

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(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 Chiropractic

(2) Agency Number: 16A

Identification Number: 4323

IRRC Number: 3068

(3) PA Code Cite:

49 Pa. Code § 5.79

(4) Short Title:

Distance education

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

Primary Contact: **Thomas Blackburn, Regulatory Unit Counsel, Department of State;**  
**(717)783-7200; P.O. Box 69523, Harrisburg, PA 17106-9523; (717)787-0251; tblackburn@pa.gov**

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**(717)783-7200; P.O. Box 69523, Harrisburg, PA 17106-9523; (717)787-0251; 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)

**This rulemaking amends the continuing education regulations in Subchapter G to limit a licensee to meeting no more than 50% of the continuing education requirement through distance education.**

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

**The rulemaking is authorized under section 302(3) of the Chiropractic Practice Act (act) (63 P.S. § 625.302(3)).**

(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.

**The rulemaking is not mandated by any Federal or State law or court order or Federal regulation.**

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(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.

**Section 507(a) of the act (63 P.S. § 625.507(a)) requires each licensed chiropractor to complete at least 24 hours of continuing chiropractic education within the immediately preceding 2-year period as a condition of biennial license renewal. Section 507(b) provides permitted and prohibited subject matter and requires that the programs be approved by the Board. The balance of section 507 of the act and Subchapter G of the Board's regulations (relating to continuing education) lay out various requirements for licensees and providers to follow. Though it is neither expressly authorized nor prohibited by the act, the Board believes that much useful education can be delivered through methods other than traditional classroom lecture or classroom presentation, such as real-time web-cast or internet presentation. To the extent the subject matter of the education requires hands-on participation, the Board would approve only those courses that are presented in person. While other learning can occur through non-traditional methods such as prerecorded video, these tools present the opportunity for one so inclined to go through the formalities without actual participation. In this rulemaking, the Board clearly permits non-traditional methods of continuing education, yet limits the amount to no more than 50% of the total requirement.**

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

**The rulemaking is not more stringent and does not overlap or conflict with any Federal requirements.**

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

**Of the 24 hours of continuing education required for biennial renewal in Delaware, a chiropractor is limited to 6 hours in asynchronous education, including video replay or online courses. Maryland requires licensed chiropractors to complete 48 hours of continuing education during each biennial renewal period, but does not restrict its licensed chiropractors between live, home study or online format. Of the 30 hours of continuing education required for biennial renewal in New Jersey, a chiropractor is limited to 12 hours in asynchronous distance learning courses. In New York a licensed chiropractor must complete 36 hours of continuing education during each triennial renewal period, but may not count more than 12 hours in self-instructional coursework without live interactive instruction. Ohio requires licensed chiropractors to complete at least 36 hours of continuing education during each biennium, and those who practice in Ohio must complete at least 24 of the hours via in person approved courses in Ohio; there is no other restriction on online or electronic learning. Chiropractors in West Virginia must complete at least 18 hours of continuing education every year, including at least 12 hours in the classroom.**

**Given this information, the Board believes that the rulemaking will not put Pennsylvania at a competitive disadvantage with other states.**

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

**This rulemaking will not affect other regulations of the Board or other state agencies.**

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**The Board's continuing education committee discussed the need for this rulemaking at a meeting open to the public immediately prior to the Board's regularly scheduled meeting on January 30, 2014. In public session at the Board meeting, the committee recommended proposing a rulemaking to limit the proportion of continuing education that can be met via online or other non-traditional methods, and the Board engaged in extensive discussion about the need for the rulemaking and the various methods to accomplish its objectives. Representatives of Pennsylvania Chiropractic Association (PCA) and the Chiropractic Fellowship of Pennsylvania (CFP), the professional societies that represent the Board's licensees, were present for this discussion and generally attend the Board's public meetings. By email on April 7, 2014, counsel forwarded an exposure draft and solicited comments from PCA. Subsequent to publication of the proposed rulemaking, the Board discussed the comments from the public and IRRC in public session at its meeting November 6, 2014; representatives of PCA and CFP were present and spoke on this topic. The Board further discussed the final rulemaking in public session at its meeting on March 19, 2015.**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

