

Regulatory Analysis Form

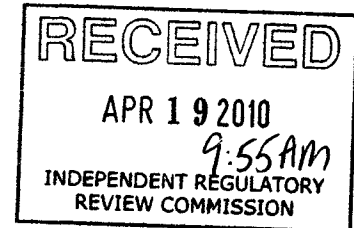
(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE



(1) Agency:

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

(2) Agency Number:

Identification Number:

16A-5133

IRRC Number: 2700

(3) Short Title:

Clinical Nurse Specialists

(4) PA Code Cite:

49 Pa. Code §§ §§ 21.801 – 21.805, 21.811 – 21.813, 21.821 – 21.828 and 21.831

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Teresa Lazo, Counsel

State Board of Nursing (717) 783-7200 2601 N. Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 tlazo@state.pa.us

Secondary Contact: Joyce McKeever, Deputy Chief Counsel

Department of State (717) 783-7200

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

Ann Stefanic, Board Administrator, State Board of Nursing

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

X Final Regulation

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(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

These amendments adopt §§ 21.801 – 21.805, 21.811 – 21.813, 21.821– 21.828 and 21.831 to set forth requirements for the certification and renewal of certification for clinical nurse specialists in accordance with sections 3, 6.2, 7, 8.5 and 8.6 of the Professional Nursing Law (act) (63 P.S. § 213, 216.2, 217, 218.5 and 218.6).

(9) Include a schedule for review of the regulation including:

- | | |
|---|---------------------------|
| A. The date by which the agency must receive public comments: | not applicable |
| B. The date or dates on which public meetings or hearings will be held: | 2/23-24, 4/12-13, 5/25-26 |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Spring 2010 |
| D. The expected effective date of the final-form regulation: | Spring 2010 |
| E. The date by which compliance with the final-form regulation will be required: | Spring 2010 |
| F. The date by which required permits, licenses or other approvals must be obtained: | none |

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

The Board continuously reviews its regulations at its scheduled meetings. Scheduled meetings for 2010 are: 2/23-24, 4/12-13, 5/25-26.

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Section 8.5 of the act (63 P.S. § 218.5) requires the Board to issue certification to individuals who meet the qualifications for certification as a clinical nurse specialist (CNS). The Board is further authorized to establish rules and regulations for the practice of professional nursing and the administration of the acts under section 2.1(k) of the act (63 P.S. § 212.1(k)).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

These regulations are mandated by state law, specifically by the act of July 20, 2007 (P.L. 320, No. 49) (Act 49 of 2007), which amended §§ 3, 6.2, 7, 8.5 and 8.6 of the act (63 P.S. §§ 213, 216.2, 217, 218.5 and 218.6)

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation provides for the procedure by which an individual may become certified as a CNS by the Board, in accordance with the statutory mandate.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

No scientific data, studies, references were used to justify this regulation.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

Any individual who has been using the title CNS and who cannot become certified by the Board because he/she does not meet the qualifications for certification will be adversely affected because he/she will no longer be permitted to use the title.

(16) 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.

Everyone will be required to comply with the regulation, which prohibits persons who are not certified by the Board from using the title CNS.

The Board estimates approximately 1,250 applicants annually. The biennial renewal figures allow for an approximately 10% drop in biennial renewal from the initial registration which is experienced across the Bureau.

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

There are fees associated with certification and biennial renewal.

(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. Explain how the dollar estimates were derived.

There are no anticipated costs or savings to local governments.

(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. Explain how the dollar estimates were derived.

The calculations above are based on the fee report forms provided by the Department's Revenue Office. The figures include \$62,500 each year beginning in FY 2110-2011 for new applicants and \$4,500 each year for verification of certification. In addition, for FY 2010-2011, only \$10,000 was included for renewal to capture those few individuals who might obtain initial licensure only a few months before their scheduled biennial renewal. Thereafter, the biennial renewal fee, on an annual basis, is \$27,500.

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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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community		77,000	94,500	94,500	94,500	94,500
Local Government						
State Government						
Total Costs		77,000	94,500	94,500	94,500	94,500
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

Program	FY -3	FY -2	FY -1	Current FY
State Board of Nursing	\$ 6,575,163	\$ 7,385,284	\$ 8,232,049	\$ 9,593,000

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(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The costs associated with licensing and regulating CNSs are offset by the public protection benefit of bringing CNS practice under the authority of the Board.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The Board requested and received input from the National Association of Clinical Nurse Specialists and the group's state affiliate.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Board considered various means by which a CNS could demonstrate equivalence to National certification when the CNS did not qualify to sit for a National certification examination, including a length of time practicing in the role. This proposal would, however, not account for new graduates in emerging specialties, such as Genetics or Forensics. The case-by-case basis approach is the least burdensome alternative that ensures public protection.

(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 regulations.

The Board is not aware of any federal standards that relate to the issues addressed in this rulemaking.

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(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Four of the states contiguous to Pennsylvania recognize/certify clinical nurse specialists: New Jersey, Ohio, Delaware and West Virginia. New York and Maryland do not recognize/certify clinical nurse specialists. The regulation will not put Pennsylvania at a competitive disadvantage.

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

No other regulations of the Board or other state agencies would be affected by these regulations.

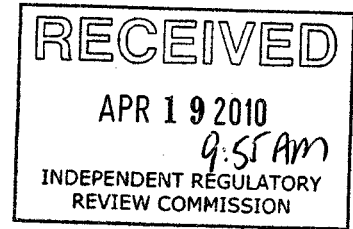
(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The proposed amendments will impose minimal paperwork requirements. CNSs will have to maintain certificates of completion of continuing education.

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board is not aware of any groups with special needs that could be adversely affected by the proposed amendments.

CDL-1



FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

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

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

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Nursing

(AGENCY)

BY:
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16A-5133

DATE OF APPROVAL _____

DATE OF ADOPTION: _____

April 6, 2010
DATE OF APPROVAL

BY:
Ann L. O'Sullivan, Ph.D., FAAN, CRNP

Deputy General Counsel
(~~Chief Counsel,~~
~~Independent Agency~~)

(Strike inapplicable title)

Chairperson
TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OF SECRETARY)

Check if applicable
Copy not approved.
Objections attached.

Check if applicable.
No Attorney General approval
or objection within 30 days
after submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF NURSING
49 PA. CODE, CHAPTER 21
CLINICAL NURSE SPECIALISTS

The State Board of Nursing (Board) amends Chapter 21 by adding a new Subchapter H (relating to clinical nurse specialists) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The amendments are required by the act of July 20, 2007 (P.L. 320, No. 49) (Act 49), which amended the Professional Nursing Law (act) (63 P.S. §§ 211-225.5) to authorize the Board to certify clinical nurse specialists (CNSs) in accordance with statutory criteria, to provide title protection for CNSs, to require CNSs to complete continuing education to renew their certification, and to require CNSs to maintain professional liability insurance.

Response to Comments

The proposed rulemaking was published on June 14, 2008. The Board received comments from the Pennsylvania State Nurses Association (PSNA) and the American Psychiatric Nurses Association of Pennsylvania (APNA-PA). PSNA and APNA-PA suggested that the Board should strike, in § 21.811(1)(i) (relating to qualifications for initial certification), the reference to the National Council of State Boards of Nursing (NCSBN), and reference instead the National Organization of Competency Assurance (NOCA). NOCA created the National Commission for Certifying Agencies (NCCA) in 1987 as the organization that would bestow accreditation under the NCCA's Standards for the Accreditation of Certification Programs. The Board has deleted and rewritten § 21.811 and has deleted references to certifying bodies.

The Board deleted and rewrote § 21.811 to make the section less convoluted and easier to understand. The requirement that an applicant hold a current, unrestricted RN license is consistent with requirements for CRNPs. The requirement that an applicant hold the appropriate degree is set forth in section 8.5(a) of the act (63 P.S. § 218.5(a)). These requirements now form subsections (a) and (b) of § 21.811. Subsection (c) also applies to applicants for whom current National certification is available, mirroring section 8.5(a)(1) of the act (63 P.S. § 218.5(a)(1)). Subsection (c) also applies to applicants who currently hold National certification as a CNS. Subsection (d) applies to applicants for whom National certification is not available, mirroring section 8.5(a)(2) of the act (63 P.S. § 218.5(a)(2)). As rewritten, these applicants will be required to submit a letter from a National certifying organization that demonstrates that the applicant is not eligible to sit for a National certification examination, a CV, the employer's job description which evidences practice in the CNS role as evaluated by the Board's nursing

practice advisors, and a letter verifying the applicant's dates of employment to show that the applicant has practiced at least 1000 hours in the CNS role in the past 5 years. Subsection (e) mirrors section 8.5(a)(3) of the act (63 P.S. § 218.5(a)(3)).

Next, PSNA and APNA-PA, and the National Association of Clinical Nurse Specialists (NACNS) suggested that § 21.813(d)(1) (relating to application for certification) does not take into consideration a CNS who does not have access to official transcripts from the CNS's educational program. The Board understands that there may be a rare exception of a CNS who does not have access to official transcripts. In such a case, the CNS may request a waiver of the regulation under the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 35.18 (relating to petition for issuance, amendment, waiver or deletion of regulations). The Board declines to specify this procedure in the regulation, as it could be applicable to virtually any provision of its regulations and it would be repetitive to add such a statement or cross reference to every provision to which it might apply.

Third, the organizations recommended that CNSs be given 18 months instead of 12 months to complete their applications for certification under § 21.813(f). Every other class of individuals licensed or certified by the Board is subject to the 12-month limitation on completing an application for licensure. The Board declines to set a different time frame for completion of a CNS's application for certification.

Finally, APNA-PA recommended that the regulation should not repeat section 8.6 of the act (relating to scope of practice for a CNS) because the statute is merely title recognition and does not confer any scope of practice on CNSs. Other organizations, specifically the Pennsylvania Psychiatric Society and Pennsylvania Medical Society, commented that the statutory section should be added to the regulation. IRRC commented that the final-form regulation "should include all requirements from the Act or justify why certain provisions are being omitted." Because the weight of comments suggested including this statutory section, the Board decided to add this language to the regulation.

The Hospital and Healthsystem Association of Pennsylvania (HAP) wrote in support of the overall direction taken by the Board in its rulemaking. However, HAP expressed concern that CNSs might be confused about the different requirements for continuing education for RNs and CNSs. Section 8.5(c)(2) of the act (63 P.S. § 218.5(c)(2)) requires CNSs to complete at least 30 hours of Board-approved continuing education prior to biennial renewal of their certification. The Board set forth its requirements for continuing education in §§ 21.822-21.827. Because CNSs are educated at an advanced, master's degree level, they are more akin to CRNPs than RNs. Therefore, the Board modeled the CNS continuing education provisions after the existing CRNP continuing education provisions.

