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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Central Office  
P.O.Box 606  
Mechanicburg, PA. 17055

August 10, 1998

James M. Smith, Regulatory Analyst  
Independent Regulatory Review Commission  
14th Floor  
333 Market Street  
Harrisburg, PA. 17101

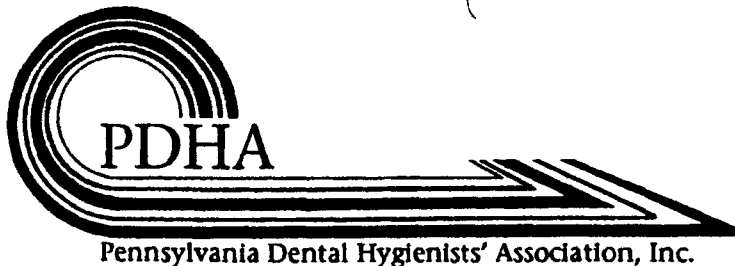
Dear Mr. Smith,

Enclosed is a copy of the Pennsylvania Dental Hygienists' Association's comments to the continuing education and expanded function dental assistant regulation published in the Pennsylvania Bulletin on July 11, 1998. Also enclosed are comments that were submitted by Lillian Caperila, Vice President of the Pennsylvania Dental Hygienists' Association.

Please feel free to contact me if you need any further clarification or if you have any question regarding our comments.

Sincerely,

Anita M. Lantzy, RDH  
President, Pennsylvania Dental  
Hygienists' Association



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REVIEW COMMISSION

August 7, 1998

Judith Pachter Schulder, Esq.  
Counsel, State Board of Dentistry  
116 Pine Street  
P.O. Box 2649  
Harrisburg, PA 17105-2649

RE: No. 16A-464 (Continuing Education)

Dear Ms. Schulder:

The Pennsylvania Dental Hygienists' Association (hereinafter the "PDHA") has reviewed the above-proposed regulations, which were published July 11, 1998. Following are the PDHA's official comments to these proposed regulations. I thank you in advance for your consideration of these matters.

I. Definitions (§33.1)

A "Program Sponsor" is defined as "[t]he party responsible for the development and presentation of the continuing dental education program approved by the Board." The placement of the phrase "approved by the Board" renders this definition ambiguous, as it is the "party" that is approved by the Board and not the "program." The Board should be approving sponsors based on ability to provide bona fide educational programs that support legislative objectives, but should not have the authority to approve specific courses.

The PDHA recommends a change to "[t]he party, which is approved by the Board, and is responsible for the development and presentation of the continuing dental education program."

II. Biennial Renewal of Licenses and Certificates (§33.105)

Subsection (b) requires that, as a condition of biennial renewal, licensees and certificate holders shall maintain current certification in cardiopulmonary resuscitation (hereinafter "CPR"). While the PDHA believes that this requirement is a positive

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element in the overall concept of continuing education, this wording lacks clarity in that there are currently two types of CPR certificates available. Basic CPR includes only resuscitation on adults and resuscitation involving obstructed airways. Basic Cardiac Life Support for the Healthcare Provider is more extensive and covers infant, child and adult CPR, one- and two-man response, resuscitation on obstructed airway and stroke victims, and an optional section on automatic external defibrillation.

The PDHA recommends that Basic Cardiac Life Support for the Healthcare Provider be the required form of CPR certification.

### III. Reactivation of Licenses and Certificates (§33.106)

Subsection (b) states that "an applicant for reactivation who has failed to renew for more than 5 years may be subject to reexamination." This is granting an individual or entity absolute authority to determine, perhaps arbitrarily, who must be reexamined. Initially, it is unclear who holds the authority to determine that an applicant must be reexamined. Secondly, if it is assumed that the Board holds this power, then the discretion appears to be absolute, without even so much as a limitation on arbitrary enforcement. Although reexamination has always been discretionary, i.e. "may be subject to reexamination", the Board has never applied such discretion. Instead all applicants for reactivation who have failed to renew for five years are subject to reexamination regardless of their activities within those five years (research, instruction, practice in another jurisdiction) and without respect to their individual abilities. This is in direct contradiction to the direction of the Board's statutory authority which specifically provides that discretion will be used in requiring reexamination. 53 P.S. §122.1(b). "Any person whose license or certificate has expired for failure to make biennial registration over a period of more than five years shall apply to the board and may be required to submit to a reexamination." If the legislature had intended that every applicant for reactivation should be required to submit to reexamination, it would have used the word "shall" instead of "may".

The PDHA recommends that the regulation be clarified as follows: "An applicant for reactivation who has failed to renew for more than 5 years may be, at the Board's discretion, not to be unreasonably applied, subject to reexamination. The Board shall, within six months of the promulgation of these regulations, adopt and publish criteria for the application of its discretion to require reexamination under this paragraph."

