

<b>Regulatory Analysis Form</b>		This space for use by IRRC
(1) Agency <b>Department of State, Bureau of Professional and Occupational Affairs, State Board of Medicine</b>		IRRC Number: <b>2494</b>
(2) I.D. Number (Governor's Office Use) <b>16A-4921</b>		
(3) Short Title <b>Respiratory Care Practitioners</b>		
(4) PA Code Cite <b>49 Pa. Code, §§ 18.302, 18.309a, and 18.309b</b>	(5) Agency Contacts & Telephone Numbers Primary Contact: Sabina I. Howell, Counsel State Board of Medicine (717) 783-7200 Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Policy Statement	(7) Is a 120-Day Emergency Certification Attached?  No <input checked="" type="checkbox"/> Yes: By the Attorney General Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language.  <b>The proposed regulation defines requirements for continuing education of respiratory care practitioners.</b>		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions.  <b>The proposed regulation implements Act 55 of 2004, which directs the State Board of Medicine to establish requirements for obtaining continuing education, to be met by individuals holding certification as respiratory care practitioners.</b>		

## 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.

**Section 36.1(f) of the Medical Practice Act of 1985( 63 P. S. § 422.36.1(f)(1)) mandates that the Board promulgate these regulations.**

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

**The proposed regulation is put forth in support of the Legislative mandate requiring continuing education for respiratory care practitioners in the Commonwealth.**

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

**The proposed regulations have been mandated by legislative initiative.**

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

**The proposed regulation will enhance the provision of quality care to the residents of the Commonwealth. By setting forth guidelines for obtaining continuing education by licensees, the proposed regulation reinforces the need for licensees in the respiratory care community to be knowledgeable about the most recent innovations and treatment methodologies.**

## 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.)

**There are no perceived people or groups of people who would be adversely affected by this 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 respiratory care practitioners, except those exempted by the regulation (first time applicants, those holding temporary training licenses) will be required to comply with the regulation. Currently there are approximately 5,900 respiratory care practitioners licensed by the State Board of Medicine in the Commonwealth.**

(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.

**In compliance with Executive Order 1996-1, in drafting and promulgating this regulation, the Board solicited input and suggestions from the regulated community and other parties who identified themselves as interested in the Board's regulatory agenda. The Board revised its draft as a result of comments received.**

(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.

**It is difficult to estimate the cost to the regulated community. Much will depend upon where the licensees choose to obtain their continuing medical education. There are many programs that are offered at little or no cost through hospitals, local medical societies, etc. Many, if not most, licensees already obtain some continuing education. Respiratory care practitioners will be required to maintain records of compliance.**

## 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.

**No costs or savings to local governments are generated by this 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 costs associated with implementing these regulations is hard to quantify. There will be some costs incurred for auditing, verifying and prosecuting cases relating to completion of continuing medical education credits. However, the overhead cost involved in these activities will be minimal, as audit and verification for licensure requirements already takes place.**

### 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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community	Unable	to	determine			
Local Government						
State Government	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

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

**Costs associated with respiratory care practitioner compliance will vary based upon charges assessed by continuing education providers. Continuing education could in many instances be provided at no cost by health care facilities.**

## Regulatory Analysis Form

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

Program	FY -3 2001-2002	FY -2 2002-2003	FY -1 2003-2004	Current FY 2004-2005
State Board of Medicine	\$3,241,114.50	\$3,861,200.20	\$4,208,232.09	\$8,774,000.00

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

**There should be no adverse effects and costs associated with compliance with the rulemaking. The benefits of the regulation are described in sections 11 & 13, above. Further, this rulemaking has been legislatively mandated.**

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

**The implementation of regulations has been legislatively mandated to reflect the on-going need for continuing education in the respiratory care practitioner community.**

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

**The proposed regulations reflect the mandate of the legislature, and as such no other regulatory schemes were found to be viable.**

## 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 standards in this area.**

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

**New York, Delaware, West Virginia and Virginia all require 10 hours of continuing education per year, which is comparable to the amount required by these regulations. Maryland requires 8 hours of continuing education per year. Ohio requires 12 hours of continuing education per year. New Jersey does not require continuing education.**

**The regulation will not put Pennsylvania at a competitive disadvantage.**

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

**No.**

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

**No public hearings are scheduled.**

## Regulatory Analysis Form

(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.

