



**INDEPENDENT REGULATORY REVIEW COMMISSION
COMMONWEALTH OF PENNSYLVANIA
333 MARKET STREET
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HARRISBURG, PA 17101**

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February 28, 2003

Janet H. Shields, MSN, CRNA, Chairperson
State Board of Nursing
116 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-5117 (IRRC #2314)
State Board of Nursing
Continuing Education

Dear Chairperson Shields:

Enclosed are the Commission's Comments that include objections and recommendations for consideration when you prepare the final version of this regulation. These Comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The Comments will soon be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director

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Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Benjamin Ramos, Acting Secretary, Department of State

Comments of the Independent Regulatory Review Commission

on

State Board of Nursing Regulation No. 16A-5117

Continuing Education

February 28, 2003

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Nursing (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Continuing Education. – Clarity.

The title and undesignated center heading of this rulemaking is “Continuing Education.” This rulemaking addresses the continuing education requirements of Certified Registered Nurse Practitioners (CRNPs) who are approved to prescribe and dispense drugs. The continuing education requirements of CRNPs who are approved to prescribe and dispense drugs are different than CRNPs who are not approved to prescribe and dispense drugs. For clarity, the title should be changed to reflect that this rulemaking applies to CRNPs that are approved to prescribe and dispense drugs.

2. Section 21.332. Requirement of continuing education. – Statutory Authority; Legislative intent; Reasonableness; Protection of public health, safety and welfare; Clarity.

Subsection (a)(2)

This subsection addresses reactivation of prescriptive authority. Subparagraph (ii) states that an applicant can provide evidence to the Board that demonstrates the applicant has practiced in another jurisdiction. The final-form regulation should describe what would be acceptable evidence.

Subsection (b)(3)

This subsection provides that the Board may waive the requirements of continuing education “in cases of illness or undue hardship.” We have two concerns.

First, we question the Board’s statutory authority to provide this waiver. Section 8.1(c) of the Professional Nursing Law Act (206 of 2002) states that, as a condition of biennial renewal, a CRNP “must” complete the required hours of continuing education. It does not provide for exemptions or exclusions.

If the Board demonstrates that it has the statutory authority to grant waivers, we question the reasonableness of allowing a CRNP to prescribe and dispense drugs without the benefit of continuing education in this field. In addition, the availability of continuing education from a multitude of sources, as provided in Section 21.334 (e), ensures that CRNPs have ample opportunity to meet their continuing education requirements.

The comment and response portion of the final-form regulation should provide the specific statutory authority that allows the Board to grant a waiver for illness or undue hardship. It should also explain how the health and safety of the public is adequately protected when CRNPs with prescriptive authority are allowed to practice without the benefit of continuing education. In the alternative, this provision should be deleted.

Second, the subsection does not state how an applicant could apply for a waiver or how the Board will review the request. If the Board maintains the waiver provision in the final-form regulation, it should describe how an applicant could apply for the waiver and what the Board's responsibilities are for reviewing the request.

3. Section 21.334. Sources of continuing education. – Clarity.

Subsection (a)

This subsection requires credentialing organizations to provide certificates of completion to CRNPs who complete continuing education courses. This subsection would be more appropriate under Section 21.335, relating to requirements for courses.

Subsection (b)

The phrase, "The Board finds that" is unnecessary and should be deleted from the final-form regulation.

Subsection (e)

Under this subsection, a CRNP may obtain credit for correspondence courses, taped study courses and other independent study courses if approved by the Board. We have three questions. First, would a course offered through the Internet be acceptable? Second, is there a limit to the number of courses from Subsection (e) that could be used to meet the continuing education requirement? Third, what kind of documentation must be submitted to obtain approval of the Board?

4. Section 21.336. Continuing education course approval. – Reasonableness.

This section establishes procedures for providers and individual CRNPs to submit applications for approval of continuing education courses. However, the section provides no direction regarding the timing for submitting applications. Has the Board considered requiring licensees or providers to submit applications a specific number of days or in a specific time period before the courses begin? Through this requirement, the Board could give notice to licensees and providers to submit applications in a timely manner. This would give the Board sufficient opportunity to review the courses before CRNPs enroll or participate.