

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational
Affairs, State Board of Osteopathic Medicine

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

16A-5317

IRRC Number: 2496

(3) Short Title

Respiratory Therapists

(4) PA Code Cite

49 Pa. Code § § 25.502, 25.509,
25.509a, 25.509b

(5) Agency Contacts & Telephone Numbers

Primary Contact: Beth Sender Michlovitz (717) 783-7200

Counsel, State Board of Osteopathic Medicine

Secondary Contact: Joyce McKeever (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.

This regulation would define requirements for continuing education for the practice of respiratory therapists.

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

The amendments are authorized under Act 56 of 2004, which directs the Board to promulgate regulations providing for 20 hours of continuing education as a requirement for biennial renewal for certified respiratory therapists.

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(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 10.2(f) of the Osteopathic Medical Practice Act, 63 P.S. § 271.10(f), 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 implements Act 56 of 2004 requiring the Board to promulgate regulations for continuing education for respiratory therapists.

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

The proposed regulations have been mandated by statute.

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

Consumers of respiratory therapy will benefit from this regulation by requiring respiratory therapists to maintain competency by completing continuing education on an ongoing basis.

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(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.)

Respiratory care therapists would be adversely affected by the regulation in that they would be required to complete continuing education in order to renew their certificates and would be required to pay for continuing education courses.

(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.)

5,900 respiratory therapists certified in the Commonwealth will be required to comply with the regulation.

(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.

The Board has not communicated with or received input from regulated interests in the development and drafting of this regulation because the regulation is required by law. All persons affected by the continuing education requirement, however, will be given actual notice of the Board's intention to amend its regulations during proposed rulemaking under Section 204(2) of the Commonwealth Documents Law (45 P.S. §1204(2)).

(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.

Certified respiratory therapists will incur costs associated with completing 20 hours of continuing education each biennial period.

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(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.

The regulation will not result in costs and/or savings to local government.

(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 regulation will impose costs on state government in that the Board will spend time to audit, review and approve continuing education courses completed by respiratory care therapists. There will also be costs associated with enforcement of the continuing education requirement.

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(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 +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	\$N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community	Unable	To	Determine			
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.

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	FY-2	FY-1	Current FY
State Board of Osteopathic Medicine	\$405,527.84	\$457,338.63	\$503,718.72	\$1,172,000.00

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

Although there will be costs to the Board associated with auditing and enforcing these continuing education requirements and there will be costs incurred by the certificate holders who will be required to complete the continuing education courses, the benefits to the public will outweigh the adverse costs because continuing education protects the safety of the public. In addition, this rule-making has been legislatively mandated.

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

Non-regulatory alternatives were not considered because the regulations are legislatively mandated.

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

N/A

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(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 require 10 hours of continuing education each year, which is comparable to that required by these regulations. Maryland requires 8 hours of continuing education each year. Ohio requires 12 hours of continuing education each 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.

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(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.

Certificate holders will be required to keep records of continuing education courses they have completed. Also, The Board will be conducting audits of continuing education and reviewing and approving credits. The Board will have to alter its forms for certificate holders to certify compliance with the continuing education requirement.

(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 be effective upon publication of final rulemaking in the Pennsylvania Bulletin.

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

The Board continuously reviews its regulations, periodically communicates with licensees through newsletters and obtains information and feedback from its licensees on a frequent basis.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

2496

DO NOT WRITE IN THIS SPACE

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



BY: _____
(DEPUTY ATTORNEY GENERAL)

AUG 19 2005

DATE OF APPROVAL

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

State Board of Osteopathic Medicine
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-5317

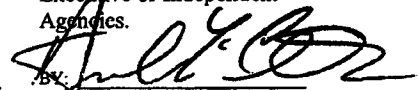
DATE OF ADOPTION: _____

BY: _____


Oliver C. Bullock, D.O.

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR CHAIRPERSON)

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


ANDREW C. CLARK

7.26.05

DATE OF APPROVAL

(Deputy General Counsel
(Strike-inapplicable
title))

[] 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 OSTEOPATHIC MEDICINE
49 PA. CODE, CHAPTER 25
RESPIRATORY THERAPISTS**

The State Board of Osteopathic Medicine (Board) proposes to amend §§ 25.502 and 25.509 (relating to definitions; and renewal of certification) and add §§ 25.509a and 25.509b (relating to requirement of continuing education; and approved educational programs) to read as set forth in Annex A.

A. Effective Date

The amendment will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin.

B. Statutory Authority

The amendments implement Act 56 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 therapists in this Commonwealth.

C. Background and Purpose

Act 56 of 2004, which became effective August 31, 2004, amended the Osteopathic Medical Practice Act (act)(63 P.S. § 271.1-271.18) by adding section 10.2(f) to provide for the continuing education of respiratory therapists. The Board now proposes these regulations to establish requirements for completion of continuing education for the practice of respiratory therapists.