### IV. Credit-Hour Requirements (§33.401)

Subsection (a) states that "[a]n applicant shall complete the following continuing education credit hours during the preceding biennial period." The explanatory comments

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accompanying the proposed amendments indicate that that statement prohibits the carry forward of excess credit hours to subsequent biennial periods. (Pa. Bull. vol. 28, no. 28, at 3293.) The PDHA believes that such a requirement is unnecessarily restrictive and unduly onerous. Other professional licensing boards in the Commonwealth provide for credits to be carried forward. Permitting licensees to carry forward some credits would not contribute to any lack of confidence in the continuing competence of any individual licensee. Competence is based on a continuum of professional experiences over a lifetime; rigid parameters in this context do not serve the profession or the public. This modification would enable licensees to plan ahead for major life events without burdening the Board with excessive requests for waivers or deficiency applications. Since continuing education credit reporting will be by certification of each individual licensee on his/her application for licenser renewal, permitting carry forward of a limited number of credits will not impose any additional burden on the Board or its staff. Furthermore, applicants should be made aware that waivers are available in certain instances.

The PDHA recommends that extra credit hours should be carried forward for at least one renewal period, and that the Board inform applicants that a waiver can be requested by including waiver information in the applicant's notice of renewal letter and on the renewal form.

Subsection (c) states that a minimum of 50% of credits shall be taken in lecture or clinical presentations. The Board states, as its basis for this requirement, that it believes that interacting with an instructor and other participants is beneficial to the learning process. (Pa. Bull. vol. 28, no. 28, at 3293.) This finding is unsubstantiated. Initially, there is no statistical evidence to support the conclusion that mandatory continuing education creates clinical competency, therefore there is no rational relationship to the preferred treatment given to credits earned through clinical presentations. The PDHA further believes that learning from others is only one avenue to increased knowledge, and perhaps not the best method.

The PDHA recommends that there be no minimum number of credits that must be earned through lecture or clinical presentations.

Subsection (d)(1) provides that "[i]nstructors will be awarded two additional credit hours as preparation time for each credit hour of instruction up to 50% of the required hours." This language is unclear in that it is uncertain precisely how many hours are earned. There is also uncertainty in the definition of "instructor." The term "instructor" must be defined. Is this term limited to instructors of continuing dental education programs presented by approved program sponsors, or does the term also include instructors in dental and dental hygiene programs at educational institutions? It is the PDHA's belief that if the term includes instructors at educational institutions it will be too easy for them to earn 50% of their credits and would subvert the intent of the continuing education program.

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The PDHA recommends that the language concerning the number of hours earned be changed to “[i]nstructors will be awarded two hours of preparation time plus one hour of instruction time for each hour spent instructing.”

Subsection (g)(2) allows an applicant to apply to the Board for a waiver.

The PDHA recommends that the Board inform applicants that such a waiver can be requested through the inclusion of that information in the notice of renewal letter and on the renewal form.

V. Continuing Education Subject Area (§33.402)

**The PDHA strongly objects to the categorization of “communication skills” as an unacceptable nonclinical subject. Communication skills are an essential component of a competent dental practice, particularly in the area of dental education. If the practitioner is unable to effectively communicate with the patient as to dental procedures and hygiene, the patient’s dental health is likely to suffer. Behavioral Science theoretically includes communication skills, creating more uncertainty regarding what is permissible content and what is not. Furthermore, this exclusion is contrary to the plain language of the enabling statute, which states explicitly that “[n]o credit may be given for courses in office management or practice building. 63 P.S. §122(j.2)(1). The legislative intent to only exclude those categories is clear. This regulation exceeds the Board’s authority for determining appropriate subject areas for credit.**

The PDHA recommends the inclusion of Communications Skills and Behavioral Science in acceptable program topics.

VI. Program Sponsors (§33.403)

The PDHA recommends that Subsections (a)(2) and (5) include the equivalent nursing associations.

There is no provision for special, temporary or one-time program sponsors, nor is there any provision for adding new program sponsors in the future.

The PDHA recommends allowing such program sponsors upon the same criteria applicable to the currently approved program sponsors.

Subsection (b)(1) states that program sponsors must disclose certain information in advance to its participants. It is unclear how far in advance this information must be given. For example, the information could be distributed in program announcements which eligible participants would receive before registering for the course or in handouts given to registrants the day of the program presentation.

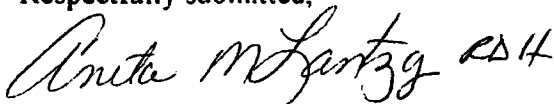
The PDHA recommends clarification of this section to ensure proper compliance.

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VII. Reporting Continuing Education Credit Hours (§33.404)

Subsection (d) states that documentation must be maintained for four years. The PDHA recommends that that period be expressed as two biennial renewal periods since that is the time period in which most of the information in the proposed regulations is expressed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anita Lantzy RDH".

Anita Lantzy, RDH  
President, Pennsylvania Dental  
Hygienists' Association