

JOHN R. MCGINLEY, JR., ESQ., CHAIRMAN  
ALVIN C. BUSH, VICE CHAIRMAN  
ARTHUR COCCODRILLI  
JOHN F MIZNER, ESQ.  
MURRAY UFBERG, ESQ.  
KIM KAUFMAN, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417  
FAX: (717) 783-2664  
irrc@irrc.state.pa.us  
<http://www.irrc.state.pa.us>

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 7, 2005

Charles D. Hummer, Jr., M.D., Chairman  
State Board of Medicine  
2601 North 3rd Street  
Harrisburg, PA 17110

Re: Regulation #16A-4921 (IRRC #2494)  
State Board of Medicine  
Respiratory Care Continuing Education

Dear Chairman Hummer:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director

sfh

Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Pedro A. Cortes, Secretary, Department of State

# Comments of the Independent Regulatory Review Commission

on

## State Board of Medicine Regulation #16A-4921 (IRRC #2494)

### Respiratory Care Continuing Education

December 7, 2005

We submit for your consideration the following comments on the proposed rulemaking published in the October 8, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Medicine (Board) to respond to all comments received from us or any other source.

#### **1. Section 18.309. Renewal of certification. – Clarity.**

The House Professional Licensure Committee (Committee) questions whether the Board should delete the word “next” in Subsection (c) and replace it with “current,” as the State Board of Osteopathic Medicine did in its proposed Regulation 16A-5317. We agree.

#### **2. Section 18.309a. Requirement of continuing education. – Consistency with statute; Consistency with existing regulations; Reasonableness; Clarity.**

This section states, “The following continuing education requirements shall be completed each biennial cycle, commencing with the biennial period ending December 31, 2006.” This would require licensees to fulfill the 20-hour continuing education requirement by the end of the current biennial cycle, which is nearly a year old. Board counsel has indicated that is what the Board intended. We believe that this is unreasonable. To allow sufficient time for certificate holders to meet these continuing education requirements, the Board should make the requirements effective in the biennial period that begins after the effective date of this regulation.

##### *Subsection (1)*

This subsection requires the certificate holders to complete the 20 hours of continuing education “as set forth in section 36.1(f)(2) of the act.” Act 55 of 2004 (Act) states that certificate holders “shall be required to attend and complete 20 hours of mandatory continuing education . . . .” Commentators are concerned that this means that the certificate holder must be physically present at a live presentation and the proposal would not permit other non-traditional continuing education methods. We share this concern. The Board should consider allowing certain non-traditional continuing education methods for a portion of the 20-hour continuing education requirement.

##### *Subsection (3)*

We have two concerns with this subsection.

First, to be consistent with Section 36.1(f)(4) of the Act, the phrase “all or a portion of” should be inserted after the word “waive” in the first sentence.

Second, we agree with the Committee that utilizing specific language from Section 36.1(f)(4) of the Act would add clarity to the waiver provision.

*Subsection (4)*

The Board’s existing regulations on Respiratory Care Practitioners uses the term “certificateholder” to describe a person who is permitted by the Board to provide respiratory care. The Act also uses this term. To be consistent with the Act and the existing regulations, the term “licensee” in this subsection should be replaced with “certificateholder.”

## Facsimile Cover Sheet

**Kristine M. Shomper**  
Administrative Officer



Phone: (717) 783-5419  
Fax #: (717) 783-2664  
E-mail: [kriss@irrc.state.pa.us](mailto:kriss@irrc.state.pa.us)  
Website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us)

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14<sup>TH</sup> FLOOR, HARRISBURG, PA 17101

**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 7-0251  
**Date:** December 7, 2005  
**Pages:** 4

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Board of Medicine's regulation #16A-4921 (IRRC #2494). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: \_\_\_\_\_

*Suzanne Hoy*

Date: \_\_\_\_\_

12/7/05