**All licensees of the Board will be affected by the proposed rulemaking. The Board currently licenses approximately 4,081 chiropractors. According to the Pennsylvania Department of Labor and Industry, in 2010 (the most recent year for which data is available) 51.2% of chiropractors in Pennsylvania were employed in offices of health care practitioners other than physicians, and 43.8% were self-employed; data for employment in scientific research and development services, offices of physicians, outpatient care centers, other ambulatory health care services and child daycare services is marked confidential.**

**Section 3 of the Regulatory Review Act provides that a small business is defined by the U.S. Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established for types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the types of businesses where chiropractors work, a healthcare office other than a physician office is a small business if it has \$7.0 million or less in total average annual receipts. Those who are self-employed are presumed to be a small business.**

**In considering all of these small business thresholds set by NAICS for the businesses in which chiropractor work, it is probable that the vast majority of licensees work in small businesses.**

**As noted in response to question (17), the amendments impose no additional paperwork requirements or administrative burdens and require no additional investment in equipment. Accordingly, there should be no disproportionate impact upon small businesses as a result of compliance with the rulemaking.**

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

**See the response to question (15). All licensees of the Board will be required to comply with the rulemaking.**

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**The Board does not expect this rulemaking to have any financial, economic or social impact on individuals, small businesses, businesses or labor communities or other public or private organizations.**

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

**The above-identified benefits of the rulemaking outweigh any cost or adverse effect.**

(19) 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.

**Because they will have to track the number of hours of continuing education in distance education, as well as total continuing education as currently required, licensees will have a *de minimis* increase in costs in order to comply with the rulemaking. There are no other costs or savings to the regulated community associated with compliance with the rulemaking.**

(20) Provide a specific estimate of the costs and/or savings to the **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.**

(21) Provide a specific estimate of the costs and/or savings to the **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.

**In conducting its audits of licensees, the Board will track each audited licensee's amount of distance education as well as total continuing education as currently required and therefore have a small increase in costs. There are no other costs or savings to state government associated with implementation of the rulemaking.**

(22) For each of the groups and entities identified in items (19)-(21) above, 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 rulemaking will not require any additional recordkeeping or other paperwork for implementation.**

(23) 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>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3 (12-13)</b>	<b>FY -2 (13-14)</b>	<b>FY -1 (14-15)</b>	<b>Current FY (15-16)</b>
<b>Pa. State Bd. of Chiropractic</b>	(actual) \$450,314	(actual) \$492,853	(actual) \$496,176	(budgeted) \$547,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**The Board does not expect this rulemaking to have any adverse impact on small businesses. Except for the *de minimis* increase in costs described in the response to question (19), there will be no projected additional reporting, recordkeeping or other administrative costs required for compliance with the rulemaking. There are no less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the 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 description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**The Board considered alternatives suggested by commentator, i.e., permit all 24 hours be completed via distance education; restrict the number of hours of online education that may be acquired over a specific time period. However, the Board believes this rulemaking represents the least burdensome alternative that is consistent with the public health, welfare and safety.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**Because it does not expect this rulemaking to have any adverse impact on small businesses, the Board did not conduct a regulatory flexibility analysis.**

(28) 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.**

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

- |   |                                 |
|---|---------------------------------|
| A. The date by which the agency must receive public comments:                               | <b><u>September 2, 2014</u></b> |
| B. The date or dates on which public meetings or hearings will be held:                     | <b><u>N/A</u></b>               |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <b><u>Fall 2016</u></b>         |
| D. The expected effective date of the final-form regulation:                                | <b><u>Upon publication</u></b>  |
| E. The date by which compliance with the final-form regulation will be required:            | <b><u>Effective date</u></b>    |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <b><u>N/A</u></b>               |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**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. The Board meets on the remaining dates in 2016: May 26, July 28, September 22, and December 1. More information can be found on the Board's website (linked from professional licensing boards and commissions from [www.dos.pa.gov](http://www.dos.pa.gov)).**



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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:

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

State Board of Chiropractic  
(AGENCY)

BY: Marisa H. Z. Lehr

DOCUMENT/FISCAL NOTE NO. 16A-4323

\_\_\_\_\_  
DATE OF APPROVAL

06-23-2016  
DATE OF APPROVAL

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

BY: Kathleen G. McConnell, DC

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

[ ] Check if applicable  
Copy not approved.  
Objections attached.

