we question the reasonableness of allowing a podiatrist to practice without the benefit of continuing education. In addition, the availability of continuing education from a multitude of sources, as provided in Section 29.61(a), ensures that podiatrists have ample opportunity to meet their continuing education requirements.

The comment and response portion of the final-form regulation should provide the specific statutory authority that allows the Board to grant a waiver for serious illness or demonstrated hardship. It should also explain how the health and safety of the public is adequately protected when podiatrists are allowed to practice without the benefit of continuing education. In the alternative, this provision should be deleted.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

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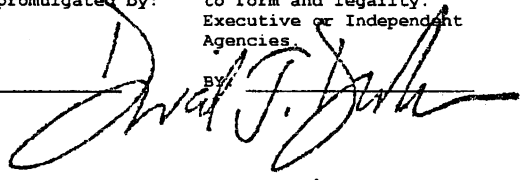
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copy of a document issued, prescribed or promulgated by:

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Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Podiatry
(AGENCY)

BY: 

DOCUMENT/FISCAL NOTE NO. 16A-446

DATE OF ADOPTION: _____

7/7/03
DATE OF APPROVAL

DATE OF APPROVAL

BY: Jeffrey S. Gerland, D.P.M.



Executive
(Deputy General Counsel
(Strike Inapplicable
title)

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SE

[] Check if applicable
Copy not approved.
Objections attached.

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applicable. No
Attorney General
approval or objection
within 30 day after
submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PODIATRY
49 PA. CODE, CHAPTER 29
CONTINUING EDUCATION

The State Board of Podiatry (Board) hereby amends its regulations at 49 Pa. Code §§ 29.60–29.69a (relating to continuing education), by listing a preapproved course provider from which licensees can obtain the requisite amount of continuing education credits in a biennial period, as set forth in Annex A. The Board further hereby amends 49 Pa. Code § 29.13 (relating to fees), by instituting fees for reviewing continuing education waivers or extension requests and reinstatement of license requests following inactive or expired status, as set forth in Annex A.

A. Effective Date

The amendment will take effect when published as final rulemaking in the *Pennsylvania Bulletin*.

B. Statutory Authority

The amendments are authorized under Sections 9, 9.1 and 15 of the Podiatry Practice Act (Act) (63 P.S. §§ 42.9, 42.9a and 42.15).

C. Background and Purpose

The amendments were precipitated by problems that occurred during the biennial renewal period ending December 31, 2000. During that renewal period, approximately nine continuing education providers filed applications for course approval with the Board after the October 18, 2000 Board meeting. The conferences had already taken place, but had not yet been approved as providing acceptable continuing education credits for the Board's licensees. Those applications could not be considered by the Board until the following meeting, which took place in January, 2001, after the renewal period had already passed. This created an enormous problem for licensees who had relied on the credits they received from those conferences in order to effectuate their biennial registration.

In order to avoid this problem during the ensuing biennial renewal periods, the Board hereby amends its continuing education regulations to include a preapproved course provider. Instituting the Council on Podiatric Medical Education (CPME) as a preapproved provider would further eliminate the Board's task of sifting through lengthy course applications at each meeting and voting whether to approve or disapprove the individual courses.

A detailed explanation of the proposed amendments was published at 32 Pa.B. 5759 (November 23, 2002).

D. Description of Amendments

Section 29.13 (relating to fees) is amended by adding the following fees:

<u>Application</u>	<u>Current Fee</u>	<u>Amended Fee</u>
Review of continuing education waiver or extension requests.....	0	\$50
Review of reinstatement of license requests following inactive or expired status.....	0	\$25

Section 29.60 (relating to definitions) is added to define “biennium,” “certification,” “clock hour” and “provider.”

Section 29.61 (relating to requirements for biennial renewal and eligibility to conduct educational conferences) adds the requirements for biennial renewal, emphasizing that it is the responsibility of the licensee to ensure that the licensee has met the required 30 hours of credit per biennium. Applicants for license renewal are required to provide to the Board a signed statement certifying that the licensee has complied with the continuing education requirements. In the past, the problems with non-compliance have arisen because licensees have not been diligent in complying with the Board’s regulations that only courses approved by the Board will be accepted as continuing education credit. Additionally, subsection (a) informs the licensee that a maximum of 10 clock hours of computer/internet, self-study magazine or journal article courses will be accepted by the Board.