**Yes. Respiratory care practitioners will be required to maintain evidence of compliance with the regulations.**

(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 not identified any affected groups or persons that need to be accommodated in any way.**

(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 become effective upon final-form publication.**

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

**The Board continuously monitors the effectiveness of its regulations.**



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2005 SEP 26 AM 11:54

LEGISLATIVE REVIEW COMMISSION

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

# 2494

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

  
BY: \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

State Board of Medicine  
(AGENCY)

  
ANDREW C. CLARK

AUG 19 2005

DATE OF APPROVAL

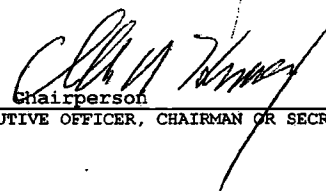
DOCUMENT/FISCAL NOTE NO. 16A-4921

DATE OF ADOPTION: \_\_\_\_\_

7.26.05

DATE OF APPROVAL

BY: \_\_\_\_\_



(Deputy General Counsel  
(Chief Counsel,  
Independent Agency  
Strike inapplicable  
title)

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable Copy not approved. Objections attached.
- Check if applicable. No Attorney General approval or objection within 30 day after submission.

PROPOSED RULEMAKING  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF MEDICINE  
49 PA. CODE, CHAPTER 18  
RESPIRATORY CARE CONTINUING EDUCATION

The State Board of Medicine (Board) proposes to amend Subchapter F pertaining to respiratory care practitioners at §18.302 (relating to definitions) and to add §§18.309a and 18.309b (relating to requirement of continuing education; and approved educational programs), to read as set forth in Annex A.

**A. Effective Date**

The amendments will be effective upon publication as final-form rulemaking in the Pennsylvania Bulletin. The completion of continuing education hours will be required in order to renew a certification as a respiratory care practitioner commencing with the January 1, 2007 biennial renewal.

**B. Statutory Authority**

The amendments implement Act 55 of 2004 which directs the Board to adopt, promulgate and enforce regulations that establish requirements for continuing education to be met by individuals holding certification as respiratory care practitioners in this Commonwealth. Disciplinary procedures for failure to comply would be addressed by way of changes to § 16.61 (unprofessional and immoral conduct) which is proposed as a part of the regulatory package for the implementation of Act 92 of 2001, which authorizes the Board to promulgate regulations that define the certification, circumstances and protocol under which a certified athletic trainer may perform athletic training services, and which define the supervision and personal direction required by the standards of acceptable medical practice embraced by the medical doctor community in this Commonwealth.

**C. Background and Purpose**

Act 55 of 2004, which became effective August 31, 2004, amended the Medical Practice Act of 1985 (act) (63 P.S. §422.1- 422.51a) by adding section 36.1(f) to provide for the continuing education of respiratory care practitioners. The Board now proposes these regulations to establish requirements for continuing education for respiratory care practitioners.

**D. Description of Proposed Regulations**

Section 18.302 (relating to definitions) would be amended to set forth acronyms used in the proposed amendments for nationally recognized organizations which provide and certify courses and programs in respiratory therapy.

Section 18.309 (relating to renewal of certification) would be amended to reflect the requirement for continuing education in §18.309a.

Section 18.309a (relating to requirement of continuing education) would set forth the requirement of continuing education. The section requires attendance at and completion of 20 credit hours each biennial cycle for renewal or reactivation of licensure. There is also provision for exemptions and waivers. Section 18.309b (relating to approved educational programs) would designate nationally recognized providers of respiratory care training as the approved providers for and certifiers of the continuing education credits.

**E. Fiscal Impact and Paperwork Requirements**

The amendments will have no quantifiable adverse fiscal impact on the Commonwealth or its political subdivisions.

**F. Sunset Date**

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

**G. Regulatory Review**

Under section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), on September 26, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. 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 comments, recommendations or objections raised.

