

# 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 Podiatry**

(2) Agency Number: 16A

Identification Number: 4410

IRRC Number: 2811

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(3) Short Title:

**Continuing Education**

(4) PA Code Cite:

**49 Pa. Code §§29.61 and 29.63a**

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

**Primary Contact: Steven Wennberg, Board Counsel, One Penn Center, 2601 North Third Street, Third Floor, Harrisburg, PA 17710; Tele: (717) 783-7200; Fax: (717) 787-0251  
E-mail: [swennberg@state.pa.us](mailto:swennberg@state.pa.us).**

**Secondary Contact: Joyce McKeever, Deputy Chief Counsel, One Penn Center, 2601 North Third Street, Harrisburg, PA 17110; Tele: (717) 783-7200; Fax: (717) 787-0251  
E-mail: [jmckeever@state.pa.us](mailto:jmckeever@state.pa.us)**

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

(All Comments will appear on IRRC'S website)

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

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

## Regulatory Analysis Form

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

**The regulations increase the biennial continuing education requirement for podiatrists from 30 hours to 50 hours. At least 30 of the hours must be in courses and programs in podiatric subjects that are approved by the Board or the Council on Podiatric Medical Education (CPME). The remaining 20 hours may be either in Board- or CPME-approved podiatric courses and programs or in courses and programs in medical subjects that are approved by the American Medical Association or the American Osteopathic Association.**

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

- |   |                          |
|---|--------------------------|
| A. The date by which the agency must receive public comments:                               | N/A                      |
| B. The date or dates on which public meetings or hearings will be held:                     | N/A                      |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <b>November 20, 2010</b> |
| D. The expected effective date of the final-form regulation:                                | <b>December 31, 2010</b> |
| E. The date by which compliance with the final-form regulation will be required:            | <b>December 31, 2010</b> |
| F. The date by which required permits, licenses or other approvals must be obtained:        | N/A                      |

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

**The Board regularly evaluates the effectiveness of regulations at its meetings. The Board holds at least six meetings each year.**

## Regulatory Analysis Form

### SECTION II: STATEMENT OF NEED

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

**Section 9.1 of the Podiatry Practice Act, Act of March 2, 1956, P.L. 1206, as amended, 63 P.S. §42.9a, sets forth the Board's authority to prescribe continuing education requirements, while Section 15 of the Podiatry Practice Act, 63 P.S. §42.15, sets forth the Board's authority to adopt such regulations as it deems necessary and proper to carry out its statutory responsibilities.**

(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.

**The regulations are not mandated by any federal or state law, regulation or court order.**

(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 regulations are needed to ensure that podiatrists regularly update their professional knowledge and skills so that they may continue to practice podiatric medicine with reasonable skill and safety to patients. Apart from podiatrists themselves, podiatric patients are the primary beneficiaries of the regulations; secondary beneficiaries include companies that underwrite professional liability insurance for podiatrists as well as hospitals and other health care facilities that employ or grant practice privileges to podiatrists.**

## Regulatory Analysis Form

(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.

N/A

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

**The Board cannot identify any group that will be adversely affected by the regulations.**

(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.

**Podiatrists will be required to comply with the regulations. At present there are approximately 1,400 podiatrists with active licenses.**

**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.

**Podiatrists will incur costs in meeting the increased biennial continuing education requirement. Owing to the wide range of continuing education offerings and providers, the Board cannot quantify these costs; however, they are not expected to be substantial or burdensome. None of the Board's approximately 1,400 active podiatrists, each of whom received written notification of the proposed rulemaking in December 2008, has advised the Board of any concerns about the costs of compliance. The costs of compliance are likely vitiated by the fact that many podiatrists already comply with the increased biennial continuing education requirement by virtue of conditions imposed by such groups as podiatric specialty organizations, insurance companies and hospitals.**

**The regulations will not impose new legal, accounting or consulting procedures on podiatrists.**

(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.

**The regulations will not result in costs or savings to local government. The regulations will not impose new legal, accounting or consulting procedures on 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 Board will incur minor, unquantifiable costs associated with auditing compliance by podiatrists with the increased biennial continuing education requirement. These costs are expected to be adequately defrayed by the current \$395 biennial renewal fee paid by podiatrists. The regulations will not impose new legal, accounting or consulting procedures on state government.**

## Regulatory Analysis Form

(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.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	<b>None</b>	<b>None</b>	<b>None</b>	<b>None</b>	<b>None</b>	<b>None</b>
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>	<b>See #17</b>	<b>See #17</b>	<b>See #17</b>	<b>See #17</b>	<b>See #17</b>	<b>See #17</b>
<b>Local Government</b>						
<b>State Government</b>	<b>See #19</b>	<b>See #19</b>	<b>See #19</b>	<b>See #19</b>	<b>See #19</b>	<b>See #19</b>
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>	<b>None</b>	<b>None</b>	<b>None</b>	<b>None</b>	<b>None</b>	<b>None</b>
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