Specifically, HAP noted that the list of pre-approved courses for RNs is more expansive than those proposed for CNSs. The list is equivalent to the list of pre-approved courses for CRNPs. HAP questioned whether a course completed from the RN list that is not on the CNS list would qualify for continuing education completed by the CNS. Just as courses completed from the RN list that are not on the CRNP list will not qualify for continuing education

completed by a CRNP, a course completed from the RN list that is not on the CNS list will not qualify for continuing education completed by a CNS.

HAP next questioned why individual nurses or providers of RN continuing education must submit their materials to the Board 90 days prior to the commencement of the activity but individual CNSs or providers of CNS continuing education must submit their materials to the Board 60 days prior to the commencement of the activity. There are approximately 200,000 licensed RNs and the Board anticipates only about 4,000 CNS licensees. The Board allowed itself additional time to review requests for approval related to RN continuing education because there is a higher likelihood that there will be substantially more requests to consider for RN continuing education than for CNS continuing education. Additionally, the 60-day time period is consistent with the time period provided for individual CRNPs or providers of CRNP continuing education.

HAP questioned why the RN continuing education provisions allow for group or individual research but the CNS provisions are silent regarding research. The Board intended that research be creditable under § 21.285(e) (relating to sources of continuing education) when the research is published in a refereed journal or other scholarly publication, similar to when research is creditable for CRNPs. Regarding this provision, HAP also noted that the RN continuing education provisions do not allow for publication in a refereed journal or other scholarly publication. Again, the Board designed the CNS continuing education regulations to be like the CRNP continuing education regulations because CNSs and CRNPs are both master's prepared nurses. HAP recommended that the Board clarify whether participation in a research project is applicable to the CNS and CRNP. The Board determined that, as master's prepared nurses, only published research would be creditable.

HAP also noted the discrepancy between the CNS and CRNP provisions with respect to the number of hours that could be credited for service as a teacher or preceptor. The Board had initially determined that CNS should be able to obtain credit for more hours for these activities because these activities are integral to the CNS role. Upon consideration of HAP's comment, and in a further effort to coincide the CNS and CRNP provisions, the Board has amended § 21.825(e) to reduce the number of hours that may be credited.

Finally, the Board notes that continuing education for CNSs, like CRNPs, is well-developed because CNSs, like CRNPs, complete extensive continuing education to maintain their National certification. For this additional reason, the Board sought to draft similar regulations for CNS and CRNP continuing education, and to grant credit consistent with the standards for continuing education for maintenance of National certification.

The National Association of Clinical Nurse Specialists (NACNS) suggested that the Board add a definition of "accepted" and amend its definition of "approved" to indicate Board approval of offerings by Pennsylvania entities. Because the term accepted is no longer used in the rulemaking, it is not necessary to define the term.

NACNS recommended phrasing "post-master's degree or certificate in nursing" in § 21.811(b) as "post-master's nursing degree." Board staff has told the Board that nursing schools

may call what is awarded a post-master's certificate or a post-master's degree. In order to ensure that all eligible programs are included, the Board will retain the post-master's degree or certificate in nursing language.

NACNS recommended different language related to CNSs who are not eligible to take a National certification examination or for whom no examination is available to permit a CNS to "demonstrate eligibility through validation" by a credentialing organization. The Board believes that the General Assembly intended, in this title protection legislation, to be as all-inclusive as possible and permit master's-prepared individuals who have been working in the clinical nurse specialist role to continue to do so and to use the title CNS. The Board has drafted equivalency qualifications that effectuate this intent.

NACNS recommended a new paragraph to permit a CNS to demonstrate eligibility for certification by submitting documents and a fee to a Pennsylvania CNS program for review and critique. The Board prefers to have applicants submit information directly to the Board, where it can be reviewed by Board staff and, if necessary, the full Board.

NACNS next recommended that § 21.812 (relating to qualifications for certification by endorsement; additional certification) refer to the addition or change of specialty area. The Board determined that the section should apply to addition of specialty area, because a CNS already certified in one area does not change the area of specialty even if the CNS decides to allow his or her National or Board certification in that specialty area lapse. The Board also made amendments to improve the clarity of § 21.812 and make the language more closely follow statutory language.

NACNS proposed that the Board add a provision, wherever appropriate, stating that a nurse will be eligible to apply for Board certification for 2 years after the final publication of the regulations. The Board believes that nurses will be eligible to apply for Board certification indefinitely after the final publication of the regulations, whenever the nurses meet the qualifications for certification. This approach will allow for ongoing certification of clinical nurse specialists in new areas of practice for which there is no National certification examination, notably genetics and forensics.

With response to continuing education, NACNS suggested that the Board refer to "clock hours" rather than "hours." The Board specifically did not refer to clock hours, which means a 60-minute hour, in order to allow CNSs who wish to receive continuing education credit for taking additional nursing classes to do so. The vast majority of academic institutions use the 50-minute academic hour rather than the 60 minute clock hour. Moreover, because the 50-minute period is a minimum, it will not preclude CNSs from taking continuing education courses based on the clock hour.

NACNS also suggested that the Board should specify, in § 21.805 (relating to fees), that fees are non-refundable. This is not specified in the regulations for any other class of licensees; however, it is specified on every application. Therefore, the Board declines to make the amendment. NACNS suggested that the fee for approval of continuing education activity be for "each review of a proposal" of continuing education activity in § 21.805(a). The Board agrees

and has amended the language. NACNS suggested that the Board add a new subsection (c) to § 21.805, stating that no action would be taken until all documents and fees are received. The Board believes this is implicit in its regulations and applications and declines to add a new subsection. Finally, the Board suggested that the regulation specify that the application must be completed within 12 months “from the first date of application.” The Board believes that this is also implicit in the language already and declines to make the amendment.

The Board received identical comments from the Pennsylvania Medical Society (PMS) and the Pennsylvania Psychiatric Society (PPS). These associations suggested that the regulation should repeat section 8.6 of the act (63 P.S. § 218.6). The Board agrees that some reference to section 8.6 would improve the regulation, and has amended § 21.821(a) (related to CNS standards of conduct) to specify that a CNS may perform only those services that comprise the practice of professional nursing as defined in section 2(1) of the act; amended § 21.831 (related to penalties for violations) to specify that a CNS may be disciplined for engaging in medical diagnosis or the prescription of medical therapeutic or corrective measures prohibited by section 8.6(a) of the act; and amended § 21.831(2) to specify that a CNS may be disciplined for performing a service beyond the scope of practice of professional nursing.

Several commenters, including the HPLC, suggested that the regulation should include a reference to the liability insurance provisions set forth in section 8.5(e) of the act (63 P.S. § 218.5(e)). The Board has referenced the section of the act in § 21.813(f).

IRRC next noted that several commentators suggested the regulation should include a grandfather clause for those nurses that have a master’s degree in Nursing and have previously “demonstrated success” and effectiveness in the role of CNS. IRRC stated: “The Board should consider adding a grandfather clause for a CNS in this situation. If the Board adds a grandfather clause, it should also specify the criteria that must be met for a nurse to be certified as a CNS under a grandfather clause.” The Board has provided for broad equivalence requirements which will permit master’s-educated CNSs to continue using the CNS title.

IRRC noted that the regulatory definition of a CNS is not identical to the statutory definition of a CNS. The regulation replaces the term “registered nurse” with the definition contained in section 3 of the act (63 P.S. § 213) for clarity. In addition, the regulation clarifies that the Board may only certify a professional nurse as a clinical nurse specialist if the professional nurse meets the requirements set forth in the act. The definition in the regulation is wholly consistent with the statutory definition and the Board believes that the definition is much clearer for the regulated community.

IRRC asked whether the Board intends to require candidates to pay fees to the National certification or credentialing organizations, and if so, asks what is the Board’s authority to do so. Section 8.5(a) of the act requires that a candidate either hold current National certification or meet equivalence requirements. The Board assumes that the General Assembly was aware that fees are required to be paid to the National certification organization and intended to require candidates to pay these fees. The Board’s regulation merely informs candidates that there are fees associated with obtaining National certification or meeting equivalence requirements, and is consistent with the Board’s regulations of other licensees who are required to pay fees to entities

other than the Board associated with licensure. See, §§ 21.5(b), 21.147(b) and 21.705(b) (relating to fees). It should be noted that CRNPs, who under section 8.1(b)(1)(ii) of the act (63 P.S. § 218.1(b)(1)(ii)) must also hold National certification, also must pay a fee to the National certification body that confers National certification on CRNPs. In the past, licensing Boards have been advised to include in their rulemaking the requirement that candidates pay fees to organizations involved in certification or credentialing. See, e.g., 32 Pa. B. 1861 (April 13, 2002).

IRRC commented that the Board's regulation should specify, in §§ 21.811 and 21.813, what evidence must be submitted by an applicant for certification in order to demonstrate completion of a CNS educational program, current national certification, or certification from a National nursing, nursing specialty or credentialing organization. The Board declines to include such specifics in its regulation for two main reasons. First, because the regulation represents the initial certification of CNSs in this Commonwealth, the Board does not have extensive experience with all of the organizations involved in CNS credentialing and does not know the proper titles of all documents used by these organizations. To include the name of every organization's credentialing documents would be unwieldy and unnecessary in the regulation. Second, the Board believes that certification to licensing boards will change in the next several years with the advent of and increased use of on-line verification programs, which would require rewriting and re-promulgating the regulation, an unnecessary expense. As with its other licensees, the Board intends to provide details of the information applicants should submit directly on the application for certification. This procedure has worked well for the Board for many years with the licensure of RNs, LPNs, LDNs and CRNPs and the Board does not anticipate that following the same procedure for CNSs will create any confusion or difficulties.

IRRC also commented on other commenter's remarks about NOCA and NCSBN, about "change" or "addition" of specialty area, and about applicants who do not have access to their official transcripts. The Board has already addressed these comments, above.

Regarding § 21.813(f), which has been renumbered § 21.813(g) in the final rulemaking, IRRC posited that the subsection allowed 12 months for CNSs to meet compliance standards and asked how the Board determine that this was an appropriate timeframe. The section does not provide a time frame for candidates to meet compliance standards. The section limits the lifespan of an application for certification. Certification is not granted until the application is complete, that is, until all supporting documentation has been received. If supporting documentation is not received within 12 months of the initial receipt of the application for certification, this section provides that the application will expire and the applicant will be required to file a new application. The section does not give an applicant 12 months to meet compliance standards because the certification is not granted until all standards have been met.