16A-4921  
Preamble  
June 21, 2005

**H. Public Comment**

Interested persons are invited to submit written comments, recommendations, or objections regarding the proposed regulation to Sabina I. Howell, Board Counsel, P.O. Box 2649, Harrisburg, Pennsylvania 17105-2649 within thirty (30) days following publication for the proposed rulemaking in the Pennsylvania Bulletin.

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Charles D. Hummer, Jr., M.D.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

SUBPART A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 18. STATE BOARD OF MEDICINE

SUBCHAPTER F. RESPIRATORY CARE PRACTITIONERS

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§ 18.302. Definitions.

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

\*\*\*

AARC – American Association for Respiratory Care, an organization which provides and approves continuing professional development programs.

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AMA – American Medical Association, an organization which provides and approves continuing professional development programs.

AOA – American Osteopathic Association, an organization which provides and approves continuing professional development programs.

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CSRT – Canadian Society of Respiratory Therapists, an organization which provides and approves continuing professional development programs.

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**§ 18.309. Renewal of certification.**

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(c) To retain the right to engage in practice, the certificate-holder shall renew certification in the manner prescribed by the Board, complete the continuing education requirement as set forth in § 18.309a (relating to requirement of continuing education) and pay the required fee prior to the expiration of the next biennium.

**§ 18.309a. Requirement of continuing education.**

(a) The following continuing education requirements shall be completed each biennial cycle, commencing with the biennial period ending December 31, 2006.

- (1) An applicant for biennial renewal or reactivation of certification is required to complete, during the 2 years preceding the application for renewal or reactivation, a minimum of 20 hours of continuing education as set forth in section 36.1(f)(2) of the act (63 P.S. §422.36.1(f)).
  
- (2) A certificate-holder is exempt from the continuing education requirement for the first biennial renewal period subsequent to initial certification.
  
- (3) The board may waive the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each certificate-holder who seeks a waiver to notify the Board in writing and request such waiver prior to the end of the renewal period. The Board will grant, deny, or grant in part the request for waiver and will send the certificate-holder written notification of its approval or denial in whole or in part of the request. A certificate-holder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificate-holder's current certificate until the Board grants the waiver request.
  
- (4) A licensee shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted,

for a period of no less than 2 years from the commencement of the biennial renewal period to which the continuing education or waiver applies.

**§ 18.309b. Approved educational courses.**

- (a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT. The courses, locations and instructors provided by these organizations for continuing education in respiratory care are deemed approved by the Board. Qualifying AMA continuing education programs shall be in AMA PRA Category I as defined in §16.1 (relating to definitions) and qualifying AOA continuing education programs shall be in Category 1A and 1B.
- (b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the U.S. Department of Education which offers academic credits is also approved for continuing education credit by the Board. Proof of completion of such academic credits shall be submitted to the Board for determination of number of credits completed.
- (c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management and financial procedures.





COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF MEDICINE  
Post Office Box 2649  
Harrisburg, Pennsylvania 17105-2649  
(717) 783-1400

September 26, 2005

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

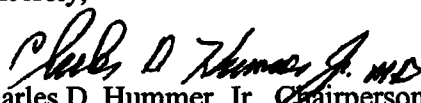
Re: Proposed Regulation  
State Board of Medicine  
16A-4921: Respiratory Care Continuing Education

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Medicine pertaining to respiratory care continuing education.

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

Sincerely,

  
Charles D. Hummer, Jr., Chairperson  
State Board of Medicine

CDH/SIH:sb

Enclosure

cc: Albert H. Masland, Chief Counsel  
Department of State  
Basil L. Merenda, Commissioner  
Bureau of Professional and Occupational Affairs  
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  
Sabina I. Howell, Counsel  
State Board of Medicine  
State Board of Medicine

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

I.D. NUMBER: 16A-4921  
 SUBJECT: State Board of Medicine: Respiratory Care Continuing Education  
 AGENCY: DEPARTMENT OF STATE # 2494

**TYPE OF REGULATION**

- X 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

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 REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
9/26/05	Jandra J. Harper	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/26/05	Mary Walmer	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9/26/05	Joseph F. Hoff	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/26/05	Mayra Garcia	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 23, 2005