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

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
<b>Podiatry Board</b>	<b>\$149,273</b>	<b>\$162,503 (projected)</b>	<b>\$153,145 (projected)</b>	<b>\$187,000 (budgeted)</b>

## Regulatory Analysis Form

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

**The regulations will enhance the knowledge and skill of podiatrists – conferring a substantial benefit to all individuals, organizations and entities with an interest in the competent practice of podiatric medicine – at no cost to the public at large and only modest cost to podiatrists and the Board. The cost to the Board will be defrayed by existing fees paid by podiatrists.**

(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.

**In drafting the regulations, the Board considered the views of the Pennsylvania Podiatric Medical Association, whose membership includes approximately 85% of all podiatrists in Pennsylvania.**

(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 did not consider any alternative regulatory provisions.**

(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.

**There are no federal standards applicable to the subject matter of the regulations.**

## Regulatory Analysis Form

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

**The regulations' increased biennial continuing education for podiatrists is consistent with the requirements of other states with large populations. Fourteen states, including California, Texas, Michigan and Illinois, require podiatrists to complete 50 hours of continuing education biennially, while Virginia and Oklahoma require 60 hours of continuing education biennially, and Ohio and New Jersey require 100 hours of continuing education biennially. (A list of the continuing education requirements of other states is attached as Attachment 1.)**

**The regulations' increased biennial continuing education requirements will not be so burdensome as to impel podiatrists in Pennsylvania to relocate to other states or to dissuade podiatrists in other states from relocating to Pennsylvania.**

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

**The regulation will not affect other existing or proposed regulations of the Board or of any other state agency.**

(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 regulations will require podiatrists to retain records relating to their increased continuing education hours and to provide copies of those records to the Board upon audit. The regulations also will require the Board to modify its biennial renewal application. The regulations will not require legal, accounting or consulting procedures.**

(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 regulations will apply uniformly to all podiatrists, subject to the Board's existing regulations relating to continuing education exemptions and waivers for cause.**



**CONTINUING EDUCATION REQUIREMENTS FOR PODIATRISTS**  
**AS A CONDITION OF RENEWAL OF LICENSURE**

<b>ALABAMA</b>	12 hours annually
<b>ALASKA</b>	50 hours biennially
<b>ARKANSAS</b>	15 hours annually
<b>ARIZONA</b>	25 hours annually
<b>CALIFORNIA</b>	50 hours biennially
<b>COLORADO</b>	10 hours annually
<b>CONNECTICUT</b>	None
<b>DELAWARE</b>	32 hours biennially
<b>FLORIDA</b>	40 hours biennially
<b>GEORGIA</b>	50 hours biennially
<b>HAWAII</b>	40 hours biennially
<b>IDAHO</b>	12 hours annually
<b>ILLINOIS</b>	50 hours biennially
<b>INDIANA</b>	30 hours biennially
<b>IOWA</b>	40 hours biennially
<b>KANSAS</b>	54 hours triennially
<b>KENTUCKY</b>	20 hours annually
<b>LOUISIANA</b>	20 hours annually
<b>MAINE</b>	25 hours biennially
<b>MARYLAND</b>	50 hours biennially

<b>MASSACHUSETTS</b>	30 hours biennially
<b>MICHIGAN</b>	150 hours triennially
<b>MINNESOTA</b>	30 hours biennially
<b>MISSISSIPPI</b>	40 hours biennially
<b>MISSOURI</b>	50 hours biennially for those certified to perform ankle surgery; 24 hours biennially for everyone else
<b>MONTANA</b>	None
<b>NEBRASKA</b>	48 hours biennially
<b>NEVADA</b>	50 hours biennially
<b>NEW HAMPSHIRE</b>	40 hours biennially
<b>NEW JERSEY</b>	100 hours biennially
<b>NEW MEXICO</b>	14 hours annually
<b>NEW YORK</b>	50 hours triennially
<b>NORTH CAROLINA</b>	25 hours annually
<b>NORTH DAKOTA</b>	20 hours annually
<b>OHIO</b>	100 hours biennially
<b>OKLAHOMA</b>	30 hours annually
<b>OREGON</b>	50 hours biennially
<b>RHODE ISLAND</b>	15 hours annually
<b>SOUTH CAROLINA</b>	12 hours annually
<b>SOUTH DAKOTA</b>	30 hours biennially
<b>TENNESEE</b>	15 hours annually