D. Description of Proposed Regulations

Section 25.502 (relating to definitions) is amended to provide definitions relevant to the continuing education requirements.

Section 25.509 (relating to renewal of certification) would be amended to require certificateholders to comply with continuing education requirements in order to renew their certificates. Section 25.509a (relating to requirement of continuing education) would be added to set forth the requirement that an applicant for biennial renewal or reactivation of certification must complete 20 credit hours of continuing education during the previous biennial renewal period. In addition, this section provides for exemption from the continuing education requirement for the first biennial renewal period after initial certification and provides for waiver of the requirements in cases of serious illness, undue hardship or military service.

Section 25.509.b (relating to approved educational programs) would provide that the Board approves respiratory care continuing education programs designated for professional development credits by the American Association of Respiratory Care (AARC), the American Medical Association (AMA), the American Osteopathic Association (AOA) and the Canadian Society of Respiratory Therapists (CSRT). AMA programs must be in AMA PRA Category I credits and qualifying AOA continuing education programs must be in Category I-A or I-B credits, as defined in § 25.1 (relating to definitions). Subsection (b) would provide that 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 would also be approved for continuing education credit by the Board. Subsection (c) would notify certificate holders that the Board will not accept courses of study which do not relate to

the actual provision of respiratory care. Examples of unacceptable courses are those in office management and finances.

E. Fiscal Impact and Paperwork Requirements

The proposed amendments would have an a fiscal and paperwork impact on the Commonwealth in that the Board would incur costs related to reviewing and approving continuing education courses for respiratory care practitioners.

F. Sunset Date

The Board continuously monitors 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 the 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.

H. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Beth Sender Michlovitz, Counsel, State Board of Osteopathic Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

Oliver C. Bullock, D.O.
Chairperson
State Board of Osteopathic Medicine

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

* * *

Subchapter K. RESPIRATORY CARE PRACTITIONERS

* * *

§25.502. 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 continuing professional development programs.

* * *

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

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

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

* * *

§25.509. Renewal of certification.

* * *

(c) To retain the right to engage in practice, the certificateholder shall renew certification in the manner prescribed by the Board, [and] pay the required fee and comply with the continuing education requirement of § 25. 509a (relating to continuing education), prior to the expiration of the [next] current biennium.

* * *

§25.509a. Requirement of continuing education.

(a) Commencing with the biennial period beginning November 1, 2008, an applicant for biennial renewal or reactivation of certification is required to complete, during the 2 years preceding renewal or reactivation, a minimum of 20 hours of continuing education as set forth in section 10.2 of the act (63 P.S. §271.10b).

(b) A certificateholder is exempt from the continuing education requirement for the first biennial renewal period subsequent to initial certification.

(c) The Board may waive the requirements of continuing education in cases of serious illness, undue hardship or military service. It shall be the duty of each certificateholder 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 certificateholder written notification of its approval or denial of the waiver request. A certificateholder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificateholder's current certificate until the Board grants the waiver request.

(d) A certificateholder shall maintain the information and documentation concerning compliance with the continuing education requirement or the waiver granted, for a period of no less than 2 years.

§ 25.509b. Approved educational programs.

(a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT.

(1) Qualifying AMA continuing education programs shall be in AMA PRA Category I credits, as defined in § 25.1 (relating to definitions).

(2) Qualifying AOA continuing education programs shall be in Category I-A or I-B credits, as defined in § 25.1 (relating to definitions).

(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 are also approved for continuing education credit by the Board.

(c) The Board will not accept courses of study which do not relate to the actual provision of respiratory care. Examples of unacceptable courses are those in office management and financial procedures.

* * *



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF OSTEOPATHIC MEDICINE**

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

September 26, 2005

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


Re: Proposed Regulation
State Board of Osteopathic Medicine
16A-5317: Respiratory Therapists

Dear Chairman McGinley:

Enclosed is a copy of a proposed rulemaking package of the State Board of Osteopathic Medicine pertaining to Respiratory Therapists, 16A-5317.

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

Sincerely,


Oliver C. Bullock, D.O., Chairperson
State Board of Osteopathic Medicine

OCB/BSM:law

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
Herbert Abramson, Senior Counsel in Charge
Department of State
Beth Sender Michlovitz, Counsel
State Board of Osteopathic Medicine
State Board of Osteopathic Medicine

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

I.D. NUMBER: 16A-5317

SUBJECT: State Board of Osteopathic Medicine: Respiratory Therapists Continuing Education

AGENCY: DEPARTMENT OF STATE

2496

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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/26/05	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/26/05	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
9/26/05	<i>Boyle F. H.</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/26/05	<i>Mary G. Glavin</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 23, 2005