TITLE: Chairperson  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[ ] Check if applicable.  
No Attorney General approval  
or objection within 30 day  
after submission.

FINAL RULEMAKING

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

49 Pa. Code § 5.79  
Distance Education

The State Board of Chiropractic (Board) hereby adds § 5.79 (relating to distance education) to read as set forth in Annex A.

*Description and Need for the Rulemaking*

Section 507(a) of the Chiropractic Practice Act (act) (63 P.S. § 625.507(a)) requires each licensed chiropractor to complete at least 24 hours of continuing chiropractic education within the immediately preceding 2-year period as a condition of biennial license renewal. Section 507(b) of the act provides permitted and prohibited subject matter and requires that the programs be approved by the Board. The balance of section 507 of the act and Subchapter G of the Board's regulations (relating to continuing education) lay out various requirements for licensees and providers to follow. Without explicitly saying so, the tenor of these requirements suggests that all continuing education must be in the traditional classroom lecture or clinical presentation. However, useful education can be delivered through other methods such as real-time web-cast or Internet presentation. To the extent the subject matter of the education requires hands-on participation, the Board would approve only those courses that are presented in person. While other learning can occur through non-traditional methods such as prerecorded video, these tools present the opportunity for one so inclined to go through the formalities without actual participation.

The Board proposed this rulemaking to clearly permit non-traditional methods of continuing education, yet limit the amount. As proposed, subsection (a) would define "distance education" as instruction delivered in an independent format or in an instructor-led format during which the participant and the instructor are separated by distance and time. This definition would explicitly exclude live, interactive webinars and online courses in which the participant and instructor are able to interact in real time. Subsection (b) would state the general rule that continuing education used to satisfy the Board's requirements be obtained through traditional methods, such as classroom lecture, clinical presentation, real-time web-cast or other live sessions where a presenter is involved. Subsection (c) would limit licensees to obtaining no more than 50% of the required hours of continuing education through distance education.

*Summary of Comments and Responses to Proposed Rulemaking*

The Board published the notice of proposed rulemaking at 44 Pa.B. 5214 (August 2, 2014) with a 30-day public comment period. The Board received a large number of public comments from individual chiropractors, as well as from the Chiropractic Fellowship of Pennsylvania and the University of Bridgeport College of Chiropractic. The Board received comments from the Independent Regulatory Review Commission (IRRC) as part of its review of proposed rulemaking under the Regulatory Review Act (71 P.S. §§ 745.1—745.15). The Board did not receive any comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The individual chiropractors all opposed prohibiting and the majority opposed limiting the amount of continuing education that may be earned online. These commenters consistently contrasted the greater convenience of online courses and ability to choose programs of greater personal interest with the need to take time off from practice and travel to and possibly stay

overnight at conferences with limited course selections and ready distractions. They also asserted that institutions of higher education often provide undergraduate and graduate academic courses online and that members of other learned professions are able to meet their entire continuing education obligation online. Some public commenters contrasted the additional requirement of many online courses to successfully complete a quiz or other demonstration of knowledge to receive credit for the course with the apparent acceptance of licensees receiving credit for attending conferences in person without any actual attention to a presentation.

The University of Bridgeport College of Chiropractic (UBCC) is an accredited school of chiropractic and is a sponsor of chiropractic continuing education. It opposed limiting distance education because there is currently no accountability for learning in the traditional seminar model. It notes that its records for programs offered through distance education include records of participation and examinations. UBCC asserted that distance education is more conducive to commonly accepted learning models and typical attention span through targeted subject matter and focused presentation. UBCC referred to research that shows that healthcare providers who obtain all continuing education through distance learning are no more likely to have a malpractice claim or licensure disciplinary action, as well as research that shows no advantage to live education versus distance-based education. UBCC also points out that many institutions of higher education permit class work at all levels via distance education and that many professions, including medicine, permit licensees to complete continuing education requirements via distance education. Moreover, the American Chiropractic Association's House of Delegates passed a resolution in 2005 supporting online education that includes methods of verifying participation. Finally, UBCC noted that limiting the amount of distance education could result in restricting a licensee's choices in continuing education and be a detriment to learning. UBCC first suggested that the Board consider alternatively setting standards for participation in both distance education and live presentations of continuing education. UBCC also suggested that, instead of limiting content or amount of credit, the Board could consider limiting the amount of distance education that could be completed within a limited time period, so as to avoid a licensee attempting to complete a large number of hours of credit within a single day.

