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REVIEW COMMISSION

2012 MAY -2 PM 2: 24

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: **Department of State, Bureau of Professional and Occupational Affairs, State Board of Medicine**

(2) Agency Number: **16A**

Identification Number: **4930**

IRRC Number: **2942.**

(3) PA Code Cite: **49 Pa. Code §§ 16.11, 16.13, 18.145-18.146, 18.301-18.310**

(4) Short Title: **Physician Assistant and Respiratory Therapist**

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

Primary Contact: **Louis Lawrence Boyle, Assistant Regulatory Counsel, Department of State; phone: (717)783-7200; fax: (717)787-0251; email: llboyle@pa.gov.**

Secondary Contact: **Cynthia K. Montgomery, Regulatory Counsel, Department of State; phone: (717) 783-7200; fax: (717) 787-0251; email: cymontgome@pa.gov.**

(6) 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

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

The act of July 4, 2008 (P.L. 580, No. 45) (Act 45) amended the act in a number of ways. Act 45 changed certification of respiratory care practitioners to licensure of respiratory therapists. It revised the standards for licensure as a respiratory therapist and for receiving a temporary permit to practice prior to sitting for the licensure examination. Act 45 also identified additional specific acts of practice in which physician assistants may engage and required physician assistants to complete continuing education and to maintain professional liability insurance. This proposed rulemaking would amend the Board's regulations to implement Act 45.

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

The amendments are authorized under sections 8, 8.1, 13(c), and 13.1(c) of the Medical Practice Act of 1985 (act) (63 P.S. §§ 422.8, 422.8a, 422.13(c) and 422.13a(c)).

(9) 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.

Yes, as explained in the response to question (7). Section 8 of Act 45 requires the Board and the State Board of Osteopathic Medicine to jointly promulgate regulations to implement the amendments to the act within 18 months. The rulemaking is not mandated by any other federal or state law or court order or federal regulation.

(10) 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 proposed rulemaking is required to implement the Act 45 amendments to the act.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking is not based upon any scientific data, studies, or references.

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

The Board does not foresee any groups being adversely affected by the rulemaking.

(13) 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.

All physician assistants and respiratory therapists will be required to comply with the rulemaking. There are currently 5566 physician assistants and 6818 respiratory therapists licensed by the Medical Board.

(14) 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 no costs or savings to the regulated community associated with compliance with the rulemaking. It is believed that the vast majority of, if not all, licensed physician assistants are currently covered by liability insurance through the supervising physician or employer and will not have any increase in costs in order to comply.

(15) 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 costs or savings to local governments associated with compliance with the rulemaking.

(16) 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.

There are no costs or savings to state government associated with implementation of the rulemaking.

(17) 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 | N/A | N/A | N/A | N/A | N/A | N/A |
| COSTS: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | N/A | N/A | N/A | N/A | N/A | N/A |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | N/A | N/A | N/A | N/A | N/A | N/A |

(17a) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 2008-2009 | FY -2 2009-2010 | FY -1 2010-2011 | Current FY 2011-2012 |
|----------------------------|--------------------|--------------------|--------------------|-------------------------|
| State Board of Medicine | \$5,800,654.85 | \$4,834,369.34 | \$6,349,000.00 | \$6,665,000.00 |

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

No adverse effects or costs have been associated with compliance with the rulemaking. Therefore, the above-identified benefits outweigh any costs.

(19) 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.

Because much of this proposed rulemaking is statutorily mandated, the Board did not send an exposure draft of the proposed rulemaking or solicit input from interested parties. However, the Board discussed the proposed rulemaking at public meetings of the Board, which are routinely attended by members of the regulated community and their professional associations.

(20) 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.

No alternative regulatory schemes were considered.

(21) 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.

This proposed rulemaking would not be more stringent and would not overlap or conflict with any federal requirements.

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

This proposed rulemaking implements the statutorily-mandated revisions to licensure and would not put Pennsylvania at a competitive disadvantage.

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

This proposed rulemaking would not affect other regulations of the Board or other state agencies.

(24) 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.

This proposed rulemaking would not require any additional recordkeeping or other paperwork.

(25) 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 has determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

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

A. The date by which the agency must receive public comments: **Within 30 days of publication as proposed.**

B. The date or dates on which public meetings or hearings will be held: **No public hearings are scheduled. The Board discusses its regulatory proposals at monthly meetings usually held on the fourth Tuesday of each month.**

C. The expected date of promulgation of the proposed regulation as a final-form regulation: **Summer of 2012.**

D. The expected effective date of the final-form regulation: **Upon publication as final.**

E. The date by which compliance with the final-form regulation will be required: **Upon publication as final.**

F. The date by which required permits, licenses or other approvals must be obtained: **N/A**

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

The Board continually reviews the efficacy of its regulations, as part of its annual review process under Executive Order 1996-1. The Board reviews its regulatory proposals at regularly scheduled public meetings, generally the fourth Tuesday of each month. More information can be found on the Board's website (www.dos.state.pa.us/med).

2012 MAY -2 PM 2: 24

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.

[Signature]

State Board of Medicine
(AGENCY)

[Signature]
Megan L. Considine

BY: _____
(DEPUTY ATTORNEY GENERAL)

DOCUMENT/FISCAL NOTE NO. 16A-4930

APR 06 2012

DATE OF APPROVAL

DATE OF ADOPTION: _____

MAR 13 2012

DATE OF APPROVAL

BY: Carol E. Rose
Carol E. Rose, M.D.

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

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRPERSON OR SECRETARY)

- Check if applicable Copy not approved. Objections attached.
- Check if applicable. No Attorney General approval or objection within 30 day after submission.

PROPOSED RULEMAKING

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

49 Pa. Code §§ 16.11, 16.13, 18.145-18.146, 18.301-18.310
ACT 45 of 2008 PHYSICIAN ASSISTANT AND RESPIRATORY THERAPIST

The State Board of Medicine (Board) proposes to amend §§ 16.11, 16.13, 18.145, and 18.301 – 18.310, and to add § 18.146 (relating to professional liability insurance coverage for licensed physician assistants), 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 authorized under sections 8, 8.1, 13(c), and 13.1(c) of the Medical Practice Act of 1985 (act) (63 P.S. §§ 422.8, 422.8a, 422.13(c) and 422.13a(c)).

Background and Need for the Amendment

The act of July 4, 2008 (P.L. 580, No. 45) (Act 45) amended the act in a number of ways. Act 45 changed certification of respiratory care practitioners to licensure of respiratory therapists. It revised the standards for licensure as a respiratory therapist and for receiving a temporary permit to practice prior to sitting for the licensure examination. Act 45 also identified additional specific acts of practice in which physician assistants may engage and required physician assistants to complete continuing education and to maintain professional liability insurance. This proposed rulemaking would amend the Board's regulations to implement Act 45.

