

Comments of the Independent Regulatory Review Commission



State Board of Nursing Regulation #16A-5145 (IRRC #3444)

Certified Registered Nurse Anesthetists and Fees

August 27, 2025

We submit for your consideration the following comments on the proposed rulemaking published in the June 28, 2025 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Nursing (Board) to respond to all comments received from us or any other source.

1. Section 21.17 Anesthesia. – Reasonableness of requirements, implementation and timetables for compliance by the regulated community.

The Board is proposing to reserve Section 21.17 (Anesthesia), which is the sole provision addressing Certified Registered Nurse Anesthetist (CRNA) practice. The Preamble to the proposed rulemaking states:

“This proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin* except for the deletion of § 21.17 (Anesthesia) which will be effective 6 months from publication of the final-form rulemaking in the *Pennsylvania Bulletin*. The additional 6 months will give applicants who are currently administering anesthesia under § 21.17 time to apply for and receive certification.”

The Board reports that because CRNAs were not previously independently recognized as a licensure class, it cannot determine the number of existing RNs who are providing anesthesia services. However, data from the Pennsylvania Association of Nurse Anesthetists estimates that up to 3,500 registered nurses (RNs) may apply to become CRNAs. Given the projected number of applicants and the 6 month transition period during which Section 21.17 and new Subchapter J will coexist, how will the Board minimize any potential confusion among the regulated community? How will enforcement and compliance matters be handled during the overlap period? The Board should also explain the reasonableness of the proposed timeline for compliance by the regulated community. The explanation should discuss the Board’s plan to process the anticipated applications within the proposed transition period.

2. Section 21.1001. Definitions. – Possible conflict with statute.

“Overall direction”

The Pennsylvania Society of Anesthesiologists (PSA) objects to the truncated definition of *“Overall direction.”* PSA believes that in order to maintain consistency, clarity, and accuracy in the context of the statutory and regulatory definitions, the final regulation should include *“qualified provider”* and the remainder of the statutory definition that reads *“who is present and available onsite, but not necessarily present in the same procedure room as a CRNA performing anesthesia services for the duration of the services provided.”* We would concur with the PSA that the proposed definition of this term is inconsistent with the statutory definition. The final-form regulation should include a definition of *“Overall direction”* that is consistent with Act 60 of 2021. 63 P.S. § 212(17)

3. Section 21.1005. Use of title. – Protection of public health, safety, and welfare.

Subsection (a)

The Board’s proposal to allow the use of the title while the CRNA certification is on inactive status may be misleading to the public. The Board should remove this provision from the final-form regulation or explain how permitting the use of the CRNA title while the certification is on inactive status protects the public health, safety, and welfare of Pennsylvanians.

4. Section 21.1020. CRNA practice.

Section 21.1021. CRNA standards of conduct. – Possible conflict with statute and Clarity.

The Board states that proposed Sections 21.1020 and 21.1021 (CRNA practice and CRNA standards of conduct, respectively) track the requirements of Section 8.9 of the Professional Nursing Law (Nursing Law), regarding CRNA practice. Section 8.9 of the Nursing Law states the following:

§ 218.9. Scope of practice for certified registered nurse anesthetists.

a) A certified registered nurse anesthetist shall have the authority to perform **anesthesia services** in cooperation with a physician, podiatrist or dentist involved in a procedure for which **anesthesia care** is being provided if the **anesthesia services** are performed under the **overall direction** of any of the following:

(1) A physician licensed by the State Board of Medicine or the State Board of Osteopathic Medicine who has

completed an accredited residency training program in anesthesiology.

(2) A physician licensed by the State Board of Medicine or the State Board of Osteopathic Medicine who is performing the **procedure** for which the certified registered nurse anesthetist is performing **anesthesia services**.

(3) A podiatrist licensed by the State Board of Podiatry who is performing the **procedure** for which the certified registered nurse anesthetist is performing **anesthesia services**.

(4) A dentist licensed by the State Board of Dentistry and permitted by the act of May 1, 1933 (P.L. 216, No. 76), known as “The Dental Law,” or the State Board of Dentistry to administer, supervise or direct the administration of anesthesia.

(b) Nothing in this section shall be construed to:

(1) prohibit a certified registered nurse anesthetist who would otherwise require direction from providing brief periods of care in the event of an emergency that temporarily prevents or interferes with overall direction;

(2) restrict the authority of a health care facility to provide for additional oversight requirements for a certified registered nurse anesthetist practicing within the facility; or

(3) limit or prohibit a certified registered nurse anesthetist from **engaging in those activities which normally constitute the practice of professional nursing as defined in section 2**.

63 P.S. §218.9(a) and (b) (emphasis added).

The Board is proposing the following provisions related to CRNA practice and standards of conduct, which read:

§ 21.1020. CRNA practice.

(a) Except for circumstances identified in subsection (c), a currently certified CRNA may perform anesthesia services in cooperation with the physician, podiatrist or dentist involved in the procedure for which anesthesia is being provided if the **procedure** is performed under the overall direction of one of the following...

Proposed 49 Pa. Code §21.1020(a) (emphasis added).

§ 21.1021. CRNA standards of conduct.

(a) A CRNA shall undertake a **specific procedure** only if the CRNA has the necessary knowledge, preparation, experience and competency to properly execute the **procedure** and the **procedure** is within the scope of practice of a CRNA.

Proposed 49 Pa. Code §21.1021(a) (emphasis added).

