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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

October 15, 2010

Kathleen McConnell, D.C., Chair  
State Board of Chiropractic  
2601 North 3rd Street  
Harrisburg, PA 17110

Re: Regulation #16A-4318 (IRRC #2792)  
State Board of Chiropractic  
Continuing Education Violations

Dear Ms. McConnell:

The Independent Regulatory Review Commission disapproved your regulation on October 7, 2010. Our order is enclosed and will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

Within 40 days of receipt of our order, Section 7(a) of the Regulatory Review Act requires you to select one of the following options: (1) proceed with promulgation under Section 7(b); (2) proceed with promulgation under Section 7(c); or (3) withdraw the regulation. If you do not take any action within this period, the regulation is deemed withdrawn.

If you or your staff have any questions, please contact Kim Kaufman, our Executive Director, at 783-5506.

Sincerely,

George D. Bedwick  
Acting Chairman

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Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Michael P. McGeehan, Majority Chairman, House Professional Licensure Committee  
Honorable Julie Harhart, Minority Chairman, House Professional Licensure Committee  
Honorable Basil L. Merenda, Acting Secretary, Department of State

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held October 7, 2010

George D. Bedwick, Acting Chairman  
S. David Fineman, Esq., by Phone  
Silvan B. Lutkewitte, III

Regulation No. 16A-4318 (#2792)  
State Board of Chiropractic  
Continuing Education Violations

On September 11, 2009, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Chiropractic (Board). This rulemaking amends 49 Pa. Code § 5.77. The proposed regulation was published in the September 26, 2009 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 3, 2010.

This rulemaking is intended to clarify the consequences of failing to comply with the continuing education provisions in the Chiropractic Practice Act (63 P.S. § 625.507(a)) and the Board's regulation (49 Pa. Code §5.77). Both require a licensee to complete 24 hours of continuing education credits each biennium in order to qualify for license renewal. Under the amendments in this rulemaking, a licensee who has not completed the required amount of continuing education credits may renew, subject to being issued a citation, paying a fine and making up the continuing education credits within six months.

We find no statutory authority allowing the Board to renew a license for an applicant who has not completed the statutorily mandated 24 hours of continuing education during the prior two-year license period. Accordingly, this regulation does not meet the Regulatory Review Act criterion of statutory authority to promulgate the regulation. 71 P.S. § 745.5b.

In our comments issued November 25, 2009, on the proposed regulation, we stated we would review the Board's responses to the issues raised by the House Professional Licensure Committee in our consideration of whether the final-form regulation is in the public interest. The Board responded with an explanation that it would amend its renewal form to provide for the alternative that the licensee did not complete the continuing education, but will make it up in six months. The Board also amended the regulation to provide an exception to the continuing education requirement (not found in the statute) which permits a license to be renewed subject to making up a continuing education deficiency within six months.

The Board's responses indicate that the intent of the amended regulatory language at 49 Pa. Code §§ 5.77(a) and (d), is to allow a renewal of a license when a licensee failed to attend the required 24 hours of mandatory continuing education during the license period. This intent is also expressed in the Board's response to Question 8 of the Regulatory Analysis Form.

Continuing education relating to license renewal is addressed in the Chiropractic Practice Act (Act), which states at 63 P.S. § 625.507(a):

**Requirement for license renewal. – As a condition for the biennial renewal of a license to practice chiropractic,** a licensee shall submit to the Board evidence

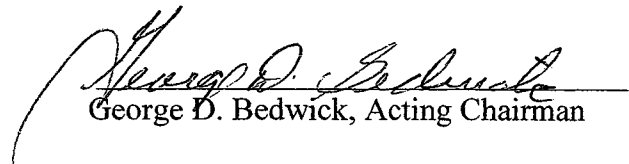
that he has completed at least 24 hours of continuing chiropractic education within the immediately preceding two-year period.... (Emphasis added.)

The only exception to the continuing education mandate in the statute is "in emergency or hardship cases." See 63 P.S. § 625.507(h). When a licensee does not meet this condition, the applicant, "as a condition for the biennial renewal of a license to practice chiropractic," is required to have attended "at least 24 hours of continuing chiropractic education in the immediately preceding two-year period...." 63 P.S. § 625.507(a).

The Commission concludes that this regulation is not consistent with the statutory authority of the Board (63 P.S. § 625.507(a)) and the intention of the General Assembly. Therefore, we find promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.

  
George D. Bedwick, Acting Chairman