Description of the Proposed Amendments

With regard to respiratory therapists, the proposed rulemaking would add to § 16.11(b) (relating to licenses, certificates and registrations) a reference to "respiratory therapist license" and change the reference in § 16.13(g) (relating to licensure, certification, examination and registration fees) from "respiratory care practitioner certificate" to "respiratory therapist license." Similarly, throughout Chapter 18, Subchapter F (relating to respiratory care practitioners), the proposed rulemaking would replace terms referring to the certification of respiratory care practitioners with references to the licensure of respiratory therapists, both in the titles of the sections and in the text.

For additional clarity, the Board would replace the reference in § 18.307(1)(i) (relating to criteria for certification as respiratory care practitioner) from passing the "CRTT" to passing the "credentialing examination" as determined by the National Board for Respiratory Care (NBRC). Because section 13.1(a.2) of the act (63 P.S. § 422.13a(a.2)) prohibits one not licensed as a respiratory therapist from using the title "licensed respiratory therapist" or the designations "LRT" or "RT," the proposed rulemaking would amend § 18.304(b) (relating to certification of respiratory care practitioners; practice; exceptions) to prohibit unlicensed persons from using the title "licensed respiratory therapist" or the designations "LRT" or "RT," in addition to using the words "licensed respiratory care practitioner" or "respiratory care practitioner" or using the letters "RCP" or similar words or related abbreviations to suggest licensure.

The proposed rulemaking would amend § 18.305(a) and (b) (relating to functions of respiratory care practitioners) to provide that a respiratory therapist may provide services upon referral of a certified registered nurse practitioner or physician assistant, in addition to referral of a physician, as provided in amended section 13.1(d) of the act.

Because amended section 13.1(a) of the act sets as a standard for licensure graduation from a program approved by the Committee on Accreditation for Respiratory Care (CoARC), the proposed rulemaking would amend § 18.307(1)(i) to require graduation from a program approved by CoARC, rather than the Joint Review Committee on Respiratory Therapy Education (JRCRTE), and would replace the definition in § 18.302 (relating to definitions). Similarly, the proposed rulemaking would amend § 18.306 (relating to temporary permits) to require that an applicant for a temporary permit shall have graduated from a program approved by CoARC, rather than JRCRTE.

Because section 13.1(a) of the act, as amended, sets as the only criteria for licensure as a respiratory therapist either graduation from a respiratory care program approved by CoARC, or existing licensure in another state by examination, the proposed rulemaking would also amend § 18.307 to delete the alternative criteria of being credentialed as a certified respiratory therapy technician or registered respiratory therapist and having continuously provided respiratory care services for a minimum of 12 months at existing subparagraphs (1)(ii) and (iv). Similarly, section 36.1(b) of the act (63 P.S. § 422.36a(b)) has been amended to delete the following alternative requirements for a temporary permit: designation as a certified respiratory therapist or registered respiratory therapist by a National credentialing agency; continuous provision of respiratory care services for at least 12 months; and holding certification, licensure or registration as a respiratory care practitioner in another state. Instead, section 36.1 provides for recognition as a credentialed respiratory therapist as approved by the Board. Therefore, the proposed rulemaking would amend § 18.306(a) to provide that a temporary permit will be issued to an applicant who is recognized as a credentialed respiratory therapist by the National Board for Respiratory Care (NBRC), which credentials respiratory therapists. Additionally, because the licensing boards of the Bureau of Professional and Occupational Affairs now accept payment by credit card for online application and may extend other payment options in the future, the Board proposes to amend § 18.307(2) to require payment of the fee “in a form acceptable to the Board.”

Because Act 45 amended section 36.1(f)(2) of the act to increase the continuing education requirement from 20 to 30 hours each biennial renewal period, the proposed rulemaking would amend § 18.309a(a)(1) (relating to requirement of continuing education) to increase that requirement to 30 hours. Existing § 18.309a(a)(2) requires that at least 10 hours of continuing education be obtained through classroom lecture or other live session, and existing § 18.309a(a)(3) prohibits crediting more than 10 hours of continuing education obtained through Internet presentations, journal review, prerecorded video or similar means of nontraditional education. In drafting the proposed rulemaking, the Board considered adjusting these credit limitations to respond to the increased total continuing education requirement or, as suggested by the Pennsylvania Society for Respiratory Care, replacing the hour limitation with a percentage. Instead, the Board determined that it should maintain the requirement of § 18.309a(a)(2) that at least 10 hours be earned in the more traditional

types of education and delete the requirement of § 18.309a(a)(3) that no more than 10 hours may be earned in the less traditional types. However, the Board proposes to retain the requirement of § 18.309(a)(3) that the provider of continuing education through these less traditional means makes available documented verification of completion of the course or program.

Additionally, because Act 45 amended section 36.1(f)(6) of the act to prohibit credit for courses in practice building as well as in office management, the proposed rulemaking would amend § 18.309b(c) (relating to approved educational courses) to prohibit credit for courses in practice building (rather than financial procedures), as well as office management. Additionally, because licensees could complete the entire amount of required continuing education through education in cardiac life support, the Board would add § 18.309a(a)(5) to prohibit credit for basic cardiac life support courses and permit no more than 8 hours during each biennial renewal period of credit in advanced cardiac life support. The Board also proposes to add § 18.309a(a)(6) to prohibit credit for the same continuing education more than once in a biennium. Finally, in reviewing its existing regulations in light of Act 45, the Board noticed a clarity issue in the recordkeeping requirement of § 18.309a(d), which requires a licensee to maintain proof of continuing education for “2 years from the commencement of the biennial renewal period to which the continuing education applies.” This language could be construed as either the biennial renewal period in which the continuing education was completed, or the subsequent renewal period for which the license was renewed. Accordingly, in order to clarify this issue and to permit the Board adequate time in which to audit licensees for compliance, the Board would amend this subsection to require that a licensee maintain proof of continuing education, or documentation of a waiver granted, for at least 2 years after the conclusion of the biennial renewal period to which the continuing education or waiver applies, the date of completion of the continuing education or the date the waiver was granted, whichever is latest.

For physician assistants, the proposed rulemaking would amend § 18.145(c) (relating to biennial registration requirements; renewal of physician assistant license) and add § 18.146 (relating to professional liability insurance coverage for licensed physician assistants). The proposed rulemaking would amend § 18.145(c) to require that as a condition for renewal physician assistants must complete continuing education as required by the National Commission on Certification of Physician Assistants; as required by amended section 36(d) of the act. Because physician assistants are also required by § 18.145(c) to maintain national certification, and that certification may not be renewed without completing the continuing education requirements, the Board has not proposed any additional requirements for continuing education as a condition of licensure renewal. Additionally, the Board proposes to amend this section to clarify that it recognizes certification through NCCPA and any other National organization for which the Board publishes recognition of the organization’s certification as meeting the requirement of National certification.

