

May 25, 2007

Ann Steffanic, Board Administrator
Pennsylvania State Board of Nursing
Bureau of Professional and Occupational Affairs
P.O. Box 2649
Harrisburg, PA 17105-2649

INDEPENDENT REGULATORY
REVIEW COMMISSION

RE: 49 PA.CODE CH. 21—Continuing Education for Professional Nurses

Dear Ms. Steffanic:

The Hospital & Healthsystem Association of Pennsylvania (HAP), on behalf of its members, more than 225 acute and specialty hospitals and health systems appreciates the opportunity to provide comments on the State Board of Nursing's draft regulations regarding continuing education for professional nurses.

HAP appreciates the Board of Nursing's efforts to develop the most flexible and comprehensive continuing education requirements that allow registered nurses to complete the continuing education for their licensure renewal in the most prudent way possible. HAP believes that the Board of Nursing has made substantial improvements in several existing provisions of the regulations, including:

- §21.29(c), which codifies the Board's efforts to allow for online license renewal. HAP has strongly supported the Board's efforts to streamline license renewal and other types of application processing, including the processing of temporary practice permits for new graduates.
- §21.29(d), which eliminates the requirement that the licensee's current employer must retain the display portion of the renewed license. On different occasions in the last several years, HAP has requested that the Board amend this requirement. HAP had previously indicated that the Pennsylvania State Board of Nursing does not have the authority to regulate employers and therefore, HAP urged the Board to delete this requirement. In recent years, the Board has recognized the increased ease of creating fraudulent documents and indicated that the most accurate and current portrayal of current licensure status can only be achieved through use of the state's online licensure verification system.

HAP supports the overall direction taken by the Pennsylvania State Board of Nursing in the development of these proposed regulations. HAP believes that the Pennsylvania State Board of Nursing has taken great effort to ensure that practicing professional registered nurses have flexibility in meeting the continuing education requirements. Specifically, HAP appreciates that the Board has not limited the number of continuing education hours that can be obtained through distance learning activities, and that the Board has recognized that Pennsylvania's accredited and licensed general acute care and specialty hospitals offer professional learning opportunities for registered nurses that can be used to satisfy the continuing education requirements. This recognition makes obtaining continuing education requirements more accessible and affordable to nurses licensed in the Commonwealth. HAP believes that the Pennsylvania State Board of Nursing has an even greater opportunity to recognize those activities that foster professional growth and development. HAP believes that the Board should consider these other opportunities, since recognition of these types of activities by the Board could serve to spur interest and involvement in such activities, all of which serve to improve the

Ann Steffanic
May 25, 2007
Page 2

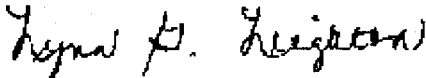
quality and safety of nursing care delivered to the citizens of Pennsylvania. HAP has provided some recommendations for consideration by the Board, and would strongly recommend that the Board consider continuing education regulatory language already adopted by the states of New Jersey, Delaware, and Ohio – all states that require comparable completion of continuing education as a condition of licensure.

HAP and its member hospitals and health systems believe that it is extremely important for the Board to create and seek opportunities to speak directly to the professional registered nurses that it regulates to impress upon them the importance of complying with the continuing education requirements. While employers can assist nurses in obtaining continuing education, it is incumbent upon the professional nurse to complete the requirements and maintain a record of those activities that he or she has pursued to meet the requirements. Professional registered nurses must be made fully aware of these new requirements and their accompanying professional responsibility and accountability in completing the requirements to retain the privilege to practice as a nurse in the Commonwealth.

HAP has attached its specific recommendations for consideration by the Board. HAP looks forward to working with the Pennsylvania State Board of Nursing to implement the provisions of Act 58 of 2006, which required continuing education for professional registered nurses. HAP also requests that the association be notified when the Board submits the final-form regulations to the House Professional Licensure and Senate Consumer Protection and Professional Licensure Committees, as well as notice of any amendments or changes to the proposed version.

If you have any questions about HAP's comments, please feel free to contact me at (717) 561-5308 or by email at lgleighton@hapoline.org.

