

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

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IRRC Number: 2608

(1) Agency

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

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

16A-5130

(3) Short Title

Continuing Education for Professional Nurses

(4) PA Code Cite

49 Pa. Code, §§ 21.1, 21.5, 21.29, 21.131-21.134

(5) Agency Contacts & Telephone Numbers

Primary Contact: Teresa Lazo, Counsel

State Board of Nursing (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

Policy Statement

(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 regulation provides guidelines for completion of statutorily-mandated continuing education for biennial licensure renewal for professional nurses.

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

Section 12 of the Professional Nursing Law (act) (63 P.S. § 222), authorizes the Board to promulgate regulations establishing requirements for continuing nursing education for professional nurses and mandates that professional nurses complete 30 hours of continuing nursing education biennially.

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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.

The regulation is mandated by section 12 of the Professional Nursing Law (63 P.S. § 222).

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

The regulation provides procedures for submission of biennial renewal applications, establishes penalties for failing to complete mandatory continuing education, provides equivalencies for formal educational programs for purposes of calculating continuing education hours, designates the acceptable content of continuing education and sets forth the approved sources from which a professional nurse may obtain creditable continuing education.

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

Setting forth appropriate standards for continuing education for professional nurses protects the health and welfare of the citizens of the Commonwealth.

(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 general public will benefit by being assured of the competence of all licensed professional nurses practicing in the Commonwealth.

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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.)

The Board has not identified any particular groups that will be adversely affected by the regulation.

Section 12 of the Act authorizes school nurses to submit verification to the Board that they have complied with the continuing education mandates of the Pennsylvania Department of Education in lieu of meeting the continuing education requirements set forth in Section 12. The regulation provides instructions to school nurses.

Section 12 of the Act authorizes CRNPs to submit verification to the Board that they have complied with the continuing education mandates in section 8.1(c) of the Act, which mandates that CRNPs complete 30 hours of continuing education to renew their CRNP certification, in lieu of completing 30 hours of continuing education relevant to RNs.

The Board notes that a school nurse who is also a CRNP would have to complete the continuing education required by the school district and would have to comply with section 8.1(c) of the Act by completing at least 30 hours of continuing education at the CRNP level.

(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.)

Pursuant to section 12 of the act, all professional nurses must comply with the regulation. There are approximately 200,000 RNs who renew their licenses during each biennium. CRNPs may apply the continuing education credits earned for renewal of their CRNP certifications to the renewal of their RN licenses. School nurses may apply the continuing education credits earned for renewal of their school nurse certification to the renewal of their RN licenses. LDNs, who are generally not also RNs, may apply the continuing education credits earned for renewal of their LDN licenses to the renewal of their RN licenses, if applicable.

(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.

Following publication of proposed rulemaking, the Board received approximately 100 comments from individual nurses and comments from many nursing organizations. The Board responded to comments in the Preamble to the final rulemaking.

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(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.

RNs will experience additional costs biennially to comply with statutorily-mandated continuing education. Because the Board has pre-approved regulated facilities as CE providers, in-service training is creditable. This will greatly reduce the cost of compliance.

(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.

There are no costs or savings to local governments associated with complying with 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.

There are no costs or savings to state government because the Board is self-supporting. The Board will incur additional costs in enforcing the regulation. Five percent of the licensee population is audited for compliance. Historically, Bureau-wide among those boards with continuing education requirements, one percent of those audited are found to be noncompliant. The cost of processing an Act 48 civil penalty is approximately \$100. Therefore, the Board anticipates additional expenses of \$2500 in FY 2011-2012, \$5000 in FY 2012-2013, \$7500 in FY 2013-2014, and \$10,000 in FY 2014-2015.

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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 07-08	FY +1 Year 08-09	FY +2 Year 09-10	FY +3 Year 10-11	FY +4 Year 11-12	FY +5 Year 12-13
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated		18,750,000	37,500,000	56,250,000	75,000,000	75,000,000
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

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

Due to the RN renewal cycle, it is expected that the first cohort of RNs that will be required to report their continuing education will be in October of 2010. These licensees will begin incurring costs in FY 2008-2009. There are approximately 200,000 RN licensees who renew four times in a biennial cycle (April and October of the even-numbered year; and April and October of the odd-numbered year). The estimated costs reflect an average cost of \$25 per credit hour. $200,000 \text{ nurses} / 4 \text{ cohorts} = 50,000 \times (\$25 \times 15 \text{ credits/year}) = \$18,750,000$. All 200,000 RN licensees will be incurring annual costs of compliance within 4 years (by FY 11-12)

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

Program	FY – 03-04	FY – 04-05	FY – 05-06	BUDGETED FY 06-07
State Board of Nursing	\$5,382,111	\$5,946,037	\$6,388,169	\$7,985,000

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

The regulation implements section 12 of the Act. The Board’s pre-approval of a wide range of CE providers should greatly reduce the cost to RNs.

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

Section 12 of the act requires the Board to adopt continuing education provisions through regulation; therefore, no non-regulatory alternatives were considered.

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

Numerous nurses and nursing organizations provided suggestions to the Board, particularly on pre-approved providers. The Board approved a wide range of providers.

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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.

No federal standards apply.

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

The regulation will not put Pennsylvania at a competitive disadvantage with other states. All other states that require nurses to complete CE for license renewal permit nurses to complete all CE through distance learning.

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

The regulation will not affect existing or proposed regulations of the Board or other state agencies.

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

The public was given 30 days to comment after the publication of proposed rulemaking. No other public comment period will be provided.

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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.

The regulation will require applicants for licensure renewal to obtain at least 30 hours of continuing education biennially and to maintain proof that they completed the mandated hours.

(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.

No groups with particular needs have been identified.

(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 on publication of the final-form rulemaking in the Pennsylvania Bulletin.

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

The Board continuously monitors its regulations at its meetings. Meeting dates are available on the Department of State's website, www.dos.state.pa.us.

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#2608

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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 Nursing

(AGENCY)

Andrew C. Clark
BY: _____
Andrew C. Clark
APR 15 2008
DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-5130

DATE OF APPROVAL

DATE OF ADOPTION:

BY: *Mary E. Bowen*

Mary E. Bowen, RN, DNS, CNA

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

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

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if 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 NURSING

49 Pa. Code Ch. 21
CONTINUING EDUCATION FOR PROFESSIONAL NURSES

The State Board of Nursing (Board) adopts §§ 21.1, 21.5 and 21.131 - 21.134, relating to continuing education for professional nurses (RNs), to read as set forth in Annex A.

Notice of Proposed Rulemaking was published at 37 Pa. B. 1980 (April 28, 2007). Publication was followed by a 30-day public comment period during which the Board received approximately 100 comments from the regulated community (licensees) and numerous comments from stakeholder groups. On June 17, 2007, the House Professional Licensure Committee (HPLC) submitted its comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on June 28, 2007.

Statutory Authority

The final rulemaking is authorized under section 12 of the Professional Nursing Law (act) (63 P.S. § 212), which mandates continuing education for all professional nurses. In addition, section 2.1(k) of the act (63 P.S. § 212.1(k)) authorizes the Board to promulgate regulations for the administration of the act.

Summary of Comments and Responses to Proposed Rulemaking

Comments from the Public

The Board received approximately 100 comments from the licensees. The most prevalent concern of licensees related to the \$75 fee to be charged to those continuing education providers that were not pre-approved by the Board for approval of a continuing education course. In addition, many school nurses requested that the Board clarify, in its regulation, how school nurses were to submit proof that they had complied with the continuing education requirement. Finally, a few licensees and other stakeholders expressed their belief that the civil penalties to be imposed for failure to complete statutorily-mandated continuing education were too high.

Fee for approval of continuing education activities.

There appeared to be significant confusion regarding the \$75 fee to be charged to continuing education providers who request that the Board review and approve a continuing education activity. Many licensees believed that the \$75 fee would be imposed on each licensee for each of the 30 hours of statutorily-mandated continuing education, resulting in additional biennial renewal costs to each licensee of \$2,250. In most instances, the fee is not charged to licensees; the fee is charged to a provider of continuing education that is not on the list of pre-approved providers of continuing education. The Board's list of pre-approved providers is extensive; the Board does not anticipate that many continuing education providers will need to apply to the Board for approval.

It is possible that the \$75 per credit hour fee could be imposed on an individual licensee. The only instance where the fee would be imposed on an individual licensee is if the individual licensee requested that the Board review and approve a continuing education activity that was not sponsored by a pre-approved provider, and where the provider itself did not request approval of the activity. However, because the Board's list of pre-approved providers of continuing education is so extensive, and because most, if not all, other providers will apply directly to the Board for approval of their continuing education activities, the Board does not anticipate that any individual licensee will be required to apply to the Board for review and approval of a non-pre-approved continuing education activity.

In order to make the regulation more clear, the Board has amended § 21.5 (relating to fees) to specify that the \$75 per credit hour fee is based on the request submitted under § 21.134(b) (relating to continuing education sources) for approval of a continuing education activity offered by a continuing education provider that is not listed in § 21.134(a).

Under these regulations, a provider needing approval of a continuing education activity would have the option of requesting approval from the Board or from one of the pre-approved credentialing organizations, such as the Pennsylvania State Nurses Association (PSNA) or the American Nurses Credentialing Center (ANCC), as set forth in § 21.134(a)(8).

Submission of continuing education information by school nurses.