Also for physician assistants, the proposed rulemaking would add § 18.146(a) (relating to professional liability insurance coverage for licensed physician assistants) to require physician assistants to maintain professional liability insurance as required by new section 36(f) of the act, and proposed § 18.146(d) would prohibit a physician assistant who does not have professional liability insurance from practicing. Under § 18.146(b), a physician assistant could provide proof of insurance through a certificate of insurance or a copy of the declaration page from the insurance policy setting

forth the effective date, expiration date and dollar amounts of coverage, or the physician assistant could provide proof of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Department of Insurance at 31 Pa. Code §§ 243.1 – 243.11 (relating to medical malpractice and health-related self-insurance plans). New section 36(f)(2) of the act provides that a physician assistant applicant may file a copy of a letter from a professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon issuance of the applicant's license to practice, but that the new licensee has 30 days to submit to the Board proof of insurance. In order to enforce this provision, proposed § 18.146(c) would provide that failure to provide this proof within the 30-day time period will result in the license becoming inactive as a matter of law. A licensee may not practice on an inactive license, but inactivation of the license is not considered disciplinary action.

Amendments were not necessary to implement all of the provisions of Act 45. The Board has not proposed any amendments to its regulations to implement section 13.1(b) of the act, which provides that for 2 years after the effective date of Act 45, the Board may license without examination an applicant who is currently licensed by the Board or the State Board of Osteopathic Medicine and has otherwise met the new statutory requirements for licensure as a respiratory therapist. No amendments are needed because this provision is self-executing. Also, because existing § 18.309a(a)(4) already requires a respiratory therapist renewing after December 31, 2008, to complete at least 1 hour of continuing education in medical ethics and at least 1 hour in patient safety, no amendments were needed to implement the amendments to section 36.1(f)(2) of the act. Similarly, because existing § 18.309a(c) provides that the Board may waive the continuing education requirement for serious illness or other hardship or military service upon timely written request with adequate supporting documentation, the Board found it unnecessary to propose any amendments to implement section 36.1(f)(4) of the act. Finally, the Board has not proposed any amendments to its regulations to implement new sections 13(c.1) and 13(c.2) of the act, as added by Act 45, because these provisions are self-executing, and the existing regulations do not explicitly prohibit these acts of medical practice by a physician assistant.

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

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 May 2, 2012, 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 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 Regulatory Unit Counsel, Department of State, by mail at P.O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-4930 (Physician Assistant and Respiratory Therapist), when submitting comments.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

CHAPTER 16. STATE BOARD OF MEDICINE—

GENERAL PROVISIONS

* * * * *

**Subchapter B. GENERAL LICENSE, CERTIFICATION AND
REGISTRATION PROVISIONS**

* * * * *

§ 16.11. Licenses, certificates and registrations.

* * * * *

(b) The following nonmedical doctor licenses and certificates are issued by the Board:

* * * * *

(6) Respiratory therapist license.

* * * * *

§ 16.13. Licensure, certification, examination and registration fees.

* * * * *

(g) *Respiratory [Care Practitioner Certificate] Therapist License:*

* * * * *

CHAPTER 18. STATE BOARD OF MEDICINE—

PRACTITIONERS OTHER THAN MEDICAL DOCTORS

Subchapter D. PHYSICIAN ASSISTANTS

* * * * *

**LICENSURE OF PHYSICIAN ASSISTANTS AND
REGISTRATION OF SUPERVISING PHYSICIANS**

* * * * *

§ 18.145. Biennial registration requirements; renewal of physician assistant license.

* * * * *

(c) To be eligible for renewal of a physician assistant license, the physician assistant shall complete continuing medical education as required by NCCPA and shall maintain National certification by completing current recertification mechanisms available to the profession and recognized by the Board. The Board recognizes certification through NCCPA and its successor organizations and certification through any other National organization for which the Board publishes recognition of the organization's certification of physician assistants.

* * * * *

§ 18.146. Professional liability insurance coverage for licensed physician assistants.

(a) A licensed physician assistant shall maintain a level of professional liability insurance coverage as required by section 36(f) of the act (63 P.S. § 422.36(f)).

(b) Proof of professional liability insurance coverage may include:

(1) A certificate of insurance or copy of the declaration page from the applicable insurance policy setting forth the effective date, expiration date, and dollar amounts of coverage.

(2) Evidence of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Department of

Insurance at 31 Pa. Code §§ 243.1 – 243.11 (relating to medical malpractice and health-related self-insurance plans).

(c) A license that was issued in reliance upon a letter from the applicant's insurance carrier indicating that the applicant will be covered against professional liability effective upon the issuance of the applicant's license as permitted under section 36(f)(2) of the act (63 P.S. § 422.36(f)(2)) will become inactive as a matter of law 30 days after issuance of the license if the licensee has not provided proof of professional liability insurance coverage and will remain inactive until the licensee provides proof of insurance coverage.

(d) A licensee who does not have professional liability insurance coverage as required by section 36(f) of the act (63 P.S. § 422.36(f)) may not practice as a physician assistant in this Commonwealth.

* * * * *

Subchapter F. RESPIRATORY [CARE PRACTITIONERS] THERAPISTS

§ 18.301. Purpose.

This subchapter implements sections 13.1 and 36.1 of the act (63 P.S. §§ 422.13a and 422.36a), which were added by section 3 of the act of July 2, 1993 (P.L. 424, No. 60) to provide for the [certification] licensure of respiratory [care practitioners] therapists.

§ 18.302. Definitions.

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

* * * * *

CoARC – The Committee on Accreditation for Respiratory Care, an organization which accredits respiratory care programs.

[*CRTT* – The Certification Examination For Entry Level Respiratory Therapy Practitioners, a National uniform examination developed and administered by the NBRC for certified respiratory care therapy practitioners.]

* * * * *

[*JRCRTE* – The Joint Review Committee on Respiratory Therapy Education, which accredits respiratory care programs.]

NBRC – The National Board for Respiratory Care, the agency recognized by the Board to credential respiratory [care practitioners] therapists.

Respiratory [care practitioner] therapist – A person who has been [certified] licensed in accordance with the act and this subchapter.

* * * * *

§ 18.304. [Certification] Licensure of respiratory [care practitioners] therapists; practice; exceptions.

(a) A person may not practice or hold himself out as being able to practice as a respiratory [care practitioner] therapist in this Commonwealth unless the person holds a valid, current temporary permit or [certificate] license issued by the Board, or the State Board of Osteopathic Medicine under Chapter 25 (relating to State Board of Osteopathic Medicine), or is exempted under section 13.1(e) of the act (63 P.S. § 422.13a(e)) or section 10.1(e) of the Osteopathic Medical Practice Act (63 P.S. § 271.10a(e)).

(b) A person may not use the words “licensed respiratory therapist” or “respiratory care practitioner,” the letters “LRT,” “RT” or “R.C.P.” or similar words and related abbreviations to imply that respiratory care services are being provided, unless the services are provided by a respiratory [care practitioner] therapist who holds a valid, current temporary

permit or [certificate] license issued by the Board or the State Board of Osteopathic Medicine and only while working under the supervision of a licensed physician.

