

## Comments of the Independent Regulatory Review Commission



### State Board of Chiropractic Regulation #16A-4320 (IRRC #2907)

#### Licensure by Reciprocity

November 16, 2011

We submit for your consideration the following comments on the proposed rulemaking published in the September 17, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the State Board of Chiropractic (Board) to respond to all comments received from us or any other source.

#### 1. Whether the regulation is consistent with the intent of the General Assembly.

Section 504 of the Chiropractic Practice Act (Act) (63 P.S. § 625.504) allows the Board to grant licenses without further examination to individuals from other states and provinces of Canada if all of the following conditions are met:

- The standards for licensing in such states or provinces are substantially the same as those provided in the Act.
- Similar privileges are accorded persons licensed in this Commonwealth.
- The applicants hold valid licenses.
- The applicable rules and regulations prescribed by the Board are complied with.

According to the Preamble of this proposal, the purpose of this rulemaking is to amend the Board's existing regulations concerning licensure by reciprocity to base the determination upon standards for licensure at the time of graduation from chiropractic school and first licensure, rather than the current standards.

We are concerned that basing reciprocity determinations on anything other than current standards is inconsistent with Section 504 of the Act and the intent of the General Assembly. As noted above, one of the conditions that must be met in order for a reciprocal license to be granted is, "The standards for licensing in such state or provinces *are* substantially the same as those provided in this act." 63 P.S. § 625.504(1). (Emphasis added.) In the Preamble to the final-form regulation, we ask the Board to explain how this proposal is consistent with the intent of the General Assembly and the requirement that the standards for licensing in other states or provinces is the same as standards currently found in the Act.

## **2. Need for the regulation.**

According to the Regulatory Analysis Form submitted with the rulemaking, on average, a “few dozen” chiropractors apply for licensure by reciprocity each year. How many of these applicants are denied licensure because of the Board’s existing regulations? We believe further explanation of the need for the regulation is required.

## **3. Determining whether the regulation is in the public interest.**

Section 5.2 of the RRA directs this Commission to determine whether a regulation is in the public interest. 71 P.S. § 745.5b. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. The Commission also considers the information a promulgating agency is required to provide under §745.5(a) in the regulatory analysis form (RAF).

The information provided in Question #25 of the RAF submitted with this rulemaking is not sufficient to allow this Commission to determine if the regulation is in the public interest. Of particular interest is how this regulation compares to other states. When this rulemaking is returned in final-form, we ask the Board to provide an analysis of how other states address licensure by reciprocity. Without this information, we cannot determine if this proposed regulation is in the public interest.

## **4. Section 5.13. Licensure by reciprocity. – Implementation procedures; Clarity.**

### *Subsection (a)(3)*

This subsection requires applicants for licensure by reciprocity to have passing scores on certain parts of the National Board Examination (NBE). Subparagraph (a)(3)(i) requires applicants that graduated from chiropractic college after January 1, 1968 to pass Parts I and II of the NBE. Subparagraph (a)(3)(ii) requires applicants that graduated from chiropractic college after December 27, 1991, or first practiced after that date to pass Part III of the NBE. Subparagraph (a)(3)(iii) requires applicants that graduated from chiropractic college after May 23, 1997, or were first licensed to practice after that date to pass Part IV of the NBE. Would applicants that apply under Subparagraph (a)(3)(ii) have to pass Parts I and II of the NBE? Similarly, would applicants that apply under Subparagraph (a)(3)(iii) have to pass Parts I, II and III of the NBE? This should be clarified in the final-form regulation.

### *Subsection (a)(5)*

This subsection requires applicants to present evidence that they have engaged in “active clinical practice.” The House Professional Licensure Committee submitted comments seeking clarification on what is meant by this phrase and whether it includes part-time practice. We agree that the phrase lacks clarity and suggest that it be defined in the final-form regulation.

*Subsection (a)(6)*

Under this subsection, applicants must present evidence of a passing score on the Pennsylvania Chiropractic Law Examination. We note that the Board's website includes a notice that the Pennsylvania Chiropractic Law Examination is no longer required. Applicants for licensure must instead complete an application that includes a page entitled "Pennsylvania Chiropractic Legal Review" to demonstrate to the Board that they are aware of the Board's rules and regulations and the Act. If this exam is no longer required, we suggest that this subsection be amended accordingly. We also suggest that other sections of the Board's regulations that reference the Pennsylvania Chiropractic Law Examination be amended.

*Subsection (c)*

This subsection states that an "applicant's verification" will satisfy the requirement that the applicant present evidence of experience required by Subsection (a)(5). How can an applicant satisfy this requirement? Is there a form that must be completed? This should be clarified in the final-form regulation.