Section 12.1 of the act (63 P.S. § 212.1) sets forth the requirement that RNs complete at least 30 hour of continuing education in each biennial renewal period. Section 12.1(g) of the act provides that "[i]n lieu of meeting the requirements of this section . . . school nurses who as certified education specialists are required to obtain continuing professional education under section 1205.2 of the act of March 10, 1949 (P.L. 30, No. 14), known as the 'Public School Code of 1949,' and under this act shall be permitted to submit evidence of the completion of education courses approved for their certification by the school district."

The Board agrees with the commenters that its regulation should instruct licensees subject to this provision how to submit evidence that they completed education courses approved for their certification by the school district. Therefore, the Board has amended § 21.29(c)(3) (relating to expiration and renewal of license) to provide that school nurses verify on their biennial renewal application that they have complied with the continuing education requirements for certification by the school district. If the school nurse's renewal is selected for a compliance audit, the nurse would submit proof of his or her current certification by the Pennsylvania Department of Education, as set forth in § 21.131(c)(5) (relating to continuing education).

Civil penalty for failure to complete mandatory continuing education.

Several individuals expressed the opinion that the schedule of civil penalties for nurses who fail to complete mandatory continuing education is too harsh. In addition, the Pennsylvania State Education Association commented that there did not appear to be any due process provisions in the regulations to allow the nurse to appeal the imposition of a fine. The schedule of civil penalties published separately by the Commissioner of Professional and Occupational Affairs (at 37 Pa.B. 1986) calls for a civil penalty of \$250 for a nurse who fails to complete 1 to 10 hours of continuing education, a civil penalty of \$500 for a nurse who fails to complete 11 to 20 hours of continuing education, and a civil penalty of \$1000 for a nurse who fails to complete 21 to 30 hours of continuing education over the biennial renewal period.

The Board does not believe that these fines are excessive; in fact, the fines are significantly lower than the fines imposed by other licensing boards in the Bureau of Professional and Occupational Affairs for violations of the continuing education regulations. For example, some boards routinely impose civil penalties of \$50 to \$100 per deficient credit hour. For ease of administration and due to the significantly larger licensee population of the Board, the Board determined it should impose the civil penalty in blocks of credits deficient rather than per credit hour. The Board believes that the proposed civil penalty schedule will act as a sufficient deterrent to prevent nurses from neglecting their mandatory continuing education requirement.

The procedures for appealing a civil penalty imposed by citation are set forth in Chapter 43b – Commissioner of Professional and Occupational Affairs – at § 43b.3 (relating to procedures). A nurse who wishes to dispute the imposition of a civil penalty imposed by citation simply declares this intention and mails the citation form back to the Bureau. A hearing is then scheduled before a hearing examiner, for which the nurse is notified by first class mail. If the nurse disagrees with the decision of the hearing examiner, the nurse may appeal it to the Board. If the Board ultimately determines that the nurse has violated the regulations and is subject to the civil penalty, the nurse may appeal the Board's decision to the Commonwealth Court of Pennsylvania. The nurse's due process rights are fully protected by these procedures.

The Pennsylvania State Education Association (PSEA) noted that § 21.131(g)(2) requires a nurse who has failed to complete 30 hours of continuing education in a biennial period to make up the deficiency within 6 months and that § 21.131(g)(3) imposes a higher level of discipline for a nurse who does not make up the deficiency within 6 months. PSEA expressed concern that nurses would not know whether the Board had accepted their credits until months after the 6-month deadline had passed. The Board disagrees. A nurse would know, by virtue of the list of pre-approved providers, whether the Board approves the activity at the time the nurse enrolls in a continuing education activity. When the nurse receives the certificate of attendance, the nurse can determine how many hours the nurse has completed toward the 30-hour minimum required biennially. A nurse does not need notice from the Board to discern whether he or she has complied with the act and the regulations.

Calculation of time for a continuing education activity.

Three commenters questioned how the Board determined to use a 50-minute hour instead of a 60-minute hour for calculating continuing education credit. The Board based its decision on the standard academic hour, which is 50 minutes, because it will be much easier for continuing education providers that are not educational institutions to adjust their continuing education courses than to require all schools of nursing to adjust their classes. In addition, the 50-minute hour is already used for continuing education for CRNPs.

PSEA commented that a three-credit course in a semester program should be considered equal to 30 continuing education hours. The Board has determined that it is appropriate to limit the number of continuing education hours that may be obtained from a single source and will, therefore, retain its 15 credit hour limit.

Pre-approved continuing education.

One commenter asked if “standard CEU providers” such as “the California Nurses Association” and “the numerous small companies who give CEUs” would be included. National and state nursing organizations are included as pre-approved providers under § 21.134(a)(6). The Board is unsure what the commenter means by “numerous small companies who give CEUs.” A Pennsylvania nurse may obtain continuing education that is creditable toward the biennial requirement from any company or organization that has obtained accreditation of their continuing education offerings from a pre-approved credentialing organization as set forth in § 21.134(a)(8).

Another commenter suggested that the Board apply the requirements of § 21.133 (relating to continuing education content) to all approved continuing education, including continuing education offered by a pre-approved provider. The Board intended the continuing education content provisions to apply to all continuing education for professional nurses and has amended § 21.134(a) to clarify this intent.

Villanova University College of Nursing submitted several comments. First, the College suggested that the Board limit the ability of a nurse to obtain continuing education credit for research to the principal and/or co-investigator on a research project. The Board agrees that this is an appropriate limit to place on the use of research for continuing education credit and has amended § 21.133(d) in accordance with this suggestion. The College opined that the list of pre-approved providers of continuing education was overly broad and that all continuing education programs should meet standards such as those used by ANCC. The Board has amended § 21.134(a) to clarify that the criteria of § 21.133 apply to all continuing education programs. Even those continuing education activities offered by pre-approved providers must meet the content restrictions of § 21.133.

The continuing education department of the College questioned the approval of hospitals and health care facilities licensed by the Department of Health as providers of

continuing education. Hospitals and health care facilities have been educating their staff for many years and have a vested interest in a well-educated and competent workforce. The Board is confident that hospitals and health care facilities will provide high quality continuing education. In addition, pre-approval of these entities will lessen the impact on the workforce because nurses will not have to take as much time off to travel to continuing education courses. In addition, the inclusion of national pharmaceutical organizations was questioned. The Board believes that RNs are aware of the potential interest that pharmaceutical organizations may have and can discern the objective information offered about pharmaceutical products. Although RNs do not prescribe drugs, RNs administer drugs and monitor patients receiving drug therapies. It is important for RNs to understand the pharmacological and pharmacotherapeutic characteristics of drugs. The Board disagrees that continuing education offered by national pharmaceutical organizations should not be creditable.

Geisinger Health System commented that editors and section editors for nursing journals should be able to acquire continuing education hours per credited publication. The Board declines to make this amendment, believing that serving as a journal editor does not have a close enough link to nursing practice or patient care to be creditable. Additionally, it is the job of a journal editor to edit journal articles and the Board believes that continuing education activities should be activities undertaken in addition to the individual's work assignments.

The Pennsylvania Health Care Association (PHCA) identified itself as a provider of continuing education for nursing home administrators and asked whether some of their programs, which would be appropriate for RNs, would be within the ambit of pre-approved providers. The Board has amended the list of pre-approved providers in accordance with a suggestion from the Hospital and Healthsystem Association of Pennsylvania (HAP) such that PHCA's courses with relevant nursing content would be pre-approved under § 21.134(a)(6).

Time for submission of information to the Board.

Several commenters expressed concerns about the Board's 120-day submission requirements for waiver requests and for approval of continuing education activities under § 21.134(b). The Board has amended §§ 21.131(f) and 21.134(c) to reduce the time to 90 days. Because of the size of the Board's licensee population (approximately 225,000 RNs), the Board does not believe it is feasible to use the same time frames adopted by the State Board of Examiners of Nursing Home Administrators (licensee population of 1,919 NHAs).

Continuing education content.

The Pennsylvania State Nurses Association (PSNA) submitted comments, some of which have been addressed above. In addition, PSNA suggested that courses relating to self-improvement should be considered valid continuing education. PSNA suggested that "courses on stress management, interpersonal relationships, humor in nursing, etc.

provide health promotion strategies for nurses that lead to better care of the citizens of Pennsylvania and retaining nurses in the profession.” Although the Board agrees that some courses related to self improvement may lead to better care of the citizens of Pennsylvania, the Board believes that the intent of the General Assembly was to require continuing education more closely related to the provision of care to patients and therefore declines to amend its proposed rulemaking as suggested by PSNA.

PSEA noted that § 21.133(e) does not permit nurses to receive credit for courses that are designed for laypeople, and commented that this restriction is too severe. PSEA gave as an example university biology and pharmaceutical courses. These courses would be considered approved under § 21.134(a)(5). PSEA also commented that a foreign language course offered at a university would not count for credit. These courses would also be considered approved under § 21.134(a)(5). Finally, PSEA commented that courses on “preventing professional burnout” should be allowed for continuing education credit because they should not be included in the statutory prohibition that does not permit nurses to obtain credit for courses in “office management.” Further, PSEA opined that the Board’s regulation is neither “reasonable” nor “acceptable.”