IRRC next questioned § 21.821 (related to CNS standards of conduct) and asked how the Board would determine whether a CNS has the "necessary knowledge, preparation, experience and competency" to properly execute a specific practice of procedure. A virtually identical provision has been part of the RN regulations for many years and the Board has not had any problem applying the provision. In accordance with the Administrative Agency Law, 1 Pa.C.S. § 504, the Board imposes discipline on its licensees only after the licensee has been afforded due

process protections. Through the legal process, and after hearing evidence presented at hearing, the Board may make determinations regarding whether a licensee has the “necessary knowledge, preparation, experience and competency” to properly execute a specific practice of procedure.

In response to commenters, including IRRC, who suggested that the Board should reference the scope of practice of CNSs in its rulemaking, the Board has added a subsection (b) to § 21.821. The Board notes that the CNS enabling amendments to the law do not confer a scope of practice on CNSs. Rather, the legislation noted that the scope of practice of a CNS is the same as the statutorily defined scope of practice of the RN. The Board believes its changes and the addition of subsection (b) meets the concerns raised by commenters.

Regarding § 21.822 (relating to biennial renewal of certification), IRRC suggested that the Board specify in the regulation the time when the Board will forward renewal notices to licensees. All of the Boards within the Bureau of Professional and Occupational Affairs plan to send renewal notices to licensees 90 days prior to the expiration date. However, if this timeframe were placed in regulation, it is not clear what effect a delay in sending renewal notices would have. Therefore, the Board declines to put a specific time in its regulations. The expiration date is printed on every license, so every licensee is aware of the date by which they must renew their license.

IRRC suggested that § 21.822(f) was misplaced. The Board decided that the provision, which required identifying information be submitted with correspondence, was unnecessary.

Second, IRRC suggested that the Board should provide circumstances for when it would waive the continuing education requirement or provide a cross reference to § 21.823(b) (relating to CNS-level continuing education; waiver; sanctions). The Board has added the requested cross-reference. Third, IRRC asked how the Board would determine if a licensee met the continuing education requirement and suggested that the regulation should clarify how the Board makes this determination. The Board is not aware of regulations of any Board within the Bureau of Professional and Occupational Affairs that specify how the Board determines that its licensees have met the continuing education requirement. The Board intends to follow the same procedure it uses for CRNP continuing education and that the State Board of Medicine uses for physician continuing education – an audit of licensees. Because the enforcement of the act and regulations is a matter left to the administrative discretion of the Board, and the methods the Board uses to perform this function may change, the Board declines to specify a single procedure that will be used to monitor compliance with this or any other section of the Act or regulations.

Regarding § 21.823, IRRC requested that the Board specify in what timeframe the Board would grant, deny or grant in part a request for waiver of continuing education requirements. The Board’s timeframe is determined by its meeting dates, which are set annually, usually in October or November. The Board considers matters at its earliest opportunity, but cannot specify a timeframe. If a request was timely made and the inability of the Board to respond to the request resulted in noncompliance, the Board would provide additional time to meet the requirement before discipline would be imposed.

IRRC submitted numerous comments related to § 21.825 (relating to sources of continuing education). IRRC asked whether the Board considered allowing CNSs to get credit for group or individual research, as RNs may do. The Board did consider this and determined that CNS continuing education should be similar to CRNP continuing education because these two groups of professional nurses have similar educational backgrounds. IRRC asked how one would know that the preapproved continuing education providers and credentialing organizations agreed to abide by §§ 21.826 and 21.827 (relating to requirements for continuing education; continuing education course approval). The Board has amended § 21.825(a) to require providers to comply with the provisions.

IRRC next asked what circumstances would result in a reevaluation of approval given to a provider or credentialing organization and what circumstances would warrant a rescission of approval. Reevaluation would result from complaints filed with the Board. Failure to meet the regulatory criteria for continuing education would warrant rescission.

IRRC asked why the timeframe for submission of an individual request for CE approval from a CNS or CNS provider is different than for an RN or RN provider. The reason is that the Board anticipates licensing several thousand CNS, but licenses 200,000 RNs. Additional time may be needed to process requests from RNs.

IRRC asked how the Board determined that 15 credit hours were sufficient for services such as teaching in a nursing education program or precepting students in a clinical setting. The Board originally thought that nurses providing these services should be able to obtain half of the requirement from the service. Since the rulemaking was published as proposed, the Board has reconsidered. The Board believes that continuing education should advance the knowledge of the practitioner. The Board cannot find that teaching in a nursing education program or precepting students advances the practitioner's knowledge. Therefore, the Board determined that only 4 hours should be credited toward the CE requirement. This provision is consistent with § 21.334(e) (relating to sources of continuing education) which limits CRNPs to obtaining 4 hours of continuing education through teaching or precepting activities.

IRRC next noted that the term "adequate" in § 21.826(2) is non-regulatory language. The Board has amended the provision for clarity, requiring an adequate physical facility and appropriate instructional materials to carry out the continuing education course. A facility would be adequate to carry out a course if it was adequately lit and ventilated, of adequate temperature, had sufficient seating to accommodate the number of attendees, the attendees were able to hear the presenters, and the like. The regulated community did not express any concern with understanding the provision.

Finally, regarding § 21.827, IRRC noted that it would be impossible for an applicant to know what "other information" the Board would want at the time of initial submittal of the application and suggested that this requirement should be in its own subsection. The Board has made the requested change.

The Board received two comments from individuals. The first commenter, Mr. Legg, inquired whether an individual could be eligible for licensure by endorsement if the individual

was not Nationally certified. As amended, section 7(c) of the act (63 P.S. § 217(c)) authorizes the Board to issue a certification to a CNS licensed in another state, territory or possession or a foreign country as deemed equivalent to Pennsylvania's certification requirements. Because Pennsylvania's certification requirements mandate National certification or its equivalent, applicants for licensure by endorsement will be required to demonstrate National certification or its equivalent just as will CNSs who are currently practicing in Pennsylvania.

Mr. Legg next asked about CNSs who received their master's degrees before the ANCC required 500 hours of supervised clinical practice in CNS educational programs. This is significant because only individuals who completed programs with at least 500 hours of supervised clinical practice are eligible to sit for ANCC National certification examinations. Such individuals would be able to obtain Pennsylvania certification under § 21.811(2)(i)(B).

Next, Mr. Legg asked why National certification was being required for initial CNS licensure when it was not required for initial CRNP licensure. The General Assembly made this determination when it enacted the legislation granting title protection to CNSs. Mr. Legg also asked if the Board had considered provisions for CRNPs who do not practice as CRNPs, but whose practice more closely reflects the CNS role; specifically inquiring whether a CRNP could obtain a CNS license. Mr. Legg went on to state that some CRNPs are considering surrendering their CRNP certification because of the costs associated with maintaining malpractice insurance. To Mr. Legg's first question, a CRNP cannot "become" a CNS through application; to be certified as a CNS requires completion of a CNS educational program and National certification as a CNS. To Mr. Legg's second remark, CNSs are also required, under the statute, to maintain liability insurance.

The Board also received comments from Ms. Allen. Ms. Allen stated that she held a master's degree in nursing and believed that she had been prepared as a CNS, but did "not have a confirmation that the accreditation focused on the CNS component." Ms. Allen should contact the director of her master's degree program to determine if the program prepared graduates to practice as a CNS. Ms. Allen also expressed concerns about the National certification requirement. Ms. Allen considers as her specialty Maternity Nursing, for which she states that there is no National certification examination. Section 21.811(2) allows CNSs for whom there is no certification examination available in the specialty area to demonstrate equivalency. If there is no National certification examination for which Ms. Allen is qualified to sit, Ms. Allen may pursue certification under the equivalency requirements.

Fiscal Impact and Paperwork Requirements

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions, because the costs of the Board's activities are supported by fees charged to licensees and others who benefit from specific activities of the Board. The amendments will impose no additional paperwork requirements upon the Commonwealth or political subdivisions.

Sunset Date

The Board continuously monitors the 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 June 4, 2008, the Board submitted notice of this proposed rulemaking, published at 38 Pa.B. 3246 (June 14, 2008), 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 under section 201 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1201).
- (4) 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 that:

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

Ann O'Sullivan, Ph.D., FAAN, CRNP, Chairman
State Board of Nursing

ANNEX A

PENNSYLVANIA 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 H. CLINICAL NURSE SPECIALISTS

GENERAL PROVISIONS

§ 21.801. Definitions.

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

Act – The Professional Nursing Law (63 P.S. §§ 211-225.5), which provides for the certification of CNSs.

Approved – Approved by the Board.

Approved program – Those educational programs accredited by the NLNAC or CCNE for preparing a professional nurse to practice as a CNS.

Board – The State Board of Nursing of the Commonwealth.

BOARD-DESIGNATED SPECIALTY – ONE OF SIX PATIENT POPULATIONS, INCLUDING NEONATAL, PEDIATRICS, FAMILY/ACROSS THE LIFESPAN,

ADULT/GERONTOLOGY, WOMEN'S HEALTH/GENDER-RELATED AND
PSYCHIATRIC/MENTAL HEALTH.

BOARD-RECOGNIZED – THE BOARD HAS DETERMINED THAT AN ENTITY
MEETS THE BOARD'S QUALITY STANDARDS TO CONDUCT AN ACTIVITY
AND HAS NAMED THE ENTITY ON THE BOARD'S WEB SITE.

CERTIFICATION – CERTIFICATION AS A CNS ISSUED BY THE BOARD.

CCNE – Commission on Collegiate Nursing Education – The organization recognized by
the United States Secretary of Education as a National accreditation agency that provides
a nongovernmental peer review process in accordance with Nationally recognized
standards established for the practice of accreditation in the United States.

CNS – Clinical Nurse Specialist – ~~A registered nurse~~ AN INDIVIDUAL licensed in this
Commonwealth TO PRACTICE PROFESSIONAL NURSING who meets the
educational and examination or equivalency requirements of the act and who is certified
by the Board to function in a particular clinical specialty area. AS A CLINICAL NURSE
SPECIALIST.

National certification – The credential awarded by a Board-recognized organization
evidencing that an individual has passed a National certification examination to practice
as a CNS in a particular specialty area and has maintained current National certification
in the area A SPECIALTY as specified by the organization.

National certification organization – An organization recognized by the Board and maintained on the approved list on the Board’s website that has as one of its purposes the examination of individuals to WHO WILL practice as CNSs in a particular specialty area.

NLNAC – National League for Nursing Accrediting Commission – The organization that is recognized as the accrediting body for all types of nursing education programs by the United States Department of Education and that is responsible for the specialized accreditation of nursing education programs, both post-secondary and higher degrees.

~~Nursing specialty organization – An organization recognized by the Board and maintained on the approved list on the Board’s website that has as one of its purposes the evaluation of the credentials of an individual to practice as a CNS in a particular specialty area.~~

§ 21.802. Scope.