§ 18.305. Functions of respiratory [care practitioners] therapists.

(a) Under section 13.1(d) of the act (63 P.S. § 422.13a(d)), a respiratory [care practitioner] therapist may implement direct respiratory care to an individual being treated by either a licensed medical doctor or a licensed doctor of osteopathic medicine, upon [physician] prescription or referral by a physician, certified registered nurse practitioner or physician assistant, or under medical direction and approval consistent with standing orders or protocols of an institution or health care facility. This care may constitute indirect services such as consultation or evaluation of an individual and also includes, but is not limited to, the following services:

* * * * *

(b) Under section 13.1(d) of the act, a respiratory [care practitioner] therapist may perform the activities listed in subsection (a) only upon [physician] prescription or referral by a physician, certified registered nurse practitioner or physician assistant or while under medical direction consistent with standing orders or protocols in an institution or healthcare facility.

§ 18.306. Temporary permits.

(a) A temporary permit will be issued to an applicant who submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(1) Has graduated from a respiratory care program approved by [the JRCRTE] CoARC.

(2) Is enrolled in a respiratory care program approved by [the JRCRTE]

CoARC and expects to graduate within 30 days of the date of application to the Board for a temporary permit.

(3) [Has continuously provided respiratory care services for a minimum of 12 months immediately preceding December 28, 1993] Meets all applicable requirements and is recognized as a credentialed respiratory therapist by the NBRC.

* * * * *

§ 18.307. Criteria for [certification] licensure as a respiratory [care practitioner] therapist.

The Board will approve for [certification] licensure as a respiratory [care practitioner] therapist an applicant who:

(1) Submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(i) Has graduated from a respiratory care program approved by [the JRCRTE] CoARC and passed the [CRTT] credentialing examination as determined by the NBRC.

(ii) [Has been credentialed as a Certified Respiratory Therapy Technician or Registered Respiratory Therapist by the NBRC.

(iii)] Holds a valid license, certificate or registration as a respiratory [care practitioner] therapist in another state, territory or the District of Columbia which has been issued based on requirements substantially the same as those required by the Commonwealth, including the examination requirement.

[(iv) Has continuously provided respiratory care services for a minimum of 12 months immediately preceding December 28, 1993, and has passed the CRTT as determined by the NBRC.]

(2) Has paid the appropriate fee in [the form of a check or money order] a form acceptable to the Board.

§ 18.308. Change of name or address.

A [certificateholder] licensee shall inform the Board in writing within 10 days of a change of name or mailing address.

§ 18.309. Renewal of [certification] licensure.

(a) A [certification] license issued under this subchapter expires on December 31 of every even-numbered year unless renewed for the next biennium.

* * * * *

(c) To retain the right to engage in practice, the [certificateholder] licensee shall renew [certification] licensure in the manner prescribed by the Board, complete the continuing education requirement set forth in § 18.309a (relating to requirement of continuing education) and pay the required fee prior to the expiration of the current biennium.

(d) When a [certification] license is renewed after December 31 of an even-numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee.

§ 18.309a. Requirement of continuing education.

(a) The following continuing education requirements shall be completed each biennial cycle[, commencing with the biennial period ending December 31, 2006]:

(1) An applicant for biennial renewal or reactivation of [certification] licensure is required to complete, during the 2 years preceding the application for renewal or reactivation, a minimum of [20] 30 hours of continuing education as set forth in section 36.1(f)(2) of the act (63 P.S. § [422.36.1(f)] 422.36a(f)(2)).

* * * * *

(3) [No more than 10] For continuing education [hours may be] obtained through Internet presentations, journal review programs, prerecorded video presentations or similar means of nontraditional education[. To] to qualify for credit, the provider shall make available documented verification of completion of the course or program.

* * * * *

(5) No credit will be given for continuing education in basic life support, including basic cardiac life support and cardiopulmonary resuscitation. In any given biennial renewal period, a licensee may receive credit for no more than 8 continuing education hours in advanced life support, including advanced cardiac life support, neonatal advanced life support/neonatal resuscitation and pediatric advanced life support.

(6) A licensee may not receive continuing education credit for participating in a continuing education activity with objectives and content identical to those of another continuing education activity within the same biennial renewal period for which credit was granted.

(b) An individual applying for the first time for [certification] licensure is exempt from the continuing education requirement for the biennial renewal period following initial [certification] licensure.

(c) The Board may waive all or a portion of the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each [certificateholder] licensee who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The request must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why

the [certificateholder] licensee is unable to comply with the continuing education requirement. The Board will grant, deny or grant in part the request for waiver and will send the [certificateholder] licensee written notification of its approval or denial in whole or in part of the request. A [certificateholder] licensee who requests a waiver may not practice as a respiratory [care practitioner] therapist after the expiration of the [certificateholder's] licensee's current [certification] license until the Board grants the waiver request.

(d) A [certificateholder] licensee shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted, for 2 years [from the commencement] after the conclusion of the biennial renewal period to which the continuing education or waiver applies, the date of completion of the continuing education or grant of the waiver, whichever is latest, and provide the information and documentation to representatives of the Board upon request.

§ 18.309b. Approved educational courses.

* * * * *

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits is also approved for continuing education credit by the Board. Advanced course work is any course work beyond the academic requirements necessary for [certification] licensure as a respiratory [care practitioner] therapist. Proof of completion of the academic credits shall be submitted to the Board for determination of number of continuing education hours completed.

(c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management [and financial procedures] or

practice building.

§ 18.310. Inactive status.

(a) A [certificateholder] licensee who does not intend to practice in this Commonwealth and who does not desire to renew [certification] licensure shall inform the Board in writing. Written confirmation of inactive status will be forwarded to the [certificateholder] licensee.

(b) A [certificateholder] licensee shall notify the Board, in writing, of [his] the licensee's desire to reactivate the [registration] license.

(c) A [certificateholder] licensee who is applying to return to active status is required to pay fees which are due for the current biennium and submit a sworn statement stating the period of time during which the [certificateholder] licensee was not engaged in practice in this Commonwealth.

* * * * *

SENATE AMENDED
 PRIOR PRINTER'S NOS. 2612, 3013, 3223

PRINTER'S NO. 4112

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1804 Session of 2007

INTRODUCED BY YUDICHAK, SOLOBAY, K. SMITH, SIPTROTH, PYLE,
 BARRAR, GEORGE, GRUCELA, HARKINS, HENNESSEY, JOSEPHS,
 LONGIETTI, McILVAINE SMITH, PETRONE, THOMAS, WOJNAROSKI,
 YOUNGBLOOD, MURT, KILLION, HORNAMAN, FABRIZIO AND JAMES,
 OCTOBER 15, 2007

SENATOR ARMSTRONG, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
 AMENDED, JUNE 28, 2008

AN ACT

1 Amending the act of December 20, 1985 (P.L.457, No.112),
 2 entitled "An act relating to the right to practice medicine
 3 and surgery and the right to practice medically related acts;
 4 reestablishing the State Board of Medical Education and
 5 Licensure as the State Board of Medicine and providing for
 6 its composition, powers and duties; providing for the
 7 issuance of licenses and certificates and the suspension and
 8 revocation of licenses and certificates; providing penalties;
 9 and making repeals," further providing for definitions and
 10 for the State Board of Medicine; providing for jointly
 11 promulgated regulations; and further providing for PHYSICIAN <--
 12 ASSISTANTS, FOR respiratory care practitioners, FOR <--
 13 PHYSICIANS ASSISTANTS LICENSE and for respiratory care
 14 practitioner certificates and permits.