Sincerely,



Lynn G. Leighton
Vice President
Professional & Clinical Services

ATTACHMENT
THE HOSPITAL & HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA (HAP)
RECOMMENDED REVISIONS
TO THE
STATE BOARD OF NURSING
PROPOSED CONTINUING EDUCATION REQUIREMENTS FOR PROFESSIONAL
REGISTERED NURSES

§21.131. Continuing Education

- **Requirements for Completion of Continuing Education and Exceptions**—HAP appreciates the timing that the Board has proposed for professional registered nurses to meet the new continuing education requirements. The proposal should allow sufficient time for nurses to complete the required continuing education. HAP supports the exception to meeting the continuing education requirement for newly licensed nurses, but HAP recommends modifying the language to improve its clarity.

§21.131 (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 following licensure. [if the applicant completed an approved nursing education program within 2 years of the date of application for initial licensure by examination.]

- **Licensure by Endorsement and Continuing Education Requirements**—The Board has outlined its expectations for professional registered nurses who have allowed their license to lapse, placed their license on inactive status, or had their license suspended. HAP questions whether the Board needs to spell out continuing education requirements for those professional registered nurses who are licensed by endorsement by the Commonwealth. In other state's continuing education regulations, these Boards have addressed continuing education for nurses who were licensed by endorsement, including when these nurses would first be subject to the continuing education requirements. HAP recommends that the Board consider the following provision.

A nurse from another jurisdiction who applies for licensure by endorsement in Pennsylvania shall not be required to meet the continuing education requirement to obtain licensure. A nurse licensed through endorsement would be required to meet the continuing education requirements at the time of his or her first license renewal period in Pennsylvania.

- **Clarity Regarding Disciplinary Action**—HAP is seeking more clarity from the Board regarding the consequences for failure to complete the required continuing education as a condition of licensure.
 - **License Renewal** - If a professional registered nurse fails to complete the required continuing education requirements and attests to that fact at the time of license renewal, HAP questions what action(s) the Board would take. Would the professional registered nurse be subject to a civil penalty at this time or only after failing to make up the deficiency within 6 months? It is not clear whether the civil penalty applies immediately or only after the nurse fails to comply with the requirement within 6 months. What would be the status of the nurse's license during this period of 6 months? HAP believes that it is important to clearly

articulate to the nursing community what consequences are associated with failure to meet the continuing education requirements in Act 58 of 2006.

- **Failure to Meet the Continuing Education Requirements in the 6-Month Time Period**—If the nurse fails to meet the continuing education requirement, HAP believes it is clear that the Board would implement progressive disciplinary action against the nurse's license. HAP questions whether the nurse might be subject to additional civil penalties in addition to other disciplinary action at this time. HAP recommends that the Board consider identifying what other types of disciplinary action the Board could take against a nurse for failure to meet the continuing education requirements and to include them in the regulation.
- **Intentional Falsification of License Renewal Application**—As with the above, HAP questions what actions the Board would take if it learned that a professional registered nurse intentionally falsified his or her license renewal application, indicating that he or she had completed the continuing education requirements when in fact he or she knew that they had not completed the requirements. How would these actions be different from those where a licensee honestly indicated that they failed to complete the continuing education requirements at the time of license renewal?
- **Discrepancies**—HAP questions how the Board plans to deal with honest discrepancies between the Board and a licensed professional registered nurse. These discrepancies could be around a variety of issues, including whether there is sufficient documentation of the activity, differences of opinion between the Board and licensee concerning whether the activity or course meets the intent of the continuing education requirements, or whether the nurse actually completed the requirements in the biennial period under review.

In all of the aforementioned circumstances, HAP believes it is important to spell out more clearly how the Board intends to address these situations.