In this subchapter the Board:

- (1) Provides for certification of CNSs who meet the qualifications set forth in the act.
- (2) Administers the act by providing rules and regulations relating to the issuance and renewal of CNS certification.
- (3) Provides rules and regulations for the conduct of CNSs.
- (4) Regulates the practice of CNSs.

§ 21.803. Applicability of rules relating to professional nurses.

Sections §§ 21.1 – 21.4a, 21.6 and 21.11 – 21.18a apply to nurses certified under this subchapter.

21.804. Approved educational programs; ~~approval of credentialing organizations.~~

- (a) The Board will approve educational programs as set forth in section 6.2(c) of the act (63 P.S. § 216.2(c)).
- (b) The Board will maintain a list of approved educational programs on its website as set forth in section 6.2(c)(2) of the act.
- (c) Educational programs that prepare nurses to practice as CNSs created after March 20, 2008, shall submit evidence that the program meets the criteria in section 6.2(c)(1) of the act to the Board for inclusion on the list of approved programs.
- ~~(d) Organizations that evaluate the credentials of nurses for certification by the Board under § 21.811(b) (relating to qualifications for certification) shall submit documentation of their credentials review process and standards to the Board for consideration and inclusion on the list of approved organizations.~~

§ 21.805. Fees.

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

Certification as a CNS.....\$100

Biennial renewal fee.....\$50

Restoration of certificate after sanction\$50

Restoration of certificate after lapse of 5 years or greater.....\$50

Fee for verification of certification.....\$15

Fee for certification of license history\$30

Approval of a continuing education activity, per credit hour.....\$75

APPLICATION FOR APPROVAL OF A CNS CONTINUING EDUCATION
ACTIVITY.....\$75

(b) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for National certification will also pay an additional fee to the National certification CERTIFYING organization. A candidate may contact the National certification CERTIFYING organization for more information regarding the National CNS CERTIFICATION examination and examination fee. In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for credentials review by a Board recognized organization will also pay an additional fee to the credentialing organization. A candidate may contact the credentialing organization for more information regarding the evaluation of credentials and the fee for credentials evaluation.

CERTIFICATION REQUIREMENTS

§ 21.811. Qualifications for initial certification.

An applicant for initial certification as a CNS by the Board shall hold a current,

~~unrestricted license to practice professional nursing in this Commonwealth, and show~~
evidence of one of the following:

THE BOARD MAY CERTIFY AN APPLICANT FOR INITIAL CERTIFICATION WHO FILES AN APPLICATION ON A FORM PROVIDED BY THE BOARD AND PAYS THE APPLICATION FEE SET FORTH IN § 21.805, IN ACCORDANCE WITH THE FOLLOWING:

(1) *RN LICENSE.* THE BOARD MAY CERTIFY AN APPLICANT WHO HAS A CURRENT, UNRESTRICTED LICENSE TO PRACTICE PROFESSIONAL NURSING IN THIS COMMONWEALTH.

(2) *EDUCATION.* THE BOARD MAY CERTIFY AN APPLICANT WHO HAS A MASTER'S DEGREE, DOCTORAL DEGREE OR POST-MASTER'S DEGREE OR CERTIFICATE IN NURSING FROM AN EDUCATIONAL PROGRAM THAT MEETS THE REQUIREMENTS OF SECTION 6.2(C)(1) OF THE ACT (63 P.S. § 216.2(C)(1)).

(3) *ALTERNATIVE EDUCATION.* AN APPLICANT FOR INITIAL CERTIFICATION WHO COMPLETED AN EDUCATIONAL PROGRAM IN A RELATED DISCIPLINE PREVIOUSLY RECOGNIZED FOR NATIONAL CERTIFICATION AS A CNS MAY BE GRANTED CERTIFICATION FROM THE BOARD IN THE AREA OF THE APPLICANT'S CURRENT NATIONAL CERTIFICATION FROM THE AMERICAN NURSES ASSOCIATION OR THE AMERICAN NURSES CREDENTIALING CENTER.

(4) *NATIONAL CERTIFICATION OR EQUIVALENCE.*

(I) THE BOARD MAY GRANT INITIAL CERTIFICATION IN A BOARD-DESIGNATED SPECIALTY OR OTHER PERTINENT SPECIALTY TO AN APPLICANT WHO DEMONSTRATES CURRENT NATIONAL CERTIFICATION BY EXAMINATION.

(II) THE BOARD MAY GRANT INITIAL CERTIFICATION WITHOUT SPECIALTY TO AN APPLICANT WHO DEMONSTRATES THAT THEIR EDUCATIONAL PROGRAM DOES NOT MAKE THEM ELIGIBLE TO TAKE A NATIONAL CERTIFICATION EXAMINATION AND WHO DEMONSTRATES EQUIVALENCE. FOR PURPOSES OF THIS SECTION, THE BOARD WILL DETERMINE EQUIVALENCE ON A CASE-BY-CASE BASIS AFTER CONSIDERING THE INFORMATION SUBMITTED BY THE APPLICANT THAT MAY INCLUDE AN OFFICIAL TRANSCRIPT, COURSE DESCRIPTIONS, CURRENT CURRICULUM VITAE, WORK HISTORY IN THE CNS ROLE, PROFESSIONAL RECOMMENDATIONS AND ADDITIONAL ADVANCED NURSING EDUCATION AND CERTIFICATION EXAMINATIONS.

~~(1) Nursing education and National certification by examination. Completion of an accredited, Board-approved master's degree in nursing, doctorate degree in nursing or~~

~~post-master's degree or certificate in nursing that prepared the applicant to practice as a CNS and current National certification by examination at the CNS level from a Board-recognized National nursing, nursing specialty or credentialing organization in a designated specialty area, as provided in section 8.5(a)(1) of the act (63 P.S. § 218.5(a)(1)).~~

~~(i) — For purposes of conferring certification under this paragraph, an organization may apply to the Board for inclusion on the list of Board-recognized National nursing, nursing specialty and credentialing organizations for purposes of this section. An applicant shall provide evidence that it is accredited or recognized by the American Board of Nursing Specialties (ABNS) or the National Council of State Boards of Nursing (NCSBN) to offer a CNS certification examination. The CNS certification examination offered by the organization must have, as a minimum prerequisite, the completion of a master's degree in nursing, doctorate degree in nursing or post-master's degree or certificate in nursing in the specialty area of examination.~~

~~(ii) — The Board will provide on its web site a list of the National nursing, nursing specialty and credentialing organizations recognized by the Board for conferring CNS National certification by examination under this paragraph.~~

~~(2) — Nursing education and equivalency to National certification by examination. Completion of an accredited, Board approved master's degree in nursing, doctorate degree in nursing, or post-master's degree or certificate in nursing that prepared the applicant to practice as a CNS and, if there is no certification examination available in the~~

~~specialty area, evidence that the applicant has met the equivalence requirements under section 8.5(a)(2) of the act as follows:~~

~~(i) An applicant for certification as a CNS under this paragraph may demonstrate equivalence to National certification by examination in the CNS's specialty area as follows:~~

~~(A) For a CNS who, by virtue of the CNS's educational program being accepted by a National certification organization, is authorized to take a National certification examination in a CNS specialty, the CNS may demonstrate a passing score on a National CNS certifying examination from a National certification organization on the list under paragraph (1)(i), in an area that encompasses the CNS's specialty area.~~

~~(B) For a CNS who is not eligible to take a National certification examination in the CNS specialty area or in an area that encompasses the CNS specialty area, the CNS may demonstrate certification by a Board-recognized National nursing, nursing specialty or credentialing organization within the past 3 years, or recertification if the certification or other process occurred more than 3 years ago.~~

~~(ii) For purposes of conferring certification under subparagraph (i)(B), an organization may apply to the Board for inclusion on the list of Board-recognized National nursing, nursing specialty and credentialing~~

~~organizations by submitting documentation of the organization's credentials review standards and process. The Board will recognize organizations that include a reliable mechanism to evaluate an individual's ability to apply the skills and knowledge obtained in the individual's educational program at the advanced practice nursing level in a particular specialty.~~

~~(iii) The Board will provide on its website a list of the National nursing, nursing specialty and credentialing organizations recognized by the Board for certification of CNSs under subparagraph (i)(B).~~

~~(3) *Related education and National certification.* Completion of an educational program that culminated in the award of a master's degree in nursing or higher degree, in a related discipline that, prior to the effective date of Act 49 of 2007, which amended the act (July 20, 2007), qualified a nurse for National certification as a CNS, and current National certification as a CNS by the American Nurses Credentialing Center (ANCC), as provided in section 8.5(b)(1) of the act.~~

§ 21.812. Qualifications for certification by endorsement or change of clinical specialty area; ADDITIONAL CERTIFICATION.

(a) *Certification by endorsement.* An applicant for certification by the Board who HOLDS AN a current, unrestricted license, certificate or authorization to practice as a CNS from another state, territory or possession of the United States or a foreign country, shall meet the certification requirements of the Board at the time of application. WHO MET INITIAL CERTIFICATION REQUIREMENTS

EQUIVALENT TO THE BOARD'S CERTIFICATION REQUIREMENTS AND A CURRENT RN LICENSE IN THIS COMMONWEALTH MAY BE GRANTED CERTIFICATION BY ENDORSEMENT.

- (b) ~~*Change of Clinical Specialty Area*~~ ADDITIONAL CERTIFICATION. A CNS who is already certified by the Board may apply for AN ADDITIONAL certification ~~in an additional specialty area~~. In order to be granted certification ~~in an additional~~ CERTIFICATION ~~specialty area~~, the CNS shall meet the educational and National certification or equivalency requirements for the ADDITIONAL specialty area in which the CNS is applying for certification.

§ 21.813. Application for certification.

- (a) An applicant for certification as a CNS shall submit an application form provided by the Board to the Board for its review and approval.
- (b) An applicant for initial certification as a CNS shall include documentation satisfactory to the Board that the applicant meets the educational qualifications and National certification requirements set forth in § 21.811 (relating to qualifications for initial certification).
- (c) In addition to the documentation in subsections (a) and (b), an applicant for certification by endorsement shall include documentation satisfactory to the Board THAT THE APPLICANT MEETS THE EDUCATIONAL QUALIFICATIONS SET FORTH IN § 21.812(A) (RELATING TO QUALIFICATIONS FOR CERTIFICATION BY ENDORSEMENT;

ADDITIONAL CERTIFICATION) AND of the following:

- (1) Verification of ~~current~~, unrestricted licensure, certification or authority to practice as a professional nurse and CNS issued by the proper licensing authority of another state, territory or possession of the United States or a foreign country.
 - (2) A written statement from the out-of State licensing, credentialing or authorizing entity setting forth the licensure, certification or authorization to practice requirements at the time the applicant was first licensed, certified or authorized to practice by that entity.
- (d) An applicant who holds certification from the Board as a CNS who is applying for AN ADDITIONAL certification in an additional specialty area under § 21.812(b) (relating to qualifications for certification by endorsement or change of clinical specialty area; ADDITIONAL CERTIFICATION) shall submit, in addition to the documentation required under subsections (a) and (b), documentation of the following:
- (1) Official transcript from the applicant's CNS program and any additional educational programs, including degree awarded, demonstrating a concentration in the specialty area in which the applicant is seeking certification.
 - (2) Proof of current National certification as a CNS from a Board recognized National certification organization or proof the applicant meets the

equivalency requirements for the specialty area in which the applicant is applying for certification.