<b>TEXAS</b>	50 hours biennially
<b>UTAH</b>	40 hours biennially
<b>VERMONT</b>	None
<b>VIRGINIA</b>	60 hours biennially
<b>WASHINGTON</b>	50 hours biennially
<b>WEST VIRGINIA</b>	50 hours biennially
<b>WISCONSIN</b>	50 hours biennially
<b>WYOMING</b>	40 hours biennially

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

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IRRC

2010 AUG 13 A 11: 58

(Pursuant to Commonwealth Documents Law)

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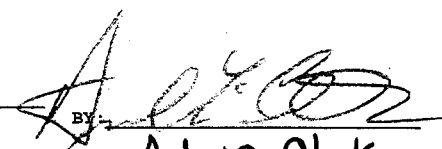
Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

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State Board of Podiatry

(AGENCY)

BY \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

BY:   
Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16A-4410

DATE OF ADOPTION: \_\_\_\_\_

JUL 28 2010

DATE OF APPROVAL

DATE OF APPROVAL

BY: Richard G. Stuempfle, D.P.M.  
Richard G. Stuempfle, D.P.M.

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

Chairman

TITLE: (EXECUTIVE OFFICER, CHAIRMAN OR 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 PODIATRY  
(49 PA. CODE, CHAPTER 29)

CONTINUING EDUCATION

## **PREAMBLE**

The State Board of Podiatry (Board) amends Chapter 29 to read as set forth in Annex A.

The final-form rulemaking revises § 29.61(a) (relating to requirements for biennial renewal and eligibility to conduct educational conferences) to increase the biennial continuing education requirement for podiatrists from 30 hours to 50 hours, effective with the renewal of licensure for the biennial license period that begins January 1, 2011. Consistent with existing requirements, at least 30 hours must be in podiatry courses and programs approved by the Board or the Council on Podiatric Medical Education (CPME). The remaining 20 hours must be either in Board- or CPME-approved podiatry courses and programs or in courses and programs in medical subjects that are approved by the American Medical Association (AMA) or the American Osteopathic Association (AOA).

The final-form rulemaking further revises § 29.61(a) by making editorial changes to the 10-hour limitation on the number of continuing education hours that may be obtained by means of the Internet or through the reading of professional journals and magazines; by adding a provision, currently set forth in § 29.63a (relating to preapproved course provider), that continuing education credit will not be awarded for courses or programs in office management or marketing the practice; and by clarifying that a licensee bears the responsibility for ensuring that continuing education hours have been approved prior to participating in the course or program for which continuing education credit is sought.

The final-form rulemaking also deletes § 29.63a because its contents are adequately treated in the revised § 29.61.

### **Statutory Authority**

Section 9.1 of the Podiatry Practice Act (act) (63 P.S. § 42.9a) authorizes the Board to prescribe continuing education requirements, while section 15 of the act (63 P.S. § 42.15) authorizes the Board to adopt such regulations as it deems necessary and proper to carry out its statutory responsibilities.

### **Summary of Comments and Responses to Proposed Rulemaking**

The Board published a notice of proposed rulemaking at 39 Pa. B. 7107 (December 19, 2009), with a 30-day public comment period. The Board received a general comment in support of the proposed rulemaking from the Pennsylvania Podiatric Medical Association (PPMA), a professional organization that represents the majority of licensed podiatrists in Pennsylvania.

The Board received comments from the Independent Regulatory Review Commission (IRRC)

and the House Professional Licensure Committee (House Committee) as part of their review of the proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1 – 745.14). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (Senate Committee) as part of its review of the proposed rulemaking under the Regulatory Review Act.

The following discussion summarizes the comments and the Board's responses:

The proposed rulemaking would have required that the additional 20 hours of continuing education must be either in courses and programs in podiatry that are approved by the Board or CPME or in courses and programs in "related medical subjects" that are approved by AMA or AOA. IRRC commented that the phrase "related medical subjects" is vague because it does not apprise a licensee of what medical subjects are related to the practice of podiatry. IRRC recommended that a more precise standard be included in the final-form rulemaking.

Consistent with the regulatory approach utilized by many other states' podiatric licensing boards, the proposed rulemaking was intended to permit a licensee to obtain continuing education credit, up to a maximum of 20 hours, for a course or program in *any* medical subject that is approved by AMA and AOA. As stated in the proposed rulemaking, the collaborative, interdisciplinary approach to the diagnosis and treatment of medical conditions has fostered a commonality of interests among podiatrists and allopathic and osteopathic physicians. Podiatrists can obtain useful information and insight for their practices from medical subjects as diverse as diabetes management, orthopedics, dermatology and radiology. To clarify that podiatrists are not limited in the medical subjects they may take in continuing education courses and programs offered under the auspices of AMA or AOA, the final-form rulemaking removes "related" as a modifier of "medical subjects" in § 29.61.