15 The General Assembly of the Commonwealth of Pennsylvania
 16 hereby enacts as follows:

17 Section 1. The definitions of "board regulated practitioner"
 18 and "respiratory care practitioner" in section 2 of the act of
 19 December 20, 1985 (P.L.457, No.112), known as the Medical
 20 Practice Act of 1985, amended or added July 2, 1993 (P.L.424,
 21 No.60) and December 10, 2001 (P.L.859, No.92), are amended to

1 read:

2 Section 2. Definitions.

3 The following words and phrases when used in this act shall
 4 have the meanings given to them in this section unless the
 5 context clearly indicates otherwise:

6 * * *

7 "Board regulated practitioner." A medical doctor, midwife,
 8 physician assistant, respiratory [care practitioner] therapist,
 9 certified athletic trainer or drugless therapist or an applicant
 10 for a license or certificate the board may issue.

11 * * *

12 "Respiratory [care practitioner] therapist." An individual
 13 who is [certified] licensed to practice respiratory care by the

14 State Board of Medicine.

15 * * *

16 Section 2. Section 3(a) and (b) of the act, amended July 2, <--
17 1993 (P.L.424, No.60) and December 10, 2001 (P.L.859, No.92)
18 JUNE 11, 2008 (P.L.154, NO.19), are amended to read: <--

19 Section 3. State Board of Medicine.

20 (a) Establishment.--The State Board of Medicine shall
21 consist of the commissioner or his designee, the Secretary of
22 Health or his designee, two members appointed by the Governor
23 who shall be persons representing the public at large and seven
24 members appointed by the Governor, six of whom shall be medical
25 doctors with unrestricted licenses to practice medicine and
26 surgery in this Commonwealth for five years immediately
27 preceding their appointment and one who shall be a nurse
28 midwife, physician assistant, certified registered nurse
29 practitioner, respiratory [care practitioner] therapist, or <--
30 certified athletic trainer. OR PERFUSIONIST licensed or certified <--

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1 under the laws of this Commonwealth. All professional and public
2 members of the board shall be appointed by the Governor, with
3 the advice and consent of a majority of the members elected to
4 the Senate.

5 (b) Terms of office.--The term of each professional and
6 public member of the board shall be four years or until his or
7 her successor has been appointed and qualified, but not longer
8 than six months beyond the four-year period. In the event that
9 any of said members shall die or resign or otherwise become
10 disqualified during his or her term, a successor shall be
11 appointed in the same way and with the same qualifications and
12 shall hold office for the unexpired term. No member shall be
13 eligible for appointment to serve more than two consecutive
14 terms. The Governor shall assure that nurse midwives, physician
15 assistants, certified registered nurse practitioners, <--
16 PERFUSIONISTS and respiratory [care practitioners] therapists
17 are appointed to four-year terms on a rotating basis so that, of
18 every four appointments to a four-year term, one is a nurse
19 midwife, one is a physician assistant, one is a certified
20 registered nurse practitioner and one is a respiratory [care
21 practitioner] therapist.

22 * * *

23 Section 3. The act is amended by adding a section to read:
24 Section 8.1. Jointly promulgated regulations.

25 The State Board of Medicine and the State Board of
26 Osteopathic Medicine shall jointly promulgate regulations
27 implementing sections 13.1 and 36.1, relating to the licensure
28 and practice of respiratory therapists.

29 SECTION 4. SECTION 13 OF THE ACT IS AMENDED BY ADDING <--
30 SUBSECTIONS TO READ:

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1 SECTION 13. PHYSICIAN ASSISTANTS.

2 * * *

3 (C.1) EXCEPT AS LIMITED BY SUBSECTION (C.2), AND IN ADDITION
4 TO EXISTING AUTHORITY, A PHYSICIAN ASSISTANT SHALL HAVE
5 AUTHORITY TO DO ALL OF THE FOLLOWING, PROVIDED THAT THE
6 PHYSICIAN ASSISTANT IS ACTING WITHIN THE SUPERVISION AND
7 DIRECTION OF THE SUPERVISING PHYSICIAN:

- 8 (1) ORDER DURABLE MEDICAL EQUIPMENT.
- 9 (2) ISSUE ORAL ORDERS TO THE EXTENT PERMITTED BY A HEALTH
10 CARE FACILITY'S BYLAWS, RULES, REGULATIONS OR ADMINISTRATIVE
11 POLICIES AND GUIDELINES.
- 12 (3) ORDER PHYSICAL THERAPY AND DIETITIAN REFERRALS.
- 13 (4) ORDER RESPIRATORY AND OCCUPATIONAL THERAPY REFERRALS.
- 14 (5) PERFORM DISABILITY ASSESSMENTS FOR THE PROGRAM PROVIDING
15 TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF).
- 16 (6) ISSUE HOMEBOUND SCHOOLING CERTIFICATIONS.

17 (7) PERFORM AND SIGN THE INITIAL ASSESSMENT OF METHADONE
 18 TREATMENT EVALUATIONS IN ACCORDANCE WITH FEDERAL AND STATE LAW
 19 AND REGULATIONS, PROVIDED THAT ANY ORDER FOR METHADONE TREATMENT
 20 SHALL BE MADE ONLY BY A PHYSICIAN.

21 (C.2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:

22 (1) SUPERSEDE THE AUTHORITY OF THE DEPARTMENT OF HEALTH AND
 23 THE DEPARTMENT OF PUBLIC WELFARE TO REGULATE THE TYPES OF HEALTH
 24 CARE PROFESSIONALS WHO ARE ELIGIBLE FOR MEDICAL STAFF MEMBERSHIP
 25 OR CLINICAL PRIVILEGES.

26 (2) RESTRICT THE AUTHORITY OF A HEALTH CARE FACILITY TO
 27 DETERMINE THE SCOPE OF PRACTICE AND SUPERVISION OR OTHER
 28 OVERSIGHT REQUIREMENTS FOR HEALTH CARE PROFESSIONALS PRACTICING
 29 WITHIN THE FACILITY.