- (e) An applicant shall remit the certification fee in § 21.805 (relating to fees).
- (f) AN APPLICANT SHALL VERIFY COMPLIANCE WITH SECTION 8.5(E) OF THE ACT (63 P.S. §218.5(E)) ON THE APPLICATION FOR CERTIFICATION.
- (G) An applicant shall submit additional information as identified on the application or as requested in writing by the Board. If supporting material is not provided within 12 months OF THE DATE OF APPLICATION, the applicant will be required to file a new application AND REMIT THE CERTIFICATION FEE.

MAINTENANCE OF CERTIFICATION

§ 21.821. CNS standards of conduct.

- (A) In addition to the standards of conduct for a professional nurse set forth in § 21.18 (relating to standards of nursing conduct), a CNS shall ~~undertake a specific practice or procedure only if the CNS has the necessary knowledge, preparation, experience and competency to properly execute the practice or procedure.~~ PERFORM ONLY THOSE SERVICES THAT COMPRISE THE PRACTICE OF PROFESSIONAL NURSING AS DEFINED IN SECTION 2 (1) OF THE ACT (63 P.S. § 212(1)).

- (B) A CNS PRACTICING IN THIS COMMONWEALTH SHALL MAINTAIN A LEVEL OF PROFESSIONAL LIABILITY COVERAGE AS SET FORTH IN SECTION 8.5(E) OF THE ACT (63 P.S. § 218.5(E)).

§ 21.822. Biennial renewal of certification

- (a) The certification of a CNS will expire at the same time as the CNS's professional nursing license as provided in § 21.29 (relating to expiration and renewal of license).
- (b) Notice of application for renewal will be forwarded biennially to each active CNS at the CNS's address of record with the Board prior to the expiration date of the current biennial period.
- (c) As a condition of biennial renewal, a CNS shall hold a valid, unexpired and unrestricted professional nursing license.
- (d) As a condition of biennial renewal, a CNS shall complete a minimum of 30 hours of Board-approved continuing education in the 2 years prior to renewal as required by section 8.5(c)(2) of the act (63 P.S. § 218.5(c)(2)), unless the requirement is waived by the Board UNDER § 21.823(B) (RELATING TO CNS-LEVEL CONTINUING EDUCATION; WAIVER; SANCTIONS) or the CNS's certification is on inactive status.
- (e) The applicant shall remit the required renewal fee in § 21.805 (relating to fees) with the applicant's renewal application forms. Upon approval of the renewal application, the CNS will receive a certification for the current renewal period.

~~(f) Any written communication with the Board shall be typed or printed and include the CNS's full name, including former names, the current address and certification number.~~

§ 21.823. CNS-level continuing education; waiver; sanctions.

(a) In lieu of meeting the RN CONTINUING EDUCATION requirements of section 12.1(b) of the act (63 P.S. § 222(b)), a CNS may submit proof of completion of the CNS continuing education requirement set forth in section 8.5(c)(2) of the act (63 P.S. § 218.5(c)(2)).

(b) The Board may waive the requirements of continuing education in cases of illness or undue hardship. It is the duty of each licensee who seeks a waiver to notify the Board in writing and request the waiver at least 90 days prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver.

(c) An individual failing to meet the continuing education requirements for a biennial period will be sanctioned in accordance with § 43b.18a (related to schedule of civil penalties for nurses).

§ 21.824. Inactive status and reactivation.

A CNS who places the CNS's certification on inactive status is not required to meet the continuing education requirements in section 8.5(c)(2) of the act (63 P.S. § 218.5(c)(2)) during the period the certification is on inactive status. Upon application for reactivation of certification, the CNS shall provide the documentation in § 21.828(b) (relating to CNS responsibilities) to demonstrate that the CNS has met the continuing

education requirements for the biennial period immediately preceding the request for reactivation.

§ 21.825. Sources of continuing education.

(a) The following providers of continuing education and credentialing organizations have currently met the standards for course approval for continuing education and, provided that these providers and credentialing organizations ~~agree to abide by~~ COMPLY WITH § 21.826 and 21.827 (relating to requirements for continuing education courses; and continuing education course approval), they are preapproved to offer creditable continuing education, subject to reevaluation as set forth in subsection (b):

- (1) Board-approved CNS educational programs and CNS educational programs approved by other state boards of nursing or that hold current accreditation issued by a National nursing accreditation organization.
- (2) National and international nursing organizations and their state and local affiliates.
- (3) National and international medical and osteopathic organizations and their state and local affiliates.
- (4) National pharmaceutical organizations and their state and local affiliates.
- (5) National nursing specialty organizations AND PROGRAMS ACCREDITED BY NATIONAL NURSING ACCREDITING ASSOCIATIONS.

- (6) Continuing education programs approved by other state boards of nursing for ADVANCED PRACTICE NURSES OR CNSs.
- (b) The approval given to the providers and credentialing organizations in subsection (a) is subject to reevaluation. A rescission of provider or credentialing organization approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) or by amendment of this section.
- (c) CNSs may obtain credit for continuing education offered by providers not indicated in subsection (a) if the provider obtains Board approval of the continuing education prior to its implementation, or the CNS obtains Board approval of the continuing education prior to attending the continuing education. A continuing education provider or CNS may obtain Board approval of continuing education by submitting a request AN APPLICATION for approval, THE FEE SET FORTH IN § 21.805 (RELATING TO FEES) and the supporting documentation in § 21.827(b) at least 60 90 days prior to the course. The Board will approve or disapprove the request within 45 days.
- (d) CNSs may obtain credit for correspondence courses, taped study courses, and other independent or online study courses if the course is Board approved UNDER SUBSECTION (C).
- (e) Up to 15 4 hours will MAY be credited APPROVED UNDER SUBSECTION (C) for service as a teacher IN A NURSING EDUCATION PROGRAM, preceptor PROVIDING DIRECT CLINICAL SUPERVISION IN A SPECIALTY AREA,

lecturer or speaker and for publication in a refereed journal or other scholarly publication relating to the CNS's area of practice.

- (f) An hour for the purposes of CNS continuing education is 50 minutes.
- (G) THE BOARD WILL APPLY § 21.132(B) (RELATING TO CONTINUING EDUCATION HOURS) TO DETERMINE THE NUMBER OF HOURS AWARDED FOR ACADEMIC COURSEWORK.

§ 21.826. Requirements for continuing education courses.

Each course must have:

- (1) An established mechanism to measure its quality, established criteria for selecting and evaluating faculty, and established criteria for the evaluation of each participant who completes the course.
- (2) ~~Adequate facilities with appropriate instructional materials to carry out continuing education programs~~ AN ADEQUATE PHYSICAL FACILITY AND APPROPRIATE INSTRUCTIONAL MATERIALS TO CARRY OUT THE CONTINUING EDUCATION COURSE.
- (3) An instructor whose area of expertise is in the subject matter being taught.

§ 21.827. Continuing education course approval.

- (a) As a condition of approval, providers and credentialing organizations are required to provide CNSs who complete continuing education courses with a certificate of completion which contains the information in § 21.828(a) (relating to CNS

responsibilities).

(b) Providers or CNSs requesting Board approval for continuing education as set forth in § 21.825(c) (relating to sources of continuing education) shall pay the fee in § 21.805 (relating to fees) and submit the following information to the Board:

- (1) The full name and address of the provider.
- (2) The title of the program.
- (3) The dates and location of the program.
- (4) The faculty names, titles, affiliations, degrees and areas of expertise.
- (5) The schedule of the program – title of subject, lecturer and time allocated.
- (6) The total number of hours requested.
- (7) The method of certifying and assuring attendance, and draft of certificate of attendance to be provided to course participants.
- (8) The course objectives.
- (9) The target audience.
- (10) The core subjects.
- (11) The instruction and evaluation methods.
- (12) ~~Other information requested by the Board.~~

(c) PROVIDERS SHALL SUBMIT OTHER INFORMATION REQUESTED BY THE BOARD.

(D) The provider shall provide CNSs who successfully complete a course with a certificate of attendance.

~~(d)~~ (E) A separate application 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.

§ 21.828. CNS responsibilities.

(a) A CNS is required to maintain documentation of completion of continuing education, including:

- (1) CNS's name.
- (2) Dates attended.
- (3) Continuing education hours.
- (4) Title of course.
- (5) Course provider.
- (6) Location of course.

(b) Primary responsibility for documenting completion of the continuing education requirements rests with the CNS. A CNS seeking to renew certification shall verify compliance with continuing education requirements. Certificates of

attendance and other documentation of completion of continuing education requirements must be maintained for 5 years. The Board approval letter sent to the applicant will be considered acceptable documentation of hours obtained through § 21.825(c) or (e) (relating to sources of continuing education).

- (c) Falsification of information required under this section or failure to complete the continuing education requirements by those who continue to practice as a CNS may result in the institution of formal disciplinary action under section 14(a)(3) of the act (63 P.S. § 221(a)(3)) and § 21.831(3) (relating to penalties for violations).

PENALTIES FOR VIOLATION

§ 21.831. Penalties for violations.

Certification as a CNS may be suspended, revoked or otherwise restricted, AND THE BOARD MAY ORDER REMEDIAL MEASURES when, after notice and opportunity to be heard, the Board finds that:

- (1) The CNS has engaged in MEDICAL DIAGNOSIS OR THE PRESCRIPTION OF MEDICAL THERAPEUTIC OR CORRECTIVE MEASURES PROHIBITED BY SECTION 8.6(A) OF THE ACT (63 P.S. § 218.6(A)) ~~the performance of functions and tasks beyond the scope of practice permitted for a CNS or beyond the scope of the CNS's clinical specialty area as provided in the act and this subchapter.~~
- (2) The CNS has performed a task or function which the CNS does not have the necessary knowledge, preparation, experience and competency to

~~perform properly or is not qualified under the act and this subchapter to~~

~~perform.~~—SERVICE BEYOND THE SCOPE OF PRACTICE OF PROFESSIONAL NURSING AS DEFINED IN SECTION 2(1) OF THE ACT (63 P.S. § 212(1)).