The Board respectfully disagrees and believes that the intent of the General Assembly in requiring continuing education for nurses is to improve nursing practice and ensure the competency of Pennsylvania’s nursing workforce. While the Board agrees with PSEA and other commenters that courses in self-improvement or preventing professional burnout may be beneficial to nurses and ultimately to patients, the Board is charged with effectuating the statute and believes that to be credited as continuing professional education, courses should have a close link to patient care. The Board does not believe that courses designed to “prevent professional burnout” have a close enough relation to the provision of quality patient care to be credited for biennial license renewal. Moreover, nothing in the statute or this rulemaking restricts a nurse from taking more than the minimum 30 hours of continuing education in a biennial period. If an individual nurse finds such a course beneficial, the nurse may take the course in addition to the courses taken for license renewal.

Retired nurses.

PSNA asked whether retired nurses would need to attain 30 hours of biennial continuing education to retain an active license. The statute requires that all nurses attain 30 hours of biennial continuing education to retain an active license; no exception is made for retired nurses. The Board is aware that many institutions invite retirees to attend continuing education at no cost. However, the Board does not have statutory authority to exempt retired nurses from the continuing education requirement. A nurse who is retired from practice may place his or her license on inactive status, obviating the need to complete biennial continuing education.

Miscellaneous comments.

PSNA noted that “the nurses of Pennsylvania are expressing frustration at having to maintain their personal records for five years, rather than for the license renewal period two years.” The Board does not believe that any hardship is created by requiring that documentation of continuing education be retained for 5 years, and notes that much more extensive documentation is required to be retained for 7 years for income tax purposes. PSNA also requested that the Board offer an online continuing education tracking system. The Board does not have the funds to create an online continuing education tracking system.

The Pennsylvania Association of County Affiliated Homes (PACAH) objected to the requirement, in § 21.134(e), that a continuing education provider submit a separate application and fee whenever a change is made to any of the program content and speakers. First, the Board notes that its list of pre-approved continuing education providers and accrediting bodies is vast and that very few applications from additional continuing education providers are anticipated. PACAH is a pre-approved provider under § 21.134(a)(6). Pre-approved continuing education providers will not be required to submit initial or amended programs to the Board. Second, the Board notes that the content of a continuing education program and the speakers providing information to program attendees are the most important items that the Board, or an accrediting body, approves when it reviews a continuing education program proposal. For these reasons, the Board declines to amend the rulemaking as proposed by PACAH.

PSEA requested that the Board send notice of biennial renewal to nurses 120 days prior to the expiration date of the licensees’ licenses so that nurses may “correct shortfalls in their continuing education.” The Bureau of Professional and Occupational Affairs currently sends renewal notices to licensees across all licensing boards approximately 90 days in advance of the expiration date of the licensees’ licenses. The Board does not believe that the responsibility to remind nurses of the expiration date of the nurses’ licenses or to ensure that nurses have completed statutorily mandated continuing education rests with the Board. Nurses, like many other professional licensees under the Bureau, have 2 years to complete their continuing education requirement and should not be waiting until the last minute to comply. Moreover, it is unclear to the Board whether PSEA anticipates that nurses would be excused from statutorily mandated continuing education if the Board should fail to meet the 120-day deadline. Therefore, the Board declines to set a certain time that notices must be sent to licensees.

Comments from HAP.

The Hospital and Healthsystem Association of Pennsylvania (HAP) submitted extensive comments. In general, HAP found the Board’s proposed rulemaking to be flexible and comprehensive and supported the overall direction taken by the Board. HAP suggested that the Board strike part of § 21.131(b), such that any nurse applying for initial licensure by examination would be exempt from the continuing education requirement for the first biennial renewal period, regardless of when their education was

completed. The Board has not amended its regulation as suggested. The Board believes that if a nurse's education was completed more than 2 years prior to initial licensure in this Commonwealth, the nurse should not be excluded from the continuing education requirement during the first biennial renewal period. HAP also suggested that the Board add an exception for nurses applying for licensure by endorsement. The Board believes that § 21.131(a) adequately specifies that continuing education need be completed only upon renewal of a nursing license, not for initial licensure. Therefore, the Board declines to add the suggested language.

HAP asked for clarification of § 21.131(g), relating to disciplinary action for failure to complete mandatory continuing education. HAP asked if an RN would be subject to a civil penalty when the RN reported, on the renewal application, that the RN had not completed at least 30 hours of continuing education. The nurse would be subject to the schedule of civil penalties at the time the nurse reported that he or she did not complete the mandatory continuing education. This is reflected in § 21.131(g)(1), which states that "failure to complete a minimum of 30 hours of continuing education in a biennial period will subject the nurse to discipline under section 13(b) of the act . . . in accordance with the schedule of civil penalties." HAP also asked what the status of the nurse's license would be during the 6-month period that the nurse is given to make up the deficiency in continuing education hours. The nurse's license would remain on active status.

HAP also requested clarification of whether the nurse who failed to make up the deficiency during the 6-month period would be subject to additional disciplinary action. Section 21.131(g)(3) addresses this situation, stating that "notwithstanding any civil penalty assessed under paragraph (1), failure to provide the Board with documentation supporting completion of 30 hours of approved continuing education within 6 months after the end of the biennial period in which the professional nurse was deficient will subject the licensee to discipline under section 14(a)(3) of the act." This further violation of the act will subject the nurse to formal prosecution under section 14(a)(3) of the act and could result in additional civil penalties, reprimand, or suspension of the nurse's license until the deficiency has been made up.

HAP also asked what action the Board would take if it learned that a nurse intentionally falsified his or her license renewal application. The intentional falsification of a renewal application has always subjected a nurse to disciplinary action under section 14(a)(4) of the act (63 P.S. § 224(a)(4)), which prohibits fraud or deceit in securing admission to practice. HAP asked if the action would be different from where a licensee honestly indicated that he or she failed to complete the requirement. A licensee who honestly reports the failure to complete the continuing education requirement is not subject to discipline under section 14(a)(4) of the act. HAP also asked how the Board plans to deal with honest discrepancies in the reporting of continuing education. A nurse charged with violating the continuing education provisions is afforded the opportunity to attend a hearing and explain the discrepancy to the Board. The Board always considers the nature of the offense and any evidence offered in mitigation when determining the appropriate sanction, if any, to impose in a disciplinary proceeding.

HAP suggested clarification to § 21.132(b) regarding the calculation of contact hours based on credit hours earned in an academic institution. The Board has amended the rulemaking for clarity and to provide for academic institutions that operate on the trimester system.

HAP suggested that the Board consider limiting continuing education activities to those that are at least 30 minutes in length. The Board agrees with this suggestion and has amended § 21.132(a) accordingly.

HAP suggested that the Board create a list of acceptable continuing education content, including risk management and legal issues, quality and performance improvement, patient safety, infection prevention and control, case management, utilization review, nursing/clinical informatics, customer relations, accreditation and regulatory compliance, finance and reimbursement, disruptive behavior, behavioral norms and codes of conduct, and health care ethics. The Board chose to define the content of continuing education broadly to encompass information “relevant to professional nursing in a general or specialty area,” “course in areas related to nursing” and “courses in nursing administration, management, education and diagnostic and procedural coding.” The Board believes that all of the topics listed by HAP are included within its general language. The Board does not wish to enumerate content topics, as this is limiting.

HAP suggested that the Board consider broadening activities for which continuing education contact hours could be awarded, including teaching, publication, development of patient and family education materials, research and clinical preceptorship. Section 21.133(d) already approves group or individual research for up to 15 hours of continuing education credit. The Board believes that continuing education should be something that requires the participants to go beyond what they already do as part of their jobs or for compensation. Therefore, the Board declines to award continuing education credit for teaching, developing educational materials and preceptorship.

HAP suggested that the Board more fully define the documentation that a nurse would have to submit, if audited. The Board had deleted the definition of certificate of attendance and has expanded § 21.131(c) to include the types of documentation that a nurse will be required to maintain as proof of continuing education credit.

HAP also recommended that the Board expand the list of activities that will not be credited for continuing education credit. The Board has added some of HAP’s suggested exclusions to § 21.133(e), and finds that some of HAP’s suggested exclusions are already covered in the rulemaking.

HAP recommended that the Board expand the eligible health care facilities that may offer approved continuing education in § 21.134(a)(3) and (4). The Board has adopted HAP’s suggestion and amended these sections. HAP also suggested

amendments to the list of pre-approved providers that would allow nurses to obtain continuing education from national organizations in fields related to nursing, such as patient safety and quality; to include health care professionals organizations, such as the American Health Information Management Association, other state and regulatory agencies, etc. The Board's goal was to make the list of pre-approved providers as broad as possible while assuring a level of quality. The Board agrees with HAP's suggested language and has amended § 21.134(a) accordingly.

HAP noted that the fee schedule for approval of continuing education courses set by the Board was higher than the fee schedule for approval of continuing education courses set by the Pennsylvania State Nurses Association. The Board is not aware of the resources that PSNA has to devote to the approval of continuing education courses. The fee set by the Board is intended to cover the Board's cost in approving continuing education. If a provider or individual nurse prefers to have continuing education approved by PSNA, the Board would accept the PSNA's approval under its regulation because PSNA is recognized as a pre-approved credentialing organization for continuing education.

Finally, HAP questioned the need for a certificate of attendance to include faculty and other information listed in §§ 21.123(b)(4) and (5). The Board agrees and has amended § 21.134(f) accordingly.

HPLC Comments

The House Professional Licensure Committee (HPLC) met on June 6, 2007, and submitted 7 comments for the Board's consideration. Some of the HPLC's comments, such as those related to provisions for school nurses and whether the \$75 fee per credit hour is applied to all nurses, have been addressed above.

