



Pennsylvania Association of Nurse Anesthetists



December 19, 2022

Fiona E. Cormack
Independent Regulatory Review Commission
333 Market Street
13th Floor
Harrisburg, PA 17101

Re: Regulation #16A-66: Consideration of Criminal Convictions
Bureau of Professional and Occupational Affairs

Dear Ms. Cormack,

The Pennsylvania Association of Nurse Anesthetists (PANA) represents over 3,500 certified registered nurse anesthetists and students throughout the Commonwealth. PANA and its members appreciate this opportunity to address and comment on the proposed regulations, which seek to update occupational licensing.

PANA has reviewed the proposed language and has concerns it does not meet the intent of Act 53 of 2020. Specifically, the proposed language does not, and will not, remove unnecessary barriers to licensure and employment. The proposed language will result in unreasonable barriers to licensing, which will inhibit the intent of Act 53, which was to remove unnecessary barriers to employment and entrepreneurship in the Commonwealth.

What is most concerning to PANA is that the proposed extensive list of crimes is contrary to the clear intent of this legislation. The language of the bill and the intent is to create a modern set of rules for consideration of a conviction regarding the licensing or revocation of a license of an individual. The Act is clear convictions should only be considered which are *directly related* to the practice. It was further clear that consideration of the nature of the offense as well as the time that has passed since the conviction was to be part of the decision-making process. The current regulations as drafted contain no language regarding the time parameters.

Most egregious is the over-inclusive list of crimes, many of which are not directly related to the Nursing Profession. The Board of Nursing lists over 90 crimes to be considered, yet the Board of Medicine only lists 34. An example of the overly broad list of crimes for nurses is the inclusion of DUI offenses. No other health care practitioner board includes DUI offenses. The only board or commission which includes DUIs are the State Board of Crane Operators and the Navigation Commission for the Delaware River and its Navigable Tributaries. Also, twenty-one

(21) offenses under the Controlled Substance, Drug, Device and Cosmetic Act are listed by the State Board of Nursing, whereas only eight (8) are listed by the State Board of Medicine.

A Coalition of Pennsylvania Nursing Associations sent a letter to the State Board of Nursing and Pennsylvania Department of State in 2020 addressing concerns about the extensive list of crimes, specifically advising the Board of Nursing the proposed list of crimes would lead to a system in which the issuance, suspension, or revocation of a license to practice the profession of nursing would be frustrated.

PANA respectfully requests these proposed regulations be revised in two ways:

- 1) The list of crimes should only include those crimes *directly related* to the practice of the nursing profession. The current list is overly broad and any crimes that do not relate to practice of the profession should be removed. An expert report was submitted by Community Legal Services of Philadelphia evaluating the boards “directly related” lists and detailing an alternative systematic, evidence-based approach to develop such lists.
- 2) Time parameters should be added. Without consideration of the length of time since conviction, these regulations will create a lifetime barrier to license. Not only is this contrary to the language and the intent of Act 53, but it also further fails to consider a proven evidence-based approach to the consideration of those directly related offenses.

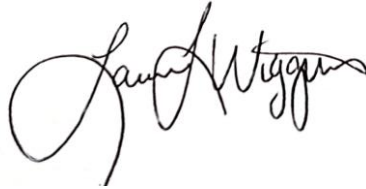
If a criminal conviction is remote in time and applicants have no subsequent convictions, why should they have to go through the second stage of the assessment to prove fitness for licensure? Expert literature on an evidence-based approach to identify job-related crimes, stresses the importance of not only the severity of the crime, but also excluding those which occurred long before the application,

Convictions for crimes, other than sexual offenses, crimes of violence and drug trafficking, could be excluded during the first stage of review if an appropriate period of time has elapsed. Criminology research on recidivism indicates that there is a point in time – generally six or seven years since the individual’s offense – at which they pose no greater risk than those without criminal records.

As an Association whose core values include leadership and integrity in this advanced profession, we support and encourage the need to protect the public health and welfare, as well ensure Act 53 is implemented as intended to provide transparency and clarity to licensing in Pennsylvania. We believe the language can be amended to reach these goals and ensure qualified individuals will not be barred from entered the nursing profession.

Thank you for your time and consideration of PANA's position on these proposed Regulations.

SINCERELY,

A handwritten signature in black ink, appearing to read "Laura Wiggins". The signature is fluid and cursive, with a large initial "L" and "W".

Laura Wiggins, President
Pennsylvania Association of Nurse Anesthetists

cc: Michelle L. Elliot
Cynthia K. Montgomery
Jacqueline A. Wolfgang