The House Committee commented that the Board's use of the terms "course," "program," and "educational conference" in §29.61 and other continuing education regulations is confusing and requested a clarification of their meanings.

The terms have been used interchangeably to refer to educational offerings. "Educational conference" is used in section 9.1 of the act, and the term is referenced throughout the Board's continuing education regulations. In 2003, when the continuing education regulations were last amended, the Board employed the terms "course" and "program" as an alternate usage to "educational conference." The new terms are more descriptive of the continuing education options available to podiatrists on the Internet and through self-study. Although it has not been advised by any podiatrist that the alternate usage in the regulations has led to misapprehension of the continuing education requirements, the Board intends to utilize more uniform terminology in the continuing education regulations. Because making such changes now would enlarge the original purpose of the proposed

rulemaking, the Board will initiate separate rulemaking to address the matter.

The final-form rulemaking retains language in current § 29.61 that prohibits the carrying over of excess continuing education hours from one biennial license period to another. The House Committee questioned whether it would be beneficial, given considerations of time management and cost, to permit a podiatrist to carry over a minimum number of continuing education hours to the next biennial license period without defeating continuing education's purpose of maintaining current skills and knowledge.

The Board believes that allowing a podiatrist to utilize continuing education hours from an earlier biennial license period is contrary to section 9.1 of the act, which requires a podiatrist who is applying for license renewal to have completed the required hours of continuing education during the immediately preceding biennial license period. All but one of the other 18 licensing boards within the Bureau of Professional and Occupational Affairs (BPOA) that require continuing education as a condition of license renewal prohibit the carrying over of excess continuing education hours from one biennial license period to another.

The House Committee and IRRC questioned how a licensee can fulfill his responsibility, set forth in the revised § 29.61, to ensure that a particular course or program is approved for continuing education credit prior to participating in the course or program.

The regulations require a podiatrist to obtain continuing education hours in course and programs that have been approved by the Board, CPME, AMA, or AOA. A podiatrist can ascertain whether a course or program is approved for continuing education credit by contacting any of these four approving bodies. The Board maintains an updated listing of currently approved programs and courses on its website; likewise, CPME, AMA and AOA each maintains a website with information about approved continuing education providers. In addition, the promotional and solicitation materials for a continuing education course or program typically indicate whether it is sanctioned by an approving body.

The House Committee asked whether the current biennial renewal fee of \$395 is adequate to support the additional workload for the Board's administrative office in auditing the increased number of continuing education hours completed by licensees.

The Board does not believe the costs of the additional auditing workload will be substantial. Like all other BPOA licensing boards with continuing education requirements, the Board does not audit all of its licensees for continuing education compliance; rather, it randomly selects a percentage of its licensees for a compliance audit. The Department of State's Bureau of Finance and Operations, which monitors the revenues and expenses of BPOA licensing boards, has not advised the Board that its current biennial renewal fee is inadequate to defray costs associated with a modest expansion of its

administrative activities.

The House Committee asked how the Board has apprised podiatrists of the increased continuing education requirement other than through the posting of a notice on the Board's website.

In December 2008, the Board mailed a notice about the initiation of this rulemaking to each currently licensed podiatrist in Pennsylvania. The notice provided information about the type and number of continuing education hours that would be required as a condition of license renewal for the 2011-2012 license period. Contemporaneous with the submission of final-form rulemaking, the Board mailed a reminder notice about the increased continuing education requirement to each currently licensed podiatrist in Pennsylvania.

The House Committee asked whether the increased continuing education requirement would affect reciprocity with neighboring states.

The increased continuing education requirement will not have a direct impact on reciprocity because reciprocity is based on the similarity of states' requirements for initial licensure rather than their requirements for renewal of licensure. Moreover, given that four of six states that border Pennsylvania currently require podiatrists to complete at least 50 hours of continuing education biennially, it is unlikely that continuing education will prove to be a determining factor in the decisions of podiatrists to seek practice privileges across state lines.

### **Fiscal Impact**

The final-form rulemaking will require podiatrists to incur costs in meeting the increased continuing education requirement. The costs cannot be quantified because of the large number and type of continuing education courses and programs available; however, the costs are not believed to be substantial or burdensome. Many podiatrists already exceed the current 30-hour continuing education requirement.

The final-form rulemaking will cause the Board's administrative office to incur unspecified costs relating to auditing compliance with the increased continuing education requirement. The current \$395 biennial renewal fee paid by podiatrists will defray the costs, which, as noted above, are not believed to be substantial.

The final-form rulemaking will not have a fiscal impact on the public or on other agencies and political subdivisions of the Commonwealth.