In addition, the HPLC asked for an explanation of "peer-reviewed journals" in § 21.1 (relating to definitions), which defines distance learning continuing education as continuing education in which the individual participates in the educational activity through peer-reviewed journals. A peer-reviewed journal is a professional nursing journal that has an editorial board of health care professionals, such as physicians and nurses, who review the articles submitted for publication and ensure that the articles are medically accurate and timely. For those articles, which include tests that are mailed back to the journal for continuing education credit, the professional editorial board also reviews the questions and answers provided by the author of the article. By limiting continuing education sources to peer-reviewed journals, the Board ensures the quality of the educational experience. The Board notes that its continuing education regulations for CRNPs refer to "refereed" journals; therefore, the Board has amended § 21.1 for consistency with the CRNP regulatory provisions.

The HPLC sought clarification on whether the fee for approval of a continuing education course applied only to continuing education program providers. The fee

applies only to those continuing education program providers who have not been granted pre-approved status.

Regarding § 21.29(c)(1)(relating to expiration and renewal of licenses), the HPLC asked whether the licensure renewal application included a question regarding disclosure of whether the licensee was licensed to practice in any other state. The question is on the licensure renewal application. Additionally, the HPLC asked for clarification of the terminology in § 21.29(d), which requires a licensee to “retain” the wallet size licensure document. A licensee is not required to carry the license, but only to have access to it.

The HPLC noted that § 21.131(b) allows for an exemption for continuing education for the first 2 years of licensure for a licensee who has completed an approved nursing education program within 2 years of the date of the initial application. However, the HPLC stated that the exemption does not include nurses who are employed by school districts. The Board has addressed school nurses in §§ 21.29(c)(3) and 21.131(c)(5). The Board does not need to exempt school nurses from the continuing education requirements in § 21.131 because school nurses are already exempt from the Board’s continuing education requirements, as set forth in section 12.1(g)(2) of the act (63 P.S. § 222(g)(2)), so long as they are in compliance with the continuing education requirements of the Public School Code.

The HPLC asked for additional clarification of the award of one continuing education credit for every 3 hours of academic course-related clinical practice. The Board had decided to remove this provision and provide credit only for didactic educational programs.

Finally, the HPLC requested the Board review its use of the terms “program,” “sources” and “courses” in § 21.134. The Board has made appropriate amendments.

IRRC Comments

IRRC asked why, in § 21.134(b), the fee for approval of a continuing education activity is based on each hour of continuing education. The reason is that each hour segment of a continuing education program is usually taught by different faculty and on a different subject, requiring additional time for review. The Board does not have sufficient staff to review a large number of continuing education activities; however, there are several other state and national accrediting bodies that approve continuing education that are recognized by the Board (for example, PSNA and ANCC).

IRRC asked how a licensee verifies compliance with the continuing education requirement. A licensee verifies compliance by the licensee’s signature on the renewal application under a statement that the licensee has complied with the requirement. If the licensee renews online, the online document provides a means for verification.

IRRC noted that school nurses were confused over the impact of the rulemaking. These concerns were addressed above.

IRRC requested clarification regarding the basis for awarding continuing education credit for 3 hours of course-related clinical practice. The Board has omitted this provision.

IRRC asked for clarification of the term “Institutional Review Board” and suggested that the term reference the sponsoring facility. An Institutional Review Board is a group of professional and community individuals that approve research, and that are generally certified to review and approve research. The Board has made an amendment to § 21.133(d) to refer to the sponsoring facility.

IRRC noted that § 21.134(a) is confusing with references to providers, programs and credentialing organizations. The Board has amended the section for clarity. In addition, the Board has amended the list of approved providers as suggested by HAP.

IRRC requested that the Board add a provision to § 21.134(b) to provide that the Board would request additional information, if necessary, in writing. The Board has made this amendment.

IRRC asked how the Board would determine the number of continuing education hours awarded for an activity under § 21.134(d). The Board will make the determination based on the content of the proposed program and qualifications of the faculty. The Board has added a provision to notify applicants that the Board will award no more than the number of hours requested. Thus, if a provider presents a 4-hour continuing education proposal, the Board may approve only 3 hours for continuing education credit. The Board will not refund the \$75 fee because the fee covers the Board’s expense in reviewing the proposal for the hour that was ultimately denied.

Fiscal Impact and Paperwork Requirements

The final rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The State Board of Nursing is self-supporting and the fee charged for approval of continuing education courses will satisfy the cost to the Board of reviewing applications for continuing education course approval. The final rulemaking will impose only minimal additional paperwork requirements upon the Board, and none upon any political subdivisions. The private sector, to the extent that it seeks to provide continuing education programs for professional nurses, will incur costs in submitting information to the Board or another credentialing organization for approval. The regulated community will incur costs associated with complying with the continuing education requirements.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 18, 2007, the Board submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1980 (April 28, 2007) to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

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

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The State Board of Nursing finds that:

- (1) Public notice of intention to adopt a regulation at 49 Pa. Code, Chapter 21, was given under sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201-1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1-7.2.
- (2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.
- (3) The amendments made to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking as published at 37 Pa. Code 1980.

- (4) That these amendments to the regulations of the State Board of Nursing are necessary and appropriate for the regulation of the practice of professional nurses in the Commonwealth.

Order

The Board therefore ORDERS:

- (A) That the regulations of the State Board of Nursing, 49 Pa. Code, Chapter 21, are amended to read as set forth in Annex A.
- (B) That the Board shall submit a copy of Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.
- (C) That the Board shall certify this Order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.
- (D) That the regulations shall take effect immediately upon publication in the Pennsylvania Bulletin.

Mary Bowen, RN, CRNP, DNP
Chairperson, State Board of Nursing

ANNEX A

PENNSYLVANIA ADMINISTRATIVE CODE
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 21. STATE BOARD OF NURSING
Subchapter A. REGISTERED NURSES
GENERAL PROVISIONS

§ 21.1. Definitions.

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

* * * * *

~~*Certificate of attendance* — Written verification of an individual's completion of continuing education from an approved provider.~~

~~*Continuing education* — An activity approved by the Board as a condition for renewal of licensure or certification for which a certificate of attendance is PROOF OF COMPLETION CAN BE provided TO THE BOARD.~~

~~*Distance learning continuing education* — Continuing education in which the individual participates in the educational activity via electronic media or through peer-reviewed~~

REFEREED journals or individually, rather than in a classroom, laboratory or clinical setting where the faculty and participant are physically located in the same room.

* * * * *

§ 21.5. Fees.

(a) The following fees are charged by the Board:

* * * * *

Request UNDER § 21.134(B) BY A PROVIDER OF A CONTINUING EDUCATION ACTIVITY NOT LISTED IN § 21.134(A) OR AN INDIVIDUAL SEEKING CREDIT FOR A CONTINUING EDUCATION ACTIVITY NOT PRE-APPROVED BY THE BOARD for approval of 1 EACH hour of continuing education FOR WHICH CREDIT IS REQUESTED for a professional nurse.....\$75

* * * * *

LICENSES

* * * * *

§ 21.29. Expiration and renewal of license.

(a) [Registered nurses whose licenses expire on October 31, 1985 will thereafter be subject to the following license renewal schedule:

(1) Licenses of registered nurses whose license numbers end in the numbers 01 through 25 will expire on April 30, 1986 and, following renewal, will thereafter expire on April 30 in the even-numbered years. The license renewal fee for licenses that expire on April 30, 1986 will be 25% of the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on an anniversary of April 30, 1986 will be the renewal fee for the usual 2-year renewal period.

(2) Licenses of registered nurses whose license numbers end in the numbers 26 through 50 will expire on October 31, 1986 and, following renewal, will thereafter expire on October 31 in the even-numbered years. The license renewal fee for licenses that expire on October 31, 1986 will be 50% of the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on an anniversary of October 31, 1986 will be the renewal fee for the usual 2-year renewal period.

(3) Licenses of registered nurses whose license numbers end in the numbers 51 through 75 will expire on April 30, 1987 and, following renewal, will thereafter expire on April 30 in the odd-numbered years. The license renewal fee for licenses that expire on April 30, 1987 will be 75% of the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on an anniversary of April 30, 1987 will be the renewal fee for the usual 2-year renewal period.

(4) Licenses of registered nurses whose license numbers end in the numbers 76 through 00 will expire on October 31, 1987 and, following renewal, will thereafter expire on October 31 in the odd-numbered years. The license renewal fee for licenses that expire on October 31, 1987 will be the renewal fee for the usual 2-year renewal

period. The renewal fee for licenses that expire on an anniversary of October 31, 1987 will be the renewal fee for the usual 2-year renewal period.

(5) Registered nurses who obtain initial licensure on or after November 1, 1985 and registered nurses who reactivate their licenses on or after November 1, 1985 will be assigned] The Board will assign registered nurses to one of the following license expiration dates:

[(i)] (1) April 30 in the even-numbered years.

[(ii)] (2) October 31 in the even-numbered years.

[(iii)] (3) April 30 in the odd-numbered years.

[(iv)] (4) October 31 in the odd-numbered years.

(b) [Application for] Notice of the renewal period of a license will be [forwarded biennially] sent to each active [registrant] licensee prior to the expiration date of the [current renewal biennium] licensee's license.

(c) [The application form shall be completed and returned, accompanied by the required renewal fee. Upon approval of the application, the applicant will receive a license for the current renewal period. The display portion of the renewed license shall be retained by the current employer of the registrant; the wallet card portion shall be retained by the registrant.] The applicant for license renewal may complete and submit an application online or may mail a completed application form to the Board's administrative office. When applying for licensure renewal, a professional nurse shall:

(1) Complete and submit the renewal application form, including disclosing any license to practice nursing or any allied health profession in any other state, territory, possession or country.