§21.132. Continuing Education Hours

- **Translating Activity into Continuing Education Contact Hours**—HAP understands that the Pennsylvania State Nurses Association (PSNA) has adopted recent changes to its continuing education requirements that would make the completion of 60 minutes of activity equivalent to the completion of one contact hour of continuing education. However, this requirement may vary among different professional organizations. The Board has proposed that for the purposes of these regulations, continuing education must be at least 50 minutes, since this is consistent with an "academic hour" used by most colleges and universities. HAP supports the use of at least 50 minutes as the equivalent of one contact hour of continuing education.
- **Clarification in §21.132 (b)**—HAP appreciates the Board's interest in promoting formal education and in allowing such courses to count toward fulfilling the continuing education requirements needed for state licensure. HAP recommends that the Board consider clarifying the calculation of contact hours based on credit hours earned in an academic institution. HAP is providing the following for the Board's consideration.
 - *For credit hours earned on an academic quarter system, one credit hour is equivalent to ten continuing education contact hours.*
 - *For credit hours earned on an academic trimester system, one credit hour is equivalent to twelve continuing education contact hours.*

- *For credit hours earned on an academic semester system, one credit hour is equivalent to fifteen continuing education contact hours.*
- *For credit hours that have not been identified as quarters, trimesters, or semesters, one credit hour is equivalent to ten continuing education contact hours.*
- **Additional Considerations**—HAP requests that the Board consider indicating that not less than 0.5 continuing education contact hours be awarded to qualify as an activity toward the Board's required continuing education requirements. By doing so, the Board indicates that it recognizes that an activity that takes 25-30 minutes could be used toward satisfying the Board's continuing education requirements, but not anything less than 25 minutes.

§21.133. Continuing Education Content

- **Refinement of §21.133(a)**—HAP supports the reasons for continuing education, which are to ensure the licensee's ongoing acquisition of skills and knowledge. However, HAP believes that this provision as written could be too narrowly interpreted to mean skill and knowledge acquisition related to the provision of direct clinical care. HAP recommends that the Board broaden what it considers as relevant continuing education content. Specifically, HAP suggests the following:

§21.133(a)—Continuing education is an approved or accredited planned learning activity that builds on a licensee's prelicensure education program and enables the licensee to acquire or improve skills, knowledge, or behavior that promote professional or technical development or advance the licensee's career goals.

- **Recognition of Additional Course Content in §21.133(b) and §21.133(c)**—HAP appreciates the efforts that the Board has made to specifically identify particular types of courses or content that could be used in meeting the continuing education requirements. Increasingly, nurses occupy many diverse roles and by doing so, the type of knowledge and skills that are needed are constantly evolving and cannot be captured at a point in time in regulatory language. HAP has reviewed continuing education regulations in New Jersey, Delaware, and Ohio. None of these states specifies course content to the degree proposed in Pennsylvania regulations. HAP cautions against creating such a specific list. Even as currently proposed, HAP believes that the Board has not identified important content areas, 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
 - Health care ethics

- **Broadening Activities that Meet Requirements for Continuing Education**—After reviewing the State Board of Nursing continuing education requirements, HAP requests that the Pennsylvania State Board of Nursing consider additional options that could be pursued by licensed professional nurses in meeting the required continued education requirements. Given that there are likely nurses who hold licenses in Pennsylvania and some contiguous states, it would seem appropriate to consider implementing regulations that would be consistent with these other states. The National Council of State Boards of Nursing (<http://www.learningext.com/resources/cerequirements.asp>) provides links to twenty-six states that have some form of mandatory continuing education requirements. For purposes of this comment letter, HAP has excerpted some of the following contained in New Jersey, Ohio, and Delaware regulations for consideration by the Pennsylvania State Board of Nursing. As already stated in its comment letter, HAP strongly recommends that the Board review continuing education regulatory language already adopted by the states of New Jersey, Delaware, and Ohio—all states that require comparable completion of continuing education as a condition of licensure.

From a policy perspective, the Board has the ability to place value on certain activities, which could stimulate increased involvement among licensed professional nurses in the kinds of activities that would serve to improve the quality of care provided to the citizens of the Commonwealth. It is for these reasons as well that HAP recommends that the Board consider broadening those activities for which continuing education contact hours could be awarded, including teaching, publication, development of patient and family education materials, research, and clinical preceptorship. HAP recommends that the Board consider an appropriate continuing education contact hour award for these activities.

A professional registered nurse may obtain continuing education hours from the following:

Courses

HAP appreciates that the Pennsylvania State Board of Nursing recognizes that all 30 continuing education contact hours could be completed through distance learning.

