

**INDEPENDENT REGULATORY REVIEW COMMISSION  
PUBLIC MEETING MINUTES**

10:00 A.M.

Thursday, July 9, 2015  
14<sup>th</sup> Floor Conference Room  
333 Market Street

**I. CALL OF THE MEETING**

The July 9, 2015 public meeting of the Independent Regulatory Review Commission (Commission) was called to order by Chairman Mizner at 10:10 a.m. in the 14<sup>th</sup> Floor Conference Room, 333 Market Street, Harrisburg, PA.

Commissioners Present:           John F. Mizner, Esq., Chairman  
   George D. Bedwick, Vice Chairman  
   W. Russell Faber  
   Dennis A. Watson, Esq.  
  
Telephone:                         Murray Ufberg, Esq.

**II. APPROVAL OF THE JUNE 18, 2015 PUBLIC MEETING MINUTES**

Chairman Mizner asked for a motion for approval of the June 18, 2015 public meeting minutes, as submitted. Commissioner Faber made the motion and Vice Chairman Bedwick seconded, and the motion passed 5-0.

**III. NEW BUSINESS**

**A. ACTION ITEMS**

**1. No. 3006 State Board of Pharmacy #16A-5425: Collaborative Management of Drug Therapy**

Michelle Elliott, Regulatory Analyst, explained that the final regulation implements regulations mandated by Act 29 of 2010, which amended Section 9.3 of the Pharmacy Act (63 P.S. § 390-9.3) to provide for collaborative drug therapy management in accordance with a written collaborative agreement between a physician and a pharmacist in a setting other than an institutional setting. She continued that the final regulation also clarifies and updates the liability insurance obligations for pharmacists engaging in the collaborative management of drug therapy in any setting.

Commissioner Ufberg stated he understood the nature of the regulation, but asked why pharmacists were not mandated to join the program, especially if it is a benefit to a patient and at no cost to the pharmacist.

Cynthia Montgomery, Regulatory Counsel, Department of State, and Jason McMurry, Board Counsel, State Board of Pharmacy, were present to answer any questions.

Mr. McMurry said the State Board of Pharmacy is constrained to what the Act requires. He continued that the Act does not allow the State Board of Pharmacy to mandate that professionals engage in the program. Mr. McMurry agreed with Commissioner Ufberg that the regulation benefits patients and pharmacists to provide better health care, but reiterated that the State Board of Pharmacy does not have the power to mandate that type of provision.

Commissioner Ufberg asked if the State Board of Pharmacy is “prodding” the legislature to seek a mandatory provision. Mr. McMurry stated the State Board of Pharmacy’s belief is that the professionals involved are well-suited to the aspects of a patient’s treatment, and did not want to force Pharmacists into practices that they are not comfortable with.

Commissioner Ufberg expressed his belief that a conversation with regard to a mandatory provision needs to occur. Vice Chairman Bedwick echoed Commissioner Ufberg’s comment, and added there should be a collaborative effort between the State Board of Pharmacy and the respective medical boards. Mr. McMurry stated he would relay the comments to the State Board of Pharmacy.

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

## **2. No. 3074 Environmental Quality Board #7-489: Land Reclamation Financial Guarantees and Bioenergy Crop Bonding**

James Smith, Regulatory Analyst, explained that the regulation implements Act 95 and Act 157 of 2012, which provide voluntary incentives relating to reclamation bond coverage to meet the statutory bonding obligations required by the Surface Mining Conservation and Reclamation Act (SMCRA). He continued the regulation also includes an update of citations as a result of the amendment of SMCRA.

John Stefanko, Deputy Secretary, Active and Abandoned Mine Operations, Tom Callaghan, Director, Bureau of Mining Programs, and Joseph Iole, Assistant Regulatory Counsel, Department of Environmental Protection (DEP), were present to answer any questions.

Mr. Stefanko explained the program is voluntary and “the rulemaking was the result of an extensive interaction with the Mining Reclamation Advisory Board, which provided substantial input.” He stated three parties submitted public comment during DEP’s public comment period. Mr. Stefanko continued that two of the parties “urged the swift passage of the regulation, since the financial guarantees will assist the coal industry.” He noted that one commenter suggested “the regulations be changed to allow the bond to be released before the financial guarantees.” Mr. Stefanko explained the proposed regulations were not changed in response to the comment, in order to minimize the risk to the Land Reclamation Financial Guarantee Program, which would help ensure the long-term viability of the program. He stated another commenter noted the proposed rulemaking over-emphasized the goal to minimize the reclamation fee. Mr.