(2) Pay the biennial renewal of licensure fee set forth in § 21.5 (relating to fees).

(3) Beginning with the license period commencing on _____ (*Editor's note: The blank refers to the date of the first biennial renewal that occurs at least 2 years after the effective date of adoption of this final rulemaking*), verify that the professional nurse has complied with the continuing education requirements mandated by section 12 of the act (63 P.S. § 222) during the biennial period immediately preceding the application for renewal in accordance with §§ 21.131 – 21.134 (relating to continuing education). SCHOOL NURSES, WHO AS CERTIFIED EDUCATION SPECIALISTS ARE REQUIRED TO OBTAIN CONTINUING PROFESSIONAL EDUCATION UNDER THE PUBLIC SCHOOL CODE OF 1949, SHALL VERIFY BY SIGNED STATEMENT THAT THE SCHOOL NURSE HAS COMPLIED WITH THE CONTINUING EDUCATION REQUIREMENTS FOR CERTIFICATION BY THE PENNSYLVANIA DEPARTMENT OF EDUCATION.

(4) Disclose any discipline imposed by a state licensing board on any nursing or allied health profession license or certificate in the previous biennial period and any criminal charges pending or criminal conviction, plea of guilty or nolo contendere, or admission into a probation without verdict or accelerated rehabilitative disposition during the previous biennial period.

(d) [When communicating with the Board, the registrant shall identify herself by using full name, including maiden name; current address; and the Commonwealth certificate number, which shall either be typed or printed.] ~~Licensees shall retain the wallet card and display portion of their license.~~

~~(e) When communicating with the Board, licensees shall identify themselves by full name, current address and license number.~~

* * * * *

CONTINUING EDUCATION

§ 21.131. Continuing education.

(a) Requirement of continuing education. Beginning with the license period commencing on _____ (*Editor's note: The blank refers to the date of the first biennial renewal that occurs at least 2 years after the effective date of adoption of this final rulemaking*), an applicant for renewal of a professional nursing license shall complete 30 hours of continuing education approved by the Board during the biennial period immediately preceding the application for renewal in accordance with section 12 of the act (63 P.S. § 222) and this subchapter.

(b) Exception. An applicant applying for initial licensure by examination in this Commonwealth will not be required to meet the continuing education requirement on the first renewal immediately following licensure if the applicant completed an approved

nursing education program within 2 years of the date of application for initial licensure by examination.

~~(c) *Certificates of attendance.* The licensee shall retain original certificates of attendance to document completion of the continuing education requirement for at least 5 years and shall provide legible copies of the certificates upon request by the Board.~~

BOARD AUDITS; PROOF OF COMPLETION. THE BOARD MAY PERFORM AUDITS ON PROFESSIONAL NURSES TO DETERMINE COMPLIANCE WITH THE CONTINUING EDUCATION REQUIREMENTS. A PROFESSIONAL NURSE SHALL RETAIN DOCUMENTATION OF THE NURSE'S COMPLETION OF CONTINUING EDUCATION FOR AT LEAST 5 YEARS. A PROFESSIONAL NURSE SHALL COMPLY WITH A REQUEST FOR SUBMISSION OF DOCUMENTS VERIFYING THE NURSE'S COMPLETION OF CONTINUING EDUCATION. THE FOLLOWING DOCUMENTS SHALL BE RETAINED AND SUBMITTED UPON REQUEST:

- (1) FOR ATTENDANCE AT CONTINUING EDUCATION PROGRAMS OR COURSES, THE NURSE SHALL RETAIN THE CERTIFICATE OF ATTENDANCE PROVIDED BY THE PROGRAM OR COURSE PROVIDER.
- (2) FOR ACADEMIC COURSES TAKEN FROM AN ACCREDITED COLLEGE OR UNIVERSITY, THE NURSE SHALL RETAIN THE OFFICIAL TRANSCRIPT ISSUED BY THE EDUCATIONAL INSTITUTION.

- (3) FOR PUBLICATION OF A TEXTBOOK OR ARTICLE, THE NURSE SHALL RETAIN A COPY OF THE PUBLISHED ITEM, INCLUDING THE DATE OF PUBLICATION.
- (4) FOR A RESEARCH PROJECT, THE NURSE SHALL RETAIN A COPY OF THE RESEARCH ABSTRACT, LETTER FROM THE INSTITUTIONAL REVIEW BOARD GRANTING APPROVAL FOR THE RESEARCH PROJECT AND LIST OF PRIMARY AND CO-INVESTIGATORS.
- (5) FOR SCHOOL NURSES, EVIDENCE THAT THE NURSE'S CERTIFICATION BY THE PENNSYLVANIA DEPARTMENT OF EDUCATION IS CURRENT.

(d) Reinstatement of lapsed license or reactivation of inactive license. A licensee seeking to reinstate a lapsed license or reactivate an inactive license shall submit certificates of attendance DOCUMENTATION to demonstrate that the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement. A REFRESHER OR REACTIVATION COURSE AT AN ACCREDITED SCHOOL OF NURSING WILL BE CREDITED TOWARD THE 30-HOUR CONTINUING EDUCATION REQUIREMENT AS SET FORTH IN § 21.132 (RELATING TO CONTINUING EDUCATION HOURS).

(e) Reinstatement of suspended license. A licensee seeking to reinstate a suspended license shall submit certificates of attendance DOCUMENTATION to demonstrate that

the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement.

(f) *Waiver.* A licensee may request a waiver of the continuing education requirement because of serious illness, military service or other demonstrated hardship. The licensee shall submit the request and any supporting documentation to the Board in writing not less than ~~120~~ 90 days prior to the licensee's license expiration date. The Board will grant, deny or grant in part the request for waiver.

(g) *Disciplinary action authorized.*

(1) Failure to complete a minimum of 30 hours of continuing education in a biennial period will subject the professional nurse to discipline under section 13(b) of the act (63 P.S. 223(b)) in accordance with the schedule of civil penalties at § 43b.18 (relating to schedule of civil penalties – nurses). A second or subsequent violation will subject the professional nurse to discipline under section 14(a)(3) of the act (63 P.S. § 224(a)(3)).

(2) A professional nurse who has not completed a minimum of 30 hours of continuing education shall report the number of continuing education hours completed on the biennial renewal application and shall make up the deficiency within 6 months OF THE EXPIRATION DATE OF THE NURSE'S LICENSE. The licensee shall provide ~~certificates of attendance~~ for DOCUMENTATION DEMONSTRATING THE COMPLETION OF the entire 30-hour requirement to the Board immediately upon completion,

BUT NO LATER THAN 6 MONTHS AFTER THE END OF THE
BIENNIAL RENEWAL PERIOD.

(3) Notwithstanding any civil penalty assessed under paragraph (1), failure to provide the Board with certificates of attendance documenting DOCUMENTATION DEMONSTRATING THE COMPLETION OF 30 hours of approved continuing education within 6 months after the end of the biennial period in which the professional nurse was deficient will subject the licensee to discipline under section 14(a)(3) of the act.

§ 21.132. Continuing education hours.

(a) The Board will accept hours of continuing education as designated by an approved provider, so long as each hour is at least 50 minutes of activity AND EACH HALF HOUR IS AT LEAST 30 MINUTES OF ACTIVITY.

(b) For purposes of determining acceptable hours of continuing education for academic coursework, the following applies:

(1) Each 3 hours in course-related clinical practice will be accepted as 1 hour of continuing education. ONE ACADEMIC TRIMESTER UNIT IS EQUIVALENT TO 12 CONTINUING EDUCATION HOURS.

(2) One academic quarter unit is equal EQUIVALENT to 10 continuing education hours.

- (3) One academic semester unit is equal EQUIVALENT to 15 continuing education hours.

§ 21.133. Continuing education content.

(a) Continuing education must be relevant to PATIENT CARE OR professional nursing in a general or specialty area and enhance the knowledge and application of the physical, social, biological and behavioral sciences.

(b) Courses in areas related to nursing such as the following are acceptable:

(1) Human sexuality.

(2) Death, dying and grief.

(3) Foreign language relevant to health care.

(4) Therapeutic interpersonal relationship skills.

(5) Patient rights and pharmacology.

(6) PHARMACOLOGY.

(c) Courses in AREAS IMPACTING NURSING PRACTICE, SUCH AS nursing administration, management, education and diagnostic and procedural coding are acceptable.

(d) Group or individual research, AS THE PRINCIPAL OR CO-PRINCIPAL INVESTIGATOR, if approved by the Institutional Review Board OF THE

SPONSORING INSTITUTION, is acceptable and will be credited as 15 hours of continuing education.

(e) Nonprofessional course content NOT DIRECTLY RELATED TO PATIENT CARE, SUCH AS COURSES in self-improvement, changes in attitude, financial gain, and these courses designed for lay people, BASIC LIFE SUPPORT OR CARDIOPULMONARY RESUSITATION, MANDATORY ANNUAL EDUCATION ON FACILITY SPECIFIC POLICIES UNRELATED TO NURSING PRACTICE (SUCH AS FACILITY LEAVE POLICIES) AND EMPLOYMENT ORIENTATION PROGRAMS are not acceptable for meeting requirements for license renewal.

§ 21.134. Continuing education sources.