### **Paperwork Requirements**

The final-form rulemaking will require podiatrists to retain records relating to their increased continuing education hours and to submit the records to the Board upon audit. The final-form rulemaking will require the Board to revise its biennial renewal application. The final-form rulemaking will not create additional paperwork for the general public or for other agencies and political subdivisions of the Commonwealth.

### **Effective Date**

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and will apply to the renewal of licensure for the 2011-2012 biennial license period.

### **Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 9, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa. B. 7107, to IRRC and the House and Senate Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board provided IRRC and the House and Senate Committees with copies of comments received during the public comment period. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the House and Senate Committees, and the general public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), the final-form rulemaking was approved by the House Committee on \_\_\_\_\_, 2010, and approved by the Senate Committee on \_\_\_\_\_, 2010. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on \_\_\_\_\_, 2010, and approved the final-form rulemaking.

### **Additional Information**

Persons who desire additional information about the final-form rulemaking may submit inquiries to Gina Bittner, Administrator, State Board of Podiatry, P.O. Box 2649, Harrisburg, PA 17105-2649. The Board's telephone number is (717) 783-4858 and its e-mail address is [ST-PODIATRY@state.pa.us](mailto:ST-PODIATRY@state.pa.us).

### **Findings**

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L.769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking requirement; and adoption of regulation).

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 39 Pa. B. 7107.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

### **Order**

The Board, acting under authority of the act, orders that:

(a) The regulations of the Board, 49 Pa. Code, Chapter 29, are amended to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 29. STATE BOARD OF PODIATRY

\* \* \* \* \*

CONTINUING EDUCATION

\* \* \* \* \*

**§ 29.61. Requirements for biennial renewal and eligibility to conduct educational conferences.**

(a) [As a condition of biennial renewal of a license, a licensee shall have completed 30 clock hours of continuing education during the preceding biennium in acceptable courses and programs in podiatry by approved providers. It is the responsibility of the licensee to ensure that credits used to comply with this continuing education requirement have been approved by the Board. Excess clock hours may not be carried over to the next biennium. A maximum of 10 clock hours of computer/Internet, magazine or journal article courses, which are approved by the Council on Podiatric Medical Education, shall be accepted by the Board.] Effective with the renewal of licensure for the 2011-2012 biennium, a licensee applying for biennial renewal of a license shall have completed 50 clock hours of continuing education in approved courses and programs during the preceding biennium. At least 30 of the clock hours must be in courses and programs in podiatry that are approved by the Board or the Council on

Podiatric Medical Education (CPME). The remaining clock hours must be either in courses and programs in podiatry that are approved by the Board or the CPME or in courses and programs in related medical subjects that are approved by the American Medical Association or the American Osteopathic Association. A maximum of 10 clock hours may be in approved courses and programs that involve the use of the Internet or the reading of professional journals or magazine articles. Continuing education credit will not be awarded for clock hours in office management or marketing the practice. Excess clock hours may not be carried over to the next biennium. A licensee is responsible for ensuring that a particular course or program is approved for continuing education credit prior to participating in the course or program.

\* \* \* \* \*

**§ 29.63a. [Preapproved course provider] (Reserved).**

[Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted for continuing education credit. All courses shall fall within the scope of podiatry practice. The Board will not approve courses or programs, or portions, thereof in office management or in marketing the practice.]

\* \* \* \* \*

**LIST OF NAMES AND ADDRESSES OF PUBLIC  
COMMENTATORS FOR REGULATION 16A-4410**  
**(1 Pa. Code §307.2(c)(6))**

- (1) Michael Q. Davis  
Executive Director  
Pennsylvania Podiatric Medical Association  
757 Poplar Church Road  
Camp Hill, PA 17011-2314

\* \* \* \* \*

[ Renewal fee ..... \$45 ]

\* \* \* \* \*

(b) The following fees are charged by the Board to support its operations:

Biennial renewal of license ..... \$65

(c) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the Registration Examination for Registered Dietitians will also pay an additional examination fee. A candidate may contact the Commission on Dietetic Registration, 216 West Jackson Blvd., Chicago, IL 60606-6995, [ [www.cdrnet.org](http://www.cdrnet.org) ] [www.dcrnet.org](http://www.dcrnet.org) for more information regarding the examination and examination fee.

(c) (d) In addition to the application fee prescribed in subsection (a), which is payable directly to the Board, a candidate for the Certification Board for Nutrition Specialists examination for Certified Nutrition Specialists will also pay an additional examination fee. A candidate may contact the Certification Board for Nutrition Specialists, 300 S. Duncan Avenue, Suite 225, Clearwater, FL 33755, [www.cert-nutrition.org](http://www.cert-nutrition.org) for more information regarding the examination and examination fee.

[Pa.B. Doc. No. 09-2313. Filed for public inspection December 18, 2009, 9:00 a.m.]