30 * * *

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1 Section 4 5. Section 13.1 of the act, added July 2, 1993 <--
 2 (P.L.424, No.60), is amended to read:

3 Section 13.1. Respiratory [care practitioners] therapists.

4 [(a) Certificate required.--Eighteen months after the
 5 effective date of this section, it shall be unlawful for any
 6 person to hold himself out to the public as a respiratory care
 7 practitioner and to practice or offer to practice respiratory
 8 care unless he holds a valid, current temporary permit or
 9 certificate issued by the board.

10 (b) Use of title.--A respiratory care practitioner who holds
 11 a valid, current temporary permit or certificate issued by the
 12 board may use the title respiratory care practitioner or
 13 respiratory care practitioner-certified or an appropriate
 14 abbreviation of that title such as "R.C.P." or "R.C.P.-C."]

15 (a) Qualifications.--An individual shall be eligible to
 16 apply for licensure as a respiratory therapist if that
 17 individual satisfies all of the following:

18 (1) Submits evidence satisfactory to the board, on forms
 19 approved by the board, that the applicant has met one or more
 20 of the following criteria:

21 (i) Has graduated from a respiratory care program
 22 approved by the Committee on Accreditation for
 23 Respiratory Care and passed the Certified Respiratory
 24 Therapist Examination as determined by the National Board
 25 for Respiratory Care.

26 (ii) Holds a valid license, certificate or
 27 registration as a respiratory therapist in another state,
 28 territory or the District of Columbia which has been
 29 issued based on requirements substantially similar to
 30 those required by the Commonwealth, including having

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1 successfully passed the entry level examination.

2 (2) Has paid a licensure fee as established by the board
 3 by regulation.

4 (3) Has proved to the satisfaction of the board that the
 5 individual is of good moral character, and is not unfit or
 6 unable to practice as a respiratory therapist by reason of
 7 physical or mental impairment.

8 (a.1) License required.--It shall be unlawful for any
 9 individual to hold himself out to the public as a respiratory
 10 therapist or to practice or offer to practice respiratory
 11 therapy unless the individual holds a valid, current license
 12 issued by the board or the State Board of Osteopathic Medicine.

13 (a.2) Use of title.--It shall be unlawful for an individual
 14 to use the title of "licensed respiratory therapist" or to use
 15 the letters "LRT" or "RT" or to hold oneself out as a licensed
 16 respiratory therapist unless that individual is licensed to
 17 practice respiratory care as provided under this act or the act
 18 of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic
 19 Medical Practice Act.

20 (b) Licensure without examination.--For a period of two
 21 years following the effective date of this act, an individual
 22 shall be eligible to apply for licensure without examination if
 23 the individual meets the qualifications for licensure under
 24 subsection (a) and holds valid certification as a respiratory
 25 care practitioner as issued by the board or the State Board of
 26 Osteopathic Medicine.

27 (c) Regulations.--The board is authorized to promulgate
 28 regulations to implement this section.

29 (d) Supervision and scope of practice.--A respiratory [care
 30 practitioner certified] therapist licensed by the board may

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1 implement direct respiratory care to an individual being treated
 2 by either a licensed medical doctor or a licensed doctor of
 3 osteopathic medicine upon [physician] prescription or referral <--
 4 BY A PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR <--
 5 PHYSICIAN ASSISTANT, or under medical direction and approval
 6 consistent with standing orders or protocols of an institution
 7 or health care facility. This care may constitute indirect
 8 services such as consultation or evaluation of an individual and
 9 also includes, but is not limited to, the following services:

- 10 (1) Administration of medical gases.
- 11 (2) Humidity and aerosol therapy.
- 12 (3) Administration of aerosolized medications.
- 13 (4) Intermittent positive pressure breathing.
- 14 (5) Incentive spirometry.
- 15 (6) Bronchopulmonary hygiene.
- 16 (7) Management and maintenance of natural airways.
- 17 (8) Maintenance and insertion of artificial airways.
- 18 (9) Cardiopulmonary rehabilitation.
- 19 (10) Management and maintenance of mechanical
- 20 ventilation.
- 21 (11) Measurement of ventilatory flows, volumes and
- 22 pressures.
- 23 (12) Analysis of ventilatory gases and blood gases.

24 (e) Exemptions.--This section shall not prevent or restrict
 25 the practices, services or activities of:

- 26 (1) A person licensed or certified in this Commonwealth
 27 to provide another health care service, including, but not
 28 limited to, physicians, physical therapists, chiropractors,
 29 nurses, dentists, physician assistants and podiatrists.
- 30 (2) A person rendering respiratory care services

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1 pursuant to employment by a Federal agency.

2 (3) A person pursuing a course of study leading to a
 3 degree or certificate in respiratory care in an accredited
 4 educational program, if he is clearly designated as a student
 5 and provides care under supervision implemented through that
 6 program.

7 (4) A person executing or conveying medical orders
 8 pursuant to lawful delegation by a physician.

9 (5) A person who, pursuant to lawful delegation by a
 10 physician, delivers, installs, monitors or maintains a device
 11 which enables an individual to self-administer respiratory
 12 care.

13 (6) A person qualified by academic and clinical
 14 education to operate extracorporeal circulation equipment in
 15 a medical or surgical setting which requires support to or
 16 the temporary replacement of a patient's circulatory or
 17 respiratory functions.

18 (f) Referrals to State Board of Osteopathic Medicine.--
 19 Information or allegations filed with the board against a
 20 respiratory [care practitioner certified] therapist licensed by
 21 the State Board of Osteopathic Medicine shall be referred to
 22 that board for appropriate action.

23 SECTION 6. SECTION 36 OF THE ACT, AMENDED DECEMBER 9, 2002 <--
 24 (P.L.1344, NO.160), IS AMENDED TO READ:
 25 SECTION 36. PHYSICIAN ASSISTANT LICENSE.
 26 (A) GENERAL RULE.--A PHYSICIAN ASSISTANT LICENSE EMPOWERS
 27 THE HOLDER TO ASSIST A MEDICAL DOCTOR IN THE PROVISION OF
 28 MEDICAL CARE AND SERVICES UNDER THE SUPERVISION AND DIRECTION OF
 29 THAT MEDICAL DOCTOR AS PROVIDED IN THIS ACT.

30 (B) REQUIREMENTS.--NO PHYSICIAN ASSISTANT LICENSE MAY BE
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1 ISSUED TO THE APPLICANT UNLESS THE REQUIREMENTS SET FORTH BY
 2 THIS ACT AND SUCH RULES AND REGULATIONS ISSUED BY THE BOARD ARE
 3 MET, INCLUDING REQUIREMENTS FOR THE PHYSICIAN ASSISTANT TRAINING
 4 AND EDUCATIONAL PROGRAMS WHICH SHALL BE FORMULATED BY THE BOARD
 5 IN ACCORDANCE WITH SUCH NATIONAL CRITERIA AS ARE ESTABLISHED BY
 6 NATIONAL ORGANIZATIONS OR SOCIETIES AS THE BOARD MAY ACCEPT.