(a) The following providers of continuing education ACTIVITIES THAT MEET THE REQUIREMENTS OF § 21.133 (RELATING TO CONTINUING EDUCATION CONTENT) and credentialing organizations for professional nurses are approved:

- (1) ACTIVITIES SPONSORED BY A Board-approved professional nursing or CRNP education programs PROGRAM.
- (2) Accredited ACTIVITIES SPONSORED BY AN ACCREDITED professional nursing, CRNP, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist and OR Nurse Midwifery education programs PROGRAM.

- (3) Programs ACTIVITIES sponsored by accredited hospitals and health care facilities.
- (4) Programs ACTIVITIES sponsored by hospitals and health care facilities licensed by the Pennsylvania Department of Health OR THE PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE.
- (5) Programs ACTIVITIES sponsored by regionally-accredited institutions of higher education offering courses that comply with § 21.133 (relating to continuing education content).
- (6) National ACTIVITIES SPONSORED BY NATIONAL nursing, medical and, osteopathic AND OTHER HEALTH CARE PROFESSIONAL organizations and their state and regional affiliates.
- (7) National pharmaceutical organizations ACTIVITIES SPONSORED BY NATIONAL TRADE ORGANIZATIONS, ASSOCIATIONS AND THEIR AFFILIATED GROUPS and their state and regional affiliates.
- (8) ACTIVITIES APPROVED BY NATIONAL NURSING, RISK MANAGEMENT, HEALTH CARE QUALITY AND PATIENT SAFETY ORGANIZATIONS.
- (9) ACTIVITIES SPONSORED BY FEDERAL AND STATE AGENCIES.
- (10) ACTIVITIES APPROVED BY A STATE BOARD OF NURSING IN ANOTHER JURISDICTION.

(b) The Board may approve other sources of continuing education on a case-by-case basis after the provider or professional nurse seeking approval submits the following:

- (1) Full name and address of the provider.
- (2) Title of the activity.
- (3) Date and location of the activity.
- (4) Faculty qualifications.
- (5) Schedule of the activity, including, for activities with multiple presenters, the title of each subject, lecturer and time allotted.
- (6) Hours of continuing education.
- (7) Method of certifying and assuring attendance, and draft of certificate of attendance to be provided to course participants, AS APPLICABLE.
- (8) Course objectives.
- (9) Curriculum.
- (10) Target audience.
- (11) Program coordinator.
- (12) Instruction methods.

- (13) Evaluation methods, including participant evaluation and activity evaluation.
- (14) Other information requested IN WRITING by the Board.
- (c) Requests for approval of a continuing education activity under subsection (b) shall be submitted at least ~~120~~ 90 days prior to commencement of the activity and shall be accompanied by the fee set forth in § 21.5 (relating to fees).
- (d) Upon approval of a continuing education activity under subsection (b), the Board will determine the number of continuing education hours awarded for the activity.
- (e) A separate application and fee, as set forth in § 21.5, shall be submitted whenever a change is made to any information submitted under subsection (b), except for information related to a change in date or location, or both, of the activity under subsection (b)(3).
- (f) A continuing education provider shall award a certificate of attendance to professional nurses who complete the continuing education activity. The certificate must contain the information listed in subsection (b)(1) – (3) AND (6) and the name of the individual to whom the certificate is awarded.
- (g) Distance learning continuing education is acceptable for completion of all 30 continuing education hours required for license renewal.

* * * * *

PROPOSED RULEMAKING

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Continuing Education for Professional Nurses

The State Board of Nursing (Board) proposes to amend §§ 21.1, 21.5 and 21.29 (relating to definitions; fees; and expiration and renewal of license) and to add §§ 21.131—21.134 (relating to continuing education) to read as set forth in Annex A. This proposed rulemaking is intended to establish the requirements for professional nurses to complete continuing education in compliance with recent amendments to The Professional Nursing Law (act) (63 P. S. §§ 211—225).

Effective Date

The proposed rulemaking will be effective upon final-publication in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized by the act of June 29, 2006 (P. L. 275, No. 58) (Act 58), which amended the act by adding section 12 (63 P. S. § 222), which requires professional nurses to complete 30 hours of continuing education for biennial license renewal and directs the Board to promulgate regulations establishing requirements of continuing nursing education, including any necessary fees.

Background and Need for the Amendment

Prior to Act 58, professional nurses were the only professional health care provider in this Commonwealth that were not required to complete mandatory continuing education for licensure renewal. Mandatory continuing education is intended to ensure that professional nurses remain abreast of developments in their field and are able to provide high quality care to patients. As required by the act, this proposed rulemaking establishes the requirements for continuing education content and computation of hours, lists preapproved providers of continuing education, provides for Board approval of continuing education from other sources and provides disciplinary sanctions for failure to complete mandatory continuing education.

Description of Proposed Amendments

§ 21.1. Definitions.

The Board proposes to add three definitions to § 21.1. The Board will define "continuing education" as "an activity approved by the Board as a condition for renewal of licensure for which a certificate of attendance is provided." The certificate of attendance is required as the method by which the Board may verify compliance with the continuing education requirement. "Certificate of attendance" is defined as "written third party verification of an individual's completion of continuing education." Consistent with definitions used by other professional licensing boards, for example, the State Board of Dentistry, which defines a "continuing education certificate" as "a document prepared by the program sponsor which contains the title of the course, the dates attended or completed and the hours of education completed," the proposed rulemaking requires verification of attendance by a third party.

Finally, the Board proposes to define "distance learning continuing education" as continuing education "in which the individual participates in the educational activity by means of an electronic media or through peer-reviewed journals or individually, rather than in a classroom, laboratory or clinical setting where the faculty and participant are physically located in the same room." The Board's definition seeks to include a wide variety of distance learning, including videoconferences, Internet continuing education and professional journals that offer continuing education. These sources are highly reliable methods of obtaining continuing education that generally require the participant to complete a substantive test of the material covered to obtain credit. Individual continuing education is also included in the definition to capture group or independent research projects. Research must be approved by the sponsoring facility's Institutional Review Board to be creditable, as set forth in § 21.133(d) (relating to continuing education content). Another example of creditable individual continuing education is taking a college course in a foreign language relevant to health care in accordance with §§ 21.133(b) and 21.134(a)(5) (relating to continuing education sources).

§ 21.5. Fees.

Section 12 of the act requires the Board to set fees necessary for the Board to carry out its responsibilities under this section. The Department of State revenue office met with the Board's Executive Director and determined the appropriate fee based on the cost to the Board of reviewing a continuing education proposal. The fee is set at \$75 for approval of 1 hour of continuing education. The fee is cumulative, in other words, a request for approval of a 10-hour continuing education activity would carry a fee of \$750. Calculating the approval fee on a per-credit hour basis is consistent with the method used by other organizations that accredit continuing education for professional nurses.

§ 21.29. Expiration and renewal of license.

The Board proposes to delete outdated material in § 21.29(a) pertaining to professional nursing licenses that expired on October 31, 1985, and retain only the portion that continues to be relevant. The provision will be redrafted to provide simply that the Board will assign registered nurses to one of four license expiration dates: April 30 in even-numbered years, October 31 in even-numbered years, April 30 in odd-numbered years and October 31 in odd-numbered years.

The Board proposes to amend § 21.29(b) to improve clarity. The Board also proposes to amend § 21.29(c) to delete the requirement that the licensee's current employer must retain the display portion of the renewed license. This provision was intended to ensure that only nurses with current licenses could practice nursing. This provision is outdated because the Board's licensure records are now available online. Online verification of current licensure is an efficient, no-cost method of ensuring that a licensee holds a current license to practice. In addition, online verification is much more accurate, as the Board's online licensure records are updated daily.

The Board proposes to amend § 21.29(c) to specifically refer to online renewal of licensure to ensure that all licensees are aware of the availability of online renewal. Online renewal saves time for both the licensee and Board staff and allows a licensee to renew a license almost instantly. By contrast, during peak renewal peri-

ods when the Board may receive 5,000 or more paper applications for renewal in a week, processing time for renewing a license may be up to 1 month. Online renewal is more efficient for the licensee and saves the Board enormous cost in having its staff process paper applications.

In addition to administrative requirements for biennial license renewal, such as disclosing licensure in another state in § 21.29(c)(1), paying the biennial renewal fee in § 21.29(c)(2) and disclosing discipline in another state or criminal conviction in § 21.29(c)(4), the Board proposes to include a requirement that the nurse verify compliance with the continuing education requirements in § 21.29(c)(3).

§ 21.131. Continuing education.

The Board proposes to add a section setting forth the general requirements regarding continuing education. Subsection (a) sets forth the statutory requirement that a professional nurse complete 30 hours of continuing education approved by the Board during each biennium. This requirement will begin with the first renewal that allows each of the four license renewal groups at least 2 years to comply. For example, if the final-form rulemaking is effective by the end of 2007, licensees who renew in April of even-numbered years would have to complete 30 hours of continuing education for the first time between May 2008 and April 2010, and would need to verify completion of the required hours on their renewal application in 2010. Licensees who renew in October of even-numbered years would have to complete their required hours for the first time between November 2008 and October 2010; those in April of odd-numbered years would be required to complete the required hours for the first time between May 2009 and April 2011; and those in October of odd-numbered years would commence compliance between November 2009 and October 2011.

Subsection (b) would set forth the statutory exception that licensees applying for initial licensure by examination will not be required to meet the continuing education requirement on the first renewal immediately following licensure if the applicant completed a nursing education program within 2 years of the date of application. This provision is consistent with other health care providers' requirements and recognizes that a recent graduate has up-to-date knowledge in the profession.