- *Successful completion of continuing education courses related to nursing and health care provided by organizations on the Board's approved education provider list or as approved by the Board.*
- *Distance learning continuing education is acceptable for completion of all 30 continuing education hours required for license renewal as per proposed §21.134 (g).*

Teaching and Presentation of Seminars, Lectures, Courses

HAP believes that professional registered nurses should be able to obtain continuing education contact hours for teaching as well as the development of the content for a seminar, workshop, program, or course. HAP has suggested contact hours for the teaching component, but would defer to the Board's education expertise in defining how to award contact hours for program or course curriculum development.

- *Teaching or developing the curriculum for a new continuing education program that is part of an approved continuing education course. "New" means that the professional registered nurse has never taught or developed curriculum for that course or program in any education setting. The nurse can obtain one continuing education contact hour for each 50 minutes of teaching.*

- ***Presenting a new seminar or lecture to professional peers. "New" means that the professional registered nurse has never taught or developed curriculum for that seminar or lecture in any education setting. The nurse can obtain one continuing education contact hour for each 50 minutes of teaching.***
- ***Teaching or developing the curriculum for a new course related to nursing in a school, college or university that is regionally accredited. "New" means that the professional registered nurse has never taught or developed curriculum for that course in any educational setting. Continuing education contact hours will be awarded in accordance with the requirements set forth for academic settings in §21.132 (b).***
- ***Continuing education contact hours will only be awarded for the first time a presentation, seminar, or course is given or taught.***

Authorship of Texts and Articles

- ***Authorship of a published textbook or chapter of a published textbook. The nurse can obtain 10 continuing education contact hours for each chapter up to a maximum of 30 hours.***
- ***Authorship of a published and peer reviewed nursing, medical, or other health care journal. The nurse can obtain 10 continuing education contact hours for each journal article up to a maximum of 30 hours.***
- ***Continuing education contact hours will only be awarded for the first time the nurse contributed to the text and for the first-time publication of the journal article. Continuing education hours cannot be obtained for publication of the same research or content among multiple journal articles.***

Research

HAP appreciates that the Board has recognized participation in a group or individual research project as means of satisfying continuing education requirements in §21.133(d). HAP also believes that it is Board's intent to award continuing education contact hours to those individuals involved in the research project even if the nurse was not identified as the primary investigator or co-investigator. HAP recommends that the Board require the primary investigator or co-investigator to provide a certificate indicating which other professional registered nurses participated in the research project. HAP also requests that the Board consider research projects that were not subject to review by an institutional review board.

- ***Completion of a group or individual research project where the professional registered nurse where an institutional review board or other formal organizational research committee has approved the research. A nurse can obtain 10 continuing education contact hours for completion of research.***

Education Materials

HAP believes that continuing education contact hours should be awarded to nurses who have prepared other types of educational materials for their peers, other health care professionals, or patients and families. Such materials may be in written form or provided through other media, including but not limited to the Internet, video, and/or DVD.

- ***Development of nurse and other health care professional instructional materials. A nurse can obtain 10 continuing education contact hours for development of instructional materials used by peers or other health care professionals.***

- *Development of patient and family education materials. A nurse can obtain 10 continuing education contact hours for development of patient and family education materials.*
- *Continuing education contact hours will only be awarded for the first time development of instructional materials.*

Clinical Preceptorship

HAP strongly believes that the awarding of continuing education contact hours for precepting nursing students, new nursing graduates, and other nurses who may be making a transition from one field of nursing to another could spur increased interest in serving as preceptors.

- *Serving as a preceptor for at least 100 hours as part of an organized preceptor program. A nurse can obtain 10 continuing education contact hours for the period during which the professional registered nurse serves as a preceptor.*

In-service Education

HAP believes that the Board should recognize certain in-service education programs, which are designed to help nurses acquire, maintain, and/or increase the level of competence in fulfilling his or her assigned responsibilities. Planned in-services should be a minimum of 25 minutes. As more information and technology is introduced in nursing and health care, it is important that the Board recognize the importance of in-service education.

Continuing education hours that could be allocated to more than one of the options shall only be counted once and shall not be allocated for more than one option.