Sections 29.62 and 29.63 (relating to length of time of educational conferences and curriculum of educational conferences) are amended to provide that educational conferences shall offer at least one hour of instruction, instead of the current four hours. This is intended to give both licensees and providers increased flexibility.

The most important addition to the Board’s continuing education requirements is § 29.63a (relating to preapproved course provider). Courses or programs offered or approved by the Council on Podiatric Medical Education (CPME) will be accepted by the Board for continuing education credit.

Section 29.64 amends the section for approval of educational conferences by having the applicant – licensee or provider – submit an application for program/course approval if the licensee chooses to attend a program that is not offered by the preapproved provider or if a provider would like to gain Board approval for a particular program it is offering. Section 29.64(b) is amended by requiring detailed information about the prospective course. The Board felt that a copy of the program brochure or the course syllabus, or both, would be sufficient.

Section 29.67 (relating to approval or disapproval of educational conferences) provides that the Board will notify the designated person stated on the application for course/conference approval as to the approval or disapproval of the application within 30 days of action taken by the Board at the next scheduled Board meeting. This amends the current regulation which requires the Board to take action on an application within 30 days of receipt of the application. The amendment is necessary because the Board meets bi-monthly. When an application for approval of an educational course or conference arrives within a month subsequent to a meeting, the Board is unable to meet the current 30 day requirement because the board meets every 60 days. With the amendment, even if the application arrives right after a board meeting, the board has 30 days from the time of the next board meeting to notify the designated person stated on the application whether or not the course/conference has been approved.

Section 29.68 (relating to continuing education exemptions) adds a provision allowing for waivers of the continuing education requirements for serious illness or other demonstrated hardship. In addition, a fee shall be assessed for review of waiver or extension requests. Section 29.13 (relating to fees) is amended to reflect this new fee.

Section 29.69 (relating to continuing education requirement for biennial renewal of inactive and lapsed licenses) states that a licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium. In addition, a fee of \$25 shall be assessed for reactivation of an inactive or lapsed license. This fee is also reflected in § 29.13.

Section 29.69a (relating to disciplinary action authorized) notifies the licensee that submission of fraudulent information to the Board or failure to complete the required number of continuing education credits may result in disciplinary action. This section was formerly published as § 29.70 in the proposed rulemaking at 32 Pa.B. 5759 and was renumbered in the final rulemaking.

E. Comment and Regulatory Review of Proposed Rulemaking

Publication of proposed rulemaking at 32 Pa.B. 5759 (November 23, 2002) was followed by a 30-day public comment period during which the Board received no public comments.

Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The following are the comments submitted by HPLC and IRRC and the Board's responses:

1. In response to HPLC's suggestion that course providers be required to retain documentation of attendance at courses as a backup means to authenticate attendance in the event a licensee's documentation is lost or comes into question, the Board will retain § 29.65 (relating to compilation of official attendance list).
2. HPLC requested an explanation as to how continuing education will be accomplished through computer/internet, magazine or journal article courses.

Pennsylvania and Texas are the only two states that currently do not accept these kinds of courses for continuing education. In order to receive credit through an internet course, a licensee must pay a fee to log into the course, provide his or her license number, complete the entire course and take a self-examination, which is then submitted to the CPME approved provider. After a licensee has read a magazine or journal article, he/she must complete a self-examination, which is then sent to the CMPE approved provider along with a fee.

3. HPLC and IRRC requested an explanation as to why American Medical Association (AMA) and American Osteopathic Association (AOA) courses relevant to the practice of podiatry, which appeared in the exposure draft, were excluded from the proposed regulation.