- (3) The CNS has violated the act or this subchapter, or engaged in any conduct prohibited for professional nurses.

16A-5133: Clinical Nurse Specialists
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Withdrawal of Rulemaking Order

Public Meeting held
May 22, 2008

Commissioners Present: Wendell F. Holland, Chairperson;
James H. Cawley, Vice Chairperson; Tyrone J. Christy;
Kim Pizzigrilli

*Rulemaking Re: Proposed Revision to Commission
Regulations Governing Extended Area Service (EAS) at
52 Pa. Code §§ 63.71—63.77
Docket No. L-00050173*

*Report and Recommendation of the Extended
Area Service Task Force
Docket No. M-00031703*

Final Rulemaking Order

By the Commission:

Before the Commission for disposition are the proposed Final Rules for Extended Area Service (EAS)¹ modifying the current regulations set forth in the Public Utility Code at 52 Pa. Code §§ 63.71—63.77. The rulemaking was initiated by the Commission in November 2005 with the intention of updating our current regulations so as to reflect changes in the regulatory environment for providing telecommunications services in Pennsylvania. The Commission received comments from the Office of Consumer Advocate, the Pennsylvania Telephone Association, and the Independent Regulatory Review Commission.

Discussion

Staff has dedicated significant time and effort in the preparation of proposed and final regulations for our review and they are commended for their efforts. However, pursuant to the Regulatory Review Act, regulations must be submitted in final-form within 2 years of the close of the public comment period. In light of the June 6, 2008, regulatory deadline for submission of these regulations to legislative standing committees and the Independent Regulatory Review Commission, the Commission does not believe that there is sufficient time remaining to give the proposed final rulemaking proper consideration. Consequently, the Commission concludes that this rulemaking proceeding be closed.

Since receiving public comments over 2 years ago, there have been considerable changes in the structure of the telecommunications industry with the implementation of bundled service packages; the emergence of competition, cable telephony, wireless competition and innovative technologies such as Voice over Internet Protocol (VoIP). All of these changes in the market have limited the number of EAS cases coming before us. Although the number of EAS cases has diminished, it does not minimize the relevancy of EAS in areas where true competition is not yet a reality. The Commission should take these changes into consideration and ensure that any modification to our existing regulations accurately reflect the current marketplace.

The closing of this rulemaking does not negate a local exchange carrier's duty to comply with our existing regulations and the Commission will continue to apply these regulations to any EAS cases coming before us. In light of the continued effectiveness of the current regula-

¹ EAS is a term of art referring to a procedure in which the Commission expands a basic local calling area. EAS converts an in-state (intrastate) toll route, in which consumers typically pay for a call on a minute of use (MOU) basis, into a local calling area route. When the consumers get EAS, they typically pay a flat rate for unlimited local calling or, in the case of an Optional Calling Plan (OCP), pay a discounted toll rate.

tions, the suspension of the biennial traffic studies requirement of 52 Pa. Code § 63.72 shall remain in effect.²

The closing of the rulemaking does not preclude the Commission from further exploring EAS issues and instituting a new rulemaking, as deemed necessary, at a future date. The Commission will convene a working group of stakeholders to solicit comments on the future direction of EAS given the changes in the market since this rulemaking was initiated over 2 years ago. *Therefore,*

It Is Ordered That:

1. The instant rulemaking be closed.
2. A copy of the entered Opinion and Order be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Telephone Association and published in the *Pennsylvania Bulletin*.
3. The Commission provide notice to the Office of Attorney General, the Governor's Budget Office, the Legislative Standing Committees, and the Independent Regulatory Review Commission that this rulemaking has been closed.
4. The Law Bureau, in conjunction with the Bureau of Fixed Utility Services, convene a stakeholders' working group and develop for Commission consideration within 120 days an updated recommendation regarding possible amendment of our current EAS regulations.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1100. Filed for public inspection June 13, 2008, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Clinical Nurse Specialists

The State Board of Nursing (Board) proposes to amend Chapter 21 by adding a new Subchapter H (relating to clinical nurse specialists) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The regulations are required by the act of July 20, 2007 (P. L. 320, No. 49) (Act 49), which amended the Professional Nursing Law (act) (63 P. S. §§ 211—225.5) to authorize the Board to certify clinical nurse specialists (CNSs) in accordance with statutory criteria, to provide title protection for CNSs, to require CNSs to complete continuing education to renew their certification, and to require CNSs to maintain professional liability insurance. Section 5 of Act 49 requires the Board to promulgate regulations to implement Act 49 within 18 months of its effective date, or by March 18, 2009.

Background and Purpose

CNSs are nurses educated at the master's degree level. Prior to the amendments made by Act 49, CNSs were not

² This requirement was suspended by Commission Order entered June 30, 1999 at Docket No. 1-000940035.

recognized as a distinct category of master's educated nurse under the act. The amendments are required to effectuate Act 49.

Description of Proposed Amendments

The Board proposes a comprehensive new Subchapter H. The specific proposals are outlined as follows.

§ 21.801 (relating to definitions)

Section 21.801 will provide definitions for terms used throughout the subchapter.

§ 21.802 (relating to scope)

This section will set out the scope of the Board's regulations in Subchapter H.

§ 21.803 (relating to applicability of rules relating to professional nurses)

Because a CNS must also be a professional nurse licensed by the Board, this section provides that the general provisions in §§ 21.1—21.4 governing registered nurses and §§ 21.11—21.18a, relating to responsibilities of the registered nurse, apply to CNSs.

§ 21.804 (relating to approved educational programs; approval of credentialing organizations)

This section provides that the Board will approve educational programs for CNSs, will maintain a list of approved educational programs on its web site, and will consider additional programs for inclusion on the approved list as required by section 6.2(c) of the act (63 P. S. § 216.2(c)).

§ 21.805 (relating to fees)

This section provides for fees for both fee for service functions of the Board, such as the review and approval of the certification application, restoration of certification after sanction, reactivation after a lapse of 5 or more years, and verification of licensure history, and for biennial renewal fees for CNSs.

§ 21.811 (relating to qualifications for initial certification)

This section sets forth the qualifications for certification, which mirror the qualifications in Act 49. To qualify for initial certification as a CNS, an applicant must hold a current, unrestricted license as a professional nurse in this Commonwealth. In addition, the nurse shall meet one of three sets of criteria.

First, as set forth in paragraph (1), the nurse shall have completed a master's degree in nursing, doctorate degree in nursing or postmaster's degree or certificate in nursing at an accredited, Board-approved nursing education program that prepared the applicant to practice as a CNS and submit evidence of current National certification by examination as a CNS in a designated specialty area. The examination must be offered by a Board-recognized National nursing, nursing specialty or credentialing organization. These provisions mirror the qualifications in section 8.5(a)(1) of the act (63 P. S. § 218.5(a)(1)). In subparagraph (i), the Board provides that National nursing, nursing specialty and credentialing organizations may apply to the Board for recognition. In subparagraph (ii), the Board notes that it will maintain the list of Board-recognized organizations on its web site.

National certification under § 21.811(1) includes the American Nurses Credentialing Center (ANCC) specialties—adult health CNS, adult psychiatric and mental health CNS, child/adolescent psychiatric and mental health CNS, gerontological CNS, pediatric CNS, public/community health CNS and diabetes management, ad-

vanced CNS. In addition, the Board anticipates that the Oncology Nursing Certification Corporation, the American Association of Critical Care Nurses, the Hospice and Palliative Nurses Association and the National Association of Orthopaedic Nurses may request inclusion on the list of Board-recognized providers of National examinations at the CNS level.

Second, as set forth in paragraph (2), the nurse shall have completed a master's degree in nursing, doctorate degree in nursing or postmaster's degree or certificate in nursing at an accredited, Board-approved nursing education program that prepared the applicant to practice as a CNS and, if there is no certification examination available in the specialty area, shall demonstrate equivalence to National certification. These provisions mirror the qualifications in section 8.5(a)(2) of the act.

In § 21.811(2)(i)—(iii), the Board sets forth how an applicant can demonstrate equivalence to National certification. Paragraph (2)(i)(A) allows a CNS to take a CNS certifying examination in an area that encompasses the CNS's specialty area. Paragraph (2)(i)(B) allows a CNS to demonstrate certification by an organization that utilizes a method of measuring competence other than an examination; generally, portfolio review. Paragraph (2)(i)(B) explains how an organization offering an alternative to examination may obtain approval from the Board and paragraph (2)(iii) provides that the Board will maintain a list of approved organizations for alternative review on its web site.

The Board anticipates that the Wound, Ostomy, Continence Nurses Association, which offers a portfolio review at the CNS level, will request recognition under paragraph (2)(ii).

Third, the nurse may have graduated from an educational program that culminated in the award of a master's degree or higher in a related discipline that previously qualified the nurse for National certification as a CNS and evidence of current National certification by the American Nurses Credentialing Center (ANCC), in accordance with section 8.5(b)(1) of the act.

A nurse would be eligible for certification as a CNS under § 21.811(3) as, for example, an adult psychiatric mental health CNS if the nurse held a bachelor's degree in nursing and a master's degree in psychology, which previously qualified the nurse to sit for the ANCC CNS certifying examination.

§ 21.812 (relating to qualifications for certification by endorsement or change of clinical specialty area)

Section 21.812 provides for certification by endorsement from another state, territory or possession of the United States or a foreign country and change of clinical specialty area by a CNS already certified by the Board.

§ 21.813 (relating application for certification)

Section 21.813 provides information about the application for certification and supporting documentation for applicants for initial certification, applicants for certification by endorsement and applicants for certification in an additional specialty area.

§ 21.821 (relating to CNS standards of conduct)

This section provides that, in addition to the standards of conduct for professional nurses in § 21.18 (relating to standards of nursing conduct), a CNS may undertake a specific practice or procedure only if the CNS has the necessary knowledge, preparation, experience and compe-

tency to properly execute the practice or procedure and that the CNS must practice within the scope of practice of the particular clinical specialty area in which the nurse is certified by the Board. This provision mirrors a provision related to certified registered nurse practitioners (CRNPs).

§ 21.822 (relating to biennial renewal of certification)

This section sets forth the particulars related to a CNS's biennial renewal of the CNS certification. As with CRNPs, the certification expiration date is tied to the nurse's RN license expiration date. The biennial continuing education required by statute is cross-referenced in § 21.822(d).