Stefanko stated there were also comments provided by the Commission. Regarding the language in Section 86.172 to increase the Reclamation fee, Mr. Stefanko said language was added to change the fee. Regarding the comment on the wording in Section 86.162 (b)(f)(3), he said the statutory language regarding the margin of safety in Act 157 was added in the regulation. Regarding the suggestion relating to Section 86.162 (b), he said the revisions to payments schedules imposed by DEP to be in writing were addressed. Regarding the observation that Section 86.162 (b) (k)(3) was not clear with respect to what a coal miner must demonstrate, Mr. Stefanko said the section was revised to include the demonstration may be accomplished by showing the operator has not been subject to any notices of violation. He expressed his belief that those changes resulted in “a final clear regulation.”

Commissioner Watson asked if there is a significant amount of agriculture in Bioenergy crops in Pennsylvania. Mr. Callaghan said that is not his area of expertise and he did not know.

Chairman Mizner expressed his belief that reclamation is “a very important part of future mining.”

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

### **3. No. 3072 Department of Conservation and Natural Resources #7B-7: State Forest Picnic Areas**

Corinne Brandt, Regulatory Analyst, explained the regulation consolidates 17 Pa. Code, Chapter 21 (General Provisions) and Chapter 23 (State Forest Picnic Areas) to eliminate several redundancies and inconsistencies that exist between the two sets of regulations. She continued that in addition to merging the two chapters, the regulation reorganizes, updates, and clarifies certain state forest provisions.

Wendy Carson, Assistant Counsel, and Matt Beaver, Chief, Operations and Recreation Division, Bureau of Forestry, Department of Conservation and Natural Resources (DCNR), were present to answer any questions.

Ms. Carson explained there are currently two chapters that address State Forest Lands: Chapter 21 applies to all State Forest Land, including picnic areas; and Chapter 23 applies solely to picnic areas. She said there are redundancies between the two chapters and there is no benefit in maintaining two separate chapters. Ms. Carson said there are two new provisions in the regulations regarding ground lines and tree stands. She said DCNR did not receive public comment, but did receive comments from the Commission, which indicated that Section 21.120 (c) and Section 21.121 (c) should be removed because the language is duplicative in another section. Ms. Carson continued DCNR amended the final form rulemaking by removing both of the sections. She also explained the regulation was previously withdrawn because DCNR did not use the proposed regulation as it was published in the *Pennsylvania Bulletin* as its source document. Ms. Carson added that no substantive changes were made, only stylistic changes.

Vice Chairman Bedwick complimented DCNR for the work on the regulation and said it was easy to follow.

Regarding the new tree stand provision, Commissioner Faber asked if an individual needs prior approval before setting up a tree stand. Mr. Beaver stated no prior approval is required.

Commissioner Faber asked if the tree stands are collected and stored if they are not removed. Mr. Beaver explained an unclaimed tree stand would be stored for a period of time.

Commissioner Faber asked if an unclaimed tree stand would fall under Unclaimed Property Program (escheats). Mr. Beaver explained there is a process that is followed. He continued that the period of time for which a tree stand is stored is based on the monetary value of the tree stand. Mr. Beaver added once a tree stand expires under that process it is disposed of through the Department of General Services.

Commissioner Faber asked how often tree stands are left behind. Mr. Beaver said rarely, because tree stands are a tool as well as an investment.

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

#### **IV. OTHER BUSINESS**

##### **Approval of Vouchers**

Commissioner Faber made motions to approve vouchers and expenses for the period May 29, 2015 through June 18, 2015. Vice Chairman Bedwick seconded, and the motions passed 5-0.

#### **V. DATE AND PLACE OF SUBSEQUENT MEETING**

Chairman Mizner announced the next public meeting is scheduled for Thursday, August 13, 2015, at 10:00 a.m. in the 14<sup>th</sup> Floor Conference Room, 333 Market Street, Harrisburg.

#### **VI. EXECUTIVE SESSION ANNOUNCEMENTS**

Chairman Mizner announced that no executive session would be held.

#### **VII. ADJOURNMENT**

Chairman Mizner announced the meeting adjourned at 10:33 a.m.