The Board shall perform audits on randomly selected professional registered nurses to determine compliance with continuing education requirements. A professional registered nurse shall maintain the following documentation for a period of five years after completion of hours and shall submit such documentation to the Board upon request:

- *For attendance at programs or courses: a certification of completion from the program or course provider or transcript from an accredited college or university for completion of an academic credit course.*
- *For publication of textbook or article: the published item, including the date of publication.*
- *For teaching a seminar, program, or course: documentation, including a copy of the curriculum, date and time of course, duration of course by hour, and letter from provider confirming that the professional registered nurse taught the seminar, program, or course. Other supporting materials might include the course agenda, course description, or brochure.*
- *For a research project: documentation, including a copy of the research abstract, approval for the research project, listing of primary and co-investigator, and a certificate signed by the primary and/or co-investigator which indicates that the professional registered nurse participated in the research project.*
- *For instructional material: a copy of the instructional materials.*
- *For a clinical preceptorship: documentation from the organization to attest that the professional registered nurse served as a preceptor.*

- **Limitations per §21.133 (e)**—HAP understands that the Board seeks to limit the application of programs or courses that do not relate directly to nursing or more broadly to health care. However, HAP also recognizes that there may be some lay courses that have application for nurses, including those aimed at improving communication, interpersonal relationships, cultural diversity, and stress management – all of which may have appropriate application into daily practice. HAP asks that the Board consider the idea that there might be some courses with appropriate application for the professional registered nurse that are offered to the lay public. It is also highly likely that these courses would not be offered by any of the organizations on the approved list of education providers, meaning that the nurse would need to submit the course for Board approval.

HAP recommends the following for consideration by the Board:

The following activities shall not be used by a licensed professional registered nurse to satisfy the continuing education requirements.

- *Basic life support (BLS) or cardiopulmonary resuscitation-(CPR);*
- *Mandatory annual organizational education, such as infection control, environmental safety, and facility specific policies or practices;*
- *Repetition of any educational activity with identical content and course objectives within a single reporting period;*
- *An agency specific orientation program;*
- *A self-directed independent study that has not been formally approved as an independent study by one of the approved providers or the Board;*
- *A personal development activity;*
- *Professional meetings or conventions except for those portions designated as a continuing education activity;*
- *Community service or volunteer practice;*
- *Membership in a professional organization.*

§21.134. Continuing Education Sources

- **Provision for Additional Continuing Education Sources**—HAP appreciates that the Pennsylvania State Board of Nursing has attempted to identify those organizations that it deems as already meeting the requirements to provide approved continuing education courses to nurses and capable of maintaining the documentation to validate participation in continuing education programs, courses or other activities. HAP would recommend the following modifications to the list of approved continuing education providers:

§21.134 (a)(3) and (a)(4) Programs sponsored by accredited hospitals and health care facilities or hospitals and health care facilities licensed by the Pennsylvania Department of Health or Pennsylvania Department of Public Welfare.—As already stated, HAP appreciates that the Board is including hospitals and other health care organizations. As a point of clarification, accreditation in this context needs to represent more than the Joint Commission, since some specialty hospitals or other types of providers may obtain national accreditation through other nationally recognized accreditation organizations, such as the Healthcare Facilities Accreditation Program (HFAP) through the American Osteopathic Association, the Community Health Accreditation Program (CHAP) for home health agencies, and the Commission on Accreditation for Rehabilitation Facilities (CARF) for rehabilitation hospitals to name just a few.

Additionally, the Pennsylvania Department of Public Welfare in Pennsylvania, and not the Pennsylvania Department of Health licenses freestanding psychiatric hospitals.