In response to the exposure draft of the amendments, the executive director of the Pennsylvania Podiatric Medical Association (PPMA) sent a persuasive letter to the Board in which he objected to the inclusion of AMA and AOA courses. The reasons cited were as follows:

- (a) the American Podiatric Medical Association (APMA) works closely with the CPME to assure that the substance and presentation of a program granting continuing education credits is in compliance with the requirements of the CPME.
- (b) PPMA has, in the past, run programs with the Pennsylvania Medical Society, which have not had required attendance tracking efforts.
- (c) Attendance verification is one of the hallmarks of the CPME programs.
- (d) The operation of continuing education programs through CPME is a source of income to benefit the profession and its continued ability to fund research and maintain quality standards.

In 2002, the CPME approved 68 sponsors. Once a sponsor is approved under the CPME criteria, the sponsor may offer as many courses as it likes. The vast array of courses approved by the CPME encourages licensees to take courses that have already been approved.

However, the Board agrees with HPLC and IRRC that courses provided by AMA and AOA may be of educational value to podiatrists. That CPME is a preapproved provider does not preclude licensees or AMA/AOA sponsors from seeking course approval from the Board under § 29.64 (relating to application for approval of educational conferences).

4. IRRC recommended that the definition of “clock hour” be changed to “60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.” The Board has complied with this recommendation in § 29.60 (relating to definitions).
5. IRRC commented that if Section 29.61(c) requires applicants for license renewal to provide a signed statement certifying compliance with the continuing education requirements “on forms approved by the Board,” then the name of the “form” and whether it can be downloaded from the Board’s website should be included in the regulation.

The signed statement appears on the biennial license renewal application itself, not on a separate document or form. Therefore, the Board has clarified this subsection.

6. IRRC questioned whether § 29.61(d) requires a licensee to retain continuing education course attendance certificates for five years after the completion of the course or for five years after the biennial period during which the course is completed.

Section 29.61(d) has been amended and specifies that the licensee is required to retain attendance certificates for five years after the completion of the course.

7. IRRC questioned the Board’s statutory authority to implement § 29.68, which provides that the Board “...may waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee for serious illness or other demonstrated hardship.”

Section 15 of the Act (63 P.S. § 42.15) authorizes the Board to make such reasonable rules and regulations as it deems necessary and proper in order to carry out the intent and purposes of the Act within the scope of the Act. Under this statutory provision, the Board, in implementing continuing education regulations under Section 9 of the Act (63 P.S. § 42.9) has the discretion to decide that disciplinary action not be taken against a licensee who, because of serious illness or demonstrated hardship, cannot obtain continuing education credits.

The Board, as well as most licensing authorities, has long recognized that hardship circumstances (such as military service or debilitating illness) may occur that should excuse a licensee's inability to obtain the required continuing education credits. Section 29.68 codifies that discretion.

F. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation the Board considered the least restrictive alternative to regulate costs for services requested by licensees. The Board further considered the purpose and likely impact of this regulation on the public and the regulated community.

G. Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. To the contrary, having a preapproved course provider would reduce the amount of paperwork. The majority of course providers would no longer need to file applications for Board approval which are currently processed by Board staff.

H. Sunset Date

The Board continuously monitors the cost effectiveness of its regulation. Therefore, no sunset date has been assigned.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of the notice of proposed rulemaking, published at 32 Pa.B.5759 (November 23, 2002) to IRRC, SCP/PLC and HPLC for review and comment.

In preparing the final-form regulation, the Board has considered any comments received from IRRC, SCP/PLC, HPLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was deemed approved by the HPLC and the SCP/PLC on _____. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), this final-form regulation was deemed approved by IRRC on _____.

J. Contact Person

Further information may be obtained by contacting Gina Bittner, Board Administrator, State Board of Podiatry, 116 Pine Street, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 (gbittner@state.pa.us).

K. Findings

The State Board of Podiatry finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) This amendment does not enlarge the purpose of proposed rulemaking published at 32 Pa.B. 5759.
- (4) This amendment is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this Preamble.

