

Comments of the Independent Regulatory Review Commission



State Board of Dentistry Regulation #16A-4633 (IRRC #3228)

Public Health Dental Hygiene Practitioner Practice Sites

May 22, 2019

We submit for your consideration the following comments on the proposed rulemaking published in the March 23, 2019 *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 Dentistry to respond to all comments received from us or any other source.

1. House Professional Licensure Committee Comments.

The House Professional Licensure Committee (HPLC), in a letter dated May 16, 2019, submitted the following comments:

- Does the term “mental health establishment” include drug and alcohol treatment facilities? If it does not, the HPLC urges the board to include those facilities.
- The Committee requests clarification regarding the Board's role in regulating the relationship between the public health dental hygiene practitioner and physician when public health dental hygiene practitioner (PHDHP) services are provided in a physician's office or clinic.

We will review the Board's responses to these HPLC comments as part of our determination of whether the final-form regulation is in the public interest.

2. Section 33.205b. Practice as a public health dental hygiene practitioner. – Clarity.

New Subsection (c)(3)(ii)

The Board proposes to clarify, by way of example, some of the acceptable practice sites where a PHDHP may perform dental hygiene services without the supervision of a dentist. The proposed rulemaking tracks most of the facilities included in the statutory definition of “health care facility.” However, the Board did not include birth centers in the list of examples.

“Health care facility.” For purposes of Chapter 8, a health care facility includes, but is not limited to, a general, chronic disease or other type of hospital, a home

health care agency, a home care agency, a hospice, a long-term care nursing facility, cancer treatment centers using radiation therapy on an ambulatory basis, an ambulatory surgical facility, a **birth center** (35 P.S. § 448.802a)
[Emphasis added.]

The Board should explain in the preamble to the final-form regulation why this type of facility was not carried over to the list of examples.

The Board proposes to add the phrase “or any other facility licensed and regulated by the Department of Health or a successor agency.” Since this language is not a specific example of a facility, we suggest the Board delete this phrase from the subparagraph and include it as a separate paragraph. Similarly, we recommend the same revision to new Subsection (c)(4)(ii) regarding the phrase “or any other facility licensed and regulated by the Department of Human Services or a successor agency.”

New Subsection (c)(11)

The Board proposes to expand PHDHP practice sites to offices and clinics of physicians licensed by the State Board of Medicine and the State Board of Osteopathic Medicine (medical boards). The regulations of the medical boards allow for satellite locations and operations maintained by physician assistants. See §§ 18.155 and 25.175 (relating to satellite locations; and physician assistants and satellite operations). Are these separate sites considered “an office or clinic” for the purposes of this paragraph? The Board should clarify in the final-form regulation the terms “office” and “clinic” and whether the terms include satellite locations or explain why this is unnecessary in the preamble to the final-form regulation.

3. Miscellaneous clarity.

- The phrase “includes, but is not limited to” appears in § 33.205b(3)(ii) and (4)(ii) of the proposed regulation. The *Pennsylvania Code & Bulletin Style Manual (Manual)* requires in Section 6.16 (relating to words and phrases to avoid) that agencies avoid this phrase and use “includes” instead. Also, the *Manual* states that a subdivision may not have two designators. See Section 2.1(f) (relating to arrangement of code). The Board should revise the final-form regulation in accordance with the style requirements of the *Manual*.
- Cross-references to the applicable regulations of the medical boards should be added to § 33.205b(c)(11) in the final-form regulation for clarity.