Subsection (c) would require licensees to maintain certificates of attendance for at least 5 years and to provide copies of the certificates to the Board upon request. Subsection (d) sets forth the statutory provision requiring applicants for reinstatement of a lapsed license or reactivation of an inactive license to comply with the continuing education requirements for the biennial period immediately preceding application for reinstatement. Subsection (e) sets forth the same requirement for a licensee seeking reinstatement of a suspended license.

In subsection (f), the Board sets forth additional information regarding the waiver of continuing education contemplated by section 12(d) of the act. In addition to the requirements for waiver set forth in the act, the Board proposes to require that licensees request the waiver not less than 120 days prior to the expiration date of the licensee's license to allow sufficient time for Board staff to process the request. In addition, it would provide that the Board will grant, deny or grant in part the request for waiver.

In subsection (g), the Board addresses the disciplinary action for licensees who fail to comply with the continuing

education requirements. In paragraph (1), the Board proposes to provide for the imposition of a civil penalty, through proposed § 43b.18a (regarding schedule of civil penalties—nurses), for licensees who fail to complete 30 hours of continuing education during the biennial period. The civil penalty schedule for continuing education violations (first offense) is promulgated by the Commissioner of Professional and Occupational Affairs in a separate rulemaking package. Second or subsequent offenses will subject the professional nurse to discipline under section 14(a)(3) of the act (63 P. S. § 224(a)(3)), which authorizes the Board to discipline a licensee for willful or repeated violation of the act or regulations of the Board.

Subsection (g)(2) would require licensees who have not completed 30 hours of continuing education in the biennial period to report the actual number of hours completed, to make up the deficiency within 6 months and to provide the Board with certificates of attendance for the entire 30 hours of continuing education immediately upon completion. For licensees who did not complete the required number of hours and who additionally fail to provide the Board with certificates of attendance for 30 hours of continuing education within 6 months after renewal, paragraph (3) sets forth additional disciplinary sanctions under section 14(a)(3) of the act.

§ 21.132. Continuing education hours.

Section 21.132 would set forth information regarding the computation of time for purposes of crediting an activity for continuing education hours. Consistent with the Board's regulations for certified registered nurse practitioners (CRNP), each hour for purposes of continuing education must be not less than 50 minutes. This is also consistent with an "academic hour" used by most colleges and universities. Section 21.132(b) sets forth equivalencies for course-related clinical practice and academic quarter and semester units. This section would allow, for example, a professional nurse who obtained licensure after graduation from a diploma program to obtain continuing education credit for nursing courses taken in pursuit of a bachelor's degree in nursing. Similarly, this section would allow a professional nurse obtaining an advanced nursing degree to be awarded continuing education credit for advanced nursing courses.

§ 21.133. Continuing education content.

Section 21.133 would set forth the acceptable content for continuing education activities. Courses in nursing administration, management, education and diagnostic and procedural coding are acceptable because these areas constitute a large percentage of the work of many nurses. Group or individual research may only be used for continuing education credit if the Institutional Review Board of the facility in which the research will take place has approved the research. This caveat ensures that continuing education credit is granted only for research that has been evaluated by the body responsible for evaluating research in a health care facility. The Board proposes in § 21.133(e) to deny continuing education credit for nonprofessional course content in self-improvement, changes in attitude, financial gain and courses designed for lay people.

§ 21.134. Continuing education sources.

In addition to the statutory approval of Nationally certified education courses, the Board determined that some sources of continuing education consistently prepare educational activities of quality that they should be preapproved to provide continuing education activities. This approach is consistent with the approach used by

the other health-related licensing boards in the Commonwealth and other state boards of nursing. The preapproved providers, listed in § 21.134(a), are as follows: Board-approved professional nursing or CRNP education programs; accredited professional nursing, CRNP, certified registered nurse anesthetist, clinical nurse specialist and nurse midwifery education programs; programs sponsored by accredited hospitals and health care facilities; programs sponsored by hospitals and health care facilities licensed by the Department of Health; programs sponsored by regionally-accredited institutions of higher education offering courses that comply with § 21.133; National nursing, medical and osteopathic organizations and state and regional affiliates; and National pharmaceutical organizations and state and regional affiliates.

Under subsection (b), the Board may approve other sources of continuing education on a case-by-case basis. The continuing education sponsor or a nurse seeking approval for a continuing education activity must submit the following information: full name and address of the provider; title of the activity; date and location of the activity; faculty qualifications; schedule of the activity, including, for activities with multiple presenters, the title of each subject, lecturer and time allotted; hours of continuing education; method of certifying and assuring attendance and draft of certificate of attendance to be provided to course participants; course objectives; curriculum; target audience; program coordinator; instruction methods; evaluation methods, including participant evaluation and activity evaluation; and other information requested by the Board. Section 21.134(c) would require that requests for approval of continuing education activities be submitted at least 120 days prior to the commencement of the activity to allow the Board sufficient time to review the request. If approved, the Board will determine the number of continuing education hours awarded. Consistent with the regulations governing continuing education for CRNPs, a separate application fee is required whenever a change is made to any information except a change to the date and location of an activity.

Finally, § 21.123(g) would provide that distance learning is acceptable for completion of all 30 continuing education hours required for biennial license renewal. Although the professional licensing boards for other health-related professions in this Commonwealth have limited the number of hours that may be completed through distance learning, two compelling reasons form the basis of the Board's decision to permit professional nurses to complete all 30 hours through distance learning. First, distance learning for completion of nursing continuing education is the standard across the United States. Of the 26 other states, including the District of Columbia, that require continuing education for professional nurses, all 26 permit the nurse to complete 100% of the continuing education requirement from distance learning sources. The remaining states do not mandate continuing education for licensure renewal. Second, unlike the other health-related professions in this Commonwealth, an individual can obtain a nursing license after graduating from a nursing education program that is conducted entirely through distance learning media.

Because the proposed rulemaking is statutorily mandated and its implementation is largely administrative, the Board did not specifically request input in drafting of the proposed rulemaking from nursing associations and other interested parties. However, the statutory amendments were well publicized and several associations provided input to the Board on the drafting of the rulemaking.

Also, the Board considered the impact the proposed rulemaking would have on the regulated community and on public safety and welfare. The Board finds that the proposed rulemaking addresses a compelling public interest as described in this preamble.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will not have an adverse fiscal impact on the Commonwealth or its political subdivisions, as the Board is self-supporting. The proposed rulemaking will not impose additional paperwork requirements upon the Commonwealth or its political subdivisions. To the extent that private sector providers of continuing education will be required to provide certificates of attendance to professional nurses who complete a continuing education activity, there may be additional paperwork requirements placed on certain members of the private sector. Professional nurses will also experience increased paperwork requirements in tracking compliance with the statutorily mandated continuing education. Professional nurses or their employers will incur costs in complying with statutorily mandated continuing education.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 18, 2007, 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 must 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.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

JOANNE L. SORENSEN, RN, MS,
Chairperson

(Editor's Note: For a document relating to this proposed rulemaking, see 37 Pa.B. 1986 (April 28, 2007).)

Fiscal Note: 16A-5130. 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 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.1. Definitions.

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

* * * * *

Certificate of attendance—Written verification of an individual's completion of continuing education from an approved provider.

Continuing education—An activity approved by the Board as a condition for renewal of licensure or certification for which a certificate of attendance is provided.

* * * * *

Distance learning continuing education—Continuing education in which the individual participates in the educational activity by means of electronic media or through peer-reviewed journals or individually, rather than in a classroom, laboratory or clinical setting where the faculty and participant are physically located in the same room.

* * * * *

§ 21.5. Fees.

(a) The following fees are charged by the Board:

* * * * *

Request for approval of 1 hour of continuing education for a professional nurse \$75

* * * * *

LICENSES

§ 21.29. Expiration and renewal of license.

(a) [Registered nurses whose licenses expire on October 31, 1985 will thereafter be subject to the following license renewal schedule:

(1) Licenses of registered nurses whose license numbers end in the numbers 01 through 25 will expire on April 30, 1986 and, following renewal, will thereafter expire on April 30 in the even-numbered years. The license renewal fee for licenses that expire on April 30, 1986 will be 25% of the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on an anniversary of April 30, 1986 will be the renewal fee for the usual 2-year renewal period.

(2) Licenses of registered nurses whose license numbers end in the numbers 26 through 50 will expire on October 31, 1986 and, following renewal, will thereafter expire on October 31 in the even-numbered years. The license renewal fee for licenses that expire on October 31, 1986 will be 50% of the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on

an anniversary of October 31, 1986 will be the renewal fee for the usual 2-year renewal period.

(3) Licenses of registered nurses whose license numbers end in the numbers 51 through 75 will expire on April 30, 1987 and, following renewal, will thereafter expire on April 30 in the odd-numbered years. The license renewal fee for licenses that expire on April 30, 1987 will be 75% of the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on an anniversary of April 30, 1987 will be the renewal fee for the usual 2-year renewal period.

(4) Licenses of registered nurses whose license numbers end in the numbers 76 through 00 will expire on October 31, 1987 and, following renewal, will thereafter expire on October 31 in the odd-numbered years. The license renewal fee for licenses that expire on October 31, 1987 will be the renewal fee for the usual 2-year renewal period. The renewal fee for licenses that expire on an anniversary of October 31, 1987 will be the renewal fee for the usual 2-year renewal period.

