

INDEPENDENT REGULATORY REVIEW COMMISSION DISAPPROVAL ORDER

Commissioners Voting:

Public Meeting Held August 18, 2016

George D. Bedwick, Chairman
W. Russell Faber
Murray Ufberg, Esq.
Dennis A. Watson, Esq.

Order Issued August 26, 2016
Regulation No. 16A-4323 (#3068)
State Board of Chiropractic
Distance Education

On July 21, 2014, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Chiropractic (Board). This rulemaking amends 49 Pa. Code Chapter 5 by adding § 5.79. The proposed regulation was published in the August 2, 2014 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 1, 2016.

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 two-year period as a condition of biennial license renewal. In addition, Subsection 507(b) (63 P.S. § 625.507(b)) of the Act requires continuing education hours to be in the following specific areas:

- Anatomy;
- Physiology;
- Histology;
- Chemistry;
- Pathology;
- Physics;
- Bacteriology;
- Diagnosis;
- Hygiene and sanitation;
- Symptomatology;
- Chiropractic analysis;
- X-ray;
- Chiropractic principles;
- Chiropractic technique; and
- Adjunctive procedures.

This final-form rulemaking limits the number of continuing education hours that a chiropractor may obtain via “distance education” to 50% of the required number of hours needed for biennial license renewal. Under the rulemaking, “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 rulemaking also specifies that “distance education” does not include “live, interactive webinars or online courses in which the participant and instructor are able to interact in real time.” Current Board policy allows chiropractors to meet all of their continuing education requirements through distance education.

This Commission’s comments issued on October 2, 2014, asked what assurances the Board could provide to illustrate that obtaining continuing education for the subject matter noted above through distance education is an adequate substitute for traditional lectures and presentations and is also protective of the public health, safety and welfare of the citizens of the Commonwealth. The Board responded that it agrees with those parties who submitted comments on the proposed rulemaking that suggested distance education is an acceptable method of instruction. The Board

noted that institutions of higher education routinely present courses in basic and advanced sciences through “distance education.”

At the public meeting of August 18, 2016, this Commission asked the Board several questions related to why the Board believes the use of “distance education” to obtain chiropractic continuing education credits is a sound practice. Of particular concern was how the Board could ensure active participation and mastery of the subject matter by chiropractors who are obtaining continuing education credits via distance education. In addition, it was suggested that the Board’s practice of not approving distance education courses that require hands-on participation be codified in the regulation.

Based on the Board’s response to our comments on the proposed rulemaking and the concerns raised at the public meeting, this Commission finds that the rulemaking does not adequately protect the health, safety and welfare of the citizens of the Commonwealth. This violates Section 5.2(b)(2) of the Regulatory Review Act (RRA). 71 P.S. § 745b(b)(2). We believe that a regulation that allows “distance education” needs to include mechanisms to ensure that licensees are actively participating in the course work and also have mastered the subject matter. In addition, a provision should be included that specifies that the Board will not approve distance education courses for those subjects that, in the Board’s opinion, are best learned through hands-on training.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 625.302(3)) and the intention of the General Assembly. However, after considering all of the other criteria of the RRA discussed above, we find promulgation of this regulation is not in the public interest.

BY ORDER OF THE COMMISSION:

This regulation is disapproved.




George D. Bedwick, Chairman