The Board considered UBCC's suggestion, as the Board and other professional licensing boards within the Bureau of Professional and Occupational Affairs have from time to time seen a licensee complete 20 hours or more of continuing education online in a single day. While it is possible that the licensee merely clicked through the courses, there could be a number of legitimate reasons for this type of situation. For example, the licensee might have taken a number of distance education courses from one provider and finally paid the tuition for all of them at once, whereupon the provider issued the certificates of completion on the same date. Alternatively, the licensee might have been working through a number of courses simultaneously and took the last steps to complete each on the same date. Because there are valid reasons that it might appear a licensee has completed a large amount of continuing education in a limited time, the Board is not inclined to impose a prophylactic rule artificially limiting the amount of credit that may be earned in a given time period. Nor does the Board see any compelling reason for all continuing education activities to include an examination or other activity as a condition of receiving credit.

The Chiropractic Fellowship of Pennsylvania (CFP) postulated that an online course scheduled for a specific time and allowing for interaction with the instructor as well as other

attendees, such as a webinar, would be a more valid method of continuing education that accepts use of new technology. By contrast, CFP opposed permitting distance education, as it does not allow the personal interaction and enhanced education experience available at traditional live presentations. Additionally, CFP noted that a sponsor must apply and pay the fee for approval for each date and location the course is presented live, whereas online providers need only apply and pay the fee once regardless of how many different times a course is completed through distance education.

IRRC first questioned the Board's statutory authority to allow any continuing education via distance education. Section 302(3) of the act grants the Board the power and the duty to "promulgate, adopt, and enforce in the manner provided by law, the rules and regulations necessary to carry out" the act. Section 507(a) of the act requires that, "[a]s a condition for the biennial renewal of a license to practice chiropractic, a licensee shall submit to the board evidence that he has completed at least 24 hours of continuing chiropractic education within the immediately preceding two-year period." Under section 507(b) of the act, credit may be earned "for only those hours of continuing chiropractic education in a program approved by the board and only for those hours directed toward keeping the licensee apprised of advancements and new developments in chiropractic which build upon the basic courses required to practice chiropractic ... [but no] credit shall be given for any course in office management or practice building." Section 507(c) of the act requires a continuing chiropractic education program sponsor to apply to the Board for approval and provide: (1) evidence that the program would be directed toward keeping the licensee apprised of advancements and new developments in chiropractic, (2) a course outline or syllabus, including such items as methods of instruction and testing materials, if any, and (3) a current curriculum vitae of each instructor, speaker or lecturer appearing in the program. The Board clearly has statutory authority to promulgate regulations concerning continuing chiropractic education – including standards for programs – and to approve programs of continuing education. Although the General Assembly has prescribed certain limitations upon course content, it has not addressed the method by which a program is presented, other than to require that the sponsor describe intended methods of instruction and provide instructor credentials, all subject to Board approval. Nothing in the act suggests that the Board cannot permit licensees to obtain credit for continuing chiropractic education presented in a particular format, such as online. To the contrary, the General Assembly has authorized the Board to approve continuing chiropractic education using any acceptable method of instruction.

IRRC also noted that section 507(b) of the act requires continuing education to be in specific subject areas, including certain scientific areas, chiropractic analysis, X-ray, chiropractic principles, chiropractic techniques and adjunctive procedures, and asked the Board to explain how completion of course work in those areas via distance education is consistent with the intent of the General Assembly. Section 507(b) of the act grants the Board broad discretion for determining acceptable methods of instruction for continuing chiropractic education programs. "A licensee may receive credit for only those hours of continuing chiropractic education in a *program approved by the board* and for only those hours directed toward keeping the licensee apprised of advancements and new developments in chiropractic which build upon the basis courses required to practice chiropractic." Section 507(b) of the act, 63 P.S. § 625.507(b) (emphasis supplied). Section 507(b) then delineates the acceptable and prohibited subject areas for credit for continuing chiropractic education programs, *see id.*, but it does not limit the Board's authority to determine