## STATE BOARD OF PODIATRY

[ 49 PA. CODE CH. 29 ]  
Continuing Education

The State Board of Podiatry (Board) proposes to amend Chapter 29, to read as set forth in Annex A, by amending § 29.61 (relating to requirements for biennial renewal and eligibility to conduct educational conferences) and rescinding § 29.63a (relating to preapproved course provider).

### *Need for Proposed Rulemaking*

Section 9.1 of the Podiatry Practice Act (act) (63 P.S. § 42.9a) requires a podiatrist to complete continuing education hours prescribed by the Board as a condition of biennial renewal of licensure to practice podiatric medicine. Since January 1987, the Board has required podiatrists to complete 30 hours of continuing education during each biennial license period. Given the increasing complexity of modern podiatric medical practice, the Board now considers the 30-hour biennial continuing education requirement inadequate to ensure that podiatrists maintain and increase their skill, knowledge and proficiency as practitioners. Only 16 states currently require podiatrists to biennially complete 30 or fewer hours of continuing education. Moreover, many podiatrists are required to biennially complete well in excess of 30 hours of continuing education to maintain credentials issued by podiatric specialty bodies, to participate in insurance plans, or to practice in hospitals and other health care facilities.

### *Description of Proposed Rulemaking*

#### § 29.61. Biennial continuing education requirement

Section 29.61 sets forth the basic continuing education requirements for podiatrists in this Commonwealth. Sub-

section (a) provides that as a condition of biennial renewal of licensure, a podiatrist shall complete; during the immediately preceding biennial renewal period, 30 hours of continuing education in acceptable courses and programs in podiatry that are offered by approved providers. A maximum of 10 hours may be obtained through courses and programs involving the use of the computer/Internet, magazines or journal articles. Excess continuing education hours may not be carried over to the next biennial renewal period. A licensee is responsible for ensuring that continuing education hours are in compliance with the Board's requirements. Subsection (b) states that Board-approved providers are eligible to conduct continuing education courses and programs. Subsection (c) lists the continuing education information that a licensee must set forth on the biennial renewal application. Subsection (d) requires a licensee to retain documentation of a continuing education course or program for 5 years after its completion and to produce the documentation when demanded by the Board or its agents who conduct the audit of continuing education hours.

The proposed rulemaking would rewrite § 29.61(a) to reflect substantive and editorial changes. The proposed rulemaking would increase the biennial continuing education requirement in § 29.61(a) from 30 hours to 50 hours, effective with the renewal of licensure for the biennial license period that begins January 1, 2011. Consistent with current regulations, at least 30 hours would have to be in podiatry courses and programs approved by the Board or the Council on Podiatric Medical Education (CPME). The CPME, a division of the American Podiatric Medical Association, is currently recognized in § 29.63a as an approving entity for podiatric continuing education. The remaining 20 hours could be either in Board- or CPME-approved podiatry courses and programs or in courses and programs in related medical subjects that are approved by the American Medical Association or the American Osteopathic Association.

A 50-hour biennial continuing education requirement for podiatrists is consistent with the requirements of podiatric licensing boards in other states, particularly those with large populations. Fourteen states—including California, Texas, Michigan and Illinois—require podiatrists to complete 50 hours of continuing education biennially. Virginia and Oklahoma require podiatrists to complete 60 hours of continuing education biennially, while Ohio and New Jersey require podiatrists to complete 100 hours of continuing education biennially. Permitting podiatrists to obtain some of their continuing education hours in related medical subjects, in addition to podiatric subjects, is desirable because the collaborative, interdisciplinary approach to the diagnosis and treatment of medical conditions has fostered a commonality of interests between podiatrists and allopathic and osteopathic physicians. Continuing education in related medical subjects is widely available to podiatrists because allopathic and osteopathic physicians in this Commonwealth are required to complete 100 hours of continuing education biennially.

In December 2008, the Board provided each currently licensed podiatrist in this Commonwealth with written notification of the Board's intention to initiate regulatory action that would increase the continuing education requirement, as described in this proposed rulemaking, effective with the renewal of licensure for the 2011-2012 biennial license period. The same information has been posted on the Board's web site since January 2009.

The proposed rulemaking would retain, with editorial changes, the 10-hour limitation in § 29.61(a) on the

number of continuing education hours that may be obtained by means of the Internet or through the reading of articles in professional journals and magazines. The proposed rulemaking also would retain the provision in § 29.61(a) that prohibits the carrying over of excess continuing education hours from one biennial license period to another. The proposed rulemaking also would retain the provision in § 29.61(a) that places responsibility on a licensee to ensure that continuing education hours have been approved, with the clarification that the licensee should do so before participating in the course or program for which continuing education credit is sought.

