

**INDEPENDENT REGULATORY REVIEW COMMISSION
PUBLIC MEETING MINUTES**

10:00 A.M.

Thursday, June 16, 2022
14th Floor Conference Room
333 Market Street

I. CALL OF THE MEETING

The June 16, 2022 public meeting of the Independent Regulatory Review Commission (Commission) was called to order by Chairman Bedwick at 10:01 a.m. in the 14th Floor Conference Room, 333 Market Street, Harrisburg, PA.

Commissioners Present: George D. Bedwick, Chairman
 John J. Soroko, Esq.
 Murray Ufberg, Esq.
 Dennis A. Watson, Esq.

Telephone: John F. Mizner, Esq., Vice Chairman

II. APPROVAL OF THE MAY 19, 2022 PUBLIC MEETING MINUTES

Chairman Bedwick asked for a motion for approval of the May 19, 2022 public meeting minutes, as submitted. Commissioner Watson made the motion and Commissioner Ufberg seconded, and the motion passed 5-0.

III. NEW BUSINESS

A. ACTION ITEMS

1. No. 3257 State Board of Podiatry #16A-4417: Continuing Education

Michelle Elliott, Regulatory Analyst, explained the regulation eliminates the current restriction on the number of continuing education hours that may be completed through programs that involve the use of the internet and permits an unlimited amount of continuing education credits to be obtained through distance education. She added the regulation is consistent with trends in other states. Ms. Elliott explained the regulation allows for up to 10 hours for approved courses and programs that involve the use of reading professional journals. She noted the standing committees have deemed the regulation to be approved.

Todd Kriner, Board Counsel, State Board of Podiatry (State Board), and Jacqueline Wolfgang, Senior Regulatory Counsel, Department of State, were present to answer any questions.

Mr. Kriner said the State Board originally attempted to reduce yearly continuing education requirements from 50 hours to 45 hours but decided against the reduction following comments from the Commission and the public. He stated the State Board decided to implement the asynchronous component for virtual training to require the individual to pay attention through the entire time. He added the regulation does not require continuing education for those involved in a residency.

Chairman Bedwick made a motion for approval. Commissioner Ufberg seconded, and the motion passed 5-0.

2. No. 3323 Pennsylvania Liquor Control Board #54-95: Limited Wineries

Ms. Elliott explained the rulemaking reorganizes regulations pertaining to limited wineries within the *Pennsylvania Code* and revises the regulations to make them more consistent with the Liquor Code. She added the Pennsylvania Liquor Control Board (PLCB) clarified which entity is required to retain the signed copy of the sales receipt after the wine products have been delivered. She noted the standing committees have deemed the regulation to be approved.

Norina Foster, Assistant Counsel, PLCB, was present to answer any questions.

Rep. Thom Welby (D-Lackawanna) pointed out the regulation allows non-Pennsylvania businesses to have a limited winery license, despite active litigation on the topic. He questioned if the regulation should stipulate whether or not out-of-state businesses should have access to the license depending on the ruling of the case. Ms. Foster stated the question pertains to a U.S. Supreme Court case which found laws that prohibit wine deliveries from out-of-state violate the Commerce Clause. She added there was a Pennsylvania version of that case called *Cutner v. Newman*, where the courts issued an injunction to allow out-of-state limited wineries to obtain licenses. She noted the injunction may stand in perpetuity. Ms. Foster stated it is the legislature's duty to amend the definition of limited winery.

Chairman Bedwick noted the *Cutner v. Newman* injunction was issued in 2005 and stands as long as the circumstances exist.

Commissioner Soroko questioned if there is any pending litigation on the topic. Ms. Foster stated there is not. Commissioner Soroko asked if the PLCB would revisit the issue if the injunction were lifted. Ms. Foster agreed the PLCB would revisit the topic, but reiterated it is the legislature's duty to broaden the definition of limited winery.

Commissioner Soroko made a motion for approval. Commissioner Ufberg seconded, and the motion passed 5-0.

3. No. 3333 Insurance Department #11-260: Term and Universal Life Insurance Reserve Financing Standards

Laura Campbell, Regulatory Analyst, stated the regulation adopts uniform national standards governing reserve financing arrangements pertaining to life insurance policies. She noted the regulation is similar to the National Association of Insurance Commissioners (NAIC) term and universal life insurance reserve financing model. Ms. Campbell noted no comments were received and the standing House and Senate committees deemed the regulation to be approved.

Eric Carlisle, Regulatory Coordinator, Richard Hendrickson, Counsel, Jodi Frantz, Deputy Chief Counsel, and Steve Boston, Life and Health Insurance Actuary, Insurance Department (Department), were present to answer any questions.

Mr. Hendrickson said he appreciated the comments received and that they allowed the Department to make clarifications.

Chairman Bedwick stated the regulation would create a new chapter, effective January 1, 2023. He questioned why the regulation is effective when the insurer begins applying the provisions but in no event later than January 1, 2020. Ms. Frantz said, "Even though the policies were issued in the past, the reserving actually occurs in the present." She noted some insurance agencies may have applied the principles of the regulation.

Chairman Bedwick questioned how there can be instances where January 1, 2020, can be later than the effective date of the chapter. He explained that he believes the regulation should be effective for everything prior to January 1, 2020. Mr. Hendrickson said it would likely apply to very few policies. Ms. Frantz stated the purpose is to confine a particular window of time where these particular policies were being reinsured.

Chairman Bedwick asked when NAIC promulgated their model regulation. Ms. Frantz said they were promulgated in 2016 or 2017.

Chairman Bedwick said he believes the section regarding instances of insurance coverage after January 1, 2020, is extraneous, but would accept it if the commentators believed it would cause no harm. Ms. Frantz agreed there is no harm.

Commissioner Ufberg made a motion for approval. Chairman Bedwick seconded, and the motion passed 5-0.

4. No. 3301 Environmental Hearing Board #106-13: Practice and Procedure

Ms. Campbell said the regulation amends the Environmental Hearing Board (Board)'s rules to clarify, add and revise rules relating to representation appeals and filings. She noted no comments were received and both the House and Senate committees have deemed the regulation to be approved.

Chief Judge Thomas W. Renwand, and Maryanne Wesdock, Senior Counsel, Board, were present to answer any questions.

Ms. Wesdock stated the regulation amends the Board's rules of practice and procedure.

Commissioner Watson made a motion for approval. Commissioner Ufberg seconded, and the motion passed 5-0.

IV. OTHER BUSINESS

Approval of Vouchers

Commissioner Watson made motions to approve vouchers and expenses for the period March 22, 2022 through May 19, 2022. Chairman Bedwick seconded, and the motions passed 5-0.

V. DATE AND PLACE OF SUBSEQUENT MEETING

Chairman Bedwick announced the next public meeting is scheduled for Thursday, July 21, 2022, at 10:00 a.m. in the 14th Floor Conference Room, 333 Market Street, Harrisburg.

VI. EXECUTIVE SESSION ANNOUNCEMENTS

Chairman Bedwick announced that no executive session would be held.

VII. ADJOURNMENT

Chairman Bedwick adjourned the meeting at 10:43 a.m.