The PSA opposes the use of the terms “procedure” and “specific procedure” in proposed Sections 21.1020 (a) and 21.1021(a) because neither Act 60 nor the Nursing Law authorizes CRNAs to perform procedures. CRNAs are only statutorily authorized to perform and provide “anesthesia care” or “anesthesia services.” The PSA further notes that the exception in 63 P.S. § 218.9(b)(3) provides that CRNAs can still engage in activities that normally constitute the practice of professional nursing. The Nursing Law, according to the PSA, through its definitions of the “*Practice of Professional Nursing*,” “*Diagnosing*,” “*Treating*,” and “*Human Responses*” make clear that “CRNAs cannot perform procedures external to anesthesia care or anesthesia services.”

The PSA further asserts that “[t]he Nursing Law, including the Act 60 amendment, is a limited licensure law. Under Pennsylvania case law, the absence of express authority to perform a procedure in a limited license practice act means it is unlawful and impermissible for a limited licensed practitioner such as a CRNA to perform any particular procedure that is not expressly listed in the statute.”

We agree with PSA that proposed Sections 21.1020(a) and 21.1021(a) are inconsistent with and do not conform to the legislative intent of Act 60. The final-form regulation should be made consistent with Act 60 by removing the term “procedure” (as emphasized) and replacing it with either “anesthesia care” or “anesthesia services.”

5. Section 21.1030. Biennial renewal of certification. – Need for regulation.

Subsection (c)

Paragraph (2) restates the biennial renewal requirements of RNs which are a prerequisite for CRNA certification. We feel this provision is unnecessary and may cause confusion among the regulated community. The Board should delete Section 21.1030(c)(2) in the final version of rulemaking or explain why it is needed.

6. Section 21.1031. Requirements of continuing education. – Clarity.

Subsection (b)

Paragraph (1) provides that a CRNA who does not meet the continuing education requirements under Section 21.1030(c) (relating to biennial renewal of certification) will be subject to formal disciplinary action. We have two issues regarding subsection (b) that we would like the Board to address in the final version of this rulemaking.

First, a CRNA may place their certification on inactive status under Section 21.1032(a). During the period in which the certification is on inactive status, the CRNA is not required to meet the continuing education requirements. The Board, therefore, should amend this section to include text similar to Section 21.1036 (c) which clarifies that “**failure to complete continuing education requirements by those who continue to practice as a CRNA** may result in the institution of formal disciplinary action...” (Emphasis added).

Second, as a condition of biennial renewal, the CRNA is required to verify completion of the 30 hours of board-approved continuing education required to satisfy renewal of the RN license. Proposed Section 21.1030(c)(2). The proposed regulation does not stipulate that the continuing education required for biennial renewal of CRNA certification be related to anesthesia. How does the Board’s approach ensure that the clinical competence of CRNAs to perform anesthesia services is maintained and in the public interest?

7. Section 21.1032. Inactive Status and reactivation. – Clarity.

Proposed subsections (b) and (c) address instances where the CRNA certification was suspended or revoked. For clarity, we suggest these subsections be relocated to their own standalone section since they pertain to formal disciplinary actions and not voluntary placement of a certificate on inactive status.

8. Section 21.1033. Sources of continuing education. – Clarity.

This section provides for preapproved sources of continuing education, the reevaluation, and rescission of an entity’s approval to offer continuing education, and other sources of continuing education that are not preapproved by the Board.

Subsection (a)

This subsection identifies the providers and credentialing organizations that are preapproved to offer creditable continuing education, including Board-approved CRNA educational programs and a number of national and international nursing and medical organizations. We note that

proposed Section 21.1010(a)(2) states that a list of board-approved education programs will be maintained on the Board’s website. Likewise, we suggest that the final-form regulation include text that specifies that a list of Board-approved continuing education providers is available on the Board’s website.

Subsection (b)

This subsection states that the approval granted to providers and credentialing organizations under subsection (a) is subject to reevaluation. It further states that “[a] recission of provider or credentialing organization approval will be made under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) [GRAPP] or by amendment of this section.” The reference to GRAPP, with very little guidance, is not helpful to the entities that must comply with the rulemaking. To improve clarity for the regulated community, we suggest the Board include in the final-form regulation citations to the relevant GRAPP provisions and the process for recission of a provider or credentialing organizations approval to offer continuing education.

Subsection (c)

This subsection provides the process for CRNAs to obtain credit for continuing education courses or activities offered by providers that are not preapproved by the Board. A continuing education provider or the CRNA may obtain board approval of continuing education by submitting an application, the fee, and supporting documentation required in Section 21.1035(b) at least 90 days prior to the course.

Subsections (d) and (e) allow CRNAs to earn continuing education credit for a variety of activities that are not coursework. For instance, up to 4 hours may be approved for service as a teacher in a nursing education program, preceptor providing direct clinical supervision in a specialty area, lecturer or speaker, and for publication in a refereed journal or other scholarly publication relating to the CRNA’s area of practice. Does the timeframe specified under subsection (c) apply to requests for approval of these types of activities? If so, we suggest that the final rulemaking be clarified by removing “course” and replacing it with language that recognizes all forms of activity for which continuing education credits can be obtained.

Similarly, we would ask the Board to review Section 21.1035(b) and the Application for Approval of CRNA Continuing Education form (Attachment B) to ensure that the application process for seeking Board approval for continuing education activities under Section 21.1033(e) is clear.

9. Section 21.1034. Requirements for continuing education courses. – Clarity.

To be consistent with Sections 21.1033 (Sources of continuing education) and 21.1035 (Continuing education approval), we recommend that this section be amended by adding “provider of” between “a” and “continuing” to clarify that these requirements are the responsibility of the provider of continuing education, and a condition of Board-approval.