§ 21.823 (relating to CNS-level continuing education; waiver; sanctions)

The Board also provides, in § 21.823(a), that in lieu of meeting the continuing education requirement in section 12.1(b) of the act (63 P. S. § 222(b)), a CNS may submit proof that the CNS has completed 30 hours of continuing education required by section 8.5(c)(2) of the act. This provision is similar to the provision requiring continuing education of CRNPs. Both CRNPs and CNSs will be required to complete just 30 hours of continuing education at the professional nurse level to renew their RN license, rather than requiring a CNS to complete an additional 30 hours of continuing education at the RN level to renew the CNS certificate.

Section 21.823(b) sets forth the circumstances under which the Board might waive the continuing education requirement, and provides that a request for waiver must be made at least 90 days prior to the end of the renewal period.

Finally, § 21.823(c) reminds licensees that they may be sanctioned for failure to meet the statutorily-mandated continuing education requirements.

§ 21.824 (relating to inactive status and reactivation)

To renew a license that has been placed on inactive status, a CNS shall provide proof of compliance with the continuing education requirement in the biennial renewal period immediately preceding the request for reactivation. This provision is consistent with provisions related to CRNPs. In addition, if the CNS's professional nursing license was also on inactive status, the CNS will have to renew the RN license and, if necessary, meet the continued competency requirements for RNs in § 21.30a (relating to continued competency).

§ 21.825 (relating to sources of continuing education)

This section provides for preapproved providers of continuing education courses, similar to the provisions related to both professional nurses and CRNPs. The section also provides for CNSs or continuing education providers to obtain Board approval for continuing education. Finally, this section provides for CNSs to obtain continuing education credit for individual study, teaching, publishing, and the like.

§ 21.826 (relating to requirements for continuing education courses)

This section sets forth the minimum standards for courses, including adequate instructors, facilities and an established mechanism to measure the quality of the continuing education program.

§ 21.827 (relating to continuing education course approval)

This section relates to the approval of a continuing education course. Every continuing education provider

shall provide a certificate of attendance to nurses who complete the program. Providers who are not on the list of preapproved providers, shall submit information to the Board to determine whether the provider's proposed course should be authorized for continuing education credit.

§ 21.828 (relating to CNS responsibilities)

This section provides that the CNS is required to maintain documentation of the continuing education completed. The section also describes the verification procedure on the biennial renewal application.

§ 21.831 (relating to penalties for violations)

This section sets forth the penalties for violations of the act or regulations of the Board.

Fiscal Impact and Paperwork Requirements

The regulations will have no adverse fiscal impact on the Commonwealth or its political subdivisions, because the costs of the Board's activities are supported by fees charged to licensees and others who benefit from specific activities of the Board. The regulations will impose no additional paperwork requirements upon the Commonwealth or political subdivisions.

Sunset Date

The Board continuously monitors the 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 June 4, 2008, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions 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 of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-5133 (clinical nurse specialists), when submitting comments.

MARY E. BOWEN, RN, DNS, CNAA,
Chairperson

Fiscal Note: 16A-5133. 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 H. CLINICAL NURSE SPECIALISTS

GENERAL PROVISIONS

- Sec.
- 21.801. Definitions.
- 21.802. Scope.
- 21.803. Applicability of rules relating to professional nurses.
- 21.804. Approved educational programs; approval of credentialing organizations.
- 21.805. Fees.

CERTIFICATION REQUIREMENTS

- 21.811. Qualifications for initial certification.
- 21.812. Qualifications for certification by endorsement or change of clinical specialty area.
- 21.813. Application for certification.

MAINTENANCE OF CERTIFICATION

- 21.821. CNS standards of conduct.
- 21.822. Biennial renewal of certification.
- 21.823. CNS-level continuing education; waiver; sanctions.
- 21.824. Inactive status and reactivation.
- 21.825. Sources of continuing education.
- 21.826. Requirements for continuing education courses.
- 21.827. Continuing education course approval.
- 21.828. CNS responsibilities.

PENALTIES FOR VIOLATION

- 21.831. Penalties for violations.

GENERAL PROVISIONS

§ 21.801. Definitions.

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

Act—The Professional Nursing Law (63 P. S. §§ 211—225.5), which provides for the certification of CNSs.

Approved—Approved by the Board.

Approved program—Those educational programs accredited by the NLNAC or CCNE for preparing a professional nurse to practice as a CNS.

Board—The State Board of Nursing of the Commonwealth.

CCNE—Commission on Collegiate Nursing Education—The organization recognized by the United States Secretary of Education as a National accreditation agency that provides a nongovernmental peer review process in accordance with Nationally recognized standards established for the practice of accreditation in the United States.

CNS—Clinical nurse specialist—A registered nurse licensed in this Commonwealth who meets the educational and examination or equivalency requirements of the act and who is certified by the Board to function in a particular clinical specialty area.

National certification—The credential awarded by a Board-recognized organization evidencing that an individual has passed a National certification examination to practice as a CNS in a particular specialty area and has maintained current National certification in the area as specified by the organization.

National certification organization—An organization recognized by the Board and maintained on the approved list on the Board's web site that has as one of its

purposes the examination of individuals to practice as CNSs in a particular specialty area.

NLNAC—National League for Nursing Accrediting Commission—The organization that is recognized as the accrediting body for all types of nursing education programs by the United States Department of Education and that is responsible for the specialized accreditation of nursing education programs, both postsecondary and higher degrees.

Nursing specialty organization—An organization recognized by the Board and maintained on the approved list on the Board's web site that has as one of its purposes the evaluation of the credentials of an individual to practice as a CNS in a particular specialty area.

§ 21.802. Scope.

In this subchapter the Board:

- (1) Provides for certification of CNSs who meet the qualifications set forth in the act.
- (2) Administers the act by providing rules and regulations relating to the issuance and renewal of CNS certification.
- (3) Provides rules and regulations for the conduct of CNSs.
- (4) Regulates the practice of CNSs.

§ 21.803. Applicability of rules relating to professional nurses.

Sections §§ 21.1—21.4a, 21.6 and 21.11—21.18a apply to nurses certified under this subchapter.

§ 21.804. Approved educational programs; approval of credentialing organizations.

(a) The Board will approve educational programs as set forth in section 6.2(c) of the act (63 P. S. § 216.2(c)).

(b) The Board will maintain a list of approved educational programs on its web site as set forth in section 6.2(c)(2) of the act.

(c) Educational programs that prepare nurses to practice as CNSs created after March 20, 2008, shall submit evidence that the program meets the criteria in section 6.2(c)(1) of the act to the Board for inclusion on the list of approved programs.

(d) Organizations that evaluate the credentials of nurses for certification by the Board under § 21.811(b) (relating to qualifications for certification) shall submit documentation of their credentials review process and standards to the Board for consideration and inclusion on the list of approved organizations.

§ 21.805. Fees.

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

Certification as a CNS	\$100
Biennial renewal fee	\$ 50
Restoration of certificate after sanction.....	\$ 50
Restoration of certificate after lapse of 5 years or greater.....	\$ 50
Fee for verification of certification	\$ 15
Fee for certification of license history	\$ 30
Approval of a continuing education activity, per credit hour	\$ 75

(b) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a

candidate for National certification will also pay an additional fee to the National certification organization. A candidate may contact the National certification organization for more information regarding the National CNS examination and examination fee. In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for credentials review by a Board-recognized organization will also pay an additional fee to the credentialing organization. A candidate may contact the credentialing organization for more information regarding the evaluation of credentials and the fee for credentials evaluation.

CERTIFICATION REQUIREMENTS

§ 21.811. Qualifications for initial certification.

An applicant for initial certification as a CNS by the Board shall hold a current, unrestricted license to practice professional nursing in this Commonwealth and show evidence of one of the following:

(1) *Nursing education and National certification by examination.* Completion of an accredited, Board-approved master's degree in nursing, doctorate degree in nursing or postmaster's degree or certificate in nursing that prepared the applicant to practice as a CNS and current National certification by examination at the CNS level from a Board-recognized National nursing, nursing specialty or credentialing organization in a designated specialty area, as provided in section 8.5(a)(1) of the act (63 P. S. § 218.5(a)(1)).

(i) For purposes of conferring certification under this paragraph, an organization may apply to the Board for inclusion on the list of Board-recognized National nursing, nursing specialty and credentialing organizations for purposes of this section. An applicant shall provide evidence that it is accredited or recognized by the American Board of Nursing Specialties (ABNS) or the National Council of State Boards of Nursing (NCSBN) to offer a CNS certification examination. The CNS certification examination offered by the organization must have, as a minimum prerequisite, the completion of a master's degree in nursing, doctorate degree in nursing or postmaster's degree or certificate in nursing in the specialty area of examination.

(ii) The Board will provide on its web site a list of the National nursing, nursing specialty and credentialing organizations recognized by the Board for conferring CNS National certification by examination under this paragraph.

(2) *Nursing education and equivalency to National certification by examination.* Completion of an accredited, Board-approved master's degree in nursing, doctorate degree in nursing, or postmaster's degree or certificate in nursing that prepared the applicant to practice as a CNS and, if there is no certification examination available in the specialty area, evidence that the applicant has met the equivalence requirements under section 8.5(a)(2) of the act as follows:

(i) An applicant for certification as a CNS under this paragraph may demonstrate equivalence to National certification by examination in the CNS's specialty area as follows:

(A) For a CNS who, by virtue of the CNS's educational program being accepted by a National certification organization, is authorized to take a National certification examination in a CNS specialty, the CNS may demonstrate a passing score on a National CNS certifying examination from a National certification organization on

the list under paragraph (1)(ii), in an area that encompasses the CNS's specialty area.

(B) For a CNS who is not eligible to take a National certification examination in the CNS specialty area or in an area that encompasses the CNS specialty area, the CNS may demonstrate certification by a Board-recognized National nursing, nursing specialty or credentialing organization within the past 3 years, or recertification if the certification or other process occurred more than 3 years ago.

(ii) For purposes of conferring certification under subparagraph (i)(B), an organization may apply to the Board for inclusion on the list of Board-recognized National nursing, nursing specialty and credentialing organizations by submitting documentation of the organization's credentials review standards and process. The Board will recognize organizations that include a reliable mechanism to evaluate an individual's ability to apply the skills and knowledge obtained in the individual's educational program at the advanced practice nursing level in a particular specialty.

(iii) The Board will provide on its web site a list of the National nursing, nursing specialty and credentialing organizations recognized by the Board for certification of CNSs under subparagraph (i)(B).

(3) *Related education and National certification.* Completion of an educational program that culminated in the award of a master's degree in nursing or higher degree, in a related discipline that, prior to the effective date of Act 49 of 2007, which amended the act (July 20, 2007), qualified a nurse for National certification as a CNS, and current National certification as a CNS by the American Nurses Credentialing Center (ANCC), as provided in section 8.5(b)(1) of the act.