The proposed rulemaking would add to § 29.61(a) a provision, currently set forth in § 29.63a, stating that continuing education credit will not be awarded for courses or programs in office management or marketing the practice. Section 9.1 of the act specifically proscribes the awarding of continuing education credit for office management or practice building.

*§ 29.63a. Preapproved continuing education provider and continued education subject matter*

Section 29.63a currently provides that the Board will accept continuing education hours in courses and programs offered or approved by the CPME. Section 29.63a further provides that all courses and programs must fall within the scope of podiatry, and that no continuing education credit will be awarded for office management or marketing the practice.

The proposed rulemaking would rescind § 29.63a as unnecessary because its contents would be adequately treated in the revised § 29.61(a).

*Fiscal Impact*

The proposed rulemaking would require podiatrists to incur costs in meeting the increased biennial continuing education requirement. The costs cannot be quantified because of the large number and type of continuing education courses and programs available; however, the costs are not believed to be substantial or burdensome. As noted previously, many podiatrists already exceed the current 30-hour biennial continuing education requirement.

The proposed rulemaking would cause the Board's administrative staff to incur unspecified costs relating to auditing compliance with the increased biennial continuing education requirement. The current \$395 biennial renewal fee paid by podiatrists would defray the costs, which are not believed to be substantial.

The proposed rulemaking would not have a fiscal impact on the public or on other agencies and political subdivisions of the Commonwealth.

*Paperwork Requirements*

The proposed rulemaking would require podiatrists to retain records relating to their increased biennial continuing education hours and to submit these records to the Board upon audit. The proposed rulemaking would require the Board to revise its biennial renewal application. The proposed rulemaking would not create additional paperwork for the general public or for other agencies and political subdivisions of this Commonwealth.

*Effective Date*

The proposed rulemaking would become effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin* and would apply to the renewal of licensure for the 2011-2012 biennial license period.

*Statutory Authority*

Section 9.1 of the act authorizes the Board to prescribe continuing education requirements, while section 15 of the act (63 P.S. § 42.15) authorizes the Board to adopt the regulations as it deems necessary and proper to carry out its statutory responsibilities.

*Regulatory Review*

On December 9, 2009, as required under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted copies of the proposed rulemaking and a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Senate Standing Committee on Consumer Protection and Professional Licensure and the House Standing Committee on Professional Licensure. A copy of the Regulatory Analysis Form 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 after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures that permit the Board, the General Assembly and the Governor to review any comments, recommendations or objections prior to publication of final-form rulemaking.

*Public Comment*

The Board invites interested persons to submit written comments, recommendations or objections regarding the proposed rulemaking to Steven Wennberg, Counsel, State Board of Podiatry, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of the proposed rulemaking in the *Pennsylvania Bulletin*.

**Fiscal Note:** 16A-4401. No fiscal impact; (8) recommends adoption.

MARY E. LOFTUS, D.P.M.,  
Chairperson

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 29. STATE BOARD OF PODIATRY CONTINUING EDUCATION**

**§ 29.61. Requirements for biennial renewal and eligibility to conduct educational conferences.**

(a) [As a condition of biennial renewal of a license, a licensee shall have completed 30 clock hours of continuing education during the preceding biennium in acceptable courses and programs in podiatry by approved providers. It is the responsibility of the licensee to ensure that credits used to comply with this continuing education requirement have been approved by the Board. Excess clock hours may not be carried over to the next biennium. A maximum of 10 clock hours of computer/Internet, magazine or journal article courses, which are approved by the Council on Podiatric Medical Education, shall be accepted by the Board.] Effective with the renewal of licensure for the 2011-2012 biennium, a licensee applying for biennial renewal of a license shall have completed 50 clock hours of

continuing education in approved courses and programs during the preceding biennium. At least 30 of the clock hours must be in courses and programs in podiatry that are approved by the Board or the Council on Podiatric Medical Education (CPME). The remaining clock hours must be either in courses and programs in podiatry that are approved by the Board or the CPME or in courses and programs in related medical subjects that are approved by the American Medical Association or the American Osteopathic Association. A maximum of 10 clock hours may be in approved courses and programs that involve the use of the Internet or the reading of professional journals or magazine articles. Continuing education credit will not be awarded for clock hours in office management or marketing the practice. Excess clock hours may not be carried over to the next biennium. A licensee is responsible for ensuring that a particular course or program is approved for continuing education credit prior to participating in the course or program.

\* \* \* \* \*

§ 29.63a. [ Preapproved course provider ] (Reserved).

[ Courses or programs offered or approved by the Council on Podiatric Medical Education will be accepted for continuing education credit. All courses shall fall within the scope of podiatry practice. The Board will not approve courses or programs, or portions thereof, in office management or in marketing the practice. ]

[Pa.B. Doc. No. 09-2314. Filed for public inspection December 18, 2009, 9:00 a.m.]