(5) Registered nurses who obtain initial licensure on or after November 1, 1985 and registered nurses who reactivate their licenses on or after November 1, 1985 will be assigned] The Board will assign registered nurses to one of the following license expiration dates:

- [(i)] (1) April 30 in the even-numbered years.
- [(ii)] (2) October 31 in the even-numbered years.
- [(iii)] (3) April 30 in the odd-numbered years.
- [(iv)] (4) October 31 in the odd-numbered years.

(b) [Application for] Notice of the renewal period of a license will be [forwarded biennially] sent to each active [registrant] licensee prior to the expiration date of the [current renewal biennium] licensee's license.

(c) [The application form shall be completed and returned, accompanied by the required renewal fee. Upon approval of the application, the applicant will receive a license for the current renewal period. The display portion of the renewed license shall be retained by the current employer of the registrant; the wallet card portion shall be retained by the registrant.] The applicant for license renewal may complete and submit an application online or may mail a completed application form to the Board's administrative office. When applying for licensure renewal, a professional nurse shall:

(1) Complete and submit the renewal application form, including disclosing any license to practice nursing or any allied health profession in any other state, territory, possession or country.

(2) Pay the biennial renewal of licensure fee in § 21.5 (relating to fees).

(3) Beginning with the license period commencing on _____ (Editor's Note: The blank refers to the date of the first biennial renewal that occurs at least 2 years after the effective date of adoption of this proposed rulemaking.), verify that the professional nurse has complied with the continuing education requirements mandated by section 12 of the act (63 P. S. § 222) during the biennial period

immediately preceding the application for renewal in accordance with §§ 21.131—21.134 (relating to continuing education).

(4) Disclose any discipline imposed by a state licensing board on any nursing or allied health profession license or certificate in the previous biennial period and any criminal charges pending or criminal conviction, plea of guilty or nolo contendere, or admission into a probation without verdict or accelerated rehabilitative disposition during the previous biennial period.

(d) [When communicating with the Board, the registrant shall identify herself by using full name, including maiden name; current address; and the Commonwealth certificate number, which shall either be typed or printed.] Licensees shall retain the wallet card and display portion of their license.

(e) When communicating with the Board, licensees shall identify themselves by full name, current address and license number.

(Editor's Note. The following text is new. It has been printed in regular type to enhance readability.)

CONTINUING EDUCATION

§ 21.131. Continuing education.

(a) *Requirement of continuing education.* Beginning with the license period commencing on _____ *(Editor's Note.* The blank refers to the date of the first biennial renewal that occurs at least 2 years after the effective date of adoption of this proposed rulemaking.), an applicant for renewal of a professional nursing license shall complete 30 hours of continuing education approved by the Board during the biennial period immediately preceding the application for renewal in accordance with section 12 of the act (63 P. S. § 222) and this subchapter.

(b) *Exception.* An applicant applying for initial licensure by examination in this Commonwealth will not be required to meet the continuing education requirement on the first renewal immediately following licensure if the applicant completed an approved nursing education program within 2 years of the date of application for initial licensure by examination.

(c) *Certificates of attendance.* The licensee shall retain original certificates of attendance to document completion of the continuing education requirement for at least 5 years and provide legible copies of the certificates upon request by the Board.

(d) *Reinstatement of lapsed license or reactivation of inactive license.* A licensee seeking to reinstate a lapsed license or reactivate an inactive license shall submit certificates of attendance to demonstrate that the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement.

(e) *Reinstatement of suspended license.* A licensee seeking to reinstate a suspended license shall submit certificates of attendance to demonstrate that the licensee completed 30 hours of continuing education within the biennial period immediately preceding application for reinstatement.

(f) *Waiver.* A licensee may request a waiver of the continuing education requirement because of serious illness, military service or other demonstrated hardship. The licensee shall submit the request and any supporting documentation to the Board in writing at least 120 days

prior to the licensee's license expiration date. The Board will grant, deny or grant in part the request for waiver.

(g) *Disciplinary action authorized.*

(1) Failure to complete a minimum of 30 hours of continuing education in a biennial period will subject the professional nurse to discipline under section 13(b) of the act (63 P. S. 223(b)) in accordance with the schedule of civil penalties in § 43b.18a (relating to schedule of civil penalties—nurses). A second or subsequent violation will subject the professional nurse to discipline under section 14(a)(3) of the act (63 P. S. § 224(a)(3)).

(2) A professional nurse who has not completed a minimum of 30 hours of continuing education shall report the number of continuing education hours completed on the biennial renewal application and shall make up the deficiency within 6 months. The licensee shall provide certificates of attendance for the entire 30-hour requirement to the Board immediately upon completion.

(3) Notwithstanding any civil penalty assessed under paragraph (1), failure to provide the Board with certificates of attendance documenting 30 hours of approved continuing education within 6 months after the end of the biennial period in which the professional nurse was deficient will subject the licensee to discipline under section 14(a)(3) of the act.

§ 21.132. Continuing education hours.

(a) The Board will accept hours of continuing education as designated by an approved provider, so long as each hour is at least 50 minutes of activity.

(b) For purposes of determining acceptable hours of continuing education for academic coursework, the following applies:

(1) Each 3 hours in course-related clinical practice will be accepted as 1 hour of continuing education.

(2) One academic quarter unit is equal to 10 continuing education hours.

(3) One academic semester unit is equal to 15 continuing education hours.

§ 21.133. Continuing education content.

(a) Continuing education must be relevant to professional nursing in a general or specialty area and enhance the knowledge and application of the physical, social, biological and behavioral sciences.

(b) Courses in areas related to nursing such as the following are acceptable:

(1) Human sexuality.

(2) Death, dying and grief.

(3) Foreign language relevant to health care.

(4) Therapeutic interpersonal relationship skills.

(5) Patient rights and pharmacology.

(c) Courses in nursing administration, management, education and diagnostic and procedural coding are acceptable.

(d) Group or individual research, if approved by the Institutional Review Board, is acceptable and will be credited as 15 hours of continuing education.

(e) Nonprofessional course content in self-improvement, changes in attitude, financial gain and those courses designed for lay people are not acceptable for meeting requirements for license renewal.

§ 21.134. Continuing education sources.

(a) The following providers of continuing education and credentialing organizations for professional nurses are approved:

(1) Board-approved professional nursing or CRNP education programs.

(2) Accredited professional nursing, CRNP, Certified Registered Nurse Anesthetist, Clinical Nurse Specialist and Nurse Midwifery education programs.

(3) Programs sponsored by accredited hospitals and health care facilities.

(4) Programs sponsored by hospitals and health care facilities licensed by the Department of Health.

(5) Programs sponsored by regionally-accredited institutions of higher education offering courses that comply with § 21.133 (relating to continuing education content).

(6) National nursing, medical and osteopathic organizations and their state and regional affiliates.

(7) National pharmaceutical organizations and their state and regional affiliates.

(b) The Board may approve other sources of continuing education on a case-by-case basis after the provider or professional nurse seeking approval submits the following:

(1) Full name and address of the provider.

(2) Title of the activity.

(3) Date and location of the activity.

(4) Faculty qualifications.

(5) Schedule of the activity, including, for activities with multiple presenters, the title of each subject, lecturer and time allotted.

(6) Hours of continuing education.

(7) Method of certifying and assuring attendance, and draft of certificate of attendance to be provided to course participants.

(8) Course objectives.

(9) Curriculum.

(10) Target audience.

(11) Program coordinator.

(12) Instruction methods.

(13) Evaluation methods, including participant evaluation and activity evaluation.

(14) Other information requested by the Board.

(c) Requests for approval of a continuing education activity under subsection (b) shall be submitted at least 120 days prior to commencement of the activity and shall be accompanied by the fee set forth in § 21.5 (relating to fees).

(d) Upon approval of a continuing education activity under subsection (b), the Board will determine the number of continuing education hours awarded for the activity.

(e) A separate application and fee, as set forth in § 21.5, shall be submitted whenever a change is made to any information submitted under subsection (b), except for information related to a change in date or location, or both, of the activity under subsection (b)(3).

(f) A continuing education provider shall award a certificate of attendance to professional nurses who complete the continuing education activity. The certificate must contain the information listed in subsection (b)(1)—(6) and the name of the individual to whom the certificate is awarded.

(g) Distance learning continuing education is acceptable for completion of all 30 continuing education hours required for license renewal.

[Pa.B. Doc. No. 07-743. Filed for public inspection April 27, 2007, 9:00 a.m.]

16A-5130: RN Continuing Education
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2008

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

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May 1, 2008

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Nursing
16A-5130: Continuing Education for Professional Nurses

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Nursing pertaining to continuing education for professional nurses.

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

Sincerely,

Mary E. Bowen, R.N., C.R.N.P., Chairperson
State Board of Nursing

MEB/TAL:klh

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Cynthia Montgomery, Senior Counsel in Charge
Department of State
Teresa Lazo, Counsel
State Board of Nursing
State Board of Nursing

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

I.D. NUMBER: 16A-5130
 SUBJECT: CONTINUING EDUCATION FOR PROFESSIONAL NURSES
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF NURSING

TYPE OF REGULATION

RECEIVED

- Proposed Regulation
- X 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

MAY - 1 REC'D

INDEPENDENT REGULATORY
REVIEW COMMISSION

11:07 AM

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5/1/08	<u>Maulene Hemmed</u>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
5/1/08	<u>Maulene Hemmed</u>	MAJORITY CHAIRMAN <u>Sturba</u>
5/1/08	<u>May Walmer</u>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Fomlinson</u>
5/1/08	<u>Kathy Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)