HAP further recommends that the Board recognize programs offered by the following types of organizations, consistent with the goals related to professional continuing education as specified in the regulations. These would include the following:

- ***National accreditation, risk management, quality, and patient safety organizations.*** This would include programs offered by recognized accreditation organizations as well as organizations such as the American Society for Healthcare Risk Managers (ASHRM), the Institute for Healthcare Improvement (IHI), the National Patient Safety Foundation (NPSF), ECRI, and the Institute for Safe Medication Practices (ISMP) among others.
 - ***National nursing, medical, osteopathic and other health care professional organizations.*** This would allow nurses to use continuing education contact hours from interdisciplinary education programs, some of which may be sponsored by other health care disciplines, including programs offered by health care information management groups such as American Health Information Management Association (AHIMA).
 - ***Independent state and federal agencies.*** This would allow nurses to participate in programs sponsored by federal and state agencies that don't have regulatory authority, such as the Agency for Healthcare Research and Quality (AHRQ), Quality Improvement Organization (QIO) projects, and programs offered by the Pennsylvania Patient Safety Authority.
 - ***Regulatory state and federal agencies.*** This would include agencies with regulatory oversight, such as the United States Department of Health and Human Services or the Pennsylvania Department of Health, including divisions, bureaus, or offices of those agencies.
 - ***National and state trade organizations, associations and their affiliated professional groups.*** This would include national and state trade associations representing hospitals, nursing homes, home health care agencies, hospice providers, and various types of specialty hospitals, as well as any of their affiliated professional groups. For instance, the American Organization of Nurse Executives (AONE) is an affiliate of the American Hospital Association (AHA). Additionally, many nurses participate in continuing education programs offered by HAP, VHA, and Premier.
 - ***Other continuing education programs that have been approved by a Board of Nursing in another jurisdiction.*** In many instances, another State Board of Nursing may have approved a program for continuing education offered in that state. Nurses from Pennsylvania may be participating in that program. HAP is requesting that the Pennsylvania State Board of Nursing recognize those programs that have been approved by another State Board of Nursing.
- **Comments Regarding Approval of Course by the Pennsylvania State Board of Nursing and Associated Fees** – HAP recognizes that the Pennsylvania State Board of Nursing cannot be all inclusive in its list of authorized continuing education providers and that there will be occasions where the Board will need to approve other sources of continuing education on a case-by-case basis. However, by making the above-mentioned additions, the Board could considerably reduce its potential workload in this area. HAP concurs with the provisions as outlined in §21.134 (b), but believes that the fee structure and time frame for submission is well outside the typical and customary fee schedule and

time frame used by most organizations responsible for the review and approval of continuing education programs. For example, the Pennsylvania State Nurses Association requires submission at least 12 weeks prior to the planned education activity and also provides for an accelerated review process if the applicant fails to meet the 12-week submission request.

Additionally, the Pennsylvania State Board of Nursing has a fee schedule that is based on a range of contact hours requested in the application. The cost associated with an application of 0.5-5.0 contact hours is \$100, and this cost is doubled if the applicant requests an accelerated review. The Board has proposed a fee of \$75 per continuing education contact hour, which is considerably higher than the fee charged by the Pennsylvania State Nurses Association. In the example provided in the proposed regulations, a course for ten continuing education contact hours would cost \$150 for review by the Pennsylvania State Nurses Association as opposed to \$750 as proposed by the Board. Even under an expedited review by the Pennsylvania State Board of Nursing, the cost of this review would be less than half (\$300) of that proposed by the Board.

- **Clarification in §21.134 (f)**—HAP recognizes the need to provide a certificate of attendance, but does not believe that all the content outlined in this provision needs to be contained on the certificate. Specifically, HAP questions the need to include faculty qualifications and the course agenda on the certificate as spelled out in **§21.134 (b)(4) and §21.134 (b)(5)**. HAP respectfully suggests that in order to promote clarity in this section, that information to be included on the certificate of attendance be specifically outlined and not merely referenced in the subsection.

HAP also requests that the Board consider accepting a transcript of continuing education activities that is prepared and maintained by health care organizations, which is signed by an authorized representative of the health care organization. Many hospitals and health systems have implemented procedures to track all education programs completed by employees inside and outside the organization to meet various accreditation and certification standards. This is not intended to supplant the individual nurse's professional responsibility and accountability for submitting required continuing education documentation when requested by the Board. Rather, it is intended to offer the professional registered nurse and the Board another source for demonstrating the completion of required continuing education requirements.

Finally, as already outlined above, there may be other sources used to document completion of continuing education that the Board has not addressed. For instance, for a course completed for academic credit, the documentation would not be a certificate but rather a school transcript that included the name of the student, the name of the school, the dates attended, the grade report, and the credit hours awarded.