

# Comments of the Independent Regulatory Review Commission



## State Board of Pharmacy Regulation #16A-5433 (IRRC #3396)

### Pharmacy Technician Registration

May 1, 2024

We submit for your consideration the following comments on the proposed rulemaking published in the March 2, 2024 *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 Pharmacy (Board) to respond to all comments received from us or any other source.

#### **1. Section 27.91. Schedule of fees. - Fiscal impact; Reasonableness.**

The Board is establishing a biennial renew fee of \$70 for pharmacy technician registration. The Board explains in the Regulatory Analysis Form and the Preamble that this fee is “equitable in comparison to other states and also among the other fees of this Board.” A commentator questions the reasonableness of this amount because the Board does not have any duties related to issuing the renewal registration. Other states have continuing education requirements for pharmacy technicians that must be verified and the Board has similar duties for the renewal of a pharmacist license. We ask the Board to reevaluate its rationale for the amount of this fee and to lower it accordingly.

#### **2. Section 27.702. Pharmacy technician training programs. – Implementation procedures.**

Subsection (a) establishes what must be included in a Board-approved pharmacy training program. What is the process for an entity or organization to become a Board-approved pharmacy technician training program? We ask the Board to explain how it will administer this subsection and, if warranted, to include specific language in the final-form regulation that explains the process involved with becoming a Board-approved training program.

#### **3. Section 27.705. Grandfather requirements for an existing practitioner to be registered as a pharmacy technician. – Implementation procedures.**

This section includes a grandfather provision that would allow a practitioner that has worked as a pharmacy technician for at least one year between January 29, 2019, and January 29, 2021, to be registered, even if the practitioner does not possess a high school diploma or has not completed a Board-approved pharmacy technician program. The two-year grandfathering window and the

exemptions included in this section are required by Act 140 of 2019 (Act 140). The specific language of Act 140 states the following:

- (3) An applicant for pharmacy technician registration shall meet the following requirements:
    - (i) Be at least seventeen years of age and possess a high school diploma or equivalent.
    - (ii) Complete a board-approved pharmacy technician training program.
    - (iii) Submit to a criminal history record check as required by the board.
  - (4) An individual practicing as a pharmacy technician for at least one year of the two-year period immediately preceding the effective date of this section shall not be required to comply with clause (3)(i) or (ii), provided the individual applies within one year of the promulgation of regulations by the board implementing this section.
- [(63 P.S. § 390-3.3(3) and (4)]

The effective date of the statutory language above from Act 140 is January 29, 2021. We have two concerns with this section. First, Paragraph (1) requires an applicant to provide two types of proof of employment as a pharmacy technician during the two-year grandfathering window - a verification from the applicant's employer and copies of their Federal W-2 or 1099 forms. What is the need for providing both types of proof of employment?

Second, will pharmacy technicians employed for at least a year during the two-year grandfathering window have to complete a Board-approved pharmacy training program? Would the exemptions contained in Act 140 apply to pharmacy technicians that are currently employed but were not employed during the grandfathering window? We ask the Board to explain how it will implement this section of the rulemaking for pharmacy technicians employed for at least a year during the grandfathering window, after the grandfathering window, or both.

#### **4. Miscellaneous clarity.**

The phrase, "including, but not limited to" is used in §§ 27.11 (j) and 27.702(b)(3). To improve the clarity of these provisions, the Board should delete "but not limited to" from these subsections of the final-form rulemaking.