L. Order

The State Board of Podiatry, acting under its authorizing statutes, orders that:

- (a) The regulations of the Board at 49 Pa. Code §§ 29.13 and 29.60 – 29.69a are amended as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

Jeffrey S. Gerland, D.P.M.,
Chairman

ANNEX A
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 29. STATE BOARD OF PODIATRY

* * *

LICENSES

* * *

§ 29.13. Fees

(a) The schedule of fees charged by the Board is as follows:

* * *

<u>Review of continuing education waiver or extension requests</u>	<u>\$50</u>
<u>Review of reinstatement of license requests following inactive or expired status</u>	<u>\$25</u>

* * *

CONTINUING EDUCATION

§ 29.60. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Biennium – The period from January 1 of an odd-numbered year to December 31 of the next even-numbered year.

Certification – A statement signed by the licensee certifying that continuing education requirements have been met along with information and documentation relative to the course.

Clock hour – ~~Educational conferences will be approved for continuing education credit at the rate of one credit per~~ Sixty minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.

Provider – An agency, organization, institution, association or center approved by the Board to offer an organized course or program.

§ 29.61. [Hours of credit] Requirements for biennial renewal and eligibility to conduct educational conferences.

(a) [An applicant for biennial registration shall offer proof that:

(1) For the January 1987 renewal period, the applicant has completed 16 hours of continuing education credit in conferences approved by the Board.

(2) For and after the January 1989 renewal period, the applicant has completed 30 hours of continuing education credit in conferences approved by the Board.] As a condition of biennial renewal of a license, a licensee shall have completed 30 clock hours of continuing education during the preceding biennium in acceptable courses and programs in podiatry by approved providers. It is the responsibility of the licensee to ensure that credits used to comply with this continuing education requirement have been approved by the Board. Excess clock hours may not be carried over to the next biennium. A maximum of 10 clock hours of computer/Internet, magazine or journal article courses, which are approved by the Council on Podiatric Medical Education, shall be accepted by the Board.

(b) [Colleges, universities, podiatry associations or other groups] Providers approved by the Board are eligible to conduct educational conferences.

(c) Applicants for license renewal shall provide, on forms approved by the Board, ON THE RENEWAL APPLICATION, a signed statement certifying that the continuing education requirements have been met and information to document their certification, including the following:

- (1) The date attended.
- (2) The clock hours claimed.
- (3) The title of the course or program and description of content.
- (4) The provider which sponsored the course or program.
- (5) The location of the course or program.

(d) The licensee shall retain ~~documentation~~ ATTENDANCE CERTIFICATES TO DOCUMENT of completion of the prescribed number of clock hours for 5 years FOLLOWING THE COMPLETION OF EACH COURSE, which shall be produced upon demand by the Board or its auditing agents.

§ 29.62. Length of time of educational conferences.

- (a) Educational conferences shall offer at least [4] 1 hour[s] of instruction.
- (b) Educational conferences will be approved for continuing education credit at the rate of one credit per clock hour of [applicable] instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.

§ 29.63. Curriculum of educational conferences.

- (a) [At least 4 hours of educational conference shall be devoted to covering at least four of the following basic subjects:] Basic subjects for educational conferences may include: anatomy, physiology, bacteriology, mycology, pharmacy, chemistry, X-ray, surgery, preoperative care, postoperative care, biomechanics, pathology, dermatology, and law and podiatry.

* * *

§ 29.63a. Preapproved course provider.

Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted for continuing education credit. All courses shall fall within the scope of podiatry practice. The Board will not approve courses or programs, or portions thereof, in office management or in marketing the practice.

§ 29.64. Applications for approval of educational conferences.

The Board may approve other continuing education courses or programs for credit so long as

the applicant submits an application furnished by the Board for program approval in compliance with the following:

[(a)] (1) Course applications shall be submitted to the Board for approval at least 60 days prior to the scheduled date of the proposed educational conference. [Courses shall be approved prior to the solicitation of a student for the conference or the publication of an announcement pertaining to the conference.

(b)] (2) The application shall [contain the following information:] include a copy of the full program brochure or the course syllabus, or both. Further information may be required and shall be submitted in a timely fashion.

