

Comments of the Independent Regulatory Review Commission



State Board of Medicine Regulation #16A-4930 (IRRC #2942)

Physician Assistants and Respiratory Therapists

July 11, 2012

We submit for your consideration the following comments on the proposed rulemaking published in the May 12, 2012 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Medicine (Board) to respond to all comments received from us or any other source.

1. Consistency with the statute; Implementation procedures.

This proposed regulation implements changes made by Act 45 of 2008 (Act 45) to the Medical Practice Act of 1985 (Act). The State Board of Osteopathic Medicine Proposed Regulation #16A-5321 seeks to implement identical changes made by Act 56 of 2004 and Act 46 of 2008 to the Osteopathic Medical Practice Act. Act 45 states that: “the State Board of Medicine and the State Board of Osteopathic Medicine shall jointly promulgate regulations....” 63 P.S. § 422.8a. We ask the Board to explain how filing two separate regulations from each individual board is consistent with conditions imposed by Act 45.

LICENSURE OF PHYSICIAN ASSISTANTS AND REGISTRATION OF SUPERVISING PHYSICIANS

2. Section 18.145. – Biennial registration requirements; renewal of physician assistant license. – Implementation procedures; Clarity.

This section establishes the process for approval and biennial renewal of licensure for physician assistants. We raise two issues.

First, existing language in Subsection (c) requires physician assistants to maintain national certification by “completing current recertification mechanisms available to the profession and recognized by the Board.” The final-form regulation should identify the recertification mechanisms recognized by the Board. Alternatively, the final-form regulation should identify how a physician assistant can access this information.

Second, Subsection (c) explains the types of national certifications recognized by the Board. The Board should clarify where it will publish recognition of an organization's certification of physician assistants.

SUBCHAPTER F. RESPIRATORY THERAPISTS

3. Section 18.306. – Temporary permits. – Need; Clarity.

Subsection (a)

This subsection lists the criteria that must be satisfied for an applicant to receive a temporary permit. Subsection (a)(3) states that a temporary permit is issued to an applicant “who is recognized as a **credentialed respiratory therapist . . .**” (Emphasis added.) Would a “credentialed” respiratory therapist already have a license to practice? If so, what would be the need for these applicants to obtain a temporary permit? The Board should clarify this issue.

Subsection (b)

The House Professional Licensure Committee suggests that the existing reference to “CRTT” in Subsection (b) be replaced with “credentialing examination” since “CRTT” has been deleted in other provisions of the proposed regulation. We agree and recommend the Board replace this term in the final-form regulation.

4. Section 18.307. – Criteria for licensure as a respiratory therapist. – Implementation procedures; Clarity.

This section establishes the criteria necessary for licensure as a respiratory therapist. Subsection (1)(i) requires applicants to pass the “credentialing examination” approved by the National Board for Respiratory Care (NBRC). The PA Society for Respiratory Care, Inc. recommends that the term “credentialing examination” be replaced with “entry level credentialing examination” to identify the specific examination required by NBRC. We agree that this term is broad and recommend the Board clarify the specific examination necessary for licensure as a respiratory therapist.

5. Section 18.309a. – Requirement of continuing education. – Fiscal impact; Reasonableness; Clarity.

Subsection (a)

In accordance with Act 45, Subsection (a) increases the minimum hours of continuing education an applicant for license renewal or reactivation is required to complete from 20 to 30 hours within each two year licensure period. *See* 63 P.S. § 422.36a(f)(2). The Regulatory Analysis Form (RAF) provided by the Board states that this regulation will impose no additional costs on the regulated community. (RAF #14.) However, several comments from the regulated community assert this statutory increase in hours will impose additional costs for respiratory

therapists seeking license renewal. We ask the Board to review these comments, and quantify this potential cost increase in the RAF submitted with the final-form regulation.

Additionally, the Preamble notes that the Board chose to delete language from Subsection (a)(3) that prohibits respiratory therapists from obtaining more than 10 hours of continuing education credit through various forms of “non-traditional education.” However, similar language was not deleted in State Board of Osteopathic Medicine Proposed Regulation #16A-5321. *See* 49 Pa.Code § 25.509a(a)(1). The Board should explain the reason for this inconsistency.

6. Section 18.309b. – Approved educational courses. – Clarity.

This section describes the methods by which respiratory therapists can apply academic coursework to their continuing education credits. Subsection (c) describes the courses that cannot be used for continuing education credit, including “practice building.” This term is vague, and we recommend the final-form regulation include a definition for this term.

7. Miscellaneous clarity issues.

Order of the Preamble

The Preamble explains the amendments to the sections on respiratory therapists first and then explains the amendments to the provisions concerning physician assistants. In the regulation, however, the sections concerning physician assistants occur before the sections on respiratory therapists. To improve clarity, we recommend that the Preamble follow the order of the provisions contained in the final-form regulation.

References to the Act and Purdon 's citations

Many sections of this regulation reference both a particular section of the Act 45 and the corresponding Purdon's citation. For example, Subsection 18.146(a) references "section 36(f) of the act (63 P.S § 422.36(f))." Other sections of this regulation only reference a particular section of the Act. For consistency, the Board should add the appropriate Purdon's citations to the following sections of the final-form regulation:

- § 18.146(c)
- § 18.146(d)
- § 18.305(b)