7 (C) CRITERIA.--THE BOARD SHALL GRANT PHYSICIAN ASSISTANT
 8 LICENSES TO APPLICANTS WHO HAVE FULFILLED THE FOLLOWING
 9 CRITERIA:

10 (1) SATISFACTORY PERFORMANCE ON THE PROFICIENCY
 11 EXAMINATION TO THE EXTENT THAT A PROFICIENCY EXAMINATION
 12 EXISTS.

13 (2) SATISFACTORY COMPLETION OF A CERTIFIED PROGRAM FOR
 14 THE TRAINING AND EDUCATION OF PHYSICIAN ASSISTANTS.

15 (3) FOR CANDIDATES FOR INITIAL LICENSURE AFTER JANUARY
 16 1, 2004, OBTAINMENT OF A BACCALAUREATE OR HIGHER DEGREE FROM
 17 A COLLEGE OR UNIVERSITY AND COMPLETION OF NOT LESS THAN 60
 18 CLOCK HOURS OF DIDACTIC INSTRUCTION IN PHARMACOLOGY OR OTHER
 19 RELATED COURSES AS THE BOARD MAY APPROVE BY REGULATION.

20 (D) BIENNIAL RENEWAL.--A PHYSICIAN ASSISTANT LICENSE SHALL
 21 BE SUBJECT TO BIENNIAL RENEWAL BY THE BOARD. AS PART OF BIENNIAL
 22 RENEWAL, A PHYSICIAN ASSISTANT SHALL COMPLETE CONTINUING MEDICAL
 23 EDUCATION AS REQUIRED BY THE NATIONAL COMMISSION ON
 24 CERTIFICATION OF PHYSICIAN ASSISTANTS.

25 (E) DESCRIPTION OF MANNER OF ASSISTANCE.--THE APPLICATION
 26 SHALL INCLUDE A WRITTEN REQUEST FROM THE APPLICANT'S SUPERVISING
 27 MEDICAL DOCTOR WHO SHALL FILE WITH THE BOARD A DESCRIPTION OF
 28 THE MANNER IN WHICH THE PHYSICIAN ASSISTANT WILL ASSIST THE
 29 SUPERVISING MEDICAL DOCTOR, WHICH DESCRIPTION SHALL BE SUBJECT
 30 TO THE APPROVAL OF THE BOARD.

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1 (F) PROFESSIONAL LIABILITY.--

2 (1) A LICENSED PHYSICIAN ASSISTANT IN THIS COMMONWEALTH
 3 SHALL MAINTAIN A LEVEL OF PROFESSIONAL LIABILITY INSURANCE
 4 COVERAGE IN THE MINIMUM AMOUNT OF \$1,000,000 PER OCCURRENCE
 5 OR CLAIMS MADE. FAILURE TO MAINTAIN INSURANCE COVERAGE AS
 6 REQUIRED SHALL SUBJECT THE LICENSEE TO DISCIPLINARY
 7 PROCEEDINGS. THE BOARD SHALL ACCEPT FROM PHYSICIAN ASSISTANTS
 8 AS SATISFACTORY EVIDENCE OF INSURANCE COVERAGE ANY OF THE
 9 FOLLOWING:

10 (I) SELF-INSURANCE;

11 (II) PERSONALLY PURCHASED LIABILITY INSURANCE; OR

12 (III) PROFESSIONAL LIABILITY INSURANCE COVERAGE
 13 PROVIDED BY THE PHYSICIAN ASSISTANT'S EMPLOYER OR SIMILAR
 14 INSURANCE COVERAGE ACCEPTABLE TO THE BOARD.

15 (2) A LICENSE APPLICANT SHALL PROVIDE PROOF THAT THE
 16 APPLICANT HAS OBTAINED PROFESSIONAL LIABILITY INSURANCE IN
 17 ACCORDANCE WITH PARAGRAPH (1). IT IS SUFFICIENT IF THE
 18 APPLICANT FILES WITH THE APPLICATION A COPY OF A LETTER FROM
 19 THE APPLICANT'S PROFESSIONAL LIABILITY INSURANCE CARRIER
 20 INDICATING THAT THE APPLICANT WILL BE COVERED AGAINST
 21 PROFESSIONAL LIABILITY IN THE REQUIRED AMOUNTS EFFECTIVE UPON
 22 THE ISSUANCE OF THE APPLICANT'S LICENSE TO PRACTICE AS A
 23 PHYSICIAN ASSISTANT IN THIS COMMONWEALTH. UPON ISSUANCE OF
 24 THE LICENSE, THE LICENSEE HAS 30 DAYS TO SUBMIT TO THE BOARD
 25 THE CERTIFICATE OF INSURANCE OR A COPY OF THE POLICY

26 DECLARATION PAGE.

27 Section 5 7. Section 36.1 of the act, amended or added July <--
 28 2, 1993 (P.L.424, No.60) and July 2, 2004 (P.L.484, No.55), is
 29 amended to read:

30 Section 36.1. Respiratory [care practitioner certificates]
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1 therapist licenses and permits.

2 (a) General rule.--A respiratory [care practitioner
 3 certificate] therapist license issued by the board empowers the
 4 holder to practice respiratory care under the supervision of a
 5 licensed medical doctor or a licensed doctor of osteopathic
 6 medicine. In a health care facility, that supervision may
 7 consist of standing orders or protocols approved by the
 8 institution, consistent with acceptable and prevailing medical
 9 standards, which may include services rendered directly to the
 10 patient in his home or other residence.

11 (b) Temporary permits.--The board shall issue temporary
 12 permits for the practice of respiratory care to individuals who
 13 have applied for [certification] licensure from the board and
 14 who meet any of the following requirements:

15 (1) Graduation from an accredited respiratory care
 16 training program recognized by the board.

17 (2) Enrollment in an accredited respiratory care
 18 training program recognized by the board, if the individual
 19 is expected to graduate within 30 days from the date of
 20 application.

21 (3) [Designation as a "Certified Respiratory Therapist"
 22 or a "Registered Respiratory Therapist" by a nationally
 23 recognized credentialing agency approved by the board.

24 (4) Continuous provision of respiratory care services
 25 for a minimum of 12 months immediately preceding the
 26 effective date of this section.

27 (5) Holding certification, licensure or registration as
 28 a respiratory care practitioner issued by another state, the
 29 District of Columbia or a territory of the United States,
 30 where the requirements for licensure, registration or

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 1 certification are substantially similar to those required by
 2 the board.] Recognition as a credentialed respiratory
 3 therapist as approved by the board.

4 (c) Duration and effect of temporary permits.--Temporary
 5 permits shall be valid for a period of 12 months and for such
 6 additional period as the board may, in each case, specially
 7 determine, except that a temporary permit shall expire if the
 8 holder fails the examination. An appropriate fee for a temporary
 9 permit shall be established by the board by regulation. If [he]
 10 the temporary permit holder is not in violation of any other
 11 provision of this act, a holder of a temporary permit qualifies
 12 for admission to the examination and shall apply for the next
 13 regularly scheduled [certification] licensure examination
 14 administered by the board. The board is authorized to promulgate
 15 regulations to establish procedures for application, credentials
 16 verification, examination and [certification] licensure,
 17 together with appropriate fees.