## STATE REAL ESTATE COMMISSION

[ 49 PA. CODE CH. 35 ]  
Initial Licensure Fees

The State Real Estate Commission (Commission) proposes to amend § 35.203 (relating to fees) to read as set forth in Annex A.

### A. Effective Date

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

### B. Statutory Authority

Sections 404 and 407 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. §§ 455.404 and 455.407), authorize the Commission to promulgate and adopt regulations to administer and effectuate the purposes of the RELRA.

### C. Background and Purpose

Currently applicants for licensure complete a paper application and submit it along with the required fee to the Commission. Those who obtain a real estate license in the first year of the renewal cycle pay 100% of the biennial renewal fee in addition to the application and real estate recovery fees while applicants who obtain a real estate license in the second year of the renewal cycle

pay 50% of the renewal fee in addition to the application and real estate recovery fees. This two-tiered fee structure, however, precludes the Commission from participating in on-line initial licensure applications for salesperson classes, currently being used by the State Board of Motor Vehicle Manufacturers, Dealers and Salespersons, as the Bureau's licensure software cannot accommodate a two-tiered fee structure.

### D. Description of Amendment

This proposal would amend current fees by consolidating the initial licensure fee charged to new applicants from a two-tiered structure to a one-tier structure. Instead of charging applicants in the first year of the licensure period 100% of the biennial renewal fee and applicants who apply in the second year of the licensure period 50% of the biennial renewal fee, the regulation consolidates these fees into one fee, which represents 75% of the biennial renewal fee. Brokers, cemetery brokers, branch offices, rental listing referral agents, broker of records, partners or officers for a partnership, associations and corporations would pay an initial licensure fee of \$94.50 in addition to the application and real estate recovery fees while associate brokers, salespersons, cemetery associate brokers, cemetery salespersons, builder-owner salespersons, time-share salespersons, campground membership salespersons and cemetery companies would pay an initial fee of \$72 in addition to the application and real estate recovery fees.

### E. Fiscal Impact and Paperwork Requirements

The amendment will not have a fiscal impact or impose additional paperwork requirements on the Commonwealth as initial licensure fees are currently being charged to new applicants. This proposal will have a minimal fiscal impact on the regulated community over the biennial period as the Commission continues to charge an aggregate initial licensure fee of 150% of the biennial renewal fee over the same 2-year period. The proposed amendment will not necessitate any legal, accounting, paperwork or reporting requirements on the regulated community.

### F. Sunset Date

The Commission reviews the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

### G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 7, 2009, the Commission 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 SCP/PLC and the HPLC. A copy of this material is available to the public upon request.

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

### H. Public Comment

Interested persons are invited to submit comments, recommendations or objections regarding the proposed





COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS  
STATE BOARD OF PODIATRY  
P.O. BOX 2649  
HARRISBURG, PENNSYLVANIA 17105-2649

TELEPHONE: (717) 783-4858  
[ST-PODIATRY@STATE.PA.US](mailto:ST-PODIATRY@STATE.PA.US)

TELEFAX: (717) 787-7769  
[WWW.DOS.STATE.PA.US/POD](http://WWW.DOS.STATE.PA.US/POD)

August 13, 2010

The Honorable Arthur Coccodrilli  
Chairman, Independent Regulatory Review Commission  
Harristown II, 14<sup>th</sup> Floor  
333 Market Street  
Harrisburg, PA 17101


RE: Final Rulemaking of the State Board of Podiatry  
Relating to Continuing Education (16A-4410)

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Podiatry relating to continuing education.

The Board stands ready to provide whatever information or assistance your Commission may require during its review of this final rulemaking.

Sincerely,

  
Richard G. Stuempfle, D.P.M., Chairman  
State Board of Podiatry

RGS:SW  
Enclosure

cc: Hon. Basil L. Merenda, Acting Secretary of the Commonwealth  
Department of State

Steven V. Turner, Chief Counsel  
Department of State

Joyce McKeever, Deputy Chief Counsel  
Department of State

Cynthia K. Montgomery, Senior Counsel in Charge  
Department of State

Steven Wennberg, Counsel  
State Board of Podiatry

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




I.D. NUMBER: 16A-4410  
 SUBJECT: CONTINUING EDUCATION  
 AGENCY: DEPARTMENT OF STATE  
 STATE BOARD OF PODIATRY

**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

**RECEIVED  
IRRC  
2010 AUG 13 A 11: 58**

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
8/13		MAJORITY CHAIRMAN <u>The Honorable</u> Michael P. McGeehan
		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
8/13		MAJORITY CHAIRMAN <u>The Honorable</u> Robert M. Tomlinson
8/13/10		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)