acceptable *methods of instruction* for programs, other than requiring that the “program [is] approved by the board.” *Id.* Because it is not appropriate to present via distance education a course whose content requires hands-on participation, the Board will approve only live and in-person presentation for those types of courses. As noted by many of the individual chiropractors who commented and by UBCC, institutions of higher education routinely present courses in basic and advanced sciences through distance education. As these programs are appropriate for continuing education credit and distance education is an acceptable method of instruction, it is consistent with the intent of the General Assembly for the Board to approve and permit credit for these continuing chiropractic education programs presented via distance education.

Finally, IRRC questioned whether the public health, safety and welfare of citizens of this Commonwealth are adequately protected if continuing education is obtained via distance education instead of traditional classroom lectures or clinical presentations. For the reasons presented by UBCC and endorsed by the individual chiropractors, the Board believes that the public health, safety and welfare is protected by permitting licensees to meet at least a portion of the continuing chiropractic education requirement through distance education.

#### *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth, its political subdivisions, or the private sector. The rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions, or the private sector.

#### *Effective Date*

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

#### *Statutory Authority*

This rulemaking is authorized under section 302(3) of the Chiropractic Practice Act (63 P.S. § 625.302(3)).

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 21, 2014, the Board submitted a copy of the notice of proposed rulemaking, published at 44 Pa.B. 5214 (August 2, 2014), to IRRC and the chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC, the SCP/PLC and the public.

On July 1, 2016, the Board delivered final-form rulemaking to the HPLC, the SCP/PLC and IRRC. Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)),

the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on August 17, 2016. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 18, 2016, and approved the final-form rulemaking.

### *Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Regulatory Unit Counsel, Department of State, by mail to P.O. Box 69523, Harrisburg, PA 17106-9523, by telephone at (717) 783-7200, or by e-mail at RA-STRegulatoryCounsel@pa.gov.

### *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) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) Any amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 44 Pa.B. 5214.
- (4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Chiropractic Practice Act.

### *Order*

The Board, acting under its authorizing statute, orders that:

- (a) The regulations of the Board at 49 Pa. Code Chapter 5 are amended by adding § 5.79 (relating to distance education) 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*.

George E. Khoury, DC, Chairperson  
State Board of Chiropractic

## ANNEX A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 5. STATE BOARD OF CHIROPRACTIC

\* \* \* \* \*

#### Subchapter G. CONTINUING EDUCATION

\* \* \* \* \*

#### **§ 5.79. Distance education.**

(a) As used in this section, “distance education” means instruction delivered in an independent format or in an instructor-led format during which the participant and the instructor are separated by distance and time. The term does not include live, interactive webinars or online courses in which the participant and instructor are able to interact in real time.

(b) Except as provided in subsection (c), continuing education hours used to satisfy the requirement of section 507(a) of the act (63 P.S. § 625.507(a)) shall be obtained through traditional continuing education such as classroom lecture, clinical presentation, real-time web-cast or other live sessions where a presenter is involved.

(c) No more than 50% of the required number of continuing education hours may be obtained through distance education.

\* \* \* \* \*

## Commentators List

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July 1, 2016

The Honorable John F. Mizner, Esq., Chairman  
INDEPENDENT REGULATORY REVIEW COMMISSION  
14<sup>th</sup> Floor, Harristown 2, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Final Regulation  
State Board of Chiropractic  
16A-4323: DISTANCE EDUCATION

Dear Chairman Mizner:

Enclosed is a copy of a final rulemaking package of the State Board of Chiropractic pertaining to Distance Education.

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 "George E. Khoury, DC".

George E. Khoury, DC, Chairperson  
State Board of Chiropractic

GEK/TAB:rs  
Enclosure

cc: Ian J. Harlow, Commissioner of  
Professional and Occupational Affairs  
Leigh Chapman, Director of Policy, Department of State  
Timothy Gates, Chief Counsel  
Department of State  
Cynthia Montgomery, Regulatory Counsel  
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State Board of Chiropractic  
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