18 (d) Examination.--Pursuant to section 812.1 of the act of
 19 April 9, 1929 (P.L.177, No.175), known as The Administrative
 20 Code of 1929, the board shall contract for the development and
 21 administration of an examination for the [certification]
 22 licensure of respiratory [care practitioners. At least one
 23 administration of this examination shall be given within 12
 24 months of the effective date of this section, and the]
 25 therapists. The examination shall [thereafter] be given at least
 26 twice per year. [An individual qualifying for a temporary permit
 27 under subsection (b) (5) shall be issued a certificate by the
 28 board without examination. An individual qualifying for a

29 temporary permit under subsection (b)(3) shall be issued a
 30 certificate by the board without examination if the individual
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1 passed an examination in order to obtain designation as a
 2 "Certified Respiratory Therapy Technician" or a "Registered
 3 Respiratory Therapist" and that examination was comparable to
 4 the examination developed and administered pursuant to this
 5 subsection.]

6 (e) Biennial renewal.--A respiratory [care practitioner
 7 certificate] therapist license shall be renewed biennially upon
 8 application on a form prescribed by the board and upon payment
 9 of a renewal fee adopted by the board by regulation.

10 (f) Continuing education.--

11 (1) The board shall adopt, promulgate and enforce rules
 12 and regulations consistent with the provisions of this act
 13 establishing requirements of continuing education to be met
 14 by individuals holding [certification] licensure as
 15 respiratory [care practitioners] therapists under this act as
 16 a condition [for certificate] of biennial license renewal.
 17 The regulations shall include any fees necessary for the
 18 board to carry out its responsibilities under this section.

19 (2) Beginning with the [license period designated by
 20 regulation, certificate] first biennial license renewal
 21 period following promulgation of regulations, license holders
 22 shall be required to attend and complete [20] 30 hours of
 23 mandatory continuing education during each two-year
 24 [certificate] license period. At least one credit hour shall
 25 be in ethics, and one credit hour shall be in patient safety.

26 (3) An individual applying for the first time for
 27 [certification] licensure in this Commonwealth shall be
 28 exempted from the continuing education requirement for the
 29 biennial renewal period [following initial certification] in
 30 which licensure is obtained.

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1 (4) [The board may waive all or a portion of the
 2 continuing education requirement for biennial renewal for a
 3 certificate holder who shows to the satisfaction of the board
 4 that he or she was unable to complete the requirements due to
 5 serious illness, military service or other demonstrated
 6 hardship. The request shall be made in writing, with
 7 appropriate documentation, and shall include a description of
 8 circumstances sufficient to show why the certificate holder
 9 is unable to comply with the continuing education
 10 requirement. Waiver requests shall be evaluated by the board
 11 on a case-by-case basis. The board shall send the certificate
 12 holder written notification of its approval or denial of a
 13 waiver request.] The board shall, by regulation, provide for
 14 the waiver of continuing education requirements in case of
 15 illness, hardship and armed services duties. A request for
 16 waiver shall be evaluated on a case-by-case basis.

17 (5) A [certificate holder] licensee seeking to reinstate
 18 an inactive or lapsed [certificate] license shall show proof
 19 of compliance with the continuing education requirement for
 20 the preceding biennium.

21 (6) All courses, locations, instructors and providers
 22 shall be approved by the board. No credit shall be given for
 23 any course in office management or practice building.

24 [(7) The board shall initiate the promulgation of
 25 regulations to carry out the provisions of this section
 26 within one year of the effective date of this section.]

27 Section 8. (A) The State Board of Osteopathic Medicine <--
 28 and the State Board of Medicine shall jointly promulgate
 29 regulations to implement the amendment or addition of sections
 30 2, 3(a) and (b), 8.1, 13.1 and 36.1 of the act within 18 months

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1 of the effective date of this section.

2 (B) THE STATE BOARD OF MEDICINE, THE DEPARTMENT OF PUBLIC <--
3 WELFARE AND THE DEPARTMENT OF HEALTH SHALL PROMULGATE
4 REGULATIONS TO IMPLEMENT THE ADDITION OF SECTION 13(C.1) AND
5 (C.2) OF THE ACT WITHIN 18 MONTHS OF THE EFFECTIVE DATE OF THIS
6 SECTION.

7 SECTION 9. THE FOLLOWING ACTS ARE REPEALED INSOFAR AS THEY
8 ARE INCONSISTENT WITH THE ADDITION OF SECTION 13(C.1) AND (C.2)
9 OF THE ACT:

10 (1) SECTION 9(A) OF THE ACT OF OCTOBER 10, 1975
11 (P.L.383, NO.110), KNOWN AS THE PHYSICAL THERAPY PRACTICE
12 ACT.

13 (2) SECTION 14 OF THE ACT OF JUNE 15, 1982 (P.L.502,
14 NO.140), KNOWN AS THE OCCUPATIONAL THERAPY PRACTICE ACT.

15 Section 7 10. This act shall take effect as follows: <--

16 (1) This section shall take effect immediately.

17 (2) Section 6 8 of this act shall take effect <--
18 immediately.

19 (3) The remainder of this act shall take effect in 60
20 days.

I25L63SFL/20070H1804B4112

- 15 -



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF MEDICINE
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1400

May 2, 2012

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Proposed Regulation
State Board of Medicine
16A-4930: PHYSICIAN ASSISTANT AND RESPIRATORY THERAPIST

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed rulemaking package of the State Board of Medicine pertaining to Physician Assistant and Respiratory Therapist.

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 that reads "James W. Freeman MD".

James W. Freeman, MD, Chair
State Board of Medicine

JWF/TL:rs

Enclosure

cc: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Teresa Lazo, Counsel
State Board of Medicine
State Board of Medicine

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

I.D. NUMBER: 16A-4930
 SUBJECT: PHYSICIAN ASSISTANT AND RESPIRATORY THERAPIST
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF MEDICINE

TYPE OF REGULATION

- X Proposed Regulation
 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

2012 MAY -2 PM 2:24

RECEIVED
IRRC

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|--------|------------------------|---|
| | | HOUSE COMMITTEE ON PROFESSIONAL LICENSURE |
| 5/2/12 | <i>Mechelle Warren</i> | MAJORITY CHAIRMAN <u>Julie Harhart</u> |
| 5/2/12 | <i>Mary Walmer</i> | SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE |
| | | MAJORITY CHAIRMAN <u>Robt. M. Tomlinson</u> |
| 5/2/12 | <i>K Cooper</i> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL (for Final Omitted only) |
| 5/2/12 | <i>Samad Hasan</i> | LEGISLATIVE REFERENCE BUREAU (for Proposed only) |