- [(1)] Full name and address of eligible institution or organization.
- (2) Title of the program.
- (3) Dates for the proposed conference.
- (4) Location of the proposed conference.
- (5) Identification of the conference and lecturers, including names, title or affiliation, professional degree, and colleges or institutions in which the lecturers have given instruction. If the lecturers are not associated with approved schools, a memo concerning their professional activities and achievements shall be submitted.
- (6) A schedule of the proposed conference which includes the title and brief description of each subject to be presented and the lecturer or panel to present the subject,

specifying the time allotted thereto.

- (7) The total number of educational hours included in the conference, excluding coffee breaks, lunches, visits to exhibits, and the like.
- (8) The signature of the chief executive officer, secretary, or registrar of the eligible institution or organization, that is, the person who will authenticate the attendance at the educational conferences.
- (9) The name and address of the person designated to receive the official notification of the action of the Board upon the application.]

[(c)] (3) The Board shall be notified immediately of material changes in any approved conference. Board approval can be withdrawn should changes in proposed conferences not adhere to the Board's requirements.

§ 29.65. {Compilation of official attendance list} (~~Reserved~~).

{(a) The group, organization, or institution sponsoring an educational conference shall be responsible for designating an authorized representative to authenticate attendance and compile an official attendance list of Pennsylvania licensees in attendance at their conference.

(b) It shall be the responsibility of the authorized representative to submit an official attendance list to the Board Office within 30 days following the final day of the conference.}

* * *

§ 29.67. Approval or disapproval of educational conferences.

(a) The Board will notify [the designated person stated on the application] an applicant for course approval as to the approval or disapproval of the application within 30 days of [receipt of the application by the Board] action taken by the Board at the next scheduled Board meeting.

* * *

§ 29.68. Continuing education exemptions.

(a) Continuing education credits are not required for the years in which a licensed and currently registered podiatrist is in active military service or engaged in an American Podiatry Association approved Podiatric Residency Program.

(b) The Board may waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee for serious illness or other demonstrated hardship. The request shall be made in writing, contain supporting documentation, and shall include a description of circumstances sufficient to show why compliance is impossible. A waiver request will be evaluated

by the Board on a case-by-case basis. The Board will send written notification of its approval or denial of a waiver request.

(c) A fee shall be assessed for review of waiver or extension requests in accordance with § 29.13 (relating to fees).

§ 29.69. Continuing education requirement for biennial renewal of inactive and lapsed licenses.

(a) A licensee seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium as required by § 29.61 (relating to requirements for biennial renewal).

(b) A fee shall be assessed for review of reinstatement of license requests following inactive or expired status in accordance with § 29.13 (relating to fees).

~~§ 29.70~~ 29.69A. Disciplinary action authorized.

A licensed podiatrist who submits a false report or fails to complete the required number of continuing education credits may be subject to disciplinary action.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF PODIATRY

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-4858

September 16, 2003

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Podiatry
16A-446: Continuing Education

Dear Chairman McGinley:

Enclosed is a copy of the final rulemaking package of the State Board of Podiatry pertaining to Continuing Education.

This regulation package was first submitted to the committees and the Independent Regulatory Review Commission on November 7, 2002. The proposed regulations were published in the Pennsylvania Bulletin on November 23, 2002, 32 Pa.B. 5759.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,


Jeffrey S. Gerard, D.P.M., Chairman
State Board of Podiatry

JSG/RS:law

Enclosure

cc: Scott J. Messing, Deputy Commissioner
Bureau of Professional and Occupational Affairs
Andrew Sislo, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Gerald S. Smith, Senior Counsel in Charge
Department of State
Roberta Silver, Counsel
State Board of Podiatry
State Board of Podiatry

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-0446
 SUBJECT: Continuing Education (State Board of Podiatry)
 AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 2003 SEP 16 PM 12:01
 INDEPENDENT REGULATORY REVIEW COMMISSION

GA

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
7/16/03	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/16/03	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9/16/03	<i>Diana Rogan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)