§ 21.812. Qualifications for certification by endorsement or change of clinical specialty area.

(a) *Certification by endorsement.* An applicant for certification by the Board who holds a current, unrestricted license, certificate or authorization to practice as a CNS from another state, territory or possession of the United States or a foreign country, shall meet the certification requirements of the Board at the time of application.

(b) *Change of clinical specialty area.* A CNS who is already certified by the Board may apply for certification in an additional specialty area. To be granted certification in an additional specialty area, the CNS shall meet the educational and National certification or equivalency requirements for the specialty area in which the CNS is applying for certification.

§ 21.813. Application for certification.

(a) An applicant for certification as a CNS shall submit an application form provided by the Board to the Board for its review and approval.

(b) An applicant for initial certification as a CNS shall include documentation satisfactory to the Board that the applicant meets the educational qualifications and National certification requirements in § 21.811 (relating to qualifications for initial certification).

(c) In addition to the documentation in subsections (a) and (b), an applicant for certification by endorsement shall include documentation satisfactory to the Board of the following:

(1) Verification of current, unrestricted licensure, certification or authority to practice as a professional nurse

and CNS issued by the proper licensing authority of another state, territory or possession of the United States or a foreign country.

(2) A written statement from the out-of State licensing, credentialing or authorizing entity setting forth the licensure, certification or authorization to practice requirements at the time the applicant was first licensed, certified or authorized to practice by that entity.

(d) An applicant who holds certification from the Board as a CNS who is applying for certification in an additional specialty area under § 21.812(b) (relating to qualifications for certification by endorsement or change clinical specialty area) shall submit, in addition to the documentation required under subsections (a) and (b), documentation of the following:

(1) Official transcript from the applicant's CNS program and any additional educational programs, including degree awarded, demonstrating a concentration in the specialty area in which the applicant is seeking certification.

(2) Proof of current National certification as a CNS from a Board-recognized National certification organization or proof the applicant meets the equivalency requirements for the specialty area in which the applicant is applying for certification.

(e) An applicant shall remit the certification fee in § 21.805 (relating to fees).

(f) An applicant shall submit additional information as identified on the application or as requested in writing by the Board. If supporting material is not provided within 12 months, the applicant will be required to file a new application.

MAINTENANCE OF CERTIFICATION

§ 21.821. CNS standards of conduct.

In addition to the standards of conduct for a professional nurse in § 21.18 (relating to standards of nursing conduct), a CNS shall undertake a specific practice or procedure only if the CNS has the necessary knowledge, preparation, experience and competency to properly execute the practice or procedure.

§ 21.822. Biennial renewal of certification.

(a) The certification of a CNS will expire at the same time as the CNS's professional nursing license as provided in § 21.29 (relating to expiration and renewal of license).

(b) Notice of application for renewal will be forwarded biennially to each active CNS at the CNS's address of record with the Board prior to the expiration date of the current biennial period.

(c) As a condition of biennial renewal, a CNS shall hold a valid, unexpired and unrestricted professional nursing license.

(d) As a condition of biennial renewal, a CNS shall complete a minimum of 30 hours of Board-approved continuing education in the 2 years prior to renewal as required by section 8.5(c)(2) of the act (63 P. S. § 218.5(c)(2)), unless the requirement is waived by the Board or the CNS's certification is on inactive status.

(e) The applicant shall remit the required renewal fee in § 21.805 (relating to fees) with the applicant's renewal application forms. Upon approval of the renewal application, the CNS will receive a certification for the current renewal period.

(f) Any written communication with the Board must be typed or printed and include the CNS's full name, including former names, the current address and certification number.

§ 21.823. CNS-level continuing education; waiver; sanctions.

(a) In lieu of meeting the requirements of section 12.1(b) of the act (63 P. S. § 222(b)), a CNS may submit proof of completion of the continuing education requirement in section 8.5(c)(2) of the act (63 P. S. § 218.5(c)(2)).

(b) The Board may waive the requirements of continuing education in cases of illness or undue hardship. It is the duty of each licensee who seeks a waiver to notify the Board in writing and request the waiver at least 90 days prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver.

(c) An individual failing to meet the continuing education requirements for a biennial period will be sanctioned in accordance with § 43b.18a (related to schedule of civil penalties for nurses).

§ 21.824. Inactive status and reactivation.

A CNS who places the CNS's certification on inactive status is not required to meet the continuing education requirements in section 8.5(c)(2) of the act (63 P. S. § 218.5(c)(2)) during the period the certification is on inactive status. Upon application for reactivation of certification, the CNS shall provide the documentation in § 21.828(b) (relating to CNS responsibilities) to demonstrate that the CNS has met the continuing education requirements for the biennial period immediately preceding the request for reactivation.

§ 21.825. Sources of continuing education.

(a) The following providers of continuing education and credentialing organizations have currently met the standards for course approval for continuing education and, provided that these providers and credentialing organizations agree to abide by §§ 21.826 and 21.827 (relating to requirements for continuing education courses; and continuing education course approval), they are preapproved to offer creditable continuing education, subject to reevaluation as set forth in subsection (b):

(1) Board-approved CNS educational programs and CNS educational programs approved by other state boards of nursing or that hold current accreditation issued by a National nursing accreditation organization.

(2) National and international nursing organizations and their state and local affiliates.

(3) National and international medical and osteopathic organizations and their state and local affiliates.

(4) National pharmaceutical organizations and their state and local affiliates.

(5) National nursing specialty organizations.

(6) Continuing education programs approved by other state boards of nursing for CNSs.

(b) The approval given to the providers and credentialing organizations in subsection (a) is subject to reevaluation. A rescission of provider or credentialing organization approval will be made in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) or by amendment of this section.

(c) CNSs may obtain credit for continuing education offered by providers not indicated in subsection (a) if the

provider obtains Board approval of the continuing education prior to its implementation, or the CNS obtains Board approval of the continuing education prior to attending the continuing education. A continuing education provider or CNS may obtain Board approval of continuing education by submitting a request for approval and the supporting documentation in § 21.827(b) at least 60 days prior to the course. The Board will approve or disapprove the request within 45 days.

(d) CNSs may obtain credit for correspondence courses, taped study courses, and other independent or online study courses if the course is Board approved.

(e) Up to 15 hours will be credited for service as a teacher, preceptor, lecturer or speaker and for publication in a refereed journal or other scholarly publication relating to the CNS's area of practice.

(f) An hour for the purposes of CNS continuing education is 50 minutes.

§ 21.826. Requirements for continuing education courses.

Each course must have:

(1) An established mechanism to measure its quality, established criteria for selecting and evaluating faculty, and established criteria for the evaluation of each participant who completes the course.

(2) Adequate facilities with appropriate instructional materials to carry out continuing education programs.

(3) An instructor whose area of expertise is in the subject matter being taught.

§ 21.827. Continuing education course approval.

(a) As a condition of approval, providers and credentialing organizations are required to provide CNSs who complete continuing education courses with a certificate of completion which contains the information in § 21.828(a) (relating to CNS responsibilities).

(b) Providers or CNSs requesting Board approval for continuing education as set forth in § 21.825(c) (relating to sources of continuing education) shall pay the fee in § 21.805 (relating to fees) and submit the following information to the Board:

- (1) The full name and address of the provider.
- (2) The title of the program.
- (3) The dates and location of the program.
- (4) The faculty names, titles, affiliations, degrees and areas of expertise.
- (5) The schedule of the program—title of subject, lecturer and time allocated.
- (6) The total number of hours requested.
- (7) The method of certifying and assuring attendance, and draft of certificate of attendance to be provided to course participants.
- (8) The course objectives.
- (9) The target audience.
- (10) The core subjects.
- (11) The instruction and evaluation methods.
- (12) Other information requested by the Board.

(c) The provider shall provide CNSs who successfully complete a course with a certificate of attendance.

(d) A separate application 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.

§ 21.828. CNS responsibilities.

(a) A CNS is required to maintain documentation of completion of continuing education, including:

- (1) CNS's name.
- (2) Dates attended.
- (3) Continuing education hours.
- (4) Title of course.
- (5) Course provider.
- (6) Location of course.

(b) Primary responsibility for documenting completion of the continuing education requirements rests with the CNS. A CNS seeking to renew certification shall verify compliance with continuing education requirements. Certificates of attendance and other documentation of completion of continuing education requirements must be maintained for 5 years. The Board approval letter sent to the applicant will be considered acceptable documentation of hours obtained through § 21.825(c) or (e) (relating to sources of continuing education).

(c) Falsification of information required under this section or failure to complete the continuing education requirements by those who continue to practice as a CNS may result in the institution of formal disciplinary action under section 14(a)(3) of the act (63 P. S. § 221(a)(3)) and § 21.831(3) (relating to penalties for violations).

PENALTIES FOR VIOLATION

§ 21.831. Penalties for violations.

Certification as a CNS may be suspended, revoked or otherwise restricted when, after notice and opportunity to be heard, the Board finds that:

(1) The CNS has engaged in the performance of functions and tasks beyond the scope of practice permitted for a CNS or beyond the scope of the CNS's clinical specialty area as provided in the act and this subchapter.

(2) The CNS has performed a task or function which the CNS does not have the necessary knowledge, preparation, experience and competency to perform properly or is not qualified under the act and this subchapter to perform.

(3) The CNS has violated the act or this subchapter, or engaged in any conduct prohibited for professional nurses.

[Pa.B. Doc. No. 08-1101. Filed for public inspection June 13, 2008. 9:00 a.m.]



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF NURSING
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7142

April 19, 2010

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

Re: Final Regulation
State Board of Nursing
16A-5133: Clinical Nurse Specialist

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Nursing pertaining to Clinical Nurse Specialist.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Ann L. O'Sullivan".

Ann L. O'Sullivan, PhD, FAAN, CRNP
Chairperson
State Board of Nursing

ALO/TL:rs

Enclosure

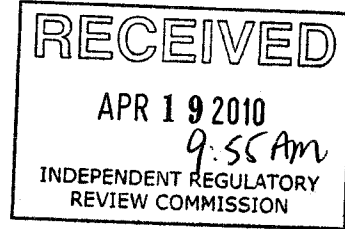
cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Steven V. Turner, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel & Senior Counsel in Charge
Department of State
Teresa Lazo, Counsel
State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

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

I.D. NUMBER: 16A-5133
SUBJECT: CLINICAL NURSE SPECIALISTS
AGENCY: DEPARTMENT OF STATE
STATE BOARD OF NURSING

TYPE OF REGULATION

- 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



FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/19/2010	<i>Clairne Nichols</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
4/19/10